

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SANATA BARBARA**

DEPARTMENT No. 3

HON. JOHN A. WESTWICK, JUDGE

THE PEOPLE OF THE STATE OF CALIFORNIA
Plaintiff

No. 98612

Vs.

GOURGEN MKRTICH YANIKIAN-Defendant

APPEARANCES:

For the Plaintiff:

DAVID D. MINIER, District Attorney

For the Defendant

**JAMES T. LINDSEY, ESQ.
VASKEN MINASIAN, ESQ.**

PATRICIA KLINGER, C.S.R.
and

ALFRED A. GREGORY, C.S.R.
Official Reporters

SESSIONS

1. Monday, June 4, 1973, 1:30 P.M. 1—Minier’s (1) opening statement. Identification of the victims, (6), (10), Yanikian visits the consulate in Los Angeles under a false name, description of the interior of the consulate, writings between the consulate and the Turkish Foreign Office and Yanikian and the consulate regarding the acceptance of the banknote and the painting, (25).

2. Tuesday, June 5, 1973, 10:00 A.M. 40—An American of Armenian background-Edward Hanessian- (40)received one of the letters that Yanikian had sent around the world and reported it to the district attorney’s office, the interior of the consulate (50), Yanikian’s appearance within the consulate (51), Yanikian makes reservation and checks into the hotel (57), another American of Armenian heritage – John Minassian- (63) received the same letter and it’s translation was given in evidence. The subject of the letter is the massacres, Yanikian’s wish is that all representatives of the Turkish Government “should be eliminated from this earth.”(68).

3. Tuesday, June 5, 1973, 1:30 P.M. 68—Out of the presence of the jury F.B.I. agent Quick was questioned about the F.B.I. going into Mrs. Rettig’s house and taking away, without court order, material that belonged to Yanikian. Mrs.

Rettig (76) testified about the F.B.I coming to her residence and her relationship with Yanikian.

Yanikian's shooting was heard from the adjoining cottage, George Herman (86) testified about the happenings.

4. Wednesday, June 6, 1973, Morning 116—Aram Saroyan-court's translator-reads portion of the same letter Yanikian had sent to the Santa Barbara News Press (85).

The switchboard operator, Ruth Warwick (119) testifies about Yanikian's several calls. Barton Clapp (130), the manager of the Coral Casino Beach and Cabana Club testifies about receiving the news and going to Cottage 3 where Yanikian is sitting outside by the table

5. Wednesday, June 6, 1973, 1:30 P.M. 139—Clapp (139) sits at the table, has a conversation with Yanikian, John Kolbert (148)-sheriff- arrives, arrests, takes Yanikian to the jail, ambulance man Michael Perry (158) transports the victims to the hospital.

6. Thursday, June 7, 1973, 10:00 A.M. 172—Out of the presence of the jury, Lindsey (172) argues that the demonstration of the killings via the mannequins would be a cruel way of showing the shootings to the jury, John Rosander, M.D., pathologist (174) testifies about the autopsies, explains the entrance and sorties of the bullets. During the autopsies, Charles White (186) was photographing the victims. Roy Rosales (190)-sheriff-had entered the cottage and was taking evidence at the crime scene.

7. Thursday, June 7, 1973, 1:30 P.M. 198—Rosales (198) describes the crime scene.

8. Friday, June 8, 1973, 10:00 A.M. 238—The F.B.I agent, Robert Frazier (238)-specialist in firearm identification- testifies about the analysis of the evidence.

9. Monday, June 11, 1973, 10:00 A.M. 259—The report of Frazier (259), regarding the analysis of fingerprints and others is open to discussion.

10. Monday, June 11, 1973, 1:30 P.M. 275—Rosales (276) describes the location of the guns, magazines, spent bullets, the who's who book..at the crime scene and later about his meeting with Yanikian at the jail. At the jail a movie was taken by White (305) and shown to the jury. Yanikian's claim, that Baydar hit him with the chair resulting with the finding of a piece of hair on the leg of the chair, is examined, Rink, M.D. (297) examined Yanikian, reported his findings. Out of the jury hearing, Quick (311) testified that the the F.B.I. went to Mrs. Rettig's apartment to find out about a possible conspiracy.

11. Tuesday, June 12, 1973, 10:00 A.M. 317—Norton (320) describes about Yanikian’s arrest, while handcuffing, giving him his Miranda rights. Yanikian (334) on the stand was questioned about the Miranda rights.
12. Tuesday, June 12, 1973, 1:30 P.M. 341—Rapp, Jr. testifies about his conversation with Yanikian in the jail (345). Sheriff Baker and Detective Crook (359) interviewed Yanikian on January 27th. The tape is in evidence. The question is Miranda rights
13. Wednesday, June 13, 1973, 10:00 A.M. 369— Sheriff Norton testifies about the arrest, handcuffing (370). The taped conversation in the jail is the topic (375)
Baker-sheriff- had a talk with Yanikian, on January 27th. The Miranda rights are in question. The tapes are not clear. The court has to make a decision if Yanikian’s rights have been properly handled or not.
14. Wednesday, June 13, 1973, 1:30 P.M. 390—A portion of the book “Time for Reparation” confiscated by the F.B.I. agent Quick is read. Rapp, Jr., -Special F.B.I. agent- reads his report he had written after meeting with Yanikian (394).The transcript from the tape that Norton had recorded in the jail with Yanikian is read, relating to what happened in Room 34 and beyond.
15. Thursday, June 14, 1973, 10:00 A.M. 424—The tape was played in its entirety, was not reported by the recorder.
16. Thursday, June 14, 1973, 10:30 A.M. 425—Lindsey’s opening statement
17. Thursday, June 14, 1973, 1:30 P.M. 439—Lindsey’s opening statement terminated (443). Gunnar Jonsson (443), the chief of security, entered room 34, from a different entrance. Saul (452), the General Manager, heard the news at Clapp’s office. Both converged to cottage No.3 area. Franssen (458) the Bell Captain, when he heard, knew who had done it.
18. Friday, June 15, 1973, 10:00 A.M. 462—Heaton, police officer (462), received the news in his patrol car, went to the hotel, observed Yanikian. Valenzuela (466), a waiter, while serving other guests, saw Yanikian sitting by the table. Minassian (469) reads a portion from “Time for Reparation”.
19. Friday, June 15, 1973, 1:30 P.M. 478—Yanikian testifies, about his domiciles (479), forming his construction company (482), shortcut to the Murmansk run (485), friendship with Americans (488), giving use of his property, free, to the allies (495), railroad link to Russia (496), the banknote is introduced (498), arrives to the U.S. (501), differences with the U.S. State Department (502), heroin usage problem linked to Turkey (505), (507)-“The voice of an American”

20. Monday, June 18, 1973, 10:00 A.M. 512—Yanikian continues to testify, the Iranian Government refuse to honor their debt. Yanikian is seeking U.S. Government and Congress' assistance (513). If and when Yanikian would have gotten the money, he would have used the fund to have projects similar to Werfel's "Forty days of Musa Dagh" in a movie (525), shown around the world for free (533).

21. Tuesday, June 19, 1973, 10:00 A.M. 536—Yanikian testifying about the three days of significance (537). About his student days in Moscow, joining a group of volunteers (540) under the Armenian General Dro (542), getting to the war zone (546), seeing mutilated bodies (550), human bones for sale (556).

22. Tuesday, June 19, 1973, 1:30 P.M. 559—Yanikian continues, Minier's objection to Yanikian's presentation (563), (568), (571), his wife's health problems, the Turkish student's letter (577), significant three days (579), visit to the consulate (592).

23. Wednesday, June 20, 1973, 10:00 A.M. 597—Yanikian continues, agrees to the meeting with Baydar (598), they arrive (603), he calls the sheriff (609), taken to jail (614).

24. Wednesday, June 20, 1973, 1:30 P.M. 618—Cross-examination by Minier, Yanikian: "I no kill"- "I destroy" (622), "they are not human" (624), moral right (626), map (628), "Armenian revolt is self-protection" (630), "work for mankind" (636), Antranik's army (644), interpretation of history (650), Sevres treaty (655), paid for published books (661), secret society-Paradise- (666).

25. Thursday, June 21, 1973, 10:00 A.M. 670—Cross-examination by Minier's continues, license for "Doctor Divinity" (672), reference about massacres in "Triumph of Judas Iscariot" (674), real estate development (678), "Free Sexism" (680), killings of Enver, Talat, Jemal.(688), "I no kill anybody" (692), Sultan surrenders-Greeks invade (698).

26. Thursday, June 21, 1973, 1:30 P.M. 699—Minier continues, treaty of Sevres (700), Kemal Pasha (701), Ataturk (705), "The Messiah", Yanikians play (708), significant three days (710), "I will destroy you" (714), "...light in the darkness" (717), Redirect examination, portion of "Free sexism" read (723), Armenian radio in Fresno (731), Kemal "communist" (740).

27. Friday, June 22, 1973, 10:00 A.M. 746—Redirect examination continues, Gourgen-Negrout (746), Recross-examination, Yaniscope (748), Patterson, M.D., psychiatrist, subject: diminished capacity.

28. Friday, June 22, 1973, 1:30 P.M. 764—von Dedenroth, M.D., psychiatrist, testifies, after observing Yanikian, about diminished capacity (784).

29. Monday, June 25, 1973, 10:30 A.M. 795—Session adjourned,
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30. Monday, June 25, 1973, 1:30 P.M. 797—Jury excused.
31. Monday, June 25, 1973, 3:15 P.M. 797—Dedenroth continues.
32. Tuesday, June 26, 1973, 10:00 A.M. 814— Still Dedenroth.
33. Tuesday, June 26, 1973, 1:30 P.M. 839—Still Dedenroth on the
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34. Wednesday, June 27, 1973, 1:30 P.M. 855—Minier’s opening argument
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35. Thursday, June 28, 1973, 10:00 A.M. 885—Lindsey’s closing
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36. Thursday, June 28, 1973, 1:30 P.M. 906—Minier’s closing argument
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1. SANTA BARBARA, CALIFORNIA, MONDAY, JUNE 4, 1973, 1:30 P.M.

THE COURT: All right, Mr. Minier, you may make the opening statement on behalf of the People.

Mr. MINIER: Thank you, your Honor.

Ladies and gentlemen of the jury, this is the time in the case when the attorneys have the privilege of making what we call the opening statement to the jury, and in doing so, we are only attempting to give the jurors a thumbnail sketch, so to speak, of the evidence which we expect will follow; so of course, you should keep in mind that nothing I say is evidence in the case. It is only a sketch of what I assume the evidence is going to produce during the following week.

We believe that the evidence, which we will produce to you, when taken to as a whole, will make it clear to the jury that Gourgen Yanikian, in gunning down two Turkish diplomats at the Biltmore Hotel here in Santa,Barbara last January the 27th, committed a cold blooded political assassination, and an act of political revenge which he had premeditated and planned and plotted down to the very last detail.

Now, as the case unfolds, the jury is going to find out that the defendant Gourgen Yanikian is a very unusual individual, and I believe will find that the seeds of revenge which came to fruition on January-27 at the Biltmore Hotel, were actually sown many years ago. The defendant Gourgen Mkrtych Yanikian was born 78 years ago in Erzurum, Turkey, not far from the Russian and Persian borders. His parents were Armenian, and although the defendant has been a naturalized United States citizen for many years, he still holds very much of Armenian heritage.

Today no independent nation of Armenia exists. And the defendant was one of the hundreds of thousands of Armenians who were dispersed to the four corners of the globe at the early part of this century in one of the great deportations of history.

Mr. Yanikian has never forgotten, however, despite the fact that he is a naturalized American citizen, that Armenia was one of the most ancient nations of the world, that it was the first nation in the world to adopt Christianity as an official religion of the country, that it was on the sacred mountain of Mt. Ararat, where Noah and his family are said to have built the ark, and that the Garden of Eden itself is reputed to lie within the historical boundaries of that ancient nation.

And so on January 27th of this year, the defendant, Gourgen Yanikian, was not only a fearlessly proud man, but he was also a man who was intensely aware of his Armenian heritage

Now, during the course of the trial, as I have indicated, the jurors can expect to learn a great deal about the life of Mr. Yanikian. You will learn that he successfully has pursued two different careers during his lifetime. The first career as a civil engineer for which he was trained in college, and in that profession he built railroads, highways and other public works for the government of Persia, now known as Iran. Then, later in life, particularly after

he came to this country, the defendant turned his attention to writing, publishing six novels and also writing a variety, of plays and poetry and essays.

He was educated at the University of Moscow, where he got his degree in civil engineering, and shortly after his graduation, he married a young gynecologist, who was also educated in Russia. They are still married today, but Mrs. Yanikian for many years has been confined to a local convalescent hospital, and today she is not able to recognize the defendant as being her husband.

During the Second World War, the defendant lived in Persia -- or Iran, where his primary occupation was the building of a strategic railroad across the northern part of the country for the purpose of getting the Allied lend-lease materials to Russia during the Second World War, and it was because of this strategic railway that the supplies going to

Russia didn't have to go through the convoy route into the northern Atlantic, and because of the building of this rail- road, undoubtedly many, many people did not lose their lives as they otherwise might have, had the convoys still had to run.

It was for this work in building the railway that Mr. Yanikian' gained a debt from the government of Iran – or Persia, a debt which is still owed to him today and which is in the approximately amount of \$1,500,000. Despite the fact that the highest court of Iran actually gave a judgment to the defendant in that amount, the debt has still been unpaid, and this is a fact which has preyed heavily upon the defendant's patience throughout the years.

After the war, Mr. Yanikian came to the United States where he began to write and to speak, and he became intensely concerned with religion, which was to become the subject matter of most of his writings.

He became a United States citizen in the year 1956, which was about the time he came here to Santa Barbara. Despite Mr. Yanikian's success in material things during his life, certain events of his early years seemed to provide the motive for what otherwise might seem to be a totally purposeless and meaningless act of murder.

In the year of his birth in 1895, while he was only seven months old, Gourgen Yanikian saw his brother's throat slit before his very eyes, while he himself almost died of suffocation as his mother put her hand over his mouth to stifle his screams lest the hiding place of the rest of the family be discovered and they also lose their lives.

Because of that horrifying event early in his life, at some later time the defendant made a vow, a vow that he would avenge this horrible death of his brother, and as the years went by, Gourgen Yanikian became obsessed with that particular incident involving the death of his brother, and also with other incidents which took place during the 20-year time span between 1895 and 1915, a period during which the defendant claims two million Armenians were massacred by the Ottoman Empire, including six members of his own family, and during which period, according to the defendant, \$6 billion worth of property, Armenian property, was confiscated by the Ottoman Empire. And so for 60 years, more or less, the defendant has dwelled upon that dark hour in

history, and he has reacted to it with a memory, and with a depth that is probably completely understandable and can be appreciated completely only by a person of Armenian descent.

In short, Gourgen Yanikian developed a brooding sense of outrage at the alleged massacres of the Armenian people by representatives of the Ottoman Empire, and Mr Yanikian's feelings were perhaps summed up in a paper that he wrote sometime ago entitled "Time for Reparation." In that paper, among other things, he wrote, "All this must be imparted to the world, especially to our younger generation in a way that will make them clearly understand why an Armenian question still exists."

Why an Armenian question still exists and why a good Armenian cannot and shall not forget it as long as it exists. He continues in this writing, "We will never allow this Armenian question to be covered with the dust of time as with the ruins of our once great nation. The guilty ones"-- he wrote, the guilty ones must be made to pay. The

Armenian people cannot insult the memory of two million lives.' Now, it was for the purpose of focusing world attention upon this Armenian question that the defendant considered for a period of two to three years the idea of destroying -- to use his words, "destroying one or more Turkish diplomats as symbols of the Turkish government which he so detested. His plan became specific in approximately August of 1972 of last year, five months before the actual assassinations when Mr. Yanikian devised a plan, a specific plan to lure two unsuspecting Turkish diplomats into a deadly trap, a trap which would result in their execution, and which would start what the defendant called a new kind of war. For bait, the defendant carefully selected two particular items. The first was a 17th century painting by the Italian master Fureli, which had allegedly been stolen from the Sultan's Palace in Istanbul many years before, and the second piece of bait was a rather valuable and historic piece of Turkish currency which bore the signatures of some 30 or 40 Turkish and Persian revolutionaries. Pursuant to this plan, in early August of last year, the defendant telephoned to the Turkish Consulate in Los Angeles, and in that conversation he said that he was from Iran, and he said that his name was Gourg Yaniki, using the name Yaniki instead of the name Yanikian; the name Yanikian being rather obviously an Armenian name because of the i-a-n on the end of the name.

In this telephone conversation, the defendant said that he wanted to give two gifts to the Turkish Government because of his great love and respect for the Turkish people, and then he mentioned the painting and the currency. The secretary who took the call told the defendant that he could present this gift either at the Consulate or he could send the items directly to Turkey. Then on about the first of October of last year, the defendant did go to the Turkish consulate in Los Angeles. He appeared there, and he identified himself again as Gourg Yaniki as the man who had telephoned, and he brought with him a color picture, a small color picture of the Fureli ' painting, and also a Xerox copy of the Bank note. While he was there at the consulate, he spoke with Bahadir Demir, the young assistant, or the young vice consul, who was attached to the consulate in Los Angeles, and then following this visit to the consulate on

October 3, a few days later, Mr. Demir's boss, the Consul General, Baha Mehmet Baydar wrote to the Turkish Ministry of Foreign Affairs at Ankara, the capital, and he enclosed the photograph of the painting and Xeroxed bank note that Mr. Yanikian brought to the consulate. He asked for instructions from his government regarding whether or not they should accept the gift. While the consular officials in Los Angeles were awaiting the answer from the capital in Turkey, unknown to them, the defendant flew to Yerevan the capital of the Soviet Armenian republic for one final visit to his homeland before he carried out the act which he had been planning. Then upon his return to the United States, the defendant was advised by the Consulate in Los Angeles that the Turkish Government would indeed like to have the Fureli painting and the bank note, and they would like to put them in their Natural Museum; so in a letter to the defendant dated December 13 Consul General Baydar expressed his thanks to Mr. Yanikian and he asked the defendant to contact him so they could make arrangements regarding the transfer of these items from Mr. Yanikian to the Consular Representatives.

Then last January 15 of this year, when Bahadir Demir and Mehmet Baydar had but 12 days yet to live in their lives, the defendant went to the Biltmore Hotel here in Santa Barbara, and he reserved at that time a room for three or four nights beginning on January 22. He told the clerk specifically that he wanted to be in a cottage in the back of the hotel where it was quiet and not in the main part of the building. A week later, on January 22, five days before the actual assassination of the Turkish diplomats, the defendant checked in at the Biltmore Hotel, and when the clerk tried to give him a room in the main wing of the building, he again refused.

He insisted that he wanted a cottage because he said he had some business to attend to, and he wanted it to be quiet. Then finally on the fateful day of Saturday, January the 27th of this year, on the last day of their lives, the two unsuspecting diplomats left their wives and children in Los Angeles, and began their drive to Santa Barbara to the Biltmore Hotel where they expected to be greeted by an elderly Iranian by the name of Gourg Yaniki. He was going to give them a valuable painting, and the historic bank note which they would then transport to the State Museum of Paintings and Statues in Turkey. They brought with them, for that purpose, an official receipt for these items already signed by the Consul General. As the two diplomats were traveling north from Los Angeles towards the Biltmore Hotel, the defendant was making the final preparations for their death.

At 9:40 in the morning, he called the switchboard to complain his room had not yet been made up, and he said he was expecting guests and he would like to have it in order. Then at about eleven o'clock, he called the front desk and he asked if he could stay later than the two o'clock checkout time.

When the desk clerk told him that he could not because the room had already been rented to somebody else, the defendant said that it was all right he would be out of the room by two o'clock, and he would have completed his business by that time. Approximately a half an hour later, a little bit before the appointed meeting time of twelve noon, the two Turkish diplomats, Mr. Demir

and Mr. Baydar arrived at the Biltmore Hotel, and they presented themselves to Mr. Yanikian in his room number thirty-four. Lured into a deadly trap by the seed and trickery, the unsuspecting diplomats were ushered into the room with a rather grand gesture and a courtly bow by the defendant, still unaware that they had minutes to live. Inside the room, all was in readiness. Against one wall was a large painting sized object wrapped in brown paper on a dresser. Against another wall concealed in a small case, was a 25 caliber Browning semi-automatic pistol fully loaded with seven live rounds. Also on the same dresser was a book, a book entitled Who's Who In The West, a book which gives short biographies of the distinguished individuals in the western part of the United States and Canada.

On page 880 of that book, Who's Who in The West, was a brief biography of Gourgen Mkrtich Yanikian., author and engineer, and between pages 50 and 825 of the book, it had been hollowed out by the defendant so as to allow room for the presence of another firearm, and in that hollow was a nine millimeter luger semi-automatic pistol fully loaded with nine live rounds of ammunition.

Below the luger in the top dresser of the chest the top drawer of the dresser were two more magazines to fit the luger, each one containing eight live rounds, and it was in this deadly setting that Mehmet Baydar and Bahadir Demir took seats in the comfortable yellow chairs and began to look at the two and a half lira Turkish bank note, still unaware that they had minutes to live.

There was some pretense of polite conversation by the defendant, and then after that, he was ready to carry out the assassination of the two Turkish diplomats, and the defendant, according to his version, wanted these two men to know why they were to die, so he proceeded to tell them why. And by his account, first he told them that Turkey was a dirty nation which killed and cheated, and then he told them that he was going to kill them. Then by Mr. Yanikian's account, he picked up this Who's Who book containing the eight millimeter luger, while the two diplomats were still seated. At that point one of the diplomats got up from his chair according to the defendant, and took another chair, a smaller wooden chair, called the defendant an Armenian son-of-bitch, and hit him a glancing blow on the side of the head. At that point, the defendant opened the Who's Who books withdrew the luger, and then standing, fired point blank at both of the diplomats aiming for their heart and firing all eight rounds in rapid succession. All of the bullets struck their mark, and Mr. Baydar and Mr. Demir fell headlong at the foot of these yellow chairs and then calmly and deliberately the defendant walked back over to the dresser, and put down the nine millimeter luger or pardon me -- yes, the nine millimeter luger. He took the small browning 25 caliber from its case, and he walked, back over a few steps to where the two men lay dying, took deliberate aim at their heads and then in what he was to describe as mercy shots, he pumped two bullets into the brains of each of the two fallen diplomats. Then as Mr. Baydar and Mr. Demir lay dying on the floor, the defendant returned the 25 caliber weapon to the dresser, he then stepped over the bodies to the telephone, picked up the telephone and called the switchboard and told the switchboard operator that he had just shot two men in his room, and that she should call the Sheriff.

The defendant then left the room, he went outside the room to the patio, he sat calmly at a table waiting the arrival of the officers. While he was waiting, he spoke quite friendly to the guests of the hotel, and to the hotel personnel who were in the area. He appeared rational, calm and coherent, saying that he had killed the two diplomats as an act of political revenge, as an act of vengeance for the deaths of his family members and two million other Armenians.

In addition, he told the hotel bellman to send his hotel bill to the jail, that he knew he was going to go to jail for a long time, and he said that his suitcase was packed and ready to go.

So much for the act of murder itself.

Now, two days later, on Monday, the 29th of January, letters began to arrive at various places throughout California and the Nation, signed by the defendant and mailed prior to his assassination of the two Turkish diplomats.

In addition, a 119-page manuscript with a cover letter dated January 26, the day before the assassination, was mailed to a number of newspapers throughout the country, including the local Santa Barbara News Press.

In the manuscript, which was written prior to the assassination, the defendant wrote (reading), "The Turkish representatives, no matter in what country, what city, or what village they may be, have no right to function there. They should be annihilated by an Armenian individual."

And regarding his own proposed act, the defendant wrote there in that manuscript that he would be the first to blow the trumpet heralding this new style of warfare, and he went on to write [reading], "I will try to insure that my deed will not remain a secret. I will insure that they will arrest me and I will continue to defend my rights before a World Court."

The letter which was sent out prior to the assassination, in addition to the manuscript, was sent to selected Armenians throughout the country and constituted a call for political murder, a call for the assassination of Turkish diplomats throughout the world.

In that letter the defendant wrote [reading], "Current times show us that the only successful way to get something done is by violent action." He wrote [reading], "When you read this letter, I, the author of this kind of war, who thought about this idea for many years, will have already started the war. I will be the first one as an example to many more to follow. This is the kind of war, he wrote, "that the Armenian individual is going to conduct against the Turkish beasts and their government and should conduct till the final surrender."

And he wrote all the representatives of the so-called Turkish government should be eliminated from this earth wherever they appear to represent their government.

And so wrote Gourgen Mkrtich Yanikian just before he assassinated the two Turkish diplomats here at the Biltmore Hotel last January.

This, in short, Ladies and Gentlemen, is the evidence which we hope to produce to you during the next week or so. This is the evidence we think will

show that the defendant committed a cold-blooded political assassination and that he is guilty of two counts of murder in the first degree.

Thank you.

THE COURT: Did you wish to make an opening statement at this time, Mr. Lindsey, or reserve it?

Mr. LINDSEY: Your Honor, if it please the Court, may we reserve our opening statement until it is time to put on our case?

THE COURT: Yes.

Mr. LINDSEY: Thank you.

THE COURT: All right. We are ready for the first witness.

MR. MINIER: Mrs. Helen Berkoz, please.

HELEN LAUMAN BERKOZ,

produced as a witness for and on behalf of the People, was there upon duly sworn and testified as follows:

DIRECT EXAMINATION

BY Mr. MINIER:

Mrs. Helen Berkoz, would you please state your full name and spell your last name.

A. Helen Lauman Berkoz, B-e-r-k-o-z.

Q. Would you spell the middle name, please.

A. L-a-u-m-a-n.

Q. Mrs. Berkoz where do you live?

A. In Los Altos.

Q. What is your nationality?

A. American.

Q. Are you of Turkish ancestry?

A. No. My family has been Americans since America began.

Q. Mrs. Berkoz, were you related to Bahadir Demir during his lifetime?

A. I'm related to him through marriage.

Q. And could you explain what the relationship is through marriage?

A. Yes. My husband is his cousin.

Q. Do you live with your husband in Los Altos?

A. Yes.

Mr. MINIER: Your Honor, I have a photograph which I wonder if we might have marked for identification as People's No. 1.

THE COURT: Yes.

(Whereupon, a photograph thereupon duly marked as People's No. 1 for identification purposes only.)

Q. BY Mr. MINIER: Mrs. Berkoz, I am going to show you a photograph of People's Exhibit No. I and ask you if you can identify that as a picture of your late cousin by marriage

A. (Witness examining exhibit) Yes, that is Bahadir Demir.

Mr. MINIER: Thank you.

Your Honor, we would offer People's No. 1 into evidence.

THE COURT: Received.

(Whereupon, a photograph of Bahadir Demir thereupon ,duly received in evidence as People's Exhibit No. 1.)

- Q. BY Mr. MINIER: Mrs. Berkoz, do you know how old Bahadir Demir was at his death?
- A. Thirty.
- Q. Thirty years old?
- A. Yes.
- Q. Was he married?
- A. Yes.
- Q. And do you know his wife's name?
- A. Sinna, S-i-n-n-a.
- Q. Do you know when they were married?
- A. Yes. My husband and I went to their wedding in 1971 in July.
- Q. And what was Mr. Demir's occupation at his death?
- A. He was consul for his government, his first foreign assignment, beginning his diplomatic career.
- Q. He was a consul for the Republic of Turkey, is that correct?
- A. Yes.
- Q. Do you know if he had been educated for a diplomatic career?
- A. Yes. He had been educated at Roberts College, which is an American college in the suburb of Istanbul, then he had further specified training for a diplomatic career, specialized training.
- Q. You recall when he came to the United States?
- A. In late August of 1971, right after their marriage.
- Q. And did he reside, then, in the Los Angeles area?
- A. Yes.
- Q. Did he and his wife and you and your husband have occasion to visit back and forth at each other's homes?
- A. Yes, and, at my family's home in Southern California -- they also joined us for holiday occasions.
- Q. Do you know if Bahadir's wife Sinna has returned home to Turkey?
- A. Yes. She returned with Bahadir's body when he returned.
- Mr. MINIER: Thank you, Mrs. Berkoz. I have no further questions, your Honor

CROSS-EXAMINATION

BY Mr. LINDSEY:

- Q. Mrs. Berkoz, when did you have the first occasion to meet the cousin of your husband that you mentioned here?
- A. The first time I met him was the first time I visited my husband's family in Turkey, in 1964.
- Q. And were you at that time in Turkey?
- A. We went for a visit to meet my husband's family.
- Q. Is your husband in any way related to the diplomatic service?
- A. No, he is a scientist, Ph.D.
- Q. A scientist?
- A. Yes.
- Q. With who?

- A. With whom?
- Q. Yes.
- A. Syntex.
- Q. Now, at the time that you met him in 1964, in Turkey, was he married at that time?
- A. No, he was a young boy.
- Q. Was he attending school at that time?
- A. We were there in the summertime, so I think he was on vacation.
- Q. Now, did you meet other members of his family there also in Turkey at that time?
- A. At my husband's family?
- Q. Yes.
- A. Yes.
- Q. Now was it in August of 1971, then, the second time that you saw him when he came to the United States?
- A. No, the third. We had made another visit, we had made a visit to Turkey in 1969 for my parents-in-law's golden wedding anniversary, so this in 1971 was our third visit.
- Q. Your husband is of Turkish ancestry?
- A. My husband is Turkish.
- Q. Oh, the third visit then was in about August of 1971 when he came?
- A. No. We were there June - July, 1971, and he came on his assignment in late August of '71.
- Q. In August, then. And his first assignment in the diplomatic corps was then to the Los Angeles area?
- A. His first foreign assignment, yes.
- Q. Yes.
- A. We were very happy because he was going to be near us.
- Q. And you, of course, do not know the reason why Turkey would have assigned him all the way across the United States to Los Angeles, do you?
- A. Well, there are not many Turkish posts in the United States, I don't believe.
- Q. That's right. Now, of your own knowledge since there are not very many Turkish posts in the United States, you are not then aware, or you have no knowledge yourself as to why then he was assigned all the way across the country to Los Angeles?
- A. I believe -- I'm not an expert on the subject, but I believe that there are only three consular offices in the United States, so it is --
- Q. Well, are you aware that the Los Angeles area is one of the largest Armenian settlements outside of the area known as Armenia?
- A. I have been told this since the murder.
- Q. Now, with regard to the photograph, did you take the original of this photograph?
- A. I beg your pardon?
- Q. Did you take the original of this photograph? Were you the one that made the original photograph?

A. No.

Q. Do you know who did?

A. No.

Q. Do you know when this photograph was made?

A. No.

Q. Do you know where it was made?

A. No.

Q. Do you know how old he was at the time this was taken?

A. Well, it looks the way he looked when he was married, so I presume it is taken very recently -- I don't know.

Q. Did you provide this photograph, or a similar copy of it to the investigators for use in this trial?

A. No.

Q. Were you simply asked to look at this photograph and identify it?

A. I was asked to identify if this was indeed Bahadir Demir.

Q. Well, then, you are not able to tell the Court and the jury of the age that he was when the photograph was taken?

A. I don't know when it was taken, so I can't specify, although it looks as though it was taken, oh -- in fact, it may be -- could I see it once more?

Q. Yes, surely (presenting exhibit to the witness).

A. I was thinking it might have been his passport picture, because -- I don't really know, but I remember seeing the passport pictures when they were getting -- arriving. It looks very similar to that, but I don't know what it is.

Q. Were you shown any photographs, to your knowledge, taken of him, say, within the last six months?

A. Have I any photographs of him?

Q. Were you shown at any time any photographs of him,

A. No.

Q. Say, within the last six months?

A. No.

Mr. LINDSEY: Your Honor, I have no further questions.
Thank you very much.

Mr. MINIER: No further questions, your Honor.

THE COURT: All right. Mrs. Berkoz, you are excused and are free to leave if you wish.
(Whereupon, the witness was excused and withdrew from the witness stand.)

Mr. MINIER: Your Honor, I would like to put the photograph of Mr. Demir on the board.

THE COURT: Very well.

Mr. MINIER: Your Honor, I have a second photograph, I wonder if we might have this marked as People's No. 2 for identification. THE COURT: Yes.
(Whereupon, a photograph thereupon duly marked as People's Exhibit No. 2 for identification purposes only.)

Mr. MINIER: We will call Selma Arel.

SELMA AREL,

produced as a witness for and on behalf of the People, was thereupon duly sworn and testified as follows:

DIRECT EXAMINATION

BY Mr. MINIER:

Q. Would you state and spell your full name, please.

A. Selma Arel.

Q. Could you spell it, please.

A. First name, S-e-l-m-a. Last name, A-r-e-l.

Q. Miss Arel, could you tell us what your nationality is?

A. Turkish.

Q. You are a National of the Republic of Turkey?

A. Yes.

Q. What is your employment, please?

A. Secretary.

Q. Secretary where?

A. In the Turkish consulate in Los Angeles.

Q. How long have you resided in the United States?

A. Seven and a half years.

Q. What is your educational background in Turkey, do you have any specific training?

A. No.

Q. Now, Miss Arel, did you know Mehmet Baydar during his lifetime?

A. I -- I saw him when he came in Los Angeles.

Q. Was he attached to the consulate where you work?

A. Yes. He was consulate general.

Q. He was the consul general?

A. Yes, in Los Angeles.

Q. Would that place him, then, in charge of the Turkish consulate in Los Angeles?

A. Yes.

Q. Do you recall approximately for what period of time you worked with him there?

A. Two and a half years.

Q. I'm going to show you People's Exhibit No. 2 for identification and ask you if you can identify that as a photograph of Mehmet Baydar?

A. (Witness examining exhibit) Yes, it is.

Mr. MINIER: Your Honor, we would offer People's No. 2 into evidence.

THE COURT: Received.

(Whereupon, a photograph of Mehmet Baydar thereupon

duly received in evidence as People's Exhibit No. 2 in evidence.)

Mr. MINIER: May we also place this on the board, your Honor?

THE COURT: Yes.

Q. BY Mr. MINIER: Miss Arel, I'm going to call your attention to People's No. 1, to which I am pointing now, and ask you if you can also identify that as also a photograph of Bahadir Demir?

A. Yes.

Q. Now, with respect to Mr. Baydar, did you also know his family?

- A. Yes, I know his family.
- Q. Was he married?
- A. Yes.
- Q. Did he have any children?
- A. Yes, two children.
- Q. Do you recall what ages they were?
- A. Twenty-one and sixteen.
- Q. And were these boys or girls?
- A. Girls.
- Q. Did Mr. Baydar's wife and daughters live with him in Los Angeles?
- A. Yes.
- Q. Now, did you also know Mr. Demir from your work at the Turkish consulate in Los Angeles?
- A. Yes, I know.
- Q. Now, calling your attention specifically to Friday, the 26th of January of this year, did you have occasion to see both Mr. Demir and Mr. Baydar during the course of the day?
- A. Yes.
- Q. Was that the last time that you were ever to see them alive?
- A. Yes, I did.
- Q. Have both of their wives and also Mr. Baydar's children now returned home to Turkey?
- A. Yes, they returned together.
- Q. Calling your attention to the gentleman seated at the counsel table in the blue suit and the blue tie, can you tell us if you recognize that gentleman?
- A. Yes.
- Q. Now, in early August of last year, 1972, do you recall having a telephone conversation with anybody who gave the name similar to that of Gourgen Yanikian?
- A. Yes, I did.
- Q. And do you recall how the caller identified himself to you?
- A. Yes. "Gourg Yaniki."
- Q. Gourg Yaniki. Did the telephone caller indicate where he was from?
- A. Iran.
- Q. And did he say anything else to you during the conversation that you can recall?
- A. Yes; he said, uh, he has an old painting and was belonged to Turkish -- Ottoman Empire, and he wants to give to the Turkish government as a present - - gift, and he also has a currency that some exiled people put the signature on it, during the first -- world -- First World War.
- Q. Did he say what the subject matter of the painting was?
- A. About harem.
- Q. About harem?
- A. Yes.
- Q. Did the person identifying himself on the phone as Gourg Yaniki give you any indication of his age?

- A. He said, "I'm old man and that I wanted to give it to Turkish -- Turkish government, that I respect the Turkish people."
- Q. Now, Miss Arel, what nationality did you think this caller had, the person who telephoned you?
- A. I didn't think anything that he said.
- Q. Which was mainly that he was from Iran?
- A. Yes, from Iran, that was all.
- Q. Did the name that he gave you of GourgYaniki, did that sound as the name of a person whose nationality or origin would be from Iran?
- A. It seems like it would.
- Q. Had he told you that his name was Yanikian, ending in i-a-n, would you still have thought that he was Iranian?
- A. No.
- Q. What would you have thought if he had given you that name?
- A. That he is Armenian.
- Q. After he had told you about his desire to make the gift, did you tell him anything in reply?
- A. Yes, I said you can send it directly to Turkey, or you can send it to the Turkish consulate and we can send it to Turkish government.
- Q. And what did he say, if anything?
- A. He said, he didn't say, and he hang up.
- Q. Now, calling your attention again to the man seated at the counsel table, Mr. Yanikian, in the blue suit, have you ever had occasion prior to this time today to see him in person?
- A. Yes. He came to the consulate office.
- Q. You recall approximately when that was?
- A. A couple of days before October 3rd.
- Q. Of last year?
- A. Last year.
- Q. And at the time he came to the consulate, did he give you any indication of what his name was?
- A. Yes, he said same thing, this is Gourg Yaniki, and I called before this office to give my name', then I came to see him on purpose.
- Q. Was he pleasant, incidentally, during this conversation?
- A. Yes, he was.
- Q. Now during the time when he was in the consulate, did he speak primarily with you or with somebody else?
- A. With Mrs. Akdas, he talked, but we were at the same room at the time, we all listened.
- Q. Is Miss Akdas another secretary there?
- A. Yes.
- Q. Do you suppose you could spell her name for the Reporter?
- A. Leyla Akdas.
- Q. L-e-y-l-a, A-k-d-a-s?
- A. Yes.
- Q. He spoke primarily with her?

- A With her, yes.
- Q Now, during this visit to the consulate in Los Angeles, did Mr. Yanikian have occasion to speak either with the consul general Mr. Baydar, or with the vice consul Mr. Demir?
- A Vice Consul Mr. Demir.
- Q He did speak with him.
- A Yes.
- Q After that, did he leave the consulate?
- A Yes.
- Q Was there anything that was in any way impolite or improper about his conduct?
- A No.
- Q Thank you, Miss Arel, I have no further questions.

CROSS-EXAMINATION

BY Mr. LINDSEY:

- Q Is that Miss Arel? Am I pronouncing that correctly Arel?
- A Yes.
- Q Miss Arel, you were born and raised in Turkey?
- A In Turkey.
- Q In what city?
- A Ankara.
- Q That is the capital, is it?
- A Capital.
- Q Is your husband presently with you in Los Angeles?
- A No, I'm divorced.
- Q I see.
Now, you indicated that you have been in the United States about seven and a half years?
- A Yes.
- Q Did you come to the United States while in the service of any--
- A No, I came to visit my sister -- cousin, and then I came to work here.
- Q Now, your sister that you came to visit --
- A My cousin. I came to visit my cousin, Oklahoma City.
- Q All right. Then, after that visit, you came on to Los Angeles?
- A No, I find this job, I apply for this job and then they hire me -- Turkish government hire me as a secretary in Los Angeles. And then I move here with my children.
- Q Were you in Oklahoma City when you made that application?
- A Yes.
- Q Did you fly back to Ankara?
- A Ankara, and then I was hired for this job, and I came here.
- Q In other words, when the Turkish government in Ankara approved your employment?
- A Yes.

Q. They gave you instructions to report to Los Angeles?
A. Yes.
Q. And you reported to Los Angeles about five years ago?
A. Five and a half, yes.
Q. About five and a half years ago. And you have been regularly employed as a secretary?
A. Secretary.
Q. In the consulate office in Los Angeles since then?
A. Yes.
Q. That would be under different consuls or vice consuls?
A. Yes, it is different, yes. It is not the diplomatic post.
Q. Excuse me?
A. It is not the diplomatic post, just secretary.
Q. Yes. Your position is not an official post?
A. No.
Q. It is a secretary post in the consulate office?
A. Yes.
Q. Now, when was it that you first met the consulate?
A. Consul General? When he arrived here. When he arrived here, and then he started job. It was '70 -- 1970.
Q. Is that about, then, two and a half?
A. Two and a half years.
Q. Roughly.
How about the vice consul, when did you first meet him?
A. One and a half -- one and a half years ago, almost two years by now. August '71.
Q. Now, You have indicated that you first saw or met Mr. Yanikian in the consulate office in Los Angeles some time around early August 1972?
A. October.
Q. I am sorry. You had the telephone call in August?
A. Yes.
Q. 1972.
Now, did you turn that telephone call over to anyone else in the office, or did you handle it entirely yourself?
A. I handle myself, yes.
Q. Now, you indicated that the person calling you in August of 1972, identified himself by a name -- and what was that name again?
A. Gourg Yaniki.
Q. Did you ask for the spellings of the name?
A. No.
Q. Did you make any memorandum or note of the name?
A. No, I just write to the paper and talked to Consul General later that what happened. You know, I just give the short report, that's all.
Q. Did you retain that note?
A. I just throw it away. I didn't keep it.

- Q. Was there any particular event or happening that caused you to recall, without the use of any written sheet, that particular name?
- A. No. I just wrote it when I got the telephone call, and then I reported it to the consul that's all.
- Q. And you have remembered that name since August?
- A. Yes, I did remember.
- Q. Now, you were asked about your belief or your opinion as to whether that name was a Persian or Iranian name, or perhaps an Armenian name?
- A. I didn't think about it, and I just -- I believe what he said.
- Q. Now, you indicated that your thought was at that time that the name sounded like an Iranian or Persian name?
- A. Yes, it is possible.
- Q. Are there certain general characteristics of names of Persian or Iranian people?
- A. No, I don't really know about their names very much.
- Q. Then when you heard that name, you did not have any knowledge or training or experience yourself to determine whether that was an Iranian or Persian name, did you?
- A. Really, I didn't even think about it, because it was very normal telephone call, and I just believed it. There is no specific thing to think about it.
- Q. Well, you were asked about whether or not at that time it sounded to you as though it may have been an Armenian name?
- A. It wasn't -- I really didn't think the origin of the name. I just accept what he said.
- Q. Based on your experience in growing up and living in Turkey, have you been aware or do you have any knowledge that commonly persons of Armenian ancestry have names with a particular type of ending on their names?
- A. Yes.
- Q. What is that?
- A. Like Yanikian. This is the exact Armenian name.
- Q. In other words, if you might find a person with a last name such as Yanikian, that is i-a-n --
- A. Yes.
- Q. -- that might indicate Armenian ancestry?
- A. Yes.
- Q. Or like Saroyan, y-a-n?
- A. Yes.
- Q. That might indicate Armenian ancestry?
- A. Armenian, Yes.
- Q. In this case, when you heard the name as you now recall, Gourg Yaniki, you did not recognize that as perhaps an Armenian name because the i-a-n had been omitted., as you recall now; is that right?
- A. Yes.
- Q. Now, in that telephone conversation that took place between that caller and you, there was discussion about a painting, wasn't there?
- A. Yes.

- Q. When that discussion took place, you did not turn the call over, then, to the consul general or the vice consul?
- A. No.
- Q. You felt that from the nature of the conversation you could handle that type of a call yourself?
- A. Yes.
- Q. Now, what is your recollection now of what the caller said about the painting?
- A. He said it belonged to Ottoman Empire, and that he is handling it by now, that the subject was Harem.
- Q. Harem?
- A. Yes.
- Q. Is that harem like we think of in American, that is--
- A. No, specific Turkish.
- Q. We don't have harems in America.
- A. No, just in Turkey.
- Q. It would be like a harem in Turkey?
- A. Yes.
- Q. Now, did you recognize -- maybe I should ask you this: Did he mention the name of the painter, the person that did the painting?
- A. I don't remember.
- Q. Do you have any skill or training or background in art work such as paintings?
- A. I am interesting in the painting.
- Q. When you had this discussion with the caller in early August 1972, did you recognize in any manner the painting that was being referred to in that discussion?
- A. I didn't understand your question.
- Q. When the caller mentioned about a painting and described it--
- A. Yes.
- Q. -- did you recognize the painting?
I mean, was it familiar to you?
- A. Yes, harem is the familiar to me, -- the subject that he told me, it is familiar.
- Q. Now, the caller didn't mention the value of that painting?
- A. No.
- Q. Did you ask about the value of it?
- A. No.
- Q. Did you ask who the painter was?
- A. No.
- Q. Did the caller indicate that he desired to make a gift of it to the Turkish government?
- A. Give to the Turkish government.
- Q. Now, is it at that point then that you indicated to the caller that he could either mail it into the --
- A. Turkish government directly, museum, or Ankara, or to send to consulate.
- Q. Now--

- A. Because I didn't know where he was calling, you know. I just suggest this to way. I didn't say bring to here and he just sent it. He just send it. I don't know what was the reason. Maybe he said this is long distance, but I don't know.
- Q. When this caller, in early August 1972, indicated to you that he desired to make a gift to the Turkish government of a painting, did you ask him for his telephone number where the consul general might reach him back to talk to him about this gift to the Turkish government?
- A. No.
- Q. Was there any reason why when you handled that telephone call from this person offering the gift to the Turkish government that he was not asked for his phone number?
- A. If he wants to give really, he was going to ask another way. If he didn't want to send it, you know. It was-- I thought he is going to send it as I say, but there is no reason to take his telephone call.
- Q. When this caller, who offered the gift to the Turkish government, was making this call, did you at any time ask where he lived or from where he was calling?
- A. No. no.
- Q. Did you ask him the size of the painting?
- A. No. I got no information about the painting; he just told me everything. I just told him that you can send it to the Turkish government or send it here, that's all I said.
- Q. Now, you knew, did you not, when you were engaged in that telephone call about this gift to the Turkish government, that shortly after the call you would be making a report of it to the consul general?
- A. Yes.
- Q. Did you talk to the consul general after the telephone call?
- A. I talk to Bahadir Demir.
- Q. Were you able to tell him where the call came from?
- A. I said yeah, I said from Iran, came from Iran. The man called me now, and then I just explain everything. But he told me what he told me -- what he told me on the phone.
- Q. Did you have a belief at that time that the telephone call came from Iran, or merely that the man said that he was from Iran?
- A. The man -- no, not the difference really, what man come from Iran.
- Q. Now, let me turn your attention for a moment, if I may, to the currency note?
- A. Yes.
- Q. What did this caller say in early August of 1972 about a currency note?
- A. He said there was a couple of signatures on the currency that he has. That some people that exiled from Turkey during the war.
- Q. Which war?
- A. First World War.
- Q. Did he indicate in that telephone conversation to you that he had a currency note that contained on the note the signatures of some revolutionary leaders.--
- A. Yes.

- Q. --who had been exiled by the Turkish government during World War I?
- A. Yes.
- Q. Did he also indicate to you that because of the leadership position of those persons who were on that note, that that note had special historical significance to Turkey?
- A. No.
- Q. Did you ask him to describe in any further detail, that note?
- A. No. I asked nothing to him.
- Q. Well then, the only matters you knew was that they were the signatures of perhaps a couple persons?
- A. Yes.
- Q. Who were revolutionary leaders and had been exiled during world war one from Turkey?
- A. Yes.
- Q. Did you determine what groups these persons were revolutionary leaders of?
- A. No.
- Q. And that Turkey had exiled?
- A. No.
- Q. In any event, then as a result of that conversation and your suggesting that the items be sent either to Ankara or mailed in to the Consular office to Los Angeles, that was the end of the telephone call?
- A. Yes.
- Q. Now, did you present this information then later on, both as to the note and the painting, to the consul general; did you tell the consul general about that telephone call?
- A. Yes, I did.
- Q. To your knowledge, was any record -- any written record made later on, either by you or by anyone else in that consul office concerning that telephone conversation?
- A. No.
- Q. All right, now, the next contact that you recall having on this matter was a couple days before October 3rd?
- A. Yes.
- Q. And is that when you recall that the gentleman you now recognize as Mr. Yanikian here in the courtroom came to the consul office in Los Angeles?
- A. Yes.
- Q. Where is that office located, please?
- A. Century City 1901 Avenue of the Stars, 1145 floor number.
- Q. And does the Turkish government maintain a consulate office or diplomatic office at that address you just mentioned?
- A. Yes.
- Q. Is that the address where all these events that you testified to so far took place?
- A. Yes.
- Q. In order that we may understand, if I can follow your testimony more clearly as to what happened in that office the first time you recall seeing Mr. Yanikian in it, would you be able to draw on a diagram for us on the board an outline

- showing the room that you entered into, and the location of the private office of the consul general and the private office of the vice consul; could you do that?
- A. Yes.
- Q. The Bailiff perhaps --
- A. This is the entrance.
- Q. Would you put the word entrance there so that when we refer to it later on we can tie it in with your testimony?
- A. Entrance. This is consulate general room.
- Q. Could you put CG, perhaps that would help us to identify consul general.
- A. This is consul room.
- Q. That is the vice consul?
- A. Vice consul.
- Q. The vice consul is on the left as we are looking--
- A. My desk was here.
- Q. Can you write your name in that little rectangle so we will know where your desk was?
- A. (Witness complies.)
- Q. Can you put a little X where you had been sitting at that desk?
- A. (Witness complies.) It wasn't this long, I am sorry it is a very small room. Then the other desk was here.
- Q. Who normally sat at that desk?
- A. Mrs. -- this part is not in. There was another desk here, and Mr. Yanikian came in here and then stand here.
- Q. Right at that point, I want to find out the name of each person who was in that room at the moment Mr. Yanikian walked in, and where they were located. Now, were you at the desk?
- A. I was at this desk. Mrs. Akdas was at this desk.
- Q. She was at the desk near the wall to the vice consul's room?
- A. Yes.
- Q. Was there any other person in the room there besides the two of you?
- A. (Witness writing.)
- Q. Let me take these up now. The second desk that's near the wall of the vice consul's office --
- A. This one, this is Miss Nazan Kozan. This is Leyla Akdas. This is me.
- Q. There were how many secretaries there in the room?
- A. Four.
- Q. Were there any persons on the other side of the room?
- A. Yes
- Q. Who was over there?
- A. I don't remember now. But there wasn't anybody when we came in.
- Q. Is that a secretarial location for an additional secretary in the office?
- A. Yes.
- Q. Who normally was the secretary located at that desk?
- A. Who?
- Q. Yes, who normally uses that desk at that time?
- A. This desk, nobody was here at that time.

- Q. Now, at the time that Mr. Yanikian first entered that room, the four secretaries were there, then, including yourself, is that right?
- A. Yes.
- Q. Now, do one of those secretaries act as the receptionist for the office?
- A. Yes, Mrs. Akdas.
- Q. And were either the consul general or the vice consul present back in their offices at this time?
- A. Yes.
- Q. Were they both there?
- A. Both, but there is an old window open -- there's no wall between this, was consul room, and the office -- there is a window, and you can see through the window Mr. Bahadir Demir, while you come here (indicating).
- Q. Is the lower part of that wall made of wood, the lower part, with glass above?
- A. Glass -- low part was -- a wall, lower part was wall, and the up part was all glass.
- Q. Let me see if I may help. Is there a wooden wall that is, say--
- A. (Interposing) Not wooden -- not wooden. Just normal, uh, wall.
- Q. Made out of what?
- A. I don't know, just wall.
- Q. A solid type of a wall?
- A. Yes.
- Q. Then is there glass, glass all the way up?
- A. Glass all the way up.
- Q. To the ceiling?
- A. To the ceiling.
- Q. Now, is that all the way along that entire wall to the--?
- A. (interposing) Yes. See, there's the door, exactly at the corner (indicating on diagram).
- Q. Could you mark that?
- A. Almost corner, this part was all -- glass.
- Q. Could you write in the word "door" to show the location of the door to the vice consul's office?
- A. This is a -- this is door (indicating).
- Q. Could you write the word "door"?
- A. (Witness complying.)
- Q. Is that in English, or -- Well, okay.
- How about in the consul general's office, was there also a glass?
- A. No, it's--
- Q. A full wall?
- A. Full wall.
- Q. And would you mark the location of the door to that room -- Could you write - - I hesitate to ask that, could you write the word "door" in that one.
- A. (Witness complying.)
- Q. Now, is there any other entrance or exit to that main room where the secretaries are located other than what you have described so far on the diagram?

- A. No, no.
- Q. Now, what time of the day was it when this visitor, Mr. Yanikian, entered that office?
- A. I don't remember the time.
- Q. In the morning or afternoon?
- A. I don't remember -- I don't remember exactly time.
- Q. To your knowledge was any record made or note made at any time by either the receptionist or any other secretary in the office of this person who had entered into the consular office?
- A. Mrs. Leyla Akdas.
- Q. She may have made record of it?
- A. I don't know if she made a record, but she took Mr. Yaniki to her office, his office -- maybe she remember the time.
- Q. Now, could you with a series of little dots mark the path that Mr. Yanikian followed from the time he entered the door to where he first stopped?
- A. He came through the door and he -- there was, I told you, window here, then he try to walk directly this room, but Mrs. Akdas stopped him, below the room, and finally he came here and he stand up here (indicating on diagram).
- Q. All right. Now, let me take you slowly through that, please.
Did he have to knock in order to enter into that main reception room?
- A. No, just can open it and come in.
- Q. Just opened the door freely?
- A. Yes.
- Q. And enter into it?
- A. Yes.
- Q. When he first set foot in there, did he say anything to any of the secretaries?
- A. No. He just directly walked to this room (indicating).
- Q. Directly over to the door which leads into the vice consul's room?
- A. Yes, vice consul room, but I think before he go into the room, Mrs. Akdas stop him.
- Q. How did she do that?
- A. She just cross him and say, "What do you want?"
- Q. Well, did he walk in the front door and walk over and stop about in the middle of the room?
- A. Yes.
- Q. Well, he was not stopped by anyone, he simply stopped himself?
- A. Going to -- yes, he was going to this room directly (indicating).
- Q. How do you know that?
- A. The direction, when he come in, he didn't ask anything about it, when Mrs. Akdas stopped him, then he told his reason of his visit.
- Q. Now, when you say the other secretary stopped him, is that when she had the conversation with him?
- A. Yes.
- Q. Now, this lady, and how do you pronounce her name?
- A. Akdas.
- Q. Akdas?

- A. Yes.
- Q. Mrs. Akdas, did she get up from her desk and come over to meet him as he was in the center of the room?
- A. Yes.
- Q. Now, how did he get over to this place?
- A. Down here, turn, and stay there, and -- towards Mr. Baydar's office.
- Q. Did Mrs. Akdas bring him over to this desk?
- A. Not he came by himself.
- Q. By himself. Did Mrs. Akdas get up from her desk?
- A. Yes.
- Q. At any time?
- A. Yes.
- Q. Could you with a little -- with little dots, mark the path that he took as he came in the front door and where he finally stopped?
- A. (Witness marking on diagram.)
- Q. And can you put a number "1" on that little path so that we can identify it later on as the path that you saw him take as he walked into that room, just a number '1'. That's all right.
- A. (Witness marking on diagram.)
- Q. Now, you say that he then walked down to that other desk?
- A. Yes.
- Q. Would you mark that path, please.
- A. (Witness marking diagram with dots.)
- Q. Now, at that point, let me take it to this point first, when he walked in the door and came over to this point, did a conversation take place at this point between Mr. Yanikian and Mrs. Akdas?
- A. Yes.
- Q. Did you hear that conversation?
- A. Yes.
- Q. Now, after that conversation, he then walked over to this point (indicating)?
- A. Yes.
- Q. And this lady's name again was -- ?
- A. Ajlan, A-j-l-a-n, B-i-l-a-l-o-g-l-u.
- Q. If we gave her a number, number "3", all right?
- A. Yes.
- Q. Now, when he got down to lady number "3", was Mrs. Akdas still with him?
- A. No. He went to Mr. Baydar's office.
- Q. She did?
- A. She did, then talk to him, I think he was free to accept him, then he came -- she came and took him to the office.
- Q. Now, Mrs. Akdas then after first greeting Mr. Yanikian and learning of the purpose of this visit, she went into the vice consul's office to talk to the vice consul, and Mr. Yanikian, as you observed, he walked over here to the area of lady number "3"?
- A. Yes.
- Q. Was there a conversation between Mr. Yanikian and lady number "3"?

- A. No.
- Q. Did he merely wait there until Mrs. Akdas came back out?
- A. Yes.
- Q. About how long was Mrs. Akdas in talking to the vice consul?
- A. Don't remember.
- Q. Just a few moments, perhaps?
- A. Minutes, maybe. She wait, maybe -- a little bit but I don't know. Maybe she was busy at that moment, then --I don't know the correct moment.
- Q. During this time, did you have occasion to observe the gentleman Mr. Yanikian as he stood there?
- A. Yes, it was -- I -- really, those plans is not --
- Q. It is not correct?
- A. Not exact size, because there, the room was too small, then this desk (indicating) are attached each other, you know, but -- (witness drawing on diagram), and it was just like this.
- Q. All right.
- A. And I was staying here, and then almost his profile was--
- Q. You could see him sort of--
- A. (Interposing) Profile
- Q. Sideway?
- A. Side, yes.
- Q. What was he wearing at that time?
- A. I think old coat.
- THE COURT: Excuse me. I think we will take the afternoon recess.
We will take the afternoon recess.
(Whereupon, a short recess)
- THE COURT: All members of the jury are present and
the alternate jurors, gentlemen. All right, Mr. Lindsey.
- Mr. LINDSEY: Thank you, your Honor.
- Q. Let me, Mrs. Arel --
- THE COURT: "How was he dressed?" was the last question.
- Mr. LINDSEY: Thank you, your Honor.
- Q. Do you recall how he was dressed, his clothing?
- A. I don't remember. It was brownish, something. Jacket or coat, I don't know.
- Q. Now, when Mrs. Akdas came out of the vice consul's office -- now, when Mrs. Akdas came out of the vice consul's office, did she come over near where Mr. Yanikian, you recall was standing?
- A. I don't remember that much detail really. Maybe she talked from here, okay, I don't know.
- Q. She might have remained near the doorway to the vice consul's office?
- A. Yes. It is possible, because there is no big distance between the desk and the door, there is no big distance.
- Q. Now, do you recall then that Mr. Yanikian then walked to the door to the vice consul's room and entered in there?
- A. Yes.
- Q. Did Mrs. Akdas enter into the vice consul's office with him?

- A. No, I don't remember. I didn't pay any attention to this much.
- Q. About how long do you recall that the vice consul and Mr. Yanikian carried on a discussion in that room?
- A. Quite a long time.
- Q. An hour?
- A. Not this much.
- Q. Half an hour?
- A. Maybe between half -- 20 minutes or half hour.
- Q. Maybe approximately 20 minutes to a half an hour?
- A. Yes.
- Q. Now, you could not hear any of that conversation though, could you?
- A. No.
- Q. And they left the door open, did they?
- A. I don't seem to remember.
- Q. Would it be more comfortable to resume the stand, please?
- A. (Witness complies.)
- Q. Mrs. Arel, could you describe the features of that man that you saw that day?
- A. At that time, I couldn't describe exactly, but I could recognize if I saw him. I can't give all the description exactly.
- Q. But you think if you saw him again, of course, you would recognize him?
- A. Yeah, I can.
- Q. Mrs. Arel, do you recall being interviewed on January 31, 1973, at your offices in Los Angeles by two Special Agents of the FBI?
- A. Yes.
- Q. Mr. Boone and Mr. Laver.
- A. I don't remember their name.
- Q. Do you recall that they identified themselves as FBI Agents?
- A. Yes.
- Q. Do you recall in that interview telling those agents that you could furnish no description of the man other than he was a white male, and that you would not know Yaniki if you saw him again?
- A. It was -- I couldn't give the correct description, I meant this way, because he was very unique when you saw him. Then you can, I think, forget it very easily. But I couldn't give a description exactly about him.
- Q. Did you tell the two special agents from the FBI at this interview on January 31 of this year, that you would not know Yaniki if you saw him again; did you make that statement?
- A. I don't remember if I did, because -- they didn't understand my English that time, but I said, I meant this way.
- Q. Well, if such a statement purporting to be made by you were in an FBI report, then that statement would not be correct then, would it?
- A. Yes.
- Q. Well, let me put it to you this way, you would know that man if you saw him again, wouldn't you, as you recognize him here in the courtroom?

- A. I recognize him, yes. I meant, I can't describe -- I can't give all the discrimination about him, I meant this way.
- Q. Have you at any time read the FBI report on what you said?
- A. Yes, I read it.
- Q. Did you correct this part to the FBI agents after you read what you are claiming to have said?
- A. I didn't correct it because I really didn't pay much attention about this sentence -- the sentence.
- Q. Now, were you still in the main reception area there when the gentleman completed his discussion with the vice consul?
- A. Yes.
- Q. That was after he had been in there 20 or 30 minutes, approximately?
- A. Yes.
- Q. Did he then come out of the room?
- A. Yes.
- Q. And did the vice consul come with him?
- A. Yes.
- Q. What did you see them do at that point? Did they remain standing there in a large room talking, or did the gentleman leave immediately?
- A. They leave immediately.
- Q. Did the vice consul walk into the main door leading out of the consulate office?
- A. Yes, he walked to main door.
- Q. And they did not carry on any conversation then to your knowledge in that reception -- large reception room after they came out of the vice consul office?
- A. Yes.
- Q. Now, did you see the gentleman again after that day?
- A. Yes.
- Q. When was the next time you saw him?
- A. No, I meant to see him there, I saw second time when you left the consul room together, I meant this way.
- Q. In other words, you saw him when he first came in the room?
- A. Yes, at that time, and he went out.
- Q. Now, did you see him again after that?
- A. No.
- Q. Was that the last time that you have seen him then?
- A. Yes.
- Q. Until today in court?
- A. Yes.

Mr. LINDSEY: Your Honor, I have no further questions. Thank you very much.

Mr. MINIER: Just one further question.

REDIRECT EXAMINATION

BY Mr. MINIER:

- Q. Mrs. Arel, if I might, taking you back to some of your prior testimony regarding the photograph of the painting of the harem scene, today, in modern-day Turkey, do you still have harems?

A. No.

Mr. MINIER: Thank you.

Nothing further, your Honor.

THE COURT: All right. That is all, Mrs. Arel. You are excused and free to leave.

(Whereupon, the witness was excused and withdrew from the stand.)

MR. MINIER: Mrs. Leya Akdas.

LEYLA AKDAS,

produced as a witness for and on behalf of the People, was thereupon duly sworn and testified as follows:

DIRECT EXAMINATION

BY Mr. MINIER:

Q. Would you state and spell your full name.

A. My first name is Leyla -- L-e-y-l-a, and my last name is Akdas, A-k-d-a-s.

Q. And that is Leyla Akdas?

A. That is pronounced Akdas.

Q. Is it Mrs.?

A. Yes.

Q. Mrs. Akdas, what is your nationality?

A. I'm a Turkish citizen.

Q. By whom are you employed?

A. By Turkish consulate general in Los Angeles.

Q. How long have you been employed there?

A. It's more than two years, I start working on the 13th of April, 1971.

Q. Did you have any particular kind of training before you came to this country?

A. Yes, I studied three years English literature in Ankara, for three years.

Q. English literature, is that correct?

A. Yes.

Q. Are you married?

A. Yes.

Q. What does your husband do?

A. He is working in UCLA, University of California, in Los Angeles.

Q. Has he been a student there?

A. Yes, he graduated last June, he got his MS degree.

Q. Now, during the time that you were working as a secretary in the consulate general's office in Los Angeles, do you know the consulate general, Mr. Mehmet Baydar?

A. Excuse me, before I start working?

Q. No, while you were working there.

A. Yes, I knew him very well.

Q. Also you knew Mr. Demir, did you?

A. Yes.

Q. Now, calling your attention to the defendant, Mr. Yanikian, who is seated at the table in the blue suit and blue tie, do you recognize him?

A. Yes.

Q. Calling your attention to the month of October, now, of last year, 1972, did you have occasion to see the defendant?

A. Yes.

Q. Could you tell us approximately what it was and where it was?

A. As far as I can remember, it was several days, or a week before the 3rd of October, 1972, he came to our office and he entered into the room. He was aimed to enter the room of the consulate -- vice consul, Mr. Demir, and while he was walking towards the room, I stand up and I ask him if I may help him, and he told me that his name was Gourg Yaniki, and he -- he wanted to see the consul general, or the consul, and I asked what was it about, and he told me that he had a very valuable painting which is stolen from the Ottoman palaces a long time ago, and he also had a Turkish currency which has the signature of several important historical persons, and he would like to give them to Turkish government as a gift. And he said that he was an Iranian citizen.

Q. And what, if anything, did you do with him at that point?

A. At that point I tell him, I ask him to wait for a moment, and I enter to Mr. Demir's room and I explain him the situation, Mr. Demir accepted Mr. Yaniki.

Q. And was then the defendant in Mr. Demir's office for a period of time?

A. As far as I can remember, he stayed there half an hour.

Mr. MINIER: Now, I have a photograph of the painting which I wonder if we might have marked as People's No. 3 for identification.

THE COURT: Yes.

(Whereupon, a photograph of painting thereupon duly marked as People's Exhibit No. 3 for identification purposes only.)

Mr. MINIER: Your Honor, I will also have what appears to be a bank note, could we have this marked People's 4 for identification?

THE COURT: Yes.

(Whereupon bank note thereupon duly marked for identification as People's Exhibit No. 4 for identification purposes only.)

Mr. MINIER: Mrs. Akdas, I am going to show, you People's 3 for Identification and ask you if you have ever seen the photograph which is identical in all respects to this, except for the size?

A. Yes.

Q. Can you tell us when and where you saw such photograph?

A. I saw this photograph after Mr. Yanikian left the Consulate. Mr. Demir, the vice consulate, took this picture and the Turkish currency out to our room and he showed those things to us.

Q. Have you had occasion to -- well, first let me ask you this: what happened to the photograph that you saw there in the consulate?

A. We sent them to Turkey.

Q. You sent a photograph of the painting to Turkey?

A. And the Turkish currency.

Q. Was this the currency itself, or a copy?

A. It was a Xerox copy of the currency.

Q. Have you since -had occasion to compare the photograph that you sent to Turkey with the photograph that you are now looking at?

A. Yes, I did.

Q. Can you tell if they are identical in all respects?

A. Yes.

Mr. MINIER: Your Honor, at this time we would offer People's No. 3. into Evidence.

THE COURT: Is that the photograph?

Mr. MINIER: That is the photograph of the painting, your Honor, a color photograph of the painting.

THE COURT: Received.

Mr. MINIER: Thank you.

(Whereupon People's Exhibit No. 3 previously marked for identification

thereupon received in evidence as People's No. 3 in evidence.)

Mr. MINIER: May we place that on the board, your Honor?

THE COURT: Yes. May I see it, please?

THE WITNESS: (Handing)

THE COURT: Thank you.

Mr. MINIER: Your Honor, the Clerk has told me she would like to mark those as admitted before I put them up, so maybe I will give it to her first.

THE COURT: All right.

Mr. MINIER: If I might have just a moment, your Honor, while counsel looks at the photograph.

Your Honor, I also have what appears to be a Xerox copy of a bank note. I wonder if we might have it marked as People's No. 5 for Identification?

THE COURT: Yes.

(Thereupon Xerox copy of bank note thereupon duly marked as People's Exhibit

No. 5 for identification purposes only.)

Mr. MINIER:

Q. Mrs. Akdas, would you please look at People's 4 for Identification while I am putting a picture of the painting on the board?

A. (Witness complies.)

Yes, I saw the Xerox copy of this Turkish lira.

Q. Is that at the consulate at the time you have already testified to?

A. Yes.

THE COURT: May I see that, please?

THE WITNESS: (Handing).

THE COURT: Thank you.

Mr. MINIER:

Q. Now, I am going to show you People's Exhibit No. 5 for identification and ask if that appears to be identical to the Xerox copy that you saw at the consulate?

A. Yes.

Q. Have you had an opportunity to compare the Xerox copy, which is People's No. 5 that you are now holding with the actual Xerox copies that you had at the consulate and that you then sent to Ankara?

A. Yes.

Q. And does the Xerox copy that you hold in your hand correspond exactly to the actual bank note which is People's No. 4 for Identification?

A. Yes, it does.

Mr. MINIER: Your Honor, at this time, then, we would offer People's No.4 into evidence.

That is the bank note itself.

THE COURT: Received.

(Whereupon the bank note previously marked for identification thereupon duly received in evidence as People's Exhibit No. 4 in evidence.)

Mr. MINIER: If at all possible, your Honor, for the sake of clarity, I would like to have five renumbered, as 4-A since it is a copy of 4, and if we could do that, then I would

like to offer it into evidence as People's Exhibit No. 4-A.

Mr. LINDSEY: I agree with that, your Honor.

THE COURT: All right. We will mark 5, 4-A. Did you want to introduce 4-A into evidence in lieu of 4, or are you introducing them both in?

Mr. LINDSEY: I would -- from my standpoint, I would desire to have the original note remain in evidence, your Honor. I have no objection, --

THE COURT: It is already in.

Mr. LINDSEY: Yes. And to remain in and not to be withdrawn until the conclusion of the case.

THE COURT: All right.

Mr. LINDSEY: I have no objection of 4-A going in as a part of Exhibit 4, however.

Mr. MINIER: Thank you.

THE COURT: All right, 4-A will be received after it has been renumbered as 4-A.

(Whereupon Plaintiff's Exhibit 4-A thereupon received in evidence as Plaintiff's Exhibit 4-A in evidence.)

Mr. MINIER:

Q. Now, Mrs. Akdas, I believe you testified, did you not, that the photograph -- the original photograph in color, of the painting that you had at the consulate, together with the Xerox copy of the bank note were both sent to Ankara?

A. Yes.

Q. And Ankara is the capital of the republic of Turkey, is it?

A. Yes.

Q. Do you recall the purpose for which they were sent to Ankara?

A. Yes. We asked the permission of our government if we can accept this gift or not.

Mr. MINIER: Your Honor I have three documents here, or I have two documents, pardon me, which I wonder if we might have marked for identification as People's 5 and 5-A.

People's 5, being a letter written in what appears to be the Turkish language, and 5-A, being a letter written in the English language. They both appear to have the date of October 3, 1972.

THE COURT: Yes, they may be marked for identification.

Mr. MINIER: Thank you. Also, your Honor, I have some further documents which I wonder if we might mark as People's 6 for Identification and 6-A. The one which would be marked 6 for identification -- if I might have just a moment. Six would consist of two pages, both written in what appears to be the Turkish language and one appearing to bear the -- the top one appearing to bear the date of November 23. Six-A would be two similar documents written in the English language, the top one bearing the date of November 23, 1972.

THE COURT: Yes, they may be marked.

Mr. MINIER: Thank you, your Honor.

(Whereupon letter from Ankara thereupon duly marked People's No. 6 for identification purposes only.)

(Whereupon translation of above letter thereupon duly marked People's Exhibit No. 6-A for Identification purposes only.)

Mr. MINIER:

Q. Now, Mrs. Akdas, now I am going to show you People's Exhibit No. 5 and ask if you would please look at the letter and tell us if you can identify that letter as being a copy of a letter with which you are familiar?

A. Yes. This is a letter we wrote to Turkey about the gifts that Mr. Yanikian was going to give us.

Q. What is the date on that letter?

A. It is the third of October 1972.

Q. Is it written in the Turkish language?

A. Yes.

Q. Is this the letter that you testified about, or I should say is this a copy of the letter that you sent to Turkey along with the photograph of the painting and the Xerox copy of the bank note?

A. That is right.

Q. Now showing you People's Exhibit for identification 5-A, I would like to ask you if you can identify that?

A. Yes. This is the English translation of this letter.

Q. Now, did you personally translate the Turkish letter, which is People's 5 for identification into the English language?

A. Yes, I did.

Q. Is that verbatim translation, the letter that you are holding there, which is marked as People's Exhibit 5-A?

A. That is right, yes.

Mr. MINIER: Your Honor, we would offer at this time People's 5 that is the copy of the letter in the Turkish language, and also the verbatim translation into English, which is 5-A, into evidence.

THE COURT: It is received -- they are received.

Mr. MINIER: Thank you, your Honor.

(Whereupon, Turkish letter and English translation duly marked as People's Exhibits- Nos. 5 and 5 -A in evidence.)

- Q. BY Mr. MINIER: Now, did you receive -- or did the consulate receive a reply from the capital in Ankara, namely, a reply to the letter of October 3rd, which was sent to Ankara?
- A. Yes. We received the answer on the 23rd of November, 1972.
- Q. I'm going to show you People's Exhibit No. 6 for identification and ask you if you can identify this two-page document?
- A. (Witness examining exhibit) Yes, this is the copy of the answer we got from Ankara, this one.
- Q. Is that an exact copy of the answer that you received at the consulate?
- A. Yes.
- Q. And are both pages written in the Turkish language?
- A. Yes.
- Q. Is the second page part of the answer, or is the second page another letter which was merely included with the answer?
- A. It is another letter merely included to this letter the first one.
- Q. Could you just briefly describe what the second letter is?
- A. This letter sent by the--by one of the governor in Turkey, and it is thanking Mr. Yaniki about his generous offer.
- Q. And what is the first letter, the one on top, dated November 23?
- A. This came directly from -- from the Prime Minister's helper, the person who signs the letter instead of him, and he says, "We are enclosing a letter --" the letter that the governor wrote to about this gift, "and we are really happy to accept it."
- Q. So then the letter on top is a letter from a certain governmental agency in Turkey to the consulate in Los Angeles, is that correct?
- A. Yes.
- Q. And the letter below is a letter sent from one agency in Turkey to another agency in Turkey?
- A. That is exactly right.
- Q. Now, I'm going to show you People's Exhibit 6-A for identification and ask you if you can identify this two page document as a verbatim translation from the Turkish language into the English language of the two documents marked People's Exhibit 6 for identification?
- A. (Witness examining exhibits) Yes, these are the translations of the Turkish letters.
- Q. Did you also translate those documents yourself?
- A. Yes.
- Q. And they are verbatim, are they?
- A. Yes.
- Q. Would you show them to his Honor, please.
- A. Yes (presenting documents to the Court).
- Mr. MINIER: Your Honor, at this time we would offer People's 6, which is the Turkish language set of two letters, and 6-A, which would be the English translation of these two letters into evidence.
- THE COURT: All right. They are received.
- (Whereupon, People's Exhibits Nos. 6 and 6-A, a

set of two letters with English translations, were received into evidence.)

Mr. MINIER: Your Honor, I have handed to the clerk three documents, the first being a letter in the English language dated December 13, which I wonder if we might have marked as People's No. 7 for identification.

The second which I would like to have marked 7-A for identification appears to be a carbon copy of that letter with certain notations, and the third item appears to be an envelope which also bears the date December 13, which we would like marked People's 7-B for identification.

THE COURT: All right.

(Whereupon, a Turkish letter thereupon duly marked as People's Exhibit 7 for identification purposes only; whereupon, an English translation of People's Exhibit

No. 7 for identification purposes thereupon marked People's Exhibit 7-A for identification purposes only; and an envelope bearing the date December 13, 1972,

thereupon duly marked as People's Exhibit 7-B for identification purposes only.)

Q. BY Mr. MINIER: Now, calling your attention again, Mrs. Akdas, to People's Exhibits 5 and 5-A, this is the letter from the consulate in Turkey and the translation, and you testified that the translation was verbatim. I would like to call your attention to the translation, to the date, and ask you if perhaps that it should be dated October 3, 1972, instead of 1973?

A. Oh, yes, it should be dated "72." I'm sorry.

Mr. MINIER: May we have the Court's permission to make that change now, your Honor, if there is no objection from counsel. The date on the translation is dated 1973, whereas on the original, the date is 1972.

Mr. LINDSEY: Your Honor, I would stipulate that the translation may be corrected to reflect the 1972 date.

THE COURT: All right, do you want to do that, please? Do you have a pencil there?

THE WITNESS: (Correcting exhibit.)

BY Mr. MINIER: Now, Mrs. Akdas, with regard to -- I think I will ask you about the original, People's Exhibit 5, written in Turkish on October 3, is there any reference made to the proposed donor of the painting and the bank note in that letter?

A. Excuse me?

Q. Is there a reference in the letter to the name of the man who was offering to donate these things to the Turkish government?

A. Yes.

Q.. And what is that reference? Could you spell it, please?

A. It's Yaniki, the name is written as Yaniki.

Q. Is it Y-a-n-i-k-i?

A. Y-a-n-i-k-i.

Q. And the first name is what, please?

- A. G-o-u-r-g.
- Q. Mr. Lindsey is looking at the reply letter that you received back from Turkey, but do you recall, without looking at it, if the reply letter uses also the same reference, namely, to Gourg Yaniki?
- A. Yes.
- Q. Now, I'm going to show you People's Exhibit No. 7 for identification, and I think what I'll do, I will remove the letter from the plastic bag so that you can unfold it and look at it.
- Would you look at the letter that I have removed and tell us if you can identify it?
- A. (Witness examining exhibit) Yes. This is the original of the letter we wrote to Mr. Yaniki on December 13, 1972.
- Q. This is a letter that was written to--when you say "we", are you referring to the consulate?
- A. Consulate, yes.
- Q. To Mr. Yanikian?
- A. Yes.
- Q. And what was the date?
- A. December 13, 1972.
- Q. And the purpose of this letter was what?
- A. The consul general wanted to thank him about his generous offer, and he is saying that he is going to inform the Turkish authorities about this, and we are hoping that they will be very glad to accept the gift.
- Q. Then to put them in sequence, first, on October 3rd, you wrote the letter to Ankara?
- A. Yes.
- Q. Is that correct?
- A. Yes.
- Q. And that was to ask for instructions and what to do with the offer of the gift?
- A. Yes.
- Q. And then on November 23, a letter was sent back from Turkey?
- A. Yes.
- Q. From the government?
- A. Yes.
- Q. And that gave instructions that it was all right to go ahead and accept the gifts?
- A. Yes.
- Q. Now, this letter of the 13th directed to Mr. --again, what is the name on that one?
- A. Mr. Yaniki -- Y-a-n-i-k-i.
- Q. The letter to Mr. Yaniki, then was sent by the consulate, is that correct?
- A. Yes.
- Q. And that was for the purpose of telling Mr. Yaniki that the government will be glad to have the two gifts?
- A. Yes.

Q. Now, I'm going to show you People's No. Exhibit 7 -- I don't think that I have to remove it from the plastic envelope, it appears to be an envelope.

Would you look at Exhibit 7-B for identification and see if you can identify that?

A. (Witness examining exhibit) Yes, this is our envelope and this is addressed to Mr. Gourg Yaniki.

Q. Does that bear a postmark?

A. Yes, it is 13th of December, 1972.

Q. Does that appear to be the envelope in which the letter that you just referred to was sent to Mr. Yaniki?

A. Yes.

Q. Now, showing you People's Exhibit 7-A, would you look at this and tell us if you can identify this as being a copy of anything that you are familiar with?

A. Yes. This is the copy of the letter that I showed that you showed me that we wrote to Mr. Yaniki on December 13, 1972.

Q. All right. Exhibit 7-A is a copy of the original letter to Mr. Yanikian?

A. Yes.

Q. Now, where has the file copy of the letter to Mr. Yanikian been kept?

A. It has been kept in our office in normal -- you know, file places.

Q. Is the one that you have in your hand now an exact copy of the file copy you have in that letter?

A. Yes, exactly the same.

Q. Are there certain additions which appear in handwriting or handprinting on 7-A which do not appear on the original of the letter?

A. Yes. I think there is one telephone number, Biltmore Hotel's 12-A and 519 Alamar Avenue Apartment 13, and also there is the file number which is written by hand.

Mr. MINIER: Your Honor, at this time, we would like to offer into evidence People's 7 which is the original letter to Mr. Yanikian; People's 7-A, which is the file copy of that letter with certain additional handwritten or printed notations and 7-B which is the envelope in which 7 was sent to Mr. Yanikian.

THE COURT: Received.

(Whereupon People's Exhibits Nos. 7, 7-A and 7-B previously marked for identification thereupon duly received as People's Exhibits Nos. 7, 7-A and 7-B in Evidence respectively.)

Mr. MINIER: Thank you.

THE COURT: This is 7, it is as yet unmarked.

Mr. MINIER: We must have lost -- it belongs in the envelope here.

Q. Calling your attention again to 7-A, which is the file copy, or I should say this is copy of your file copy; is that correct?

A. Yes, that is correct.

Q. This is a Xerox copy; is that right?

A. Yes.

Q. So that the hand printed or written portions don't appear in their original ink colors; is that correct?

A. Yes.

Q. Can you identify the handwriting or printing with regard to any of these additions found on the letter?

A. These' handwriting belong to Mr. Demir, the vice consul, except this one this is the handwriting of one of the secretaries in the consulate. These are the file numbers, but these belong to the vice consul, Mr. Demir.

Q. Were you familiar with the printing and the handwriting of Mr. Demir during his lifetime?

A. Yes.

Q. With the red marking pencil, would you please put a circle around the handwritten or hand printed notations by Mr. Demir?

A. (Witness complies.)

Q. Then would you write the name Demir please?

A. (Witness complies.)

Q. Now, would you put a little arrow from the name Demir from this one circle - you have three circles; is that correct?

A. That is right.

Q. Three different notations. There is only one additional notation, did you indicate that is a file number?

A. Yes.

Q. Do you know who wrote that; can you tell?

A. One of the secretaries in the consulate. I cannot tell for sure.

Q. Fine, thank you.

THE COURT: May I see that, please.

THE WITNESS: (Handing.)

Mr. MINIER: Your Honor, I have now another document which is what purports to be a receipt dated January 27, 1973, and also an envelope, and I wonder if we might have this marked for identification as People's No. 8.

THE COURT: Yes.

(Whereupon receipt thereupon duly marked People's Exhibit No. 8 for identification purposes only.)

Mr. MINIER: While we are waiting for that to be marked, Mrs. Akdas, can you tell us if Mr. Baydar, the consul general, kept any kind of an appointment book?

A. Yes.

Q. Did you bring that appointment book with you?

A. Yes.

Q. Do you have it in front of you?

A. Yes.

Q. Would you please turn to the date of January 27?

A. Yes.

Q. May I see the book a moment, please?

A. (Witness handing.)

Mr. LINDSEY: May I have just a moment, your Honor?

THE COURT: Yes.

Mr. MINIER:

Q: Now showing you again the appointment book, is there a notation for January 27?

A. Yes.

Q. Is that in the handwriting of Mr. Baydar?

A. Yes.

Q. Would you tear that out of the book, please, and then I wonder if you might hand it to his Honor.

A. (Witness complies.)

Mr. MINIER: Your Honor, we would like to offer this page from the appointment book into evidence as People's Exhibit No. 9. It hasn't been marked yet, counsel has seen it.

Mr. LINDSEY: No objection, your Honor.

THE COURT: Received.

Mr. MINIER: Thank you.

(Whereupon above described page thereupon duly marked and received in evidence as People's Exhibit No. 9 in evidence.)

Mr. MINIER:

Q. Did you have occasion, Mrs. Akdas, to type a receipt for Mr. Baydar on Friday the 26th of January?

A. Yes.

Q. We will get to that in a moment.

I am going to show you People's Exhibit No. 8 for identification which is a plastic sack, and I am going to withdraw the envelope and also the letter, and would you please look at that and see if you can identify them?

A. Yes. This is a receipt I typed.

Q. Is that the same receipt that you typed for Mr. Baydar on the 26th of January of this year?

A. Yes, that is right.

Q. Is that a receipt made out to again Mr. Gourg Yaniki?

A. Yes,

Q. Is that a receipt for the bank note and the painting?

A. Yes.

Q. Do you recognize the envelope that is also with the receipt?

A. Yes.

Q. Is that the envelope that you also typed?

A. Yes,

Mr. MINIER: Your Honor, at this time we would offer People's No. 8 into evidence, which is the two items, the receipt and the letter. Would you please hand them to his Honor?

A. (Witness complies.)

THE COURT: They are received.

(Thereupon People's Exhibit No. 8 previously marked for identification thereupon duly received in evidence as People's Exhibit No. 8 in evidence.)

Mr. MINIER: Would you put those back in the plastic envelope please?

A. (Witness complies.)

Q. Now showing you again the page that you tore out of the appointment book for January 27, 1973, could you read the handwriting in Mr. Baydar's writing which appears under that date?

A. "Gourg Yaniki, 'Santa Barbara."

Q. Do you recall what you were doing on the day following your typing of this receipt on the 26th; do you recall where you spent the afternoon of the 27th of January?

A. You mean Saturday?

Q. Saturday the 27th.

A. Yes. I was with Mrs. Demir.

Q. That was the vice consul Bahadir Demir's wife?

A. Yes.

Q. Do you know where Mr. Demir was on that day?

A. Yes. I learned from his wife exactly.

Q. Where did you learn that he was to be?

A. I learned that Mr. Demir and Mr. Baydar went to Santa Barbara to pick up the painting and the Turkish currency.

Mr. MINIER: Thank you.

Your Honor I have no further questions at this time. At some point, I would like to read these various exhibits into the record, because the jury, I think, has no idea actually of what the text is, so I would leave that up to the Court and counsel. I can do it now, or after the cross-examination, whichever is preferable.

THE COURT: I think it would be more intelligible to do it now.

Mr. LINDSEY: I agree, your Honor.

Mr. MINIER: People's 5-A. is the verbatim transcript into English of the letter sent to Ankara on October 3, 1972.

There is a file number, a reference about Gourg Yaniki, the date October 3., 1972.

"Ministry of Foreign Affairs:

"Gourg Yaniki, a United States Citizen, resident at 670 Romero Canyon Montecito has approached our consulate general stating that he is a former citizen of Iran. That during the Soviet occupation in the second world war, he has escaped to Beirut, and there he met certain exiled Turks, and from one of these exiles he bought a water-color painting by Italian painter Fureli, which he alleges was smuggled out of the Palace of Abdulhamit. He further added he has in his possession a bank note of 2.50 Turkish liras, signed by those exiled at the time. He has stated that he is contemplating to give the painting and the bank note to the Turkish government, and not expecting any monetary consideration in return. Nevertheless, from our conversation, I got the impression that he does expect a moral satisfaction for his gesture.

"Please find enclosed a small photograph painting and bank note. I hereby submit the matter for your consideration and request instructions as to reply to be given to the applicant. Signed Mehmet Baydar,
Consul General.

People's Exhibit 6-A is the verbatim translation into English of the reply letter-from the Turkish government.

The heading is "Republic of Turkey Ministry of Foreign Affairs, Directory General of Cultural Affairs."

There is a reference or file number "Subject Gourg Yaniki, Ankara, November 23, 1972.

"To the Consulate General at Los Angeles.

"Reference: Your letter dated 3 October 1972."

Then with the file number.

"Please find enclosed a copy of a letter received from the Prime Ministry Office of Permanent Undersecretary for Cultural Affairs that the contemplations of Gourg Yaniki,U. S. Citizens, to present to our government G. Fureli's water color painting and the bank note with signatures of Turkish exiles in Beirut. It is stated in the enclosed letter that should Mr. Gourg Yaniki decide to make a gift of the above mentioned painting and the bank note, the collections of the museum of Paintings and Sculptures will be enriched and requesting that their thanks be conveyed to Mr. Yaniki for the interest he has shown in this matter.

"After receipt of the bank note and the painting, efforts will be made to procure a letter of thanks to the above mentioned for his moral satisfaction. For the Minister of Foreign Affairs Semih Gunver, Ambassador, Director General for Cultural Affairs."

And there follows some file numbers.

Attached to the letter, this again is the English translation, is a letter from -- or signed by the Minister of State Ismail Arar and the heading is "Republic of Turkey

Prime Ministry Office of the Permanent undersecretary for Cultural Affairs." The date is "1 November 1972., and it reads,

"To the Ministry of Foreign Affairs (Director General for Cultural Affairs)

"Reference: Your letter dated 18 October 1972

No: 319.

"We have noted with pleasure the contemplation of Mr. Gourg Yaniki to present to our government the water color painting of Italian Painter G. Fureli alleged to have been smuggled out of the Palace of Abdulhamit now owned by the above mentioned and 2.50 Turkish lira bank note signed by the Turks exiled in Beirut which is understood he has been sent with after arrival in that City from Soviet occupation.

"Should it be decided to transfer the above mentioned painting and the banknote the collections of the Museum of Painting and Sculpture will be enriched

"Please convey our thanks to Mr. Gourg Yaniki for interest he has shown in this matter."

People's Exhibit 7 is a letter with the heading of "Consulate General of the Republic of Turkey, 1901 Avenue of the Stars, Los Angeles, California, dated December 13, 1972

"To Mr. Gourg Yaniki, 670 Romero Canyon,
Montecito California.

"Dear Mr. Yaniki: Concerning the telephone conversation you had recently had with Mr. Bahadir Demir Consul, I have the pleasure of extending to you the deepest thanks of the Turkish authorities for the kind gesture that you wish to make by donating an oil painting as well as a memento of your previous stay in Beirut.

"I have been told by the secretariat of State for Cultural Affairs of the Prime Minister's Office that the collection of the paintings and the Statues museum in Turkey will increase in value, thanks to your thoughtful contribution.

"Please let me know how and when you wish to make available the painting and the bank note in question so that I may undertake measures to ensure their safe expedition to Turkey."With my personal expression of gratitude,

I am, Yours sincerely, Mehmet Baydar, Consul
General."

Mr. MINIER: People's Exhibit 7-A is a copy of the file copy maintained in the Turkish consulate of the letter I just read to you, and the only difference in 7-A and 7 is that there are certain handwritten notations made upon 7-A, the file copy. Those handwritten notations are, first, a telephone number, '805-687-6064."

Another notation, "519 Alamar Avenue, No. 13."

And the third hand printed notation is "Biltmore Hotel, 12 a.m."

People's Exhibit No. 8 is a typewritten receipt and an envelope. The receipt again has the letterhead of the consulate general of the Republic of Turkey, with the Los Angeles address, and it reads as follows [reading]:

'In accordance with the express desire of Mr. Gourg Yaniki, and in conformity with instructions received from the Turkish government, the undersigned consul general of Turkey in Los Angeles has, on this date, January 27, 1973, taken possession of one painting signed by G. Furelli,"and one bank note of 2.50 lira, denomination issued by the Republic of Turkey, and bearing several signatures, for expedition to the appropriate Turkish authorities."

Signed, 'Mehmet Baydar, Consul General."

Thank you, your Honor.

I have no further questions of Mrs. Akdas.

Mr. LINDSEY: Your Honor, I wonder if I might ask two things. First of all, if I might ask to have the diagram introduced into evidence as Defendant's Exhibit 1 to illustrate

the testimony of Mrs. Arel.

Mr. MINIER: No objection.

THE CLERK: Defendant's Exhibit A.

MR. LINDSEY: Yes, Defendant's Exhibit A, your Honor.

THE COURT: All right. Received.

(Whereupon, a diagram illustrating the testimony of the witness Selma Arel thereupon duly received in evidence as Defendant's Exhibit A in evidence.)

MR. LINDSEY: Then, your Honor, I wonder if People's Exhibit No. 3, which is the photograph of the painting, may be passed to the jury so that the jury may examine it, inasmuch as I believe the painting is going to play a dominant part throughout the trial.

Mr. MINIER: I was going to say that we have no objection, your Honor, and I was going to suggest that also we ask the original bank note, People's No. 4, at the same time.

Mr. LINDSEY: I would agree also on that, your Honor.

THE COURT: All right. Pass them both. Start one at one end of the jury and the other at the other end and save a little time.

(Whereupon the exhibits presented to the jurors for their examination.)

Mr. LINDSEY: Your Honor, if it would help, may I remove the diagram that is Defendant's Exhibit A from the board and deliver it over to the clerk for her marking?

THE COURT: Yes.

Mr. LINDSEY: May I begin, your Honor?

THE COURT: Yes.

CROSS-EXAMINATION

BY MR. LINDSEY:

Q. Mrs. Akdas, before you may depart for the day, I notice that you have the office appointment book there before you from which you removed the one page.

A. Yes.

Q. This one page is now People's Exhibit No. 9.

Your Honor, I would like to ask if we may have the prior page, and I am specifically interested in the page covering January 20th, having that also removed from the book and introduced as a defense exhibit next in order, and I would assume by reason of that, if Mrs. Akdas would desire to then retain the appointment book and take it back with her, I would have no objection.

THE COURT: You are interested in January 20th?

Mr. LINDSEY: Yes, I believe it is the preceding page.

THE COURT: Is there any objection?

Mr. MINIER: Your Honor, I am not familiar with that date. May I just have a brief look at it, please.

(whereupon, counsel examining the document.)

Mr. MINIER: May I consult with Mr. Lindsey for a moment, your Honor?

(Whereupon, both counsel conferring.)

Mr. MINIER: No. I have no objection, your Honor.

THE COURT: All right. Would you be good enough to remove that page, Mrs. Akdas.

THE WITNESS: Is this the page?

Mr. MINIER: The one that has January 20.

THE COURT: Yes, the one that has January 20 on it.

(Whereupon, witness removing a page from the appointment book.)

THE COURT: Defendant's Exhibit B.

(Whereupon, a page from the appointment book dated

January 20, 1973, thereupon duly marked as Defendant's Exhibit B in evidence.)
Mr. LINDSEY: Your Honor, I have no objection if Mrs. Akdas desires to return the book to her office.

THE COURT: Have we already marked it for identification?

Mr. LINDSEY: The book?

THE COURT: Yes.

THE CLERK: No.

THE COURT: We haven't. All right. You may take it back with you if you like.

BY Mr. LINDSEY: Mrs. Akdas, if I may ask you a few questions about the background, as you have indicated in part so far you are a Turkish citizen, is that correct?

A. Yes,

Q. And you indicated that by way of training or preparation for working in the diplomatic or consular field, you had, among other things, three years of schooling in Ankara in English literature?

A. Yes, but I don't have any diplomatic training. I am just a secretary in the consul office.

Q. But you indicated that you, among the courses that you took in Ankara, had three years of English literature?

A. I only studied English, only English literature.

Q. Yes, is that not just the English language, but studying in English literature subjects, is that it?

A. Yes.

Q. What university was that that you attended, please?

A. H-a-c-e-t-t-e-p-e University.

Q. Now, were you working for the Turkish government at the time that you were taking those three years in school?

A. No.

Q. When you completed school, did you apply to the Turkish government to work in the diplomatic field as a secretary?

A. First of all, I didn't complete school. I didn't finish the university. I got married and taken to the United States, after I came here I applied to work in the consulate.

Q. Now, you married in Turkey, did you?

A. Yes.

Q. And your husband, is he a Turkish citizen?

A. Yes.

Q. Then was he attending the University, also?

A. He was attending the Middle East Technical University in Ankara. It's a different university.

Q. And then after marriage there, you both came to the United States?

A. Yes.

Q. What was the purpose of that coming to the United States?

A. He came to University of California to take his M.S. degree.

Q. And in what field?

A. In metallurgical engineering.

- Q. Metallurgical engineering?
- A. That's right.
- Q. And did he attend four years at UCLA?
- A. No. He studied only for one and a half years to take his M.S. degree.
- Q. Now, when was it that -- in what year did you arrive, then, in Los Angeles?
- A. We came here on September 1970.
- Q. And on arriving in September 1970 and after settling down in Los Angeles, did you make application to the Turkish government for a position with the government?
- A. Yes.
- Q. Did you apply back to Ankara, Turkey?
- A. Yes.
- Q. And as a result of that application, did the Turkish government indicate their approval of your being employed in the consular office in Los Angeles?
- A. Yes.
- Q. And when did you commence working in the consular office?
- A. 13th of April, 1971.
- Q. And have you been working regularly since?
- A. Yes.
- Q. Are you still working there?
- A. Yes.
- Q. Is it true that there are only three Turkish consular offices in the United States?
- A. Yes, as far as I know.
- Q. Two of them on the East Coast?
- A. Yes. One in Chicago, New York and Los Angeles.
- Q. Is it also true that there are very few Turkish citizens on the West Coast?
- A. I don't think so.
- Q. Mrs. Akdas, do you have any knowledge if the Turkish consular office was open in Los Angeles for the express and primary purpose of the Turkish government keeping an eye on the Armenian people in the Los Angeles area?
- A. I don't have any idea about it.

THE COURT: I see it is 4:30, Mr. Lindsey. I think it is probably best that we adjourn for the evening.

Ladies and Gentlemen of the jury, it is your duty not to converse among yourselves or with anyone else on any subject connected with the trial, or to express any opinion thereon until the cause is finally submitted to you.

We will recess the case until 10 o'clock tomorrow morning.

(Whereupon, at 4:30 o'clock p.m. this date, the proceedings were adjourned until the hour 10 o'clock a.m., Tuesday, June 5, 1973.)

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**2. SANTA BARBARA, CALIFORNIA, TUESDAY, JUNE 5 1973; 10:00 A.M. MORNING SESSION**

THE COURT: All members of the jury are present and the alternate jurors.

Now I understand that you have a witness that you would like to put on out of order.

Mr. MINIER: Yes, your Honor.

We have subpoenaed Mr. Hanessian from Los Angeles, and he has another appearance in Los Angeles. Mr. Lindsey was kind enough to say that he had no objection to our putting him on out of order.

Mr. LINDSEY: That's right, your Honor.

THE COURT: All right. Let's call him, then.

Mr. MINIER: All right. Mr. Hanessian.

**EDWARD J. HANESSIAN**

Produced as a witness for and on behalf of the People, was thereupon duly sworn and testified as follows:

BY Mr. MINIER:

Q. Mr. Hanessian would you please state your full name and spell your last name?

A. Edward J. Hanessian, H-a-n-e-s-s-i-a-n

Q. And where do you reside, Mr. Hanessian?

A. In Los Angeles.

Q. What is your occupation?

A. I'm an attorney.

Q. Are you actually in the middle of a trial which should go forward in Los Angeles later today?

A. Yes, I am presently engaged in a jury trial.

Q. Is your name 'Hanessian' an Armenian name?

A. Yes.

Q. Are you of Armenian parentage?

A. Yes.

Q. Do you know if your name appears in any of the directories of persons or Armenian heritage in the Southern California area?

A. There was a directory that was published some six, seven years ago, I believe, in which my name appeared.

Mr. MINIER-. Your Honor, I have handed to the clerk a letter and an envelope, stapled together, and I wonder if we might have them marked as People's Exhibit No. 10 for identification.

THE COURT: Yes.

(Whereupon, a letter and envelope thereupon duly marked as People's Exhibit No. 10 for identification purposes only.)

Mr. MINIER: May I approach the witness, your Honor

THE COURT: Yes.

Mr. MINIER: Mr. Hanessian, I am going to show you People's No. 10 for identification and ask you if you would look at the letter and also the envelope and tell us if you can identify them?

A. Yes. This is a copy of a letter I received in the mail together with the envelope that I received.

Q. Do your initials appear somewhere on the letter so you can identify it?

A. Yes. I identified it by placing my initials on both the envelope and the letter at the time I turned over possession of the letter to you.

Q. And is the letter and the envelope addressed to you?

A. The envelope is addressed to me.

Q. And is there any name in the corner of the envelope where you normally have the return address?

A. The return name, as indicated is G. Yanikian, Y-a-n-i-k-i-a-n.

Q. Are you still at the address which is shown on the envelope.

A. No. The address shown on the envelope is, I believe it shows room 600, 217 West First Street, Los Angeles, California. That was the address wherein I was employed as a Deputy Attorney General for the State of California.

The letter, then, because I left there, was apparently forwarded to NBC which is a National Broadcasting Company wherein I took up employment after I left the Attorney General's office, and from NBC, it was forwarded to my present place of business, which is a private office in Los Angeles.

Q. Is there a post date which is legible on the envelope?

A. Yes. There appears a postmark dated January 27, 1973, dated p.m., showing U. S. Postal Service 9310A.

Q. Mr. Hanessian, do you know anybody by the name of G. Yanikian?

A. No, I do not.

Q. I am going to call your attention to the defendant who is seated between the two attorneys in the blue tie and the blue suit and ask you if you know that gentleman?

A. No, I don't.

MR. MINIER: Your Honor, at this time we would offer People's No. 10 into evidence.

THE COURT: All right, it is received.

(Whereupon People's Exhibit No. 10 for identification thereupon received  
In evidence as People's Exhibit No. 10 in Evidence.)

MR. MINIER:

Q. Would you show it to the Court, please, Mr. Hanessian.

A. (Handing.)

THE COURT: It is received

Mr. MINIER: Thank you, your Honor. I have no further questions of Mr. Hanessian.

Mr. LINDSEY: May, I examine, your Honor?

THE COURT: Yes.

### **CROSS-EXAMINATION**

BY Mr. LINDSEY:

Q. Mr. Hanessian, you mentioned that you are of Armenian parentage?

A. Yes, I did.

Q. Were you born in the area which is commonly known as Armenia?

A. No. I was born in Los Angeles or Van Nuys, a suburb of Los Angeles.

Q. Your parents, were they born in this country?

A. No, they were not. My father was born in Istanbul, which was then known as Constantinople, and my mother was born in Eastern Turkey someplace called Kharpoot  
or Kharport, I don't know.

Q. What was the name?

A. Kharpoot, I don't know how to spell it.

MR. LINDSEY: Your Honor, for our record, may I ask if the Court Interpreter can give us the correct spelling of that town?

THE INTERPRETER: K-h-a-r-p-u-r-t. Kharput.

THE WITNESS I don't know if it is a town or province.

THE INTERPRETER: Kharput is a town.

THE WITNESS: Sometimes my mother is referred to as coming from a place called Husenig.

THE INTERPRETER: Husenig is a small city alongside of Kharput.

Mr. LINDSEY: Could you spell that?

THE INTERPRETER: H-u-s-e-n-i-g

Mr. LINDSEY: Thank you very much. Does that help any?

Mr. Saroyan is quite familiar and has traveled in many of those areas so he is here to help us in this trial.

Q. Mr. Hanessian, you indicated about your legal background, I would assume then you attended schools here in California and became licensed to practice law in California?

A Yes, I did.

Q Have you specialized in any matters pertaining to the Armenian peoples ?

A No.

Q You were with the Attorney General's office after you were licensed from the State of California

A. Yes. I was employed by the State Attorney General for approximately -- well, from 1964 until '69.

Q. Was that in their civil end of their department?

A. In the civil end. I was a civil trial attorney for tax matters. I did handle a few criminal appeals, three or four, that I recall.

Q. From there, you became counsel for NBC?

A Not directly as counsel for NBC, but in charge of a department that was designed to look over the network to make sure that there was no cheating going on in their game shows, unauthorized plugging on television.

Q. BY Mr. LINDSEY: And then at the present time you are in private practice as a private attorney?

A. Yes, and have been since 1970.

Q. Now, the directory that you mentioned that you believe your name was -- in which your name was listed, what directory was that, please?

A. I have it outside, if you would like to see it.

Q. Do you have it with you?

A. My associate who is outside the courtroom, has it in my briefcase.

Q. Is he standing outside that metal detector unit?

A. Yes.

MR. LINDSEY: Your Honor, if his record is available, I would like to be able to see that.

Q. BY Mr. LINDSEY: Is it just outside the courtroom door?

A. I don't know if he is standing out there. He is supposed to be waiting for me outside so that we can go back to Los Angeles.

Mr. LINDSEY: I would ask if that can be brought in, your Honor.

THE COURT: What is his name?

THE WITNESS: William -- Allen William.

THE COURT: Ask him if he can come in, please, Mr. Bailiff.

Q. BY Mr. LINDSEY: Now, Mr. Hanessian, you have now with you the directory that you mentioned?

A. That I s correct.

Q. May I see it, please?

A. Yes (presenting document to counsel)

Q. Did you come into possession of this directory back about the time it was first published?

A. Yes, I did.

Q. And has this one, is this the one thing that you are referring to in your testimony?

A. Yes, it is.

Mr. LINDSEY. Your Honor, I would desire to have this directory marked for identification as defendant's next in order, if I may, please.

THE COURT: All right.

THE CLERK: Defendant's Exhibit C.

(Whereupon. a document described as a Directory duly marked as defendant's Exhibit C for identification purposes only.)

Q. BY Mr. LINDSEY: Now, Mr. Hanessian, were there something that came to your attention that caused you to connect in any way the letter that is now identified as People's Exhibit No. 10 to the appearance of your name in this directory which in now identified as Defendant's Exhibit C for identification?

A. Well, not knowing Mr. Yanikian, if that is the way you pronounce it his name, I have no way of knowing how the letter was addressed to me, or how it happened to reach me, so I assume that that directory was used because that contains the address that was on the envelope, since I was no longer employed at the Attorney General's office, which was the address on the letter.

Q. And to your knowledge, then, would this book have been the most likely publication for the obtaining of your name and that particular address that was on the envelope directed to you?

A. The most likely public publication. There is a State Directory which is published for state personnel and which circulates among the state, but that wouldn't have -- my name would not have been in the current 1973 editions, having left there in 1969.

MR. LINDSEY: Your Honor, we would ask that this exhibit be introduced into evidence, please.

Mr. MINIER: Well, your Honor, I guess we probably can't legally object. The only reason I didn't offer it was that Mr. Hanessian had wanted it back. We certainly wouldn't object to any portion of it being duplicated.

MR. LINDSEY: Your Honor, I will stipulate that the Directory at the conclusion of all the proceedings in this case may be returned back to Mr. Hanessian, and if at any time he has any special use for the directory, if he may advise Mr, Minier, I am sure that I could be cooperative. But, otherwise, I would want it in

the case because it would be of significance later on in the proceedings, I am sure.

MR. MINTER: Is that satisfactory, Mr. Hanessian?

THE WITNESS: Yes, thank you.

Mr. MINIER: We would enter into that stipulation.

THE COURT: All right, it is received.

(Whereupon, the document directory previously marked for identification thereupon duly received in evidence as Defendant's Exhibit C in evidence.)

Q. BY MR. LINDSEY: Mr. Hanessian -- By the way, did your parents go through the massacres, either one of them?

A. Pardon?

Q. Did either one of your parents go through the massacres?

Mr. MINIER: Your Honor, I think I will probably object to that on the grounds that it assumes facts not in evidence, and is rather ambiguous.

THE COURT: Sustained.

Q. BY Mr. LINDSEY: Mr. Hanessian, the letter that was sent to you appears to be typewritten in the Armenian language. Do you read Armenian?

A. No, I do not.

Q. Now, when you received this letter, then, you were unable to tell or know any of the contents of the letter, when you first received it, is that correct?

A. I didn't -- You want me to tell you what I thought it was when I first received it?

Q. Yes.

A. When I first received it, I thought it was a letter from some charity, because I do handle probate for Armenian people, and some of the probates leave gifts to foreign charities, and I thought it was a letter from a charity relating to one of my probates asking for their money, and which always is common, so I just assumed that it was, and put it in the case file, and it sat there for about a month.

Q. In which case file did you put it?

A. Estate of Anna Tasfjian, T-a-s-f-j-i-a-n.

Q. What was it that caused you to put it in that file?

A. Because I had received previous letters from these charities asking where their money is, written in Armenian.

Q. Now, after having put it in the Tashjian file for about a month, was there something that caused you to retrieve it out of that file?

A. Yes, I began working on that file again. I don't work on it at all times. Thirty days later I worked on the file and I happened to note the name at the bottom, "Yanikian," and by that time I had become familiar with the name, having heard it on the radio. That is the only connection I had between the two.

Q. Now once you began to recognize the name "Yanikian" what did you next do with this letter?

A. I called Barry Cappello, who is the city attorney at Santa Barbara, who is a personal friend of mine, and also a former deputy attorney general.

Q. Does he speak Armenian?

- A. No , he does not.
- Q. Why did you call Barry Cappello?
- A. Because I thought that maybe the letter was of sig-- Oh, I will back up one point. Then I took the letter to my grandmother and asked her to read it to me.
- Q. Your grandmother?
- A. Yes, or translate.
- Q. And your grandmother's name?
- A. Margaret Konjoyan, K-o-n-j-o-y-a-n.
- Q. Does she live in that city?
- A. Encino.
- Q. On what street?
- A. Weddington street.  
I might add she is 85 years old, I believe.
- Q. And did you call her with regard to the letter, then?
- A. I asked her if she could interpret it, what it said. I didn't know what it said. And she had a difficult time understanding it, because she said it was a different dialect of Armenian then she was familiar with.
- Q. You called her on the phone. What happened after you called her on the phone?
- A. You didn't read it over the phone to her, I understand?
- A. No. I took it to her home at dinner one night --oh, a copy of it, excuse me.
- Q. Pardon?
- A. I took a Xerox copy of it.
- Q. By the way, how many did you receive in the envelope when you received this?
- A. Just the one.
- Q. Then you made a copy of it and took it to your grandmother to see if she could translate it?
- A. Yes.
- Q. Was she able to?
- A. In part. I sat there as she tried to read it, but she said that she had difficulties because it was a different dialect of Armenian than she used to.
- Q. And then what did you next do with regard to this letter?
- A. Then my uncle, who is her son, asked a Dr. Gordon, who is also Armenian, to see if he could translate it, and he wrote out a sketchy translation of it for me, and at that point I thought it was of significance that I called Mr Cappello.
- Q. Now, from your grandmother they went to her son?
- A. The copy -- I am talking about the Xerox copy.
- Q. Yes, I understand.
- A. The copy went from -- well, from my grandmother to her son, to Dr. Stanley Gordon, that's the man --
- Q. Take it one at a time.
- A. Okay.
- Q. Her son would be who?
- A. Martin Konjoian.
- Q. What city does he live in?

- A. Same place, Encino.
- Q. Do they live at the same address?
- A. Yes.
- Q. Did he attempt to translate It for you?
- A. No, I don't believe he can read Armenian.
- Q. Did he recommend that someone also perhaps
- A. Dr. Stanley Gordon.
- Q. How is that last name spelled?
- A. I believe It is G-o-r-d-o-n.
- Q. What city or town is he located in?
- A. I am not sure where he is presently located. He used to be located in Encino, but he is retired, and I believe he may travel between Southern California -- further southern California and Los Angeles. I don't really know.
- Q. Is he a retired medical doctor?
- A. Yes, he is.
- Q. Now, did you arrange to have a copy of this letter made available to Dr. Gordon?
- A. Yes. My understanding was my uncle gave it to him.
- Q. And your uncle would be Martin?
- A. That is correct.
- Q. Did you talk to Dr. Gordon about the letter?
- A. No.
- Q. Did he prepare any written translation of this letter for you?
- A. Yes, he did.
- Q. Where is that please?
- A. That is in my office.
- Q. You didn't bring it with you today?
- A. No.
- Q. Was that a complete translation that Dr. Gordon made for you?
- A. I don't know what you mean by complete translation, I am not qualified to answer the question. I don't know the language.
- Q. Where did you receive that from Dr. Gordon, the translation of this letter?
- A. I received the verbal translation on the phone call from my uncle.
- Q. About when?
- A. March of this year, some time in there, I can't be definite on that.
- Q. About when did you receive the written translation from Dr. Gordon?
- A. Couple of weeks later, eight, ten days later. It was the same day that I met with Mr. Minier for the first time.
- Q. Well, now, after you received the translation, the written translation from Dr. Gordon, was it then that you decided to call Barry Cappello?
- A. No. After I received the substance of what it purported to say.
- Q. From whom?
- A. From my uncle. When he told me what Dr. Gordon said it said, then I called Barry Cappello.
- Q. When you called Barry Cappello, did you know that he was not a member of the District Attorney's office here in Santa Barbara?

A. Yes. Well, I knew he had worked for the District Attorney, but I knew, or I had information that he was the City Attorney.

Q. Since you had experience as a Deputy Attorney General of the State of California, and you knew that Barry Cappello was not connected with the District Attorney's office was there some reason why your first call was not made directly to Mr. Minier's office?

A. No. Just Barry is a personal friend of mine, that's all. I don't know Mr. Minier.

Q. Well, when you called your friend Barry Cappello, did you discuss with him this letter?

A. Yes. I said I received a letter in the mail and thought maybe it would be of some significance in this case that's pending up here.

Q. So you communicated that concern on your part to Mr. Cappello?

A. Yes.

Q. Why did you do that with Mr. Cappello?

A. Because Barry Cappello was a friend of mine. I know him.

Q. Well, after you communicated this concern to Barry Cappello, did you then decide to contact the District Attorney of this County on this case to communicate your concern to him also?

A. No, I didn't know of what significance it would be. I had asked Barry to convey to Mr. Minier the fact that I had received this letter and it may be of significance. I don't recall, maybe I sent him a copy of the letter and said pass it on to Mr. Minier. If it is important, I will be willing to testify that I received it.

Q. You asked Barry Cappello to convey your concern Mr. Hanessian, to the District Attorney of this County?

A. Yes.

Mr. MINIER: Pardon me -- well, I will wait for another question.

Mr. LINDSEY:

Q. Did you send a copy of the letter to Mr. Cappello?

A. I believe --

Mr. MINIER: Pardon me--

THE WITNESS: I am not sure, I don't recall.

Mr. MINIER: I will wait for another question.

THE WITNESS: I m sorry.

MR. LINDSEY:

Q. Mr. Hanessian, you do not recall at the present time whether you sent a copy of that or not to Mr. Cappello?

Mr. MINTER: Your Honor, bearing in mind the time problem, I am going to object upon the grounds first, that it has been asked and answered, second that it is argumentative, and third that it is in no way relevant, and fourth it is outside the scope of the direct examination in the absence of some offer of proof that he is trying to impeach the motives of this witness.

THE COURT: Sustained on the first three grounds, at least, which will obviate the necessity of ruling on the fourth.

MR. LINDSEY- Thank you, your Honor.

Q. Now, Mr. Hanesian, were you the first one to contact Mr. Minier's office on this letter then?

Mr. MINIER: Your Honor, I am going to object upon the same grounds as just stated.

THE COURT: Sustained. Unless you have got some special purpose, Mr. Lindsey, that escapes me, I see no point in pursuing it.

Mr. LINDSEY- Well, your Honor --

THE COURT: If you have some special purpose, I will reconsider it.

Mr. LINDSEY - I am not yet clear why the prosecution has invited Mr. Hanesian particularly to bring a copy of this --

THE COURT: I am not clear yet either, until I know what the letter says.

Mr. LINDSEY: I'm just kind of wandering through these questions to find out why in this unusual way he is conducting himself.

THE COURT: Wander in a more direct path. Sustained.

MR. LINDSEY: I should also advise the Court that I was unaware of the existence of this witness until this morning.

Q. Now Mr. Hanesian when was your first contact with the District Attorney's office on this letter?

Mr. MINIER: Again, your Honor, I will object upon the grounds previously stated.

THE COURT: All that the witness has testified to is that he received this letter. That was the whole subject of his direct testimony, wasn't it, on such a date he received this letter? I don't think he testified on direct examination about having turned it over to the District Attorney's office or anything of that sort.

Mr. LINDSEY: I understand that, your Honor. However,--

THE COURT: You are outside the scope of the direct examination.

Mr. LINDSEY: Then I would have to ask leave, your Honor, to have him directed to remain on call so if necessary I may bring him back.

THE COURT: That won't be necessary, just make him your witness. If you want to pursue it, I will permit you to do it since he is due in court in Los Angeles. We are trying to accommodate him and that court, rather than bring him back, I will permit you to make him your own witness if you wish to.

Mr. LINDSEY- I would ask leave of that, your Honor.

THE COURT: All right.

Mr. LINDSEY:

Mr. Hanesian, what was the first contact you had with the District Attorney's office on this letter?

Mr. MINIER: Objection, your Honor, upon the grounds now that it is not relevant even if Mr. Hanesian is Mr. Lindsay's own witness.

Mr. LINDSEY: I am entitled to trace the path and course of this letter, particularly when he could not read or understand it himself, your Honor, and obviously was relying on someone else he has already testified.

THE COURT: I will permit that, overruled.

Mr. LINDSEY: Thank you, your Honor.

THE WITNESS: It was some time in March, I would have to say. Some time after I sent the letter -- a copy of the letter to Mr. Cappello.

Mr. LINDSEY:

Q. You did send a copy to Mr. Cappello, then?

A. I said I did.

Q. Then thereafter, did you have a conversation with the staff members handling the case pertaining to the letter?

A. No. I have just spoken to Mr. Minier, that's the only person.

Q. Now, other than Dr. Gordon, have you had any other person translate for you this letter?

A. I gave the copy of it to one of your law clerks in your office who said that he, had a friend who could translate Armenian

Q. And the law clerk, please?

A. His name is Steven Sadd.

Q. Did he make arrangements with some other person to translate it?

A. He turned it over to a friend of his who is a student and the student wrote out an interpretation which I did not read. I received it after all this had taken place with Mr. Minier,

THE COURT: Is there going to be an argument in this case over the correct interpretation of this letter, if you know, Mr. Lindsey?

Mr. LINDSEY- Your Honor, at this point--

THE COURT- Have you seen the letter before?

Mr. LINDSEY: I have. We have one translation from

Mr. Yanikian, Mr. Minier has offered to me another translation, and we are in the process now of trying to compare those to see if they are going to agree.

THE COURT: Whether Mr. Hanesian had his law clerk have someone translate this letter for him, I think at least lacks its probative force if it has any at all, it is substantially outweighed by the probability that its admission will necessitate undue consumption of time and under Section 352 of the Evidence Code, I am going to preclude any further questions or, the interpretation arranged for by the law clerk.

Mr. LINDSEY: I understand, your Honor. I respect that, perhaps I can shorten all this down by if we got into this area probably of a translation from the official court translator, and these are matters that Mr. Minier and I, I believe, would probably desire to discuss with the Court as to how best to approach this translation matter on this letter.

THE COURT: Let's meet that when we get to it.

Mr. LINDSEY: I would stand right at that point, I would have no further questions of Mr. Hanesian.

Mr. MINIER: I have no further questions, your Honor.

THE COURT: Thank you, Mr. Hanesian, you are excused.

(Whereupon the witness was excused  
and free to leave the courtroom.)

THE COURT: All right, I believe Mrs. Akdas was on the stand. I probably didn't pronounce it right.

**LEYLA AKDAS**

resumed the stand and testified further as follows:

**CROSS-EXAMINATION (continued)**

BY MR. LINDSEY:

Q. Mrs. Akdas?

A. Yes.

Q. Mrs. Akdas, I would like to commence this morning and ask you some questions about the first time that you mentioned that you saw Mr. Yanikian in your office at the consulate in Los Angeles.

I believe you indicated that that was about a week prior to October 2<sup>nd</sup>?

A. Several days prior to October 3<sup>rd</sup>.

Q. Was there something about October 2<sup>nd</sup> that causes you to use that as a reference point?

A. I use October the 3<sup>rd</sup> because it is the date that we wrote to our government.

Q. Now, that would be then that the first time you saw Mr. Yanikian, or had any contact with him, had been sometime in the latter part of September of 1972?

A. Yes.

Q. Which would be a few days, or maybe a week or so, prior?

A. Yes.

Q. To that October 3<sup>rd</sup> date?

A. Yes.

Q. And the letter that you are referring to are Exhibits 5 and 5-A that are now in evidence in this case, which is the latter of October 3<sup>rd</sup> from the Consul General to the Ministry of Foreign Affairs, is that correct?

A. Yes.

Q. Now, was this in the morning or the afternoon when you first saw Mr. Yanikian there in your office?

A. As far as I remember, it was in the morning, but I cannot say the time, but I think it was in the morning.

Q. And were there others working in the office at that time?

A. Yes.

Q. Who were the other persons working in the office, please?

A. Mrs. Kozan, Mrs. Bilaloglu, and Mrs. Arel, and Mr. Turna an office boy, I think at that time it was Mr. Turna, but he might not be at the office at that time, because he usually goes out for the mail and that purpose.

MR. LINDSEY: Your Honor, may I have permission to have this sheet of paper on the board, please?

THR COURT: All right.

(Whereupon, a blank sheet of paper placed on the blackboard.)

Q. BY Mr. LINDSEY: Mrs. Akdas, I am going to ask you if you might use this sheet of paper to sketch a quick diagram of the office, and I would like you to show on there the locations of each of the persons who were working in that outer office, and if you could indicate on the diagram their names.

What I'm seeking to do is when Mr. Yanikian first walked into that office where the different persons were located, to your best recollection.

A. Okay.

Q. Would you do that?

A. Yes. (Whereupon, witness sketching diagram.)

- Q. Now, so that the record and the Court and jury may follow that, the diagram that you have now drawn there, is that a general representation of the consulate office in Los Angeles where you were working?
- A. Yes.
- Q. And where did you normally-- Where were you normally located?
- A. Here (marking on diagram).
- Q. And you placed your name there. All right.
- Now, the next person in that office was located where? and could you put that name, please.
- A. Yes (witness marking on diagram).
- Q. And who was that?
- A. Mrs Kozan..
- Q. And the next person?
- A. (Witness marking on diagram.)
- Q. All right. Now, the four names that you have placed on there, were those essentially the four persons that were present in that office?
- A. Yes, as far as I can remember. You know, they might go out or something, but as far as I can remember, they were present there.
- Q. Now, the time Mr. Yanikian first came to the office, though, that would be to your best recollection the persons in that reception-room area and their approximate locations?
- A. Yes
- Q. Now, when you first saw Mr. Yanikian, where was he in that room?
- A. I was sitting here and he came through this door (indicating).
- Q. Would you put a little dotted mark to that we could see the path, please.
- A. Yes (marking on diagram). And he was aiming towards vice consul room, and I asked him, I was sitting in my place, and I asked him if I may help. I usually do that, people just enter into the office, and they--maybe they don't know the regulations or what it is, and they aim at the consul room, so I ask him if I may help him.
- Q. Now, where was he in the room, the point that you asked him that?
- A. I think here (indicating on diagram) around here somewhere, yes, in here. I was here and he was around here somewhere.
- Q. Could you put a little cross with a number by it?
- A. A cross and number '1'?
- Q. Yes.
- A. All right (witness marking on diagram).
- Q. Now, at that point just before he got to that point, did he appear as though he was headed right into the office of the vice consul?
- A. Yes, as far as I could understand, he was aiming to enter vice consul room, because usually when people enter into the room, they look at our faces and they, you know, say, want to have help to talk about, they have problems, so he didn't look like that, so he was in to enter the vice consul room, as far as I can understand from his appearance.
- Q. Now, at that moment when you commenced talking to him, did you notice anything unusual about his appearance or his expressions

- A. He was quite a big person, and he was wearing a long coat, and I think he had a scarf around his neck, a long one, and he looked like an artist to me, and he was an old man. I didn't find him very unusual. In fact, I find him very friendly. He was very polite.
- Q. You found him to be very polite at that time?
- A. Yes. When I ask him if I may help him, he was really polite and he told us that he would like to speak either to the consul general or the consul, and I asked him, may I ask what it is about? and he told me that he -- he came from Iran, and he had a very valuable painting and a Turkish lira, and he would like to talk about this to the consulate, or consul general, and that is it, and I took his name, and he said that his name was Gourg Yaniki – or Mr. Yaniki, and that's all.
- Q. Did he at that time appear to be in any way excited?
- A. No, I don't think so. I don't remember that way. He wasn't unusual, you know, he was just normal.
- Q. He did not appear then to be angry?
- A. No. I said he was very polite -- no.
- Q. Now, after this conversation you have just mentioned did you go in to see the vice consul yourself?
- A. Yes, at that time vice consul was, I think, writing something on his desk, he was over -- signing some documents-- I don't know, and the door is usually open. Mr. Demir usually left his door open, and I knocked and I entered, I told him, you know, there's a gentleman who wants to see you, his name is Mr. Yaniki, and he wants to, you know, show you -- he wants to give you --the government -- some painting and Turkish currency and he was very happy about it, and he told " to bring in him immediately and, you know, I just go out and bring him in.
- Q. Now, where was Mr. Yanikian during the time that you were in discussing this with the vice consul?
- A. My back was, you know -- I was facing the consul at that time, so I don't know.
- Q. Now, after mentioning this to the vice consul, the vice-consul agreed to see him?
- A. Sure, yes.
- Q. And did you come back out of the room, then?
- A. Yes. And I said, "Please come in, sir" And he entered the room.
- Q. Where was Mr. Yanikian now in the room when you told him that?
- A. I think he was here (indicating on diagram)--I am not but—I am not sure about.
- Q. Still about the same place where you left him?
- A. I think so, yes.
- Q. And then, did you take him into the vice consul's office?
- A. Yes.
- Q. And did you than leave that room and let the two of them be in there.
- A. Yes.

- Q. You did not hear any of the conversation that took place in the room, then, did you?
- A. No.
- Q. About how long was Mr. Yanikian in conference?
- THE COURT: Resume your seat, if you wish.
- A. BY THE WITNESS : As far as I can remember , it was, uh, 20 minutes, or half an hour -- I'm not exactly sure about the time.
- Q. And then did Mr. Yanikian then come out with the vice consul?
- A. I don't remember that, but when he left, the vice consul came out. I remember that. But I don't -- I think Mr. Demir escorted him to the door -- yes, Mr. Demir escorted him to the door and Mr. Yaniki left.
- Q. Now, that was the last that you saw of him on that particular day, wasn't it?
- A. Yes.
- Q. Did you see him in the office again at any time after that?
- A. I'm not sure about the second time I saw him, but I remember something about that he came, uh -- once, after December 13th, and I think he talked to the Consul General at that time, but I am not exactly sure about this visit.
- Q. You're not sure about that second visit?
- A. No, not exactly.
- Q. Do you recall being interviewed about four days after the homicides here in Santa Barbara, specifically on January 31, 1973, at Los Angeles by two special agents of the FBI?
- A. Yes.
- Q. Do you recall telling the two agents that the second time you saw Mr. Yanikian was a little more than one month ago, this would be prior to your interview, when he came to the consular office alone, that you immediately recognized him from his previous visit and casual manner of dress, that he was very friendly and asked to see the Consul General, and that you then escorted him into the office of the Consul General; do you remember telling that to the agents?
- A. I might tell something like that, but, you know, was really very, very confused at that time -- it was only four days after that incident, and, you know, I might tell -- but I don't really remember exactly.
- Q. Now that I have read you this portion of the FBI report, does that help to refresh your recollection in any way?
- A. I don't think so.
- Q. Well, do you remember having any discussions at all with Mr. Yanikian on that second visit?
- A. I don't remember any discussions.
- Q. Excuse me?
- A. I don't remember any discussions.
- Q. Well, when was it that you received the photocopy of the currency note, was that in the first visit or second visit?
- A. It was in the first visit. I think Mr. Yanikian brought the Turkish currency -- the photocopy of the Turkish currency and the picture, you know, that small picture with him, and when he left Mr. Demir brought the picture and the

Turkish currency to us, you know, to our room there, and he showed those things to us, and he said, you know, what a generous gift this is for the Turkish government. And he said he was very happy about this thing, and he was, you know -- he appreciated it.

Q. What was the size of the photograph that was left with you at that time?

A. It was this big (indicating) I cannot give you exact.

Q. A small one?

A. Small one.

Q. What I want to know, it was not the size of the photograph that we have here?

A. No.

Q. It is a smaller-size photo?

A. Smaller size, yes.

Q. Now, I believe that you testified on direct examination that as a result of the photograph of the painting and the photocopy of the currency note being left there in your office a letter was sent from your office to the Ministry of Foreign affairs, dated October 3, 1972?

A. Yes.

Q. And the original of that letter which was in the Turkish language is Exhibit 5, and the translation we have here is Exhibit 5-A?

A. Yes.

Q. That you identified yesterday?

A. Yes.

Q. Now, in the letter exhibit 5, the translation 5-A of that letter, it refers to a comment that the painting had been smuggled out of the palace of Abdul-Hamit

A. Yes.

Q. Do you have any knowledge of such a palace in Turkey?

A. There are lots of palaces in, you know, Istanbul, Turkey, but I don't know which one is his, and I don't have great information about it.

Q. Maybe I could save time here by asking you this, were you in any way familiar with any of the background of this-- of that painting?

A. No.

Q. Were you in any way familiar with any of the background or the names or information that was on that currency note?

A. No.

Q. So that you merely saw the copies of it, did the secretarial work and so forth, as far as those two items are concerned, you knew nothing more about them?

A. Yes.

Q. Now, in your testimony yesterday, you indicated that a reply was received back from the Turkish government at Ankara dated November 23, 1972, and these are Exhibits 6 and 6-A that you referred to yesterday, and apparently these letters approved of your office in Los Angeles accepting these two items as gifts to the Turkish government?

A. Yes.

Q. That is the essence of the letters, is that correct?

A. Yes.

Q. Then after your office received the communication from Turkey, a receipt was prepared, was it not?

A. Yes.

Q. And this is Exhibit 7 and 7-A addressed to Mr. Yaniki, and signed by the Consul General?

A. Yes.

Q. In effect, advising Mr. Yanikian that the two items could be accepted by the Turkish government to the consul's office in Los Angeles and asking for arrangements to be made for the transfer of the items; is that correct?

A. Yes.

Q. Now, the letter which is exhibit No. 7 to Mr. Yanikian, indicating that the consular office would desire to make arrangements to receive the gifts, did that letter lead to any appointments, to your knowledge, or arrangements for a meeting in December between anyone connected with your office and Mr. Yanikian?

A. No.

Q. Now, there is an Exhibit No. 8 that you also had reference to in your testimony yesterday, which is signed by the Consul General, and within the body of the letter it has the date January 27, 1973, this was a receipt that was prepared so it would be ready to be delivered over to Mr. Yanikian on January 27 for those two items; is that correct?

A. Yes.

Q. And I believe you recognize the signature of Mehmet Baydar the Consul General?

A. Yes.

Q. And the seal of your office on that letter; is that correct?

A. Yes.

Q. Now, have you had any connection, Mrs. Akdas, in my way with any other part of this case other than what you have answered to Mr. Minier's questions or to mine so far?

A. Excuse me I couldn't understand the question.

Q. Have you told us everything you know about this case?

A. Yes.

MR. LINDSEY: Your Honor, I have no further questions, and I would ask your Honor to have the diagram marked as Defendant's Exhibit C to illustrate the testimony of Mrs. Akdas.

THE COURT: All right, it may be received for that purpose, and any redirect examination?

THE CLERK: If the Court please, that would be defendant's D instead of C.

THE COURT: D, all right.

(Whereupon the above described exhibit thereupon duly marked  
People's Exhibit No. D for Identification purposes only.)

### **REDIRECT EXAMINATION**

BY Mr. MINIER:

Q. Mrs. Akdas, could you just very briefly tell the jury what the function of the consulate in Los Angeles is, what it does?

A We do lots of things. We take care of the problems of the students, and we deal with commercial things, touristic things, we extend passport, we give visas. We take care of Alaska, Pacific Islands, Arizona, Utah, Seattle, and that places. We take care of all the students and Turkish citizens in that area. And all the foreigners who want to go to Turkey they apply to our consulate to get visas and all the people in those cities who want to make, you know, trading things, commercial things, with Turkey, they apply to us and we prepare their papers. We also make notary things, legalizations, and the other things.

Q Then you handle this business for the Western portion of the United States?

A Yes, all western parts of the United States.

Q If there we're no Turkish consulate in Los Angeles, then would anybody who wants to conduct that kind of business have to get in an airplane or a car and go to Chicago to the consulate there?

A Yes.

Mr. MINIER: I have nothing further.

### **RECROSS-EXAMINATION**

BY Mr. LINDSEY:

Q Does the Turkish government maintain an office in the Bay area In San Francisco?

A No. We have an Honorary Consulate there, he doesn't function.

Q If there is an Honorary person, he can handle some of the functions of the office?

A He does not have the right to sign any documents. He can just give touristic information, he can give brochures, that's all.

Q Since Mr. Minier asked you about the functions of your office, I am going to ask you a very point blank question; to your knowledge, is one of the functions of your office Los Angeles to maintain surveillance on Armenian people?

Mr. MINIER: Objection, your Honor, that was asked and answered yesterday.

THE COURT: Sustained.

Mr. LINDSEY:

Q Mrs. Akdas, does your consular office maintain a registry of the names of Armenian people in the Los Angeles area?

A All the Armenians?

Q Yes.

A We don't have a listing like that, there are some Armenians who are Turkish citizens, and they come to our office for extending their passport, and we have their

listing. They are our citizens, so we have their files with the other files, that's all.

Q As a matter of fact, Mrs. Akdas, isn't it true that your office, the consular office in Los Angeles, was opened only after the Armenian people in the Los Angeles area built a memorial to the massacres, and the Turkish government then elected to put that consular office into existence?

A I don't have any idea about it.

Q Are you familiar with the Armenian memorial to the massacres in Los Angeles?

A. No.

MR. LINDSEY: No further questions, your Honor.

Mr. MINIER: Your Honor, may I have the Court's permission to go back to a matter which is outside the scope of the direct examination, but it is a short question regarding the map or the diagram on the board.

THE COURT: All right.

**REDIRECT EXAMINATION (Further)**

BY Mr. MINIER:

Q. Just one minor point, Mrs. Akdas, with regard to the doorway into the Consul General's office, is that the correct position where it is immediately against the wall?

A. No. I am sorry.

Q. Would you be able to indicate exactly where the doorway into the Consul General's office is?

A. (Witness complies.)

Mr. MINIER: All right, thank you, I have nothing further, Your Honor.

THE COURT: Anything, further, Mr. Lindsey?

Mr. LINDSEY: I had a question, your Honor, but I probably have to ask permission to it. It has to do with the memorial and whether she has knowledge.

THE COURT: All right.

**RECROSS-EXAMINATION**

BY Mr. LINDSEY :

Q. Mrs. Akdas, do you have any knowledge that after the memorial was built, some Turkish People appeared before City Council in Montebello, -- the planning stage -- just before it was built -- and publicly threatened to take steps to blow up the memorial?

A. I came to United States 1970, so I really don't have any idea.

Mr. LINDSEY: No further questions, thank you very much.

Mr. MINIER: I have no further questions.

THE COURT- All right, thank you, Mrs. Akdas, you are excused and are free to leave if you wish.

(Whereupon the witness was excused and free to leave the courtroom.)

THE COURT: Ladies and gentlemen of the jury, we will take the morning recess at this time. It is your duty not to converse among yourselves nor with anyone else on any subject connected with the trial, or to form or express any opinion thereon until the cause is finally submitted to you.

(RECESS.)

THE COURT: All members of the jury and alternate jurors are present, Gentlemen.

Mr. MINIER: Call Charles Catlin.

**CHARLES EDGAR CATLIN,**

produced as a witness for and on behalf of the People, was thereupon duly sworn and testified as follows:

**DIRECT EXAMINATION**

BY Mr. MINIER:

Q. Mr. Catlin, would you please state your full name and spell your last name for the record.

A. Charles Edgar Catlin, C-a-t-l-i-n.

Mr. MINIER: Your Honor, I have handed to the clerk what appears to be a hotel registration form, and I wonder if we might have it marked as People's No. 11 for identification.

THE COURT: Yes.

(Whereupon, a hotel registration form duly marked as People's Exhibit No. 11 for identification purposes only.)

Q. BY Mr. MINIER: What is your occupation, Mr. Catlin?

A. I work at the Santa Barbara Biltmore, at the front desk, as a clerk.

Q. Were you so employed by the Biltmore during the month of January, this year?

A. Yes, I was.

Q. I'm going to call your attention to the defendant, the gentleman seated between the two attorneys at counsel table, in the blue suit and blue tie, and ask you if you can identify him?

A. Yes, I can.

Q. Now, calling your attention specifically to January the 15th of this year, did you have occasion to see the defendant, Mr. Yanikian, at the Biltmore Hotel?

A. Yes. Mr. Yanikian came in personally and made a reservation with me. I took the reservation, and he made it for a specific room, he wanted a cottage room -- or a room in the back of the main hotel, or other than the main hotel rooms.

Q. Did he give any indication why he wanted a room in a part other than the main portion?

A. All he said was that he was leaving town, he would be staying three or four days, and he had some business to attend to before he left.

Q. Now, what were the dates that he gave you as far as a reservation was concerned?

A. He gave me, he would be arriving January 22nd, and he said with -- for three or four nights.

Q. Now, calling your attention to January 22nd, were you working on that day at the Biltmore?

A. Yes, I was at the desk on the 22nd.

Q. Did you see Mr. Yanikian again on that day?

A. Yes. He arrived on the 22nd, apparently the 16<sup>th</sup> another reservation had been made for him by telephone, and which cancelled out my reservation, the later one being the most updated, and when checking in, he had a room in the main hotel, and when he checked in, he told me that he didn't want it, he wanted his cottage room that he had previously arranged for.

Q. Did he again tell you the reason why he wanted the cottage room?

A. Yes he wanted to be out and away because -- in the back, because he had to attend to business.

Q. Now, during the time that you talked to him when he was in the act of checking into the hotel, did he seem to you to be calm?

A. Yes, very normal.

Q. Did he appear to be rational in what he said to you?

A. Yes.

Q. Did you see him in the hotel during the course of the following few days after January the 22d?

A. Yes, I did.

Q. Did you see him frequently during that time?

A. Yes.

Q. On the occasions that you saw him in the hotel after he checked in on the 22d, would you converse with him to make small talk with him?

A. Yes. It was just everyday friendly talk, "Hi, how are you."

Q. Did he still -- pardon me, small talk?

A. Yes.

Q. Did he still appear to be calm and rational during those conversations?

A. Yes.

Q. Mr. MINIER: May I approach the witness, your Honor?

THE COURT: Yes.

Mr. MINIER:

Q. Mr. Catlin, I am going to show You People's No. 11 for identification and ask if you can identify it?

A. Yes, I can.

Q. Would you tell us what that is, please?

A. It is a registration card that we present our guests signing in at the Biltmore.

Q. Is this the particular registration card that you presented to Mr. Yanikian when he checked in on January the 22d?

A. Yes. it is.

Q. Did he fill a portion of the card out?

A. Yes. In the presence of myself, he did.

Q. Is that the portion relating to his name and address?

A. Right.

Q. Did you make certain markings on the registration card in your own handwriting?

A. Right.

MR. MINIER: Your Honor, we would offer People's No. 11 into evidence.

THE COURT: It is received.

(Whereupon the registration card of the Biltmore Hotel previously marked for identification thereupon duly received as People's Exhibit No. 11 in evidence.)

Mr. MINIER: If I might have just a moment, your Honor.

Q. Mr. Catlin, to clarify the writing here, could you just please read into the record that portion of the writing which was done by Mr. Yanikian in your presence?

A. "Yanikian Gourgen," G-o-u-r-g-e-n is the spelling, "519 Alamar Street, 13, Santa Barbara, California 93105" and under professional business connection, he has, "writer."

Q. Now, from the registration card, are you able to refresh your recollection as to the exact time that he checked into the Biltmore on the 22nd?

A. Yes. We stamp it as they arrive. He arrived the 22nd, 11:23 A.M.

Q. Now, calling your attention to Saturday the 27th of January, was Mr. Yanikian still residing at the Biltmore during the morning?

- A Yes, he was.
- Q Did you have any telephone conversations with him on that Saturday morning?
- A Yes. Between the time--
- Q Pardon me?
- A Excuse me, between the time of eleven and eleven-thirty, he did call the front desk asking to extend his checkout time because of his business he did have to attend to, at which time I told him it wouldn't be possible as we had a reservation on the room.
- Q Did he make any reply to that?
- A He just said he would be out of the room and get finished what he had to do.
- Q During this telephone conversation, did he sound the same that he had before?
- A Yes.
- Q Still sounded calm and rational?
- A Yes.
- Mr. MINIER: Thank you, Mr. Catlin, I have no further questions, your Honor.

**CROSS-EXAMINATION**

BY Mr. LINDSEY:

- Q Mr. Catlin, on January the 15th, that was your first contact that you can now recall with Mr. Yanikian?
- A Yes, It was,
- Q You were on the desk at the Biltmore, then, on that day?
- A Yes.
- Q And did Mr. Yanikian come personally to the Biltmore to arrange for a reservation?
- A Yes, he did.
- Q That's when the arrangements were made for the January 22nd date?
- A Right.
- Q Now, was he sent a confirmation letter or note as a result of calling on January 15?
- A I believe he was. I take the reservations and our reservation office would confirm it. It would be on the reservation, I believe. Somebody -- someone should have the reservation, and it would have a duplicate of the confirmation sent.
- Q That would be handled by another department?
- A Right.
- Q You mention that there was a telephone call that was recorded the next day on January the 16th from Mr. Yanikian; did you take that telephone call?
- A No, I didn't.
- Q Have you observed or read any record of that telephone call?
- A Yes, I did.
- Q What did that record indicate?
- A It was taken by our cashier in the evening, the reservation office had been closed, and it was just his name and address and the time he would be there, and that was it. There was no specifications on that reservation for any certain type of room or anything.
- Q Did it still indicate the January 22nd date?

- A. I believe it did, yes.
- Q. Now, on January 22, were you on the desk when he checked in?
- A. Yes, I was.
- Q. And you handled then, the check-in slip there that you have there; is that correct?
- A. Yes.
- Q. Now, when you were personally talking with Mr. Yanikian on January 15th, he appeared to be in a normal, you might say, normal appearance to you, did he not?
- A. Right.
- Q. He was not angry?
- A. No, he was very friendly.
- Q. There was no hostility, aggressiveness showing?
- A. No.
- Q. He seemed perfectly calm and relaxed?
- A. Right.
- Q. Seemed to be entirely rational, didn't he?
- A. Yes.
- Q. At least so far as you could tell?
- A. Right.
- Q. How long did you talk to him on January 15 approximately?
- A. No more than ten minutes at the most, probably.
- Q. Now, is it correct that the Biltmore Hotel has its own security personnel?
- A. Yes.
- Q. So in case of any problem, there are persons there who can be called to handle it immediately, if necessary?
- A. Right.
- Q. Now, when you had your conversation on January 15<sup>th</sup> with Mr. Yanikian, there was nothing that you observed or saw about him that it would cause you to think in terms of any security call whatsoever, was there?
- A. No.
- Q. Now, on January 22nd, when he checked in, about how long did the check-in process take, approximately?
- A. As I said, we had -- probably no more than ten minutes, again, getting the reservations straightened out as to the reservation for the cottage room which had been cancelled because of the now reservation, so it was just a process of straightening it out again, giving him the cottage reservation.
- Q. What was the daily rate for that cottage?
- A. \$35.
- Q. Now, again on this January 22nd date, there was nothing of any kind that you observed of Mr. Yanikian that would have caused you the slightest thought whatsoever, of any call to security for the hotel, was there?
- A. No.
- Q. Did he have luggage with him on January 22nd?
- A. No, I didn't see any luggage.
- Q. Did you ask about any luggage?

- A. No. The bellman would take care of the luggage.
- Q. Did you ever see any luggage?
- A. No, I didn't.
- Q. Now, after you had checked him in precisely at 11:23 A.M. on January 22nd of this year, did one of the personnel connected with, say, getting a person to his room and so on, did they take over there, and you had nothing further to do with him, at least that day then?
- A. Right. We have a bellman department, and we present a slip with his name and the room number and the date of checkout to the bellman, along with the key, and they always take all the guests to the room.
- Q. Now, you indicated that you had occasion after his check-in time, and apparently from that time up until on January 27th, to see him frequently?
- A. Right.
- Q. Where did those occasions take place?
- A. Many times he would be walking to and from the dining room, and also checking on the mail received at the Biltmore. The mail is also handled by me behind the desk.
- Q. Were there any other instances during the period of time other than perhaps his going to and from the area of the dining room, and perhaps in connection with the mail, that you saw him?
- A. No, I never saw him.
- Q. Now, to your knowledge, was he receiving mail during this time at the Biltmore Hotel?
- A. I don't remember giving him anything myself -- I can't recall that.
- Q. Had he, however, asked you whether any mail had come to him?
- A. Yes. We have also the mail and messages are kept in the box. I don't recall if he asked specifically for mail, but I remember checking if there was anything in his box.
- Q. Now, during all these times that you observed him between January 22nd when you checked him in and January 27th, there was never anything to indicate to you in any way any reason to call security, was there?
- A. No.
- Q. Did you see him on January the 27th of 1973, that you can specifically recall?
- A. No, -- other than the phone call that morning, I don't recall seeing him, other than when -- after the incident, a couple of policemen came over, and I did take them over to the cottage, and he was there then already, with security agents and so on.
- Q. Now, did you receive a phone call that morning from him on the extension of the check-out time?
- A. Yes.
- Q. What did he ask in the telephone conversation with you?
- A. He just asked -- at the Biltmore we send out -- we call them "eviction notices," if the room is on reservation, and we ask our guests to call the front desk if they plan to stay longer, because of the room being on reservation, we set a check-out time at 2:00 O'clock, and he called and asked if he could extend his check-

out time beyond 2:00 O'clock, and actually, I believe he said "4:00 or later," was his time, and at which time the room was on reservation, and I told him we would need it, and he said, "Fine."

Q. Now, about what time was that telephone call?

A. All I could remember is it was between 11.00 and 11:30.

Q. Now, during the course of that telephone call that you had with him, did you recognize the voice to be that of Mr. Yanikian?

A. Yes. He did state that he was -- what room he was in and his name, and also I did recognize his voice.

Q. Now, from his voice and the sound of that voice and the manner in which he was speaking at somewhere between 11:00 and 11:30 that morning, this is the day of the homicides, from what you heard, and the sound of that voice on the telephone,

was there anything that suggested in any manner to you that security should be called?

A. No.

Q. Did he still seem to you to be completely rational and calm?

A. Yes.

Q. Did he seem to you to be as calm and rational in his telephone call that you just mentioned as he was on each of the other occasions that you saw him, or talked to him, going all of the way back to January 15th?

A. Yes.

Q. Now, about what time did the homicides occur on January 27th?

A. Just a couple of minutes after 12:00 if I remember right.

Q. So that the telephone conversation then that you had with him at somewhere between 11:00 and 11:30 would have been approximately within an hour or less prior to the homicides?

A. Right.

Q. Do you know of any other persons who had any type of contact with Mr. Yanikian after you did but prior to the time of those homicides?

A. No. In fact, every time I did see Mr. Yanikian, he was always alone -- or I don't recall anyone being with him.

Q. Now, what was your first knowledge that anything had happened in the cottage?

A. When I first found out, you mean?

Q. Yes.

A. Is when a couple -- I guess they were policemen -- came to the front desk and asked how to get to the -- the homicides had happened, and asked how to get there, and I went out into their car, police car, and took them around to the cottage, that's when I first found out.

Q. Did you ride with them in their car?

A. Yes, I did.

Mr. MINIER: Objection, your Honor, on the grounds it is outside the scope of the direct examination.

THE COURT: Sustained.

- Q. BY Mr. LINDSEY: Did you see Mr. Yanikian that day shortly after the homicides?
- A. I did from a distance, but I left and walked right back to the front desk. I never -- I never stayed.
- Q. How far away from him were you?
- A. Oh, I was quite a ways. I was far—I mean, I was close enough to see but I wasn't -- I was -- I was close enough to point the cottage out, from where I was, to the gentlemen that wanted to know where it was.
- Q. So we may have some rough idea, was it, say, 300 feet away? 100 feet away? Can you give us an approximate idea?
- A. Maybe two hundred.
- Q. About 200 feet?
- A. Two hundred fifty, something like that.
- Q. Was he sitting on the patio, or standing?
- A. No -- if I recall, he was standing up and there were other people, men around him, and that's all I recall.
- Q. And at that point you returned to the desk, though?
- A. Right.
- Q. Have you had anything further to do with this case other than what you have mentioned so far in this courtroom?
- A. No.

Mr. LINDSEY: No further questions, your Honor.

Mr. MINIER: I have nothing further, your Honor.

THE COURT: Thank you, Mr. Catlin. You are excused and free to leave.

(Whereupon, the witness was excused and withdrew from the stand.)

MR. MINIER: Call John Minassian.

**JOHN MINASSIAN,**

produced as a witness on behalf of the People, was duly sworn and testified as follows:

**DIRECT EXAMINATION**

BY Mr. MINIER:

- Q. Mr. Minassian, would you please state your full name and spell your last name for the record?
- A. My name -- first name is John. My last name is Minassian, M-i-n-a-s-s-i-a-n.
- Q. Do you live here in Santa Barbara, Mr. Minassian?
- A. Yes.
- Q. Are you retired?
- A. Yes, sir.
- Q. Are you of Armenian parentage?
- A. Yes, sir.
- Q. Do you know if your name appears in any of the directories of People of Armenian descent?
- A. It will be in the telephone book.
- Q. In the telephone book.
- Your Honor, I have another letter, which I wonder if we might have marked for identification as People's Exhibit No. 12?

THE COURT: Yes.

(Whereupon the above described exhibit thereupon duly marked People's Exhibit

No. 12 for identification purposes only.)

Mr. MINIER:

Q. Mr. Minassian, I show you people's Exhibit No. 12A, I would like you to look at--

THE CLERK: Twelve, please.

MR. MINIER: I am sorry.

Q. People's Exhibit No. 12 for identification, would you please look at it and look at the initials in the lower corner and tell us if you have ever seen it before?

A. That is right. I initialed this letter myself.

Q. Those are your initials on the bottom of the letter?

A. That is right.

Q. Did you receive this letter?

A. That is right. Through the mail.

Q. Through the mail? Do you recall when that was?

A. I don't.

Q. Do you recall hearing or reading about the killing of two Turkish diplomats at the Santa Barbara Biltmore?

A. That is right.

Q. Did you receive this letter after you heard about it?

A. That is right.

Q. Did you receive this letter after you heard about it?

A. That is after I read it in the paper.

Q. Was it shortly thereafter

A. Very shortly after.

Q. Is this a letter which is written in the Armenian language?

A. That is right.

Mr. MINIER: Your Honor, we would offer People's Exhibit No. 12 into evidence.

THE COURT: Received.

(Whereupon the letter previously marked People's 12 for identification thereupon received as People's No. 12 in evidence.)

Mr. MINIER: Thank you, your Honor, I have no further questions.

Mr. LINDSEY: No questions, your Honor.

THE COURT: Thank you, Mr. Minassian.

(Whereupon the witness was excused and free to leave.)

Mr. MINIER: Your Honor, prior to the testimony of the next witness, there is a short matter that I think should be resolved outside of the presence of the jury. If it is possible it can be done at the bench.

Mr. LINDSEY: I agree, your Honor.

THE COURT: Let's try it at the bench anyway.

SIDE BAR CONFERENCE

(Whereupon the following proceedings had at a side bar conference outside the hearing of the jurors as follows:)

Mr. MINIER: Your Honor, actually there are two matters but the first one regards the translation of the letters which have gone into evidence, one received by Mr. Hanessian and the other by Mr. Minassian. I have before me a two-page document written in English with the title, "Article Appearing in the California Courier Page 6, February 1, 1973." And there follows what purports to be a verbatim translation of these two letters which have gone into evidence. I asked Aram Saroyan, the Court Interpreter, to translate those letters that have gone into evidence from the Armenian language into English, and he said -- or he indicated to me that this translation which had appeared in the California Courier was a verbatim translation, and he has so indicated on the copy that I have here, that he has carefully read the letter or the translation appearing in the California Courier, and it is verbatim. I understand that defense counsel have no objection into using this translation as the translation of Mr. Saroyan, by adoption. If that's the case, I think the only area of dispute remaining is that Mr. Lindsey suggests that we have Mr. Saroyan read it into the record. I would prefer not to do that for reasons I can give to the Court, but that's the only unresolved matter; is that correct, Mr. Lindsey?

Mr. LINDSEY: Yes, your Honor.

THE COURT: First, is it stipulated and agreed that this translation from the article appearing in the California Courier, page 6, February 1, 1973, is an accurate and correct translation of the two letters that are now in evidence?

Mr. LINDSEY: Yes, your Honor. Mr. Saroyan advises me that it is a correct and accurate translation.

Mr. MINIER: We will also stipulate, your Honor. I might mention --

THE COURT: Why not just receive it, and whoever is presenting -- the District Attorney is free to present his case in such order as he wishes to present it. If it is received in evidence, he is entitled to read it. He is presenting his case.

MR. LINDSEY: I agree. I had suggested, in the event this was the appropriate time, that Mr. Saroyan might read it, but I am in accord however Mr. Minier would desire to have it handled.

THE COURT: If Mr. Minier does not wish to accept that suggestion I can't make him try his case in any particular manner.

Mr. LINDSEY: I understand. I have no objection to it, your Honor.

Mr. MINIER: If there is no objection, then, your Honor, I will simply submit the two page translation with the hand writing of Mr. Saroyan which attests to its accuracy, unless anybody desires to have that handwritten portion cut off.

Mr. LINDSEY: No. I would agree that his statement on there may go into evidence.

THE COURT: Do you want me to tell the jury what the stipulation is?

Mr. MINIER: Yes, your Honor, that would be very satisfactory.

THE COURT : May I borrow that.

Mr. MINIER: I will take off the last page, which is merely a copy of the Armenian.

May I bring up one other matter so that we won't have to come back to the bench; in the event that there is still a few minutes remaining, the next proposed witness was an FBI Agent, Mr. James Quick who was going to testify regarding the receipt of certain of Mr. Yanikian's papers from Mrs. Helen Rettig. I don't think there is any question of the search, but should there be, I

suspect that we should have a preliminary determination by the Court outside the presence of the jury. As I say, I think the evidence will indicate that he went to Mrs. Rettig's house and she informed the FBI agents that Mr. Yanikian had left a couple of suit-cases full of papers, and that the FBI agent, in the presence of Mrs. Rettig, who opened the suitcases, began to go through the material, and the agent then asked if he could take the material to the office because of its volume and return it at a later time, to which she agreed. But as I say, if this should be construed in any manner as a search and seizure, I think we should have preliminary determinations by the Court.

THE COURT: Will there be any question on this?

Mr. LINDSEY: I am wondering this, your Honor, if we might be able to have indicated to us any specific items that he is going to testify to, if there is a list of them that we may have.

Mr. MINIER: The only one was, I believe, it is a seven page assay or written document entitled "Time for Reparation." That's the one I referred to in the opening statement.

Mr. LINDSEY: Is this the only item that he is going to cover in his testimony?

Mr. MINIER: On direct, yes.

There were a great many different writings that he examined.

MR. LINDSEY: If this is the only one, your Honor, probably during the noon hour - I am pretty sure that's the one we have a copy of too.

Mr. MINIER: Yes, you did.

Mr. LINDSEY: I would say my present tentative thinking is that we would not ask to have any question raised on the search or the seizure, but if I could have during the noon hour to double check on that.

THE COURT: All right.

(Whereupon the Side Bar Conference was completed.)

THE COURT: Ladies and gentlemen of the jury, we have been discussing a stipulation or an agreement between the attorneys as to a matter of evidence in the case, and the attorneys have, in the time we have been talking, agreed as follows: we have the two letters in evidence -- I have forgotten the numbers of them, but the two letters that are written in the Armenian language and the attorneys have agreed that an article appearing in the California Courier on page 6 thereof, dated February 1, 1973, which purports to set forth an interpretation of these letters from the Armenian language into the English language is an accurate, true and correct interpretation of the letters in question. In addition to that, Mr. Aram Saroyan, the official interpreter in this case, has, in his own hand, in longhand at the bottom of the typewritten translation, attested that he has carefully read this translation and has carefully read the letter in the Armenian language, and that the typewritten translation from the article appearing in the California Courier is indeed a true and correct and faithful interpretation from the Armenian language into the English language; so because of this agreement between the attorneys, this typewritten English interpretation is now received in evidence in the case as People's Exhibit 12-A.

(Whereupon the above described exhibit thereupon duly marked and received

in evidence as People's Exhibit 12-A in Evidence.)

Mr. MINIER: Thank you, your Honor.

Your Honor, the Clerk has correctly informed me that I have not yet moved for the introduction of People's 12 into evidence, so I would like to do so at this time.

That's the letter received by Mr. Minassian; was that correct?

THE CLERK: I am sorry, you must have misunderstood me.

Mr. MINIER: I beg your pardon, I thought I saw you shaking your head. I am sorry, please disregard that, your Honor. May I now read that translation of the letters into the record, your Honor?

THE COURT: Yes.

Mr. MINIER: The letter, which is People's 12A --

Mr. LINDSEY: May we have one moment, your Honor.

THE COURT: Yes.

Mr. LINDSEY: Thank you.

Mr. MINIER: People's 12A, which is the translation of the letters, exhibits 10 and 12, reads as follows:

'Dear Compatriots :

“Please accept this letter as an important document because it is related to a subject which has been bothering every individual true Armenian for over fifty years. I have absolutely no doubt that one of your ancestors was the victim of the barbarian brutality that our nation underwent at the hands of the Turkish race and the Turkish government.

“They planned to exterminate two million of our race and they did it, with premeditation. Not only did they do that, but they also took over our lands and our wealth--the value of which was over six billion dollars. They were successful in their criminal endeavors because they had many nations helping them. There were also some nations which were hiding their greedy and selfish motives by preaching that we should be patient, and they are still doing this until today. Kindness, justice and honor do not exist today in this life. They are meaningless words.

Their brutal government which sits on the shores of the Bosphorous is being praised in many papers and in many speeches by presidents and government officials. They are praising this nation and government as worthy of being among the brotherhood of nations, and they are helping them. They are not only praising their present activities, but they are praising their past and trying to cover the bloody work that they have done. Current times show us that the only successful way to get something done is by violent action. We Armenians as individuals, as Don Quixotes, should leap to demand justice and redress of our rights. There is no Armenian cause, there is just illusion and self-deception. There is only one cause that we have to seek, that is the cause of the Armenia individual, because you and I have been the victim of murder, rape, thievery, and barbarian brutality. The Armenian individual is the only one who is going to wake up from a long sleep and personally seek his rights from the brutality with the kind of language that only they can understand.

"No nation, no country, no church, nor any organization, no matter what it bears, can be correlated to this kind of war. This is the kind of war that the Armenian, individual is going to conduct against the Turkish beasts and their government and should conduct until the final surrender. The Armenian individual will become nemesis in this war and can be much stronger than the atomic bomb. And the Armenian individual is the only one who can succeed in this endeavor to demand and get the rights of our nation.

"The Armenian individual should create a system through which the Turkish nation can no longer have the possibility of creating any kind of relationship with any nation on the surface of this Earth.

"All the representatives of the so called Turkish Government should be eliminated from this Earth wherever they appear to represent their government. We should not

have any relations with the Turkish race. We hate them but the Armenian individual has chosen this new method to deal with the representatives of this government wherever they appear or wherever they come from.

"When you read this letter I, the author of this kind of war, (who thought about this idea for many years) will have already started this war. I will be the first one as an example to many more to follow. I have no doubt that many who think like myself will have a long list. I have no doubt that many are going to follow my path to fight this new method of war. I have no doubt that every individual Armenian is going to spread this new method of war and idea and in many cases the Armenian individual is going to help these individuals. I have no doubt that some extra copies that I am enclosing will pass to others.

"Gourgen Yanikian, who became a nemesis as an Armenian individual who is the author and way for individuals to receive their rights that were stolen from them."

THE COURT: We will take the noon recess at this time.

Ladies and Gentleman of the jury, it is your duty not to converse among yourselves or with anyone else on any subject connected with the trial, or to form or express any opinion thereon until the cause is finally submitted to you.

You are excused until 1:30 P.M.

(Whereupon at 12:05 P.M. a luncheon adjournment was taken until the hour of 1:30 P.M.. this date.)

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**3. SANTA BARBARA,CALIFORNIA; TUESDAY, JUNE 5, 1973; 1:30 P.M.
AFTERNOON SESSION**

THE COURT: All members of the Jury are present, Gentlemen,and the alternate jurors.

Ready for the next witness.

Mr. MINIER: Your Honor, the next witness we propose to call is the one we mentioned just prior to the noon recess.

THE COURT: Yes.

Mr. MINIER: And counsel has indicated that perhaps we should go forward with a short hearing outside the presence of the jury .

THE COURT: Ladies and Gentlemen of the jury, for the purpose of taking up the question of law solely and not one of fact, it will be necessary for us to excuse you for the time that it would take.

How long do you anticipate, Gentlemen?

Mr. MINIER: I would think perhaps ten or fifteen minutes, your Honor -- but I'm not sure.

Mr. LINDSEY: That would be -- I would estimate at this point, your Honor, that would be probably in that area.

THE COURT: During this time, will you please bear in mind your duty not to converse among yourselves or with anyone else on any subject connected with the trial, or to form or express any opinion thereon until the cause is finally submitted to you.

If you will remain within call of the bailiff, or in the jury commissioner's office, if you prefer, we will call you as soon as this legal argument is concluded.

(Whereupon, all the jurors were excused and withdrew from the proceedings.)

OUT-OF-COURT PROCEEDINGS

(Whereupon, the following proceedings had outside the hearing and presence of the jurors as follows:

THE COURT: Let the record show the members of the jury and the alternate jurors are now absent from the courtroom.

All right, Gentlemen.

Mr. LINDSEY: Mr. James Quick, please.

JAMES E. QUICK,

produced as a witness for an on behalf of the People, testified outside the presence of the jurors as follows:

DIRECT EXAMINATION

BY Mr. LINDSEY:

Q. Would you please state your full name and spell your last name?

A. James E. Quick, Q-u-i-c-k.

Q. Do you live here in Santa Barbara?

A. Yes, sir -- Carpinteria.

Q. And where are you employed?

A. I'm a special agent with the Federal Bureau of Investigation.

Q. Is that out of the Santa Barbara office?

A. Yes, sir.

Q. During your performance of your duties, did you have occasion on Monday the 9th of January of this year to go to the home of Helen Rettig R-e-t-t-i-g, 123 East Micheltorena in Santa Barbara?

A. Yes, I did.

Q. And during the time that you were at her home, did Mrs. Rettig show you some particular items?

A. Yes, she did.

Q. Could you tell us who was present at the time?

A. Myself, Mrs. Rettig, and one of our other agents, Kenneth Young.

- Q. Could you tell us what, if any, the conversation was that led up to Mrs. Rettig's showing you these items?
- A. On a previous interview with Mrs. Rettig on January 27, 1973, after the incident took place, I talked with Mrs. Rettig, and at that time she advised me that Mr. Yanikian stored several items in her locker over in her carport, that she did not know what these were, and when we -- I went back on Monday, and she made these items available to me to look at.
- Q. During this prior conversation, that is prior to looking at the items, did Mrs. Rettig in any way explain to you the relationship between her and Mr. Yanikian?
- A. Yes. She said she was a close friend of his and had helped him author several books and writings.
- Q. Now, could you tell us what it was that she showed you and where it was?
- A. She went with me out to her carport, we unlocked the carport and removed a typewriter and several briefcases of letters, documents, books, plays, that were written by Mr. Yanikian, or written to Mr. Yanikian.
- Q. Where actually were they in this carport locker?
- A. They were right in front in the locker. Mrs. Rettig was with us and pointed out the items that were not hers, and we took them from the carport to her apartment and looked at them there.
- Q. Now, did you order her to show you any of those things?
- A. No, sir.
- Q. Did you tell her that she had to show them to you?
- A. No, sir. We asked if we could see them, and she agreed to let us look at them.
- Q. Did she make any objection with regard to your seeing them?
- A. No, sir, she did not.
She promised to cooperate with us in any way she could.
- Mr. MINIER: Your Honor, I have a seven-page typewritten document which I wonder if we might have marked for identification as People's Exhibit No. 13?
- THE COURT? Yes
- (Whereupon the above described exhibit thereupon duly marked People's Exhibit No. 13 for identification purposes only.)
- Mr. MINIER:
- Q. I am going to show you People's Exhibit 13 for identification and ask you if you can identify this as being a copy of one of the documents that you saw at the time and place you have already described?
- A. Yes, it is. I can identify it by my initials at the bottom of each page.
- Q. And do you know that to be an exact copy of the original document that you saw at Mrs. Rettig's house?
- A. Yes, that is.
- Q. Did Mrs. Rettig allow you to take these items from the premises?
- A. Yes, she did.
- Q. With regard to the document I just showed you, does it have a title?
- A. Yes, it is, "Time for Reparation by Gourgen Yanikian."
- Q. Was this then among the documents which Mrs. Rettig identified to you as belonging to Mr. Yanikian?

A Yes, sir, it was.

Mr. MINIER: I have no further questions, your Honor.

CROSS-EXAMINATION

BY Mr. LINDSEY:

Q. Mr. Quick, the first time you went to Mrs. Rettig's address, was on what date?

A It was on January 27, sir, 1973.

Q. When you went there, did you go acting on behalf of any law enforcement agency here in Santa Barbara County, or were you acting strictly on behalf of the Federal Bureau of Investigation?

A. I don't quite understand your question, sir. I was accompanied by a detective of the Sheriff's office.

Q. I want to find out what you were doing there at Mrs. Rettig's premises. Were you there acting on behalf solely of the Federal Bureau of Investigation, or were you acting in coordination with a local law enforcement agency?

A. I think I can best answer that, based on the nature of the crime involved, it is a violation of local law, and it also fell under a new Federal law that we have jurisdiction over. I was there acting on behalf of the FBI under the new Federal law, and a detective from the Sheriff's office was there acting on behalf of his agency.

Q. Were the two of you then working together as you went the first time to Mrs. Rettig's house?

A. Yes, sir.

Q. What was the name of the Sheriff's deputy?

A. I believe it was Detective McCormick.

Q. Now, why--was there a particular reason why you went there with Mr. McCormick that first time?

A. As I said it was a violation both of local law and also of the new Federal law which had been just recently passed in October 1971

Q. Were you there merely then for general questioning of Mrs. Rettig?

A. Yes sir. Based again in relation to the new Federal law.

Q. Well then, you did not go there the first time to seize or take into your possession or custody any items of property, then, did you?

A. No, sir, not at that time.

Q. Now, did Mrs. Rettig disclose to you in that first conversation that there were items of property on her premises belonging to Mr. Yanikian?

A. Yes, sir.

Q. Did you learn of the general nature of those items of property on that first discussion with her?

A. No, sir.

Q. Well, when she told you on that first visit that there were some items of property there, did you ask her generally what they were?

A. Yes sir.

Q. Did she indicate to you generally that, they were written items?

A. No, sir.

Q. What did she tell you?

- A. Mrs. Rettig told me that at the time she was in the hospital when Mr. Yanikian stored this property there, and she did not know what it consisted of.
- Q. Now, did you ask her, on that first visit, to let you see them at that time then?
- A. Yes, sir, I believe I did.
- Q. And then did you take a look at them the first time?
- A. No, sir.
- Q. Why not?
- A. It was getting quite late that night, and Mrs. Rettig had just really come out of the -- home from the hospital, and we felt we could go back at a later date and go through this material.
- Q. How long were you there on the first visit?
- A. Approximately an hour to an hour and a half, I believe.
- Q. Now, how many days later was it that you went the second time when you actually examined the items?
- A. It was one day later. We did not go out Sunday, but we went out Monday. There was a day in between.
- Q. It was on the second visit, then, when you obtained the possession of the articles from the property from Mrs. Rettig?
- A. Yes, sir.
- Q. Before going, did you make any request at any time to any branch of the judiciary for a search warrant of any type?
- A. No sir.
- Q. Did you have a search warrant with you on that second trip?
- A. No, sir.
- Q. On the second trip, did you go again with Mr. McCormick?
- A. No, sir.
- Q. Who did you go with on that second trip?
- A. With another one of our agents, Mr. Young.
- Q. Now, on this second trip, then, Mr. Young and you were acting solely on behalf of the Federal Bureau of Investigation, then, weren't you?
- A. Yes sir.
- Q. Now, on this second trip, did you advise Mrs. Rettig again of your status, that is a special agent with the FBI?
- A. Yes, sir.
- Q. Did you present to her your badge of authority?
- A. Yes, sir, I believe I did. And I know Mr. Young did.
- Q. Along with that badge, is there also your identification card issued to you by the FBI that specifies in writing that you are officially, an agent of the FBI?
- A. Yes, sir. I'm sorry, I think I misunderstood your first question on that. I did not show Mrs. Rettig a badge, I showed her my credential card.
- Q. Your credential?
- A. Yes, sir.
- Q. You did that right at the very beginning, did you, when you met her?
- A. Yes, sir
- Q. Now, did you do that on the first visit?
- A. Yes, sir.

- Q. Did you do it again on the second visit so that she would be reminded that you were an FBI agent?
- A. I believe I did sir. I can't recall off hand. She recognized me when I came, in the house that time.
- Q. How about the other agent with you on that second trip, did he show his identification?
- A. Yes, sir. I introduced him and he showed his identification.
- Q. The reason for that is that's a procedure generally followed by FBI agents, isn't that true, when you are calling on a citizen to show your credentials?
- A. Yes, sir.
- Q. Now, on this second trip, then, when you went to the house, you went there for the express purpose of looking at these items of personal property, whatever they were, that you had been previously told belonged to Mr. Yanikian?
- A. Yes, sir.
- Q. Now, when you arrived at the house, Mrs. Rettig was home, wasn't she?
- A. Yes, sir.
- Q. Was she alone?
- A. Yes, sir, I believe she was.
- Q. And after knocking or ringing the doorbell, did she admit you into the house?
- A. Yes, sir.
- Q. And how long were you in the house before you went out to the carport for the items of property?
- A. I would say approximately five minutes, no more.
- Q. During that five minutes, what conversation occurred that related to this property?
- A. I again introduced myself and Mr. Young to her as special agents of the FBI, and I advised her that we would like to see the property that was stored in her locker in her carport by Mr. Yanikian.
- Q. All right. The subject matter, then, of the property came up on the second visit because you first asked that question of her, didn't you?
- A. Yes, sir.
- Q. Once you put that question to her, what did she do?
- A. She went, got the key for her locker and told us that she would go with us and we could see it.
- Q. And did you go along with her to the carport area?
- A. Yes, sir.
- Q. Was there a lock of some type on that locker?
- A. Yes, sir.
- Q. Was there any conversation out there at the locker before the locker was opened?
- A. Just general conversation. We had to move her car back out of the way so we could get to it.
- Q. Who did that?
- A. I did.
- Q. Was she standing there as you moved that car out of the way?

- A. Yes, sir.
- Q. And once the car was moved out of the way, who opened the locker?
- A. I don't recall, sir, if it was myself -I believe it was -- I believe I opened it, but I don't recall for certain.
- Q. Didn't you make some notes, Mr. Quick, of who opened that locked locker?
- A. I don't recall. I don't have it with me.
- Q. But you may have been the one to have unlocked it then?
- A. Yes, sir. Mrs. Rettig had a broken leg and could not walk without the aid of crutches.
- Q. Now, for that reason then, it is most likely, as you now recall, that you may have been the one, because of her particular physical condition at the time?
- A. Yes, sir.
- Q. Now at the time that you opened that, you still did not have any search warrant, did you?
- A. No, sir.
- Q. Now, what did you find in that locker?
- A. A typewriter, I believe an attache case, a briefcase, and one or two suitcases-- I don't recall off hand exactly what the items were.
- Q. Did you make a note or a record of the items you found that is these large objects in that locker?
- A. I made a note of the ones that were turned over to us, yes sir but not of the -- of the--I recall a suitcase with clothing which we did not take, and that was left there and I did not record that.
- Q. Well, my question was, did you make a record as an FBI agent of the large objects that were found in that locker, by you, when you opened it?
- A. I don't believe so. I don't recall off hand whether I did or not.
- Q. Did you remove any of those large objects from that locker?
- A. Yes, sir
- Q. How many?
- A. I believe there was five
- Q. Did you take all five out?
- A. Yes, sir.
- Q. When you had removed all five objects, were there any items remaining in that locker?
- A. Just items belonging to Mrs. Rettig.
- Q. Then what did you do with the five large objects that you removed?
- A. We returned to Mrs Rettig's apartment with them.
- Q. Where was Mrs. Rettig at this time?
- A. She is with us the entire time.
- Q. Did the other FBI agent and you then carry these five large objects into her apartment?
- A. Yes, sir.
- Q. What was the purpose of taking them inside of her apartment?
- A. So that we would not -- we would open them there and look at the contents and not do it out in the carport, in the driveway.
- Q. About what time of the day was this, approximately?

- A. Approximately 11:00 in the morning.
- Q. Now, inside the house was there still only then Mrs. Rettig, the other agent and yourself, the three of you?
- A. Yes, sir.
- Q. Did you place those five large objects then in her living room?
- A. Yes, sir
- Q. Who opened the first object?
- A. I believe I did, sir.
- Q. What did you find inside?
- A. Books, numerous personal papers.
- Q. What was the second object you opened?
- A. I believe that was a suitcase containing clothing that was opened by Mr. Young.
- Q. And the third object?
- A. I don't recall that -- the order in which we opened the objects that were taken out from this point.
- Q. All right, then without reference to the order of the last three objects, what were found in the last three objects when they were opened?
- A. One was a typewriter, when we opened that, and inside the typewriter was some papers, and then the briefcase and attache case were opened, and we just -- there were books, letters, numerous papers, plays, articles written by Mr. Yanikian, written from Mr. Yanikian to other people, and letters from other people to Mr. Yanikian, some in foreign languages.
- Q. Now, did you take, then, all five of those objects into your custody?
- A. No, sir.
- Q. Did you leave them all there at the premises of Mrs. Rettig?
- A. No, sir. We left the suitcase containing clothing with Mrs. Rettig, and we took the typewriter and a briefcase and the papers.
- Q. Did you than take everything except the suitcase with the clothing?
- A. We did leave some items, personal possessions, of, I believe -- a couple of pieces of jewelry that were in one of the briefcases, or attache cases, in a suitcase that we left with Mrs. Rettig.
- Q. In other words, items that appeared to be of personal significance were left there, --the typewriter and all of the paper items, documents, writings, were taken with you, then?
- A. Yes, sir.
- Q. Now, did you do that taking from Mrs. Rettig's residence?
- A. Yes, Sir.
- Q. And at the moment that you took those and left from her residence, did you have any search warrant authorizing that?
- A. No, sir.
- Q. Did the other agent with you have any such search warrant authorizing it?
- A. No, sir.
- Q. Now, were those the items that your department subsequently sent back to Washington, D. C.?
- A. Some of them were, yes.

Mr. LINSEY: Your Honor, I have no further questions at this point.

Mr. MINIER: One or two questions, if I might, your Honor.

REDIRECT EXAMINATION

By Mr. MINIER:

Q. Mr. Quick, did Mrs. Rettig on the first visit to her home on Saturday, the 27th, consent to your looking at all of these various papers?

A. Yes, sir.

Q. Was it pursuant to that consent that you came back two days later on the 29th?

A. Yes, sir.

Q. Now, after you on the 29th had taken the items from the locker into the house, did you spread them out in some fashion and begin to look at them?

A. Yes, Sir, we started to go through them at that time.

Q. Was Mrs. Rettig at all times cooperative with you?

A. Yes, sir.

Q. Did she assist you by way of explanation of any of the things that you found and were spreading out in her house?

A. Yes, sir I believe she did.

Mr. MINIER: Thank you. I have nothing further, your Honor.

Mr. LINDSEY: Nothing further your Honor

THE COURT: Did she tell you under what circumstances Mr. Yanikian's property had found their way into her locker?

THE WITNESS: Yes. Mrs. Rettig advised us that she was in the hospital at the time that these items were brought over, I believe that a neighbor--I'm sorry, a friend of hers made available the key, or opened the locker for him. I can't recall exactly how that happened. They were brought over by Mr. Yanikian though, and stored in the locker. I don't recall whether he had a key for that or if he obtained it from a friend.

THE COURT: Did she say whether or not she knew in advance that he was going to do this?

THE WITNESS: No sir, she didn't. From what I can recall, she did not know in advance that he was going to do this.

THE COURT: She did tell you that she was a good friend?

THE WITNESS: Yes, sir.

RHE COURT: All, right.

(Whereupon, the witness was excused and withdrew from the stand.)

THE COURT: Where do we stand, Gentlemen?

Mr. MINIER: Well, you Honor, I think perhaps that it might be helpful if I called Mrs. Rettig briefly. Could you testify, Mrs. Rettig?

THE COURT: Is there going to be an objection to the introduction of this document, Mr. Lindsey?

MR.LINDSEY: Yes, your Honor.

THE COURT: All right.

HELEN RETTIG,

produced as a witness for and on behalf of the People, testified outside the presence of the jurors as follows:

DIRECT EXAMINATION

BY Mr. MINTER:

Q. Would you please state your full name, Mrs. Rettig and spell the last name.

A. R-e-t-t-i-g.

Q. Mrs. Rettig --

THE COURT: (Interposing) Your first name is?

THE WITNESS: Helen.

THE COURT: Helen?

THE WITNESS: Yes, sir.

Q. BY Mr. MINIER: You live in Santa Barbara?

A. I do.

Q. Is that at 123 East Micheltorena?

A. That's right.

Q. Did you live there during January of this year?

A. Yes.

Q. Do you know the defendant, Mr. Yanikian?

A. Yes.

Q. How long have you known him?

A. Oh, 16 or 17 years, something like that.

Q. Throughout that period of time, have you had occasion to corroborate with him in the writing of various plays and novels?

A. Oh, yes.

Q. And have you for a period of years quite frequently had some of his writings at your house for the purpose of assisting in putting them into good English?

A. Uh-huh.

Q. Prior to the latter part of January of this last year, were you aware of Mr. Yanikian giving any of his property his worldly goods, away to other people?

A. Oh, yes.

Q. And was he in fact doing that?

A. It seemed to be almost a habit with him.

Q. Now, do you recall being visited by the FBI man Mr. Quick who just testified?

A. Uh-huh.

Q. On Saturday the 27th?

A. Yes.

Q. The 27th of January?

A. Yes.

Q. Now, at some time prior to January 27th, had a typewriter and some other documents been left at your home presumably by Mr. Yanikian?

A. Yes. There were a number of things left, but I didn't know that it was a typewriter or what it was, because I had been -- was in the hospital when they were put there, and had been for some time. And he told me he was putting some things in there, which he had permission to do. He had done that, -- put things in my locker, which held a good deal of material, and that I wasn't using -- I was using the locker, but it wasn't filled, and he told me that from time to time he had put things in there. My locker happens to have a Sesame lock, and

he knew at that time the combination and was free to put anything in or take anything out that he wanted.

So he had told me that -- well, for instance, just prior to his trip to Armenia, he had stored some things in there and just told me and, uh--I had come home from the hospital just a week before the -- on January 20th, and he had brought me home in his car from the hospital, and at that time I think it was, uh, he got me into the house--I needed some help, because I was on crutches, and then he told me he had some things in his car that he wanted to put in my locker, so I said, "oh, fine." And he did. But I didn't know what --what they are -- I, didn't even question him.

Q. Did you also keep things of your own in the locker?

A. Yes.

Q. Was the locker there primarily for your use?

A. Entirely for my use. It is a part of my apartment, you might say.

Q. Upon occasions in the past, you have let Mr. Yanikian share that locker with you as a favor to him?

A. Oh, yes, yes.

Q. All right. Now, when the FBI agent Mr. Quick and the deputy Sheriff came on Saturday the 27th, did you at some point, inform them about the fact that Mr. Yanikian had brought some things over and put them in your locker a few days before?

A. I don't really recall whether I informed them or they informed me.

Q. All right. In any event, did you then have occasion to tell the officers where this particular locker was?

A. Oh, yes.

Q. Did you take them out to the locker in the carport?

A. Not -- that was on Saturday that they came first, and we discussed their taking them, and they asked me if they might take them. I said, "Yes, I guess so."

I was a little bit -- well, I don't know what I have to say -- impressed by the authority of the FBI badges.

Q. Well now, did they first ask you if they could look at these things on Saturday, the first day?

A. Well yes. That's when they asked me if they could see them, and I said yes. And then they interviewed me for quite some time after that. I don't know how they decided, but anyhow, they said, between themselves, Mr. Quick said that because it was late that evening, and I think because I had suffered a good deal that day, that they wouldn't come back until Monday to take them, which was agreeable with me--the following Monday, the 27th, or 29th, I should say.

Q. On Saturday the 27th, did you have any objection to these officers looking into the locker?

A. I don't think I voiced any objection, no.

Q. When they came back later on Monday the 29th, did you make any objection?

A. No. As I say, I was possibly a bit overawed by the FBI badges, so it was agreed on Saturday night that they would come back and take them.

Q. Did you ask Mr. Quick if he would return these things to you after the case was over?

A. Yes, very definitely.

Q Did he indicate that he would?

A. He said he would. In fact, he made a list -- after they were brought in my house, a list of things and gave me a copy to the effect listing all the things that they had, which really didn't mean such because they were documents period.

A great many things in Armenian that the agents couldn't read at the time, and so he gave me a list of the things they found. But most of the things were papers or documents, something to that effect, that were really not identifying things. They gave me that and signed it and promised that they would return them to me.

Mr. MINIER: Thank you, Mrs. Rettig I have nothing further, your Honor.

CROSS-EXAMINATION

BY Mr. LINDSEY,

Q. Mrs. Rettig, the first meeting you had, then, with Mr. Quick was on January 27?

A. Yes.

Q. Was he in the company of a deputy sheriff?

A. Yes.

Q. Did they ring or knock at your front door that day?

A. They rang.

Q. Did you have any prior knowledge that they were going to be at your home on January 27?

A. Saturday, yes.

Q. Did you know in advance?

A. No, no, not at all.

Q. Now did you go to the front door and answered it?

A. Yes. I am not sure that I did, because I had two guests there who have come to my house immediately upon receipt of the news of that day and had come to be of assistance to me if they could, and they were there, and it may be that when the doorbell rang that my friend opened the door or maybe I hobbled there, I don't know for sure.

But anyhow, they rang and identified themselves and came in.

Q. How did they identify themselves?

A. Mr. Quick showed me his card and his badge and said—spoken his name and said of his connection with the FBI.

Q. Did that have any effect on you when he announced the agency that he had represented, the FBI?

A. Well, I never had such an occasion before, and I may have been overawed by the name FBI.

Q. When the discussion got around to the items of property out there in the locker, is it correct that they asked you if they could see them?

A. I beg your pardon?

Q. Did they ask you -- did Mr. Quick ask you if he could see the items in the locker'?

A. Oh, yes, yes.

Q. Did you answer yes they could?

A I said, yes, I guess

Q Why did you say yes?

A Because I thought they were authorities that I couldn't say no to.

Q Did you believe at that time that because Mr. Quick represented the FBI that when he asked to see those that you would be obligated to let him do so?

A I thought so, yes.

Q Did you feel you had any choice in the matter?

A No, I felt I had no choice.

Q Did you, as a result of that belief on your part, then, allow them or make the arrangements on January 27 for them to come back the following Monday on the 29th so they could see them?

A Did-- I

Q Did you make the arrangements with them, then, on January 27 so that they could come back two days later on Monday to see them?

A Yes.

Q When you agreed on the 27th to let them come back on the 29th?

A Right.

Q Did you do that because you believed ,you had no choice in the matter?

A Exactly.

Q On the 29th -when Mr. Quick came by with the other agent from the FBI, there was no search warrant presented to you, was there?

A No, sir.

Q Did they again identify themselves?

A I don't actually remember, because I knew Mr. Quick by this time when he came, I knew what he came for and so I asked them in.

Q Did you shortly thereafter take them out to the locker?

A Yes.

Q Did you help with the unlocking of the locker?

A No, I wasn't able to do so.

Q Did one of the agents unlock the locker?

A Yes.

Q Were you nearby, though, out there by the carport?

A I was right there. I gave him the combination.

Q Did you do that voluntarily?

A Giving them the combination? Yes.

Q Why?

A He couldn't get into it unless I did.

Q Now, why did you give them the combination and help them get into the locker?

A Because I thought I was obligated to.

Q Did you feel you had any choice in the matter?

A No.

Q Now, after the locker was opened and the contents removed, were they taken into your house?

A Yes.

- Q. Did you feel you would be obligated to do that also, to allow the agents to bring those into your house?
- A. I didn't even think about whether I did or not, because it was agreeable to me. As a matter of fact I was glad they suggested it because I wanted to know what was in there too.
- Q. Now inside the house as Mr. Quick indicated, were the contents of the large containers examined?
- A. Yes.
- Q. And after the examination, did Mr. Quick take some of those articles with him?
- A. Oh, yes, yes
- Q. Did he ask your permission to do so?
- A. He had already asked on the 27th if they could examine them, and it was very apparent from the mass of material that they couldn't examine them all there. A great many things they couldn't even read. They would have been there a week if they had to examine them all there, so it was obvious to him and to me that they would have to take them away if they were going to use them.
- Q. When they did take them away, did you allow them to do that because you felt you had no choice in the matter?
- A. Did I what?
- Q. When they took the articles away --
- A. Yes.
- Q. -- did you allow them to do that because you thought you had no choice in the matter?
- A. Yes, I thought I had no choice.
- Q. Is that about the time they made out a list and gave you a list of the item they were taking?
- A. Yes. At the time just as they were going after they had decided to take them away, then, he offered to give me a list.
- Q. Now, did Mr. Yanikian at any time ever indicated to you in any way that his property could be turned over to any other person?
- A. No.
- Q. Did he ever indicate to you at any time that any of his property could be turned over to any FBI agent or any other officer?
- A. No. Because they were his property and he was putting it in my care.
- Q. He entrusted the property to your care, then, by placing it in a locker?
- A. Well, not in so many words, but he asked me if he could store them in my locker a long time before that, and naturally I said, "Surely."
- Q. In the period from January 27th to January 29 at no time did you ever receive any consent or permission from Mr. Yanikian to turn his property over to any other person, did you?
- A. No, I was not in touch with him,
- Mr. LINDSEY: Your honor, I have no further questions.
Thank you, Mrs. Rettig.

REDIRECT EXAMINATION

BY Mr. MINIER:

- Q. I have a few more questions, Mrs. Rettig.
During the time that you collaborated with Mr. Yanikian in the writing of plays and novels and essays in the English language, did you normally do the finished product in the English language?
- A. Yes.
- Q. In other words, is Mr. Yanikian's English not polished enough really to produce the finished document in the English language?
- A. That was the whole idea. They were his ideas, but my translation.
- Mr. MINIER: May I approach the witness, your Honor?
- THE COURT: Yes.
- Mr. MINIER:
- Q. Mrs. Rettig, I am going to show you a document titled "Time for Reparation." This is a carbon copy with seven pages, would you look at that and see if the typing looks similar in kind to your typewriter; that is, does the type look like the type produced by your typewriter?
- A. Very much, yes.
- Q. Now, would you please read -- start reading and see if at a certain point you are able to recognize this document as something which you put into this final form from the rough thoughts or notes that Mr. Yanikian had given to you?
- A. I might put in here that the way -- I couldn't read his English writing as well as I could interpret his talk; so never did he give me any notes. It was always verbal, and he would tell me what he wanted to say, and I would try to say it in his way to the best of my ability. (Reading.) Yes. I don't remember this particular thing. I think it must have been written a number of years ago, but I am almost sure that I wrote it. Also, it looks like my typewriter, my writing.
- Q. And then is this something that you believe that you wrote in order to express the thoughts Mr. Yanikian had expressed to you verbally in English?
- A. Oh, yes. Because when he was speaking, giving me his ideas, I was taking notes all the time.
- Q. Now, on the occasion that the officers came to your home on Saturday, did you already know that there had been a killing of two Turkish diplomats?
- A. I had just learned it.
- Q. Did you know at that time that the suspected killer, was your friend Mr. Yanikian?
- A. Yes, yes.
- Q. Because of this, were you then quite curious to know what exactly it was he had put in your locker?
- A. No, I wasn't -- I didn't think about the contents of the locker. I wasn't particularly curious. I mean -- that part just didn't enter my head, the curiosity, until after the officers had brought it up and gotten my permission to see it.
- Q. After the officers brought it up did you become curious to find out what Mr. Yanikian had put in your locker?
- A. Yes, I was interested to know what was there.
- Q. And for that reason were you glad to help them with opening the locker containing the material?

- A. I wasn't glad to help them, but I—I wasn't glad to help them until after they brought—suggested they bring them in the house, and I was glad that they would be in the house and I would see what they were taking
- Q. Were you cooperating with the officers all through this period of time?
- A. Yes, I think so
- Q. Now, the officers didn't say to you, "You will have to allow us to see this" did they?
- A. No, they did not say that.
- Q. Did they ask you?
- A. (Interposing) They asked me if they might.
- Q. Now, when the officers asked you if they might, didn't that give you some idea that you may have the opportunity to refuse?
- A. Not necessarily. The officers were very polite and gentlemanly, and I had no reason to be antagonistic.
- Q. Well, at the time that they asked you if they could, did you conceive of the possibility that you could answer either "Yes" or "No"?
- A. Not until -- as an afterthought, as they were leaving -- on the 27th, as they, were leaving, we had already discussed the matter that they would be back Monday to look at them, and as they were leaving, I remember distinctly that Mr. Quick was on his feet and going towards the door, and he was agreeing that they would be back Monday, and I thought --he said something to the effect, "Well, we'll be back Monday to-- Monday--or Monday morning," I have forgotten what he said, and suddenly it occurred to me that maybe I didn't have to let them have these things, -- see these things, so I said, "Well if I should say no, then what?" and he said something to the effect, "Well, then we would have to get a court order."
- Q. Now, this was on the first visit?
- A. Or a search warrant, something like that.
- Q. This was at the end of the first visit?
- A. Yes.
- Q. Now, you were interviewed a number of times, weren't you, by the law enforcement people?
- A. Yes.
- Q. You recall the last occasion that a law enforcement officer came to interview you?
- A. Yes.
- Q. And upon that occasion you did tell the law enforcement officer, didn't you, that you were refusing to talk to him on the advice of Mr. Lindsey?
- A. No, I did not tell him that.
- Q. Didn't you refuse to talk to the officer?
- A. I refused to talk to him, but that was on -- that was in the telephone conversation.
- Q. In a telephone conversation?
- A. Yes.
- Q. Did you tell him that was on the advice of Mr. Lindsey?
- A. No. Mr. Lindsey's name was never mentioned

- Q. Did you tell him it was on the advice of an attorney?
- A. No. I didn't know at that time there was any attorney.
- Q. Did you have occasion to talk with any of the attorneys during the lunch hour about the subject matter of what was in your locker, today?
- A. Today?
- Q. Yes.
- A. About the things in the locker?
- Q. Yes
- A. Oh, I think—yes, we discussed that, briefly.
- Q. Today?
- A. Mr Yanikian was so—so sure that he didn't want me, or any of his friends, to be interrogated , to be worried about all the thing, and he said to his attorney, uh—let—"Don't bother her. She has enough worries. Don't bother her." Something to that effect. And he didn't want—so very clear, clearly, that he didn't want me to be questioned. He was so afraid that it would hurt me.
- Q. Well,--
(Continuing) He didn't want—
- Q. Mrs. Rettig, my question is this: Did you speak with either of the defense attorneys after we had the luncheon break today?
- A. Yes, I spoke with both of them.
- Q. And did you speak to them about the legal issue of consent regarding whether or not the document in front of you would be admissible in court?
- A. No.
- Q. You did not discuss with either attorney the question of whether you consented to that search?
- A. To that search?
- Q. Yes.
- A. I told them the circumstances, yes, under which the search was made, yes.
- Q. Was it suggested to you by either of the attorneys that perhaps you didn't have alternative but to do anything a man who is from the FBI said?
- A. No, it was not suggested by them.
- Mr. MINIER: I have no further question , your Honor.

RECROSS-EXAMINATION

BY Mr. LINDSEY:

- Q. Mrs. Rettig is it correct that during the noon hour in the back room there that when Mr. Vasken Minassian and I were present with Mr. Yanikian, that we discussed the possibility that you might be called to the witness stand and on this matter of the document you now have before you?
- A. Yes.
- Q. And were you asked at that time to relate to Mr. Minassian and me all of your recollections as to how the FBI agents happened to be at your home and how they happened to obtain access to these documents?
- A. Yes .
- Q. Were you also asked if you were shown any search warrant by anyone at that time?
- A. Yes.

- Q. And did we ask you to try to recall as carefully as you could all of the details so that in the event that you were called to the stand by either side, you could relate them?
- A. The last part, would you say again?
- Q. Were you asked to recall carefully so you could relate the details in court, if necessary?
- A. I'm sorry, my hearing isn't as good as it should be.
- Q. Were you simply asked to remember as best as you could so if you were called to the stand by either side you would give your best recollection?
- A. Yes.
- Q. At that time did Mr. Yanikian in your presence state that he did not want you brought into this case at all.?
- A. Yes.
- Q. And in fact, his preference was to keep you completely out of it even though he lost his entire case?
- A. Yes, very definitely.
- Q. He would prefer to sacrifice the entire case rather than to have you involved in it, is that correct?
- A. Right.
- Mr. LINDSEY: No further questions, your Honor.
- Mr. MINIER: Just one thing, your Honor.

FURTHER REDIRECT EXAMINATION

BY Mr. MINIER:

- Q. Mrs. Rettig, have you ever told anybody before today that you felt you had no alternative but to open that locker and let the officers see those documents?
- A. Yes .
- Q. Have you told any of the law enforcement people that?
- A. No. not the law enforcement people -- no.
- Q. You have discussed that only with the attorneys for Mr. Yanikian is that correct?
- A. Today, yes.
- Q. Is there any reason why on Monday, the day that the officers came back, you didn't say, "Well I have decided not to let you see these things"?
- A. No, because, as I say, I was still under the spell of the FBI.
- Mr. MINIER: Nothing further, your Honor.
- THE COURT: By that time they had told you, hadn't they, that in answer to your question that if you didn't consent, they would have to get a court order, or a search warrant?
- THE WITNESS: Yes.
- THE COURT: Well, when they came back on Monday, did you tell them that you thought it over and thought it best that they get a warrant?
- THE WITNESS: No, I did not because I thought that would just prolong the agony, as it were.
- THE COURT: All right. Anything further?
- Mr. LINDSEY: Nothing further, your Honor.

Mr. MINIER: Nothing further

May I have just a moment to ask a question to Mr. Quick your Honor?

THE COURT: You may step down, Mrs. Rettig. Watch your step.

THE WITNESS: Yes, thank you.

(Whereupon, the witness was excused and withdrew from the stand)

THE DEFENDANT: I am sorry.

Mr. MINIER: I have no further evidence at this time, your Honor.

I would propose, rather than making an offer of the item at this time to delay the offer in order to do some legal research.

Mr. LINDSEY: I have no objection, your Honor, to any time that counsel may desire on this particular issue.

THE COURT: All right. Rather than bring the jury back in and take an immediate recess or almost immediate one, let's take a five minute break and then plan to go through until quitting time.

(Whereupon, the out of court proceedings thereupon recessed)

THE COURT: All members of the jury and the alternate jurors are present.

All right.

Mr. MINIER: Thank you your Honor, Steven Sullivan

WARREN A. SULLIVAN,

called as a witness on behalf of the people having been duly sworn, testified as follows:

DIRECT EXAMINATION

BY Mr. MINIER:

Q. Would you please state your full name and spell your last name?

A. Warren A. Sullivan, S-u-l-l-i-v-a-n. I have gone into the name of Steven since I was a kid as that was my father's name.

Q. Mr. Sullivan where are you employed?

A. The Santa Barbara News Press

Q. Were you employed there during the month of January of this year?

A. Yes, sir

Mr. MINIER: Your Honor may we have marked for identification as People's 14 a Manila envelope, within which is a document which has an orange cover on it?

THE COURT: Yes

(Whereupon the above described exhibit thereupon duly marked people's Exhibit No.14 for identification purposes only)

MR. MINIER:

Q. Mr. Sullivan, I am going to show you People's Exhibit 14 for Identification and ask you if you would please look both at the envelope and also at the document inside, and see if you can identify it?

A (Witness complies.) Yes, that appears to be something I recognize.

Q. Could you tell us when and where you first saw the envelope and the contents?

A. It was unopened lying on our mail table at the News Press on Monday morning, January 29, I believe.

Q. Was there anything in particular that called your attention to it?

A. Yes. I saw Mr. Yanikian's name in the upper left corner.

Q. Is the document addressed to the News Press?

- A. Yes, sir.
- Q. Did it appear that it came to the News-Press in the ordinary course of the mails?
- A. Yes, sir.
- Q. Then after you had your attention called to the name of Mr. Yanikian, what if anything did you do with the document?
- A. I handed it to the City Editor, and told him that we had some mail from Mr. Yanikian.
- Q. Was it then opened in your presence?
- A. Yes, sir.
- Q. And is this document, with the orange cover that is before you, does that appear to be the same one that you saw after it was opened?
- A. Yes, sir.
- Q. On the first page of that document, is there an additional reference to the News Press?
- A. Yes.
- Mr. MINIER: Thank you Mr. Sullivan. I have no further questions your Honor.

CROSS-EXAMINATION

BY Mr. LINDSEY:

- Q. May I see the Exhibit just a moment, Mr. Sullivan?
- A. (handing)
- Mr. LINDSEY: May we have one moment, your Honor, please?
- THE COURT: Yes
- Mr. LINDSEY:
- Q. Mr Sullivan who was it that opened the envelope, please?
- A. The City Editor, Mr. Ball.
- Q. After it was opened, was it turned over to your custody, then?
- A. No. I believe he called the Sheriff's office.
- Q. Did this eventually find its way, then, to the Sheriff's office as far as you know?
- A. I believe it did.
- Q. How long did the News Press have it?
- A. So long as it took for a deputy to come and get it.
- Q. Is this the letter from which the News Press ran some of the articles on this case?
- A. Is that the copy from which we did it?
- Q. Yes.
- A. No.
- Q. Was there another copy received by the News Press in addition to this one?
- A. No. There was a copy made of it.
- Q. The News Press made a copy of this one?
- A. So we could release that one, yes.
- Q. This was released over to the custody of the authorities, and the News Press retained a photocopy of one for their own purposes, is that it?
- A. Right.
- Mr. LINDSEY: No further questions, your Honor. Thank you Mr. Sullivan.

Mr. MINIER: No further questions, your Honor.

THE COURT: All right, thank you, Mr. Sullivan.

Mr. MINIER: George Herman, please.

GEORGE W. HERMAN,

produced as a witness for and on behalf of the People, was thereupon duly sworn and testified as follows:

DIRECT EXAMINATION

BY MR. MINIER:

Q. Would you state your full name and spell your last name for the record?

A. My name is George W. Herman, H-e-r-m-a-n.

Mr. MINIER: Your Honor, I have handed to the clerk a color photograph which I wonder if we might have marked as People's no. 15 for identification.

THE COURT: Yes.

(Whereupon, a colored photograph thereupon marked as People's No. 15 for identification purposes only.)

Mr. MINIER: And also I have handed to the clerk a large diagram of the building which we would like to have marked as People's No. 16 for identification.

THE COURT: All right.

(Whereupon, a schematic diagram duly marked as People's No. 16 for identification purposes only.)

Q. BY Mr. MINIER: Mr. Herman, could you tell us where you live, please?

A. Yes. I live at 2590 Lambert Drive, Pasadena.

Q. What in your occupation?

A. I'm a banker.

Q. And with what bank are you employed?

A. Security Pacific National Bank.

Q. Is that in Los Angeles?

A. Yes, sir.

Q. And what is your position there?

A. I'm a senior vice president.

Q. Now, did you have occasion as part of your business with the bank to be staying at the Biltmore Hotel here in Santa Barbara on Saturday, January 27th, of this year?

A. I did.

Q. And had you been staying there prior to that time, or was it just that one night?

A. No, we stayed there just one night.

Q. What was the purpose?

A. The purpose was for a management conference, a trust management conference, which we hold annually in January.

Q. Were there other bankers from your same bank who were in attendance at this conference?

A. Yes, we had about 45 men there from all over the state.

Q. Are you familiar with a room number 30 on the grounds of the Biltmore?

A. Yes.

Q. Prior to noon of Saturday, January 27th, did you have occasion to be in that room?

A. Yes. This was used as a headquarters room, actually the head of the department, Mr. Hunt, had a suite there, and this was the sitting room of the suite.

Q. What were you doing shortly prior to noon in that room?

A. Well our meeting had adjourned somewhat earlier than we had expected and we came over there about 25 minutes to 12:00 I believe it was, and talked for a short time, and then we played a game of dominoes.

Q. Can you tell us who all was there when you refer to "we", which different people?

A. Yes, R. L. Hunt, and C. E. Carlson and D. L. Blanchfield.

Q. So this was then the four of you that were playing dominoes?

A. Yes.

Q. And that was room 30?

A. Yes.

Q. Is room 30 in a single building or in a building that also contains other rooms?

A. No, it is in a building which I believe is called Cottage No.3, and there are other rooms there.

Q. Mr. Herman, I'm going to show you People's Exhibit No. 15 for identification and ask you if that appears to be an exterior photograph of the cottage in which room No. 30 is?

A. It certainly looks like it.

Q. Does that appear to be the same cottage that you and the other three gentlemen were on January 27th?

A. Yes.

Q. And it looks in the picture the same way it did then, to the best of your knowledge?

A. Yes.

Mr. MINIER: Your Honor, we would offer People's No. 15 into evidence.

THE COURT: May I see it, please, Mr. Herman?

THE WITNESS: Yes (presenting exhibit to the Court).

THE COURT: It's received.

(Whereupon, a color photograph thereupon duly received as People's Exhibit No. 15.)

Q. BY Mr. MINIER: Now, Mr. Herman, I'm going to show you People's Exhibit No. 16 for identification and ask you if this appears to you to be a fairly accurate representation of portions of that cottage with which you are familiar and namely Room 30 and any other rooms that you became familiar with?

A. Yes, 30 was the living room, and 35 was Mr. Hunt's bedroom, 34 was the room we were waiting to be vacated so that Mr. Carlson could occupy it.

Q. As far as you could determine, does this accurately portray the physical aspects of the floor plan of this cottage on the 27th of January?

A. It seems to -- I'm not familiar with these other rooms here.

Mr. MINIER: Your Honor, we would also offer People's No. 16 into evidence.

THE COURT: Any objection?

Mr. LINDSEY: No objection.

THE COURT: Received.

(Whereupon, a schematic diagram thereupon duly received in evidence as People's Exhibit No. 16.)

MR. MINIER: May we place them both on the board, Nos. 15 and 16, your Honor?

THE COURT: Yes. Can you pass the picture up, please.

Q. BY Mr. MINIER: Now, Mr. Herman, I wonder if you might take a red marking pencil and go to the board -- first, with regard to the photograph, People's No. 15, can you tell on that color photograph where the room in which you and the other three gentlemen were?

A. You want me to mark that?

Q. If you can see it, would you draw a circle round it, please?

A. All right. (Witness marking on photograph.)

Q. Now, either in the circle, or below it, wherever, could you put your name just to indicate that was your room?

A. It wasn't my room.

Q. I'm sorry, the room where you were.

A. You still want my name?

Q. Yes. We will remember that simply as the room where you were present at that time and this was Room No. 30, was it?

A. Yes, sir (witness marking on photograph).

Q. Now, on the diagram, Room No. 30 simply shows as the outline of the four walls of the room, is that correct?

A. Yes. I think it indicates one of the windows and one of the doors.

Q. All right, where the window is, just so that we can tell that is the window, could you label what is the window and what is the door on thirty, they only appear with breaks in the lines on the diagram?

(Witness marking on exhibit)

Q. The "D" stands for the doorway, I take it, and the "W" for the window?

A. Right

Q. While you were playing dominoes were you seated at a table?

A. Yes.

Q. Would you please draw a table in at the approximate location. If you can?

A. (Witness complies.)

Q. Do you recall the approximate positions of the four of you, or at least do you know where you were sitting?

A. Yes. I was sitting right here.

Q. Could you indicate that with an H, please?

A. (Witness complies.)

Q. Thank you.

Q. Now, I think you made reference to one other room in the cottage belonging to one of your people; is that correct?

A. Room 34

Q. Room 34. And that was whose room?

A. Mr. Carlson's.

Q. Could you write "Carlson" in that room; that was his sleeping room: is that correct?

A. Right.

- Q. Thank you. You can resume the stand if you'd like to.
- A. (witness complies.)
- Q. Now, one of the room which you haven't put any markings on is -- now, let me go back a moment. Are you sure which room was Mr. Carlson's at the time; was there one room that you were waiting for to open up?
- A. That's a room we were waiting for 34. That was to be his room. Thirty five was Mr. Hunt's room.
- Q. So as you were there in room 30, prior to noon, at that time room 34 had not yet gone to Mr. Carlson; is that correct?
- A. That is right.
- Q. What time was Mr. Carlson supposed to take occupancy of room 34?
- A. Well, it had been said that it would be vacated by 2 o'clock.
- Q. Two P.M.
- A. Uh-huh.
- Q. Do you suppose next to his name you could put 2 P.M. to indicate that's when Mr. Carlson was to take over room 34.
- A. (Witness complies.)
- Q. As you were playing dominoes, were you and the rest of the group paying any particular attention to this room number 34 that Mr. Carlson was to occupy at two o'clock?
- A. No.
- Q. But you were anticipating he would be moving into it; is that correct?
- A. That is right.
- Q. Now, do you recall prior to noon, as you were playing dominoes, you had either the door or window to room 30 open?
- A. The door was open all the time we were playing for ventilation, and the window was open oh, about 18 inches, two feet maybe.
- Q. Next to where you have D for door, could you write the word "open" to indicate it was open?
- A. (Witness complies.)
- Q. And could you indicate the same on the window; if you want to write the 19 inches two feet also, you may.
- A. Well, I am not sure my memory is really that accurate.
- Q. Would you prefer just to write "open" there?
- A. Right.
- Q. Fine.
- Now, would you like to take the witness stand again.
- Now, calling your attention to the defendant Mr. Yanikian sitting at the counsel table, in the middle, between the two attorneys, in the blue tie and the blue suit, did you have occasion to see him on that day, namely Saturday the 27th of January?
- A. Yes, Sir.
- Q. Did you see him anywhere near the premises of room number 34, the one Mr. Carlson was going to move into?
- A. Yes, sir.

- Q Now, what is the first thing that you observed the defendant to be doing at that time and place?
- A Well, when we had completed our game of dominoes, we were getting ready to go to lunch over in the main building. And at that time I was standing near this open door, and the door to room 34 is immediately adjacent to it, and I noticed this gentleman ushering a young man into room 34.
- Q When you refer to this gentleman you are talking about the defendant?
- A Yes, sir.
- Q Would you go to the board again, please, with a red marking pencil and can you show us the path that you observed the defendant ushered him in the door?
- A Well, they were coming into this door here (indicating)
- Q Could you just make a line with an arrow?
- A (Witness complies).
- Q At the foot of the arrow or at the head of could you write DEF to stand for defendant?
- A (Witness complies).
- Q Where were you standing; could you indicate that with an X, please?
- A I was standing right about here.
- Q Next to the X, could you put the letter H to stand for your last name?
- A (Witness complies).
- Q Thank you.
- Now could you describe what, if anything you saw the defendant and this man do as they went through the doorway?
- A Well, only that this gentleman bowed the other gentleman in very gracefully.
- Q Which gentleman bowed the other gentleman in?
- A The defendant.
- Q The defendant?
- A Bowed the other man.
- Q Could you indicate to the jury the kind of a gesture that you are referring to?
- A Well, sort of courtliness.
- Q Using his hand in a sweeping fashion?
- A Right.
- Q Which man went into the room first?
- A The younger man.
- Q Now, did you see either of these two men before the point that you have just described, namely as they are actually in the process of going into room 34?
- A I thought I had seen the defendant earlier on the grounds of the hotel, but I won't testify definitely to that.
- Q And with regard to the specific occasion when you saw them in the door, did you see them come across the patio and approach the building, or did you merely see them as they were about to enter the doorway?
- A No, just as they entered.
- Q Could a third man have preceded the two of them prior to the two of them catching your attention?
- A Yes.
- Q I think you can take the chair again if you would like, Mr. Herman.

After you saw the defendant follow the younger man into the room with the gesture that you have described, did your door in room 30 still remain open?

A. Yes.

Q. Now at a time -- well, let me go back. Do you recall or can you give us any estimate of the approximate time when you saw the defendant follow the younger man into the room.

A. Well, very approximately, I would say ten minutes, or five minutes to twelve.

Q. All right. Within a short amount of time later, did you hear some kind of an unusual noise which seemed to be coming from the next room?

A. Yes, we did.

Q. Could you describe what the noise was that you heard?

A. Well, I thought someone was pounding on the wall with a sledgehammer and suggested that they stop it, but then there was a pause and moans, and then it started again. We all realized then it was bullets.

Q. Could --

A. Gunfire.

Q. What do you mean when you say you suggested that they, stop it?

A. Well, I just let out a yell -- several of us did? "Cut out the racket," you know.

Q. This was after you heard this banging noise?

A. Yes.

Q. Do you know at what time it was that you first heard the noise that initially sounded like a sledgehammer?

A. Well, I do, because Mr. Hunt who is my boss, and who is an attorney, said, when he realized that it was gunfire, he said, "We are going to want to know what time this occurred," so we all decided it was 12:02.

Q. Do you have any general recollections as to how many bangs you heard the first time before you shouted?

A. Well, I wasn't counting them, of course, but I would say six or seven maybe.

Q. Then after you heard the six or seven, several of you called out for whoever was doing it to stop it; is that correct?

A. Uh-huh.

Q. What was the next thing you heard?

A. We heard the moaning and groaning.

Q. Did you hear anything further after the moaning and groaning?

A. We heard additional shots.

Q. Do you have any estimate as to how many additional shots you heard then?

A. Again, I would say possibly six of them.

Q. Did the door to your room, to room 30 continue to remain open after you had heard the shots?

A. No. It was closed immediately after we heard the groaning.

Q. Was it also locked?

A. Yes.

Q. Do you recall who did that?

A. Mr. Blanchfield, I believe.

Q. Did anybody in your party make any telephone call?

- A. Yes, Mr. Carlson called the hotel desk and told him to send police, and then after we called ambulances.
- Q. Now, between the time that you saw the defendant usher this young man in the room, and the time, that you heard the shots, did you hear any sounds of an argument coming from that room?
- A. No, sir,
- Q. And your door was still open until after the shots; is that correct
- A. Until after the first shots.
- Q. Did you hear any noise other than the noise that you have described related to the shot?
- A. No.
- Q. Was your window also opened throughout this period of time?
- A. Yes.
- Q. After Mr. Blanchfield shut the door and lock it, did anything else happen to the door shortly thereafter?
- A. Yes. After the shooting had stopped, someone rapped on the door.
- Q. Did anybody within the room respond to the rapping on the door?
- A. I am afraid not.
- Q. All right. Shortly after the knock on the door, did you have occasion to be at the open window in room 30?
- A. Yes. We noticed that the defendant had come out and was sitting on the patio, and we gathered around the window. We did not know whether he had shot the gun off or who had, but we were not anxious to go out and find out.
- Q. Could you go to the photograph again and please point where the table is or the umbrella if it shows on the patio, where you saw the defendant after the shooting?
- A. Well it is marked on the patio.
- Q. First in the color photograph does it show there?
- A. Yes.
- Q. Is the table down there underneath the umbrella?
- A. You can't see the table in the photograph, only the umbrella.
- Q. All right. On the photograph could you just point to where the table would be, if you could see it?
- A. (Witness indicating)
- Q. You are pointing down underneath the umbrella, that correct?
- A. Yes.
- Q. The table is actually blocked in the picture by the wall, is it?
- A. Yes.
- Q. And then the table that you are referring to on the diagram, well, could you just step over and point to that, please?
- A. (Witness indicating)
- Q. And when you saw the defendant there, you were looking out the window as you have indicated with a 'W'; is that right?
- A. Yes.
- Q. Would you be seated again please.

As you observed the defendant sitting at the table, did anybody else appear on the scene, near the defendant?

- A. Yes. The hotel guard came, and then there was another gentleman there.
- Q. Did you see the defendant talking to the hotel guard and to somebody else?
- A. Yes.
- Q. Do you have any idea for what period of time you watched the defendant talking to various people on the patio?
- A. Well, it must have been at least 20 minutes, because the officers didn't arrive until about that length of time.
- Q. During this 20-minute period, then, did you have occasion to watch the defendant's actions?
- A. Yes.
- Q. What was he was doing at the table, if anything?
- A. Well, he was just sitting there most of the time.
- Q. Did you have occasion to actually hear him talk?
- A. Yes.
- Q. Did he sound to you to be rational?
- A. Yes.
- Q. Did he appear to be calm?
- A. Yes.
- Q. Now, do you recall hearing anything specifically that the defendant said at that time and place to either the security guard or any of the other people to whom he was talking?
- A. Yes. He said that he had shot two men, and I think it was the guard asked him why, and he said they had killed seven members of his family.
- Q. When he said that they had killed seven members of his family, did he appear to be emotional about it?
- A. Well, I couldn't detect that.
- Q. Was the subject matter of medical help brought up at the time that you were watching him?
- A. Yes, I think it was, not the guard, but the other gentleman who was standing there, who asked him if there should not be medical help brought, and his response was, 'No,' that he had shot them each two times in the head.
- Q. Now, was there any reference made to the hotel bill that you heard?
- A. Yes. A bellboy came up and the defendant asked him to send his hotel bill to jail.
- Q. When the policemen finally did arrive on the scene, did they take Mr. Yanikian into custody?
- A. Yes sir.
- Q. Did you hear any conversation between the policemen and the defendant, about his legal rights?
- A. Yes. The policeman, whom I believe was off duty, and who was in sports clothes, tried to read from a card he had taken from his wallet, tried to read the defendant's rights and was interrupted most of the time.
- Q. You recall the manner in which he was interrupted?

A. Yes. He said, " I already know these things, and I call the police." And he objected very much to being handcuffed

Q. Now, when you refer to "he", you are again talking about the defendant?

A. About the defendant.

Q. Did he indicate why he was objecting to being handcuffed?

A. Well, he felt that it was not necessary in light of the fact that he had given himself up.

Q. Now, was there anything, Mr. Herman, during this period of at least 20 minutes of time when you observed the defendant's actions and heard him talking that indicated to you in any way that he was irrational?

A. No. I can't think of anything, except that, when someone confesses to that sort of thing, why, I think perhaps you automatically decide that he is irrational.

Mr. LINDSEY: Your Honor, I couldn't hear that answer.

THE WITNESS: I said, when someone tells you that he has committed a crime of that type, you are apt to think that he might be irrational. I don't know whether he was or not.

Q. BY Mr. MINIER: Did he appear to be agitated?

A. No. He seemed to be quite calm. He had asked the guard for a glass of water shortly after the guard got there, and the guard went and got it for him.

Q. And what you heard him saying, did he appear to be confused?

A. Well, of course, I didn't understand his references to his family and so forth, -- I didn't know whether this was true or not.

Q. But as far as his process of questions and answers and so on, in making conversation with the people there, did he appear to be confused?

A. Yes, except when he was being handcuffed, and his rights were being read to him, then he interrupted constantly.

Q. Just to make sure I understand your answer, you just indicated that he did, appear to be confused during this period of time?

A. Well, he didn't want to listen, let's put it that way.

Q. Oh, all right.

Did he appear to know what was going on when he was talking to the other people?

A. Yes. I thought so. "He said I know all about this. You don't have to read it to me."

Mr. MINIER: Thank you, Mr. Herman.

I have nothing further, your Honor.

CROSS-EXAMINATION

BY Mr. LINDSEY:

Q. Mr. Herman, what time on January 27 did you first arrive here in Santa Barbara

A. I arrived in Santa Barbara on the 26th, stayed here overnight, but not at the Biltmore Hotel.

Q. Now, what time then had you arrived at the Biltmore premises on the 27th?

A. About 8:30 in the morning.

Q. And did you immediately register at that time?

- A. Yes, uh-huh—the registration was actually mostly taken care of ahead of time for the forty-five of us.
- Q. Now, was your room--you mentioned 30, 34 and 35, were any of those your room?
- A. No. I was in, I believe it was Room 72, but I wouldn't swear to that.
- Q. Where was that located generally speaking?
- A. Oh, that's, oh, maybe 200 yards down, this way from that cottage.
- Q. Was that in another cottage?
- A. Yes, in Cottage 7.
- Q. Now, you mentioned that you were in Santa Barbara for a trust management conference?
- A. Yes, sir.
- Q. Let me start with your area. You are located in Pasadena?
- A. No; I'm located in Los Angeles for business, but I live in Pasadena.
- Q. And you are with the Security Pacific Bank in Los Angeles?
- A. Right.
- Q. Now, Mr. Hunt, is he with Security Pacific Bank?
- A. Yes, sir.
- Q. And his bank is located where?
- A. At Sixth and Spring in Los Angeles, the same place I work.
- Q. Same bank?
- A. Yes.
- Q. Now, in your bank, you are in the trust department?
- A. Yes, sir.
- Q. In what capacity?
- A. Well, I'm supervisor of our district trust offices division.
- Q. And Mr. Hunt, what is his capacity or position with the bank?
- A. He is the executive vice president and head of the trust department.
- Q. All right. He is the executive vice president, and you are --?
- A. In charge of the trust department. I'm a senior vice president.
- Q. Now, Mr. Carlson, can you tell me his position please?
- A. Yes. He is a vice president and trust officer in charge of trust administration at the head office.
- Q. Now, is the bank where he is located the same as your bank?
- A. Yes, sir.
- Q. And Mr. Blanchfield, is he also with your bank?
- A. Yes.
- Q. What is his position?
- A. He is a senior vice president in charge of the trust investment division and the operations division.
- Q. Now were you gentlemen the only ones attending a conference, or was there another conference -- I mean, was there a conference which you gentlemen were going to be attending here in Santa Barbara or were you--?
- A. We did attend it.
- Q. Excuse me?
- A. We had been attending it.

- Q. Where was the conference being held?
- A. At the Biltmore.
- Q. Were there other than the persons in this trust field that were attending the conference?
- A. No. This is a trust management conference, including all of the district trust office managers, twenty-five of them in California, and the heads of the divisions of the trust departments in Los Angeles.
- Q. I see. And this conference was to start on Saturday was it?
- A. It started Saturday morning and ended Sunday afternoon.
- Q. Now, for that reason, then, the four of you had made arrangements, perhaps individually, but in any event, to be here in Santa Barbara at the commencement of that conference?
- A. That's right.
- Q. The conference had not started Saturday morning then?
- A. It did start Saturday morning.
- Q. Now, when did you start playing dominoes that morning then?
- A. At about 20 minutes to--or 25 minutes to 12:00.
- Q. Then you had left the conference, whatever had been completed then.
- A. Yes.
- Q. And gone to this particular cottage?
- A. Yes, the conference had adjourned for lunch.
- Q. Now, you indicated that Room No. 35 was the room assigned to Mr. Hunt?
- A. Yes, sir.
- Q. And Room No. 30, there were no sleeping accommodations in that room, it was merely a living-room facility?
- A. That's right.
- Q. And it was in that living room -- was it in the living room where you were playing the dominoes?
- A. Yes.
- Q. And Mr. Carlson was waiting for No. 34 to be vacated?
- A. Yes.
- Q. And No. 34 was, as you subsequently learned, occupied by Mr. Yanikian?
- A. Yes.
- Q. Now, Mr. Blanchfield, was he to be in this same cottage?
- A. No. I don't know what room he was in.
- Q. So far as you can recall now, it was not in this -- ?
- A. (Interposing) it was not in this cottage.
- Q. Now, as the four of you then were playing -- which one of you was the attorney, was that Mr. Hunt?
- A. Mr. Hunt.
- Q. As the four of you were playing, the door was open and it was while that door was open that you observed a person walking down the hallway?
- A. No, I didn't observe anyone walking down the hallway. I just observed two men going into Room 34, but this was after we had stopped playing, after the game had ended.

- Q. Had your game come to an end before you heard any of the sounds from that other -- from Room 34?
- A. That's right. There had been a -- the game had come to an end and we had taken a break and then had decided we still had time to play one more game, and had just sat down for that when the sounds came.
- Q. Now, what I am trying to do is see if I can get--now—were you standing near the door when you saw this other men getting ready to enter Room 34?
- A. Yes, sir.
- Q. And is it at that point that you observed the person you now recognize as Mr. Yanikian ushering the man into 34 in which you describe as a courtly manner?
- A. Yes.
- Q. Now, up to that time, you had not seen Mr. Yanikian, had you?
- A. Well, I indicated, I think, before, that I thought I had seen him on the grounds, and Mr. Carlson had mentioned that -- that Mr. Yanikian had assured him, or someone else that he would be out of the room by 2:00 o'clock, and not to worry about it.
- Q. Then this was the second time you saw Mr. Yanikian?
- A. I'm not sure about the first time on the grounds, but he looked familiar to me, because of his physical characteristics and the clothes he was wearing.
- Q. Now, I believe you fixed the time of seeing the man enter into that Room 34 at somewhere about 11:50 or 11:55, that is five or ten minutes before noon?
- A. I arrived at that time simply by knowing that we probably took 15 or 20 minutes to play that domino game.
- Q. Now, was it then around, as you fixed the time now about 11:02 when you heard the sounds coming from Room 34?
- A. No, it was about 12:00 o'clock.
- Q. I'm sorry, was it 12:02 that you determined the time?
- A. No, it was 12:02 when Mr. Hunt suggested that we might-somebody might want to know what time this happened. And we all looked at our watches.
- Q. Well, when you all looked at your watches and fixed the time at 12:02, this was after all the sounds had occurred?
- A. Right
- Q. Now, prior to the hearing of those sounds had you heard any other voices of communication from that room 34?
- A. No, I had not.
- Q. From what you had observed, up until say twelve o'clock noon, there was nothing that was unusual around that cottage then, was there?
- A. No, nothing except that I was wondering why company would be invited into a room that was to be given up so quickly.
- Q. What time -- let me put the question this way. Were you aware that the room was to be turned over about two o'clock?
- A. Well I assumed it would be before that, but two o'clock was the checkout time.
- Q. You thought it was unusual for someone to have a guest at around twelve o'clock?

- A. Well, I just thought it was unusual for someone to have a guest when he was going to vacate a room. I assumed he would have to pack and one thing or another.
- Q. Now, on the times that you observed Mr. Yanikian prior to twelve o'clock, the one time when you saw him usher the man into the room 34, and the other time when perhaps you might have seen Mr. Yanikian out on the grounds somewhere, was there anything unusual in any respect about his conduct?
- A. No.
- Q. Did he appear, so far as you can now recall, to be perfectly normal and calm and rational?
- A. Well, the first time I saw him, if I did actually see him that earlier time, I wasn't interested in him. The second time I wasn't interested only as I have indicated, wondering why he would be having guests just before he vacated a room.
- Q. All right. Now, even with that wonderment about guests on the day he is going to be leaving the hotel, and as you observed, whatever you did, when he ushered the man into the room, was there anything about his appearance or what you might have heard him say that in any way indicated to you any irrationality?
- A. No. I didn't hear him say anything at that time.
- Q. Now, according to your best estimate, then, it was somewhere maybe ten minutes more or less after the man was ushered in, that you heard these sounds come from the area of that room 34?
- A. That is my estimate.
- Q. Now, you didn't see anything in room 34, did you?
- A. No.
- Q. You first thought that the sounds was someone banging on the wall?
- A. Right.
- Q. How many bangs on the wall did it seem to you to be at that time?
- A. Well, I thought it was half a dozen at least.
- Q. When you heard those sounds and had the belief it was perhaps a pounding on the wall, did anyone in your room say or do anything?
- A. Well, just about the time they were concluded, why, one of the men said "Well those are gunshots."
- Q. Now, your door was still open?
- A. Yes
- Q. The door to room 34 was closed?
- A. I guess so, I didn't check it.
- Q. Now, when one of the men in your room made the remark that perhaps they were gunshots what happened in your room?
- A. We closed the door and locked it.
- Q. This is your main door leading out to the hallway?
- A. Right
- Q. Why was that?
- A. Well, we didn't know what was going on, and didn't want to participate in it until we had a better idea of what it was.

- Q. Did someone in your room immediately get on the phone and call the hotel desk?
- A. Right.
- Q. Now, had you placed that call or someone in the room placed that call before the second sound of whatever was coming from room 34?
- A. I couldn't say for sure, because the calls were made from the bedroom, and I wasn't in there. I was out in the sitting room.
- Q. Well, did one of the persons go to that bedroom to make that phone call before the second series of sounds?
- A. Well, it may very well have been during the second series of sounds, because we closed the door right after the first series.
- Q. Who was it that went to make that call?
- A. Mr. Carlson and Mr. Hunt both went. I am not sure who made it.
- Q. Did you remain in the room there, room 30 where you were?
- A. Yes.
- Q. Now, this would mean that Mr. Blanchfield and you remained in the room while Carlson and Hunt went to the room where the phone is?
- A. I couldn't tell you exactly where each person was.
- Q. Was there a telephone in room 30?
- A. I think there must have been.
- Q. If there is a telephone in room 30 where you were all located what is there that suggests to you that Hunt and Carlson went to another room to use the telephone?
- A. Well, we went to the other room to make sure the doors were secure there also. There was a door, as I recall, leading outside from the bedroom also, and to make sure that everything was shut very tight.
- Q. Which room are you talking about now?
- A. Room 35.
- Q. How many went into room 35?
- A. We were all moving around. I can't tell you exactly who was in which room at any given moment.
- Q. Now, at this point, then, your memory is not too clear on who went where; is that correct?
- A. Well, I would say we all went to each room at one time or another.
- Q. I want to ask you now about right at the time that you say a telephone call was made by one of the four of you to the Biltmore desk; you have indicated that as you can best recall, the call may have been made -- had to be made from room 35, then, because there were only two rooms that you, gentlemen had control of then; is that right?
- Let me point out to you, on the diagram.
- A. It was made from one of the two rooms. The suggestion was made we better get medical help too.
- Q. You four men were in room 30; is that right?
- A. That is right
- Q. Mr. Carlson would not have access to room 34 until perhaps around two o'clock or after; is that right?

- A. Correct.
- Q. So that while you had four of you within room 30, the only other room you had was room 35?
- A. Right.
- Q. And the only way you had of getting there from room 30 without going outside of the building was through this doorway, is that correct?
- A. Well, there is a doorway at the rear of room 30 also, and one at the bottom here of 35. If you wanted to go outside and come in again, why, you could do that.
- Q. That would require you going outside of the building and making an entrance in some other way?
- A. That is right. But there is a door at the back of room 30 as well at the front of it.
- Q. Now, as you recall, then, there was a telephone possibly in room 30 where the four of you were, and there was a telephone also in room 35?
- A. Yes.
- Q. Do you believe now that perhaps two men may have gone from 30 into 35 where a phone call was made?
- A. All four of us went into 35 at one time or another.
- Q. Was the phone call made from 35?
- A. I am not sure.
- Q. Now, there was a second series of shots from room 34, wasn't there?
- A. Yes.
- Q. What is your best recollection now, Mr. Herman, of the time interval between the first series of sounds and the second series of sounds?
- A. Possibly half a minute.
- Q. And did the second--
- A. Or less.
- Q. Sorry?
- A. Or less, I don't know.
- Q. Did the second series of sounds seem somewhat similar in nature to the first ones?
- A. Yes.
- Q. Sort of like again a type of pounding on the wall?
- A. Yes. It was a terrific concussion with each sound.
- Q. When this second series of sounds occurred, you did not see what happened in room 34, did you?
- A. No, sir
- Q. You did not see who made or caused those sounds, did you?
- A. No.
- Q. You did not see how those sounds happened to come to be caused, to be made, then, either?
- A. No.
- Q. Do you know at the time of those sounds, actually how many people were in room 34?
- A. I did not.
- Q. And how many sounds were there in that second series, as you can now best recall?

A. I think about half a dozen.

Q. Where were you when that second series of sounds occurred; were you in room 30 or room 35?

A. We were in both of them.

Q. Just you, where were you at the time of the second series of sounds?

A. I roamed from one to the other.

Q. See if you can get my question.

At the time of the second series of sounds, were you in room 30 or in 35?

A. Well, when we had determined to our own satisfaction what these sounds were, we

didn't sit still any longer, we got up and closed the door and did these other things I have mentioned.

Q. Mr. Herman, is it your testimony, then, that you cannot recall at the present time whether you were in room 30 or 35 at the time of that second series of sounds?

A. That is right. Because I may have walked from one to the other room.

Q. Well, in whichever room, you may have been, either 30 or 35 when you heard that second series of sounds, by this time you thought they were gunshot sounds, didn't you?

A. That is right.

Q. What did you do immediately when you heard the second series of sounds that you believed immediately was a second series of gunshot sounds?

A. I helped them make the house secure.

Q. In what room were you when you started then to make the house secure?

A. Room 30

Q. Well, when you heard the sounds -- the second series, if you immediately started to make the house secure in room 30, were you then in room 30 when the second series occurred?

A. I have tried to explain to you, sir, but I can't be that exact about what happened during those few seconds.

Q. I am trying to find out how exact your memory is perhaps of all the events you heard, Mr. Herman?

A. I understand, what you are trying to do.

Q. Now, let me see a little bit further, the next step; what did you do to make the place more secure immediately when you heard the second series of sounds?

A. Well, I went to the door which was behind the table here in room 30, and made sure that it was locked.

Q. Now could you, Mr. Herman, take the pointer and point in room 30 where you went immediately on hearing the sounds and what you did?

A. There was a door back here, as I recall, it is a double glass door. We went to see that that was secure.

Q. Who, went with you?

A. I don't recall that sir. I do know that Mr. Blanchfield helped with this door and closed and locked it. I believe there is a door in here.

Q. Just a moment. You checked the door--excuse me, Blanchfield checked the door into the hallway?

A. He locked it.

- Q. So you know that Blanchfield did that stuff?
- A. I know he did that.
- Q. Now, that left Carlson, Hunt, and you?
- A. Uh-huh.
- Q. Did all three of you go over to that door on the opposite side of the room of room 30?
- A. Well, I think we did at one time or another.
- Q. I am talking right after you heard the shots and you say you took steps to secure the premises, did all three of you go to that room?
- A. We were all three in both, rooms at one time or another.
- Q. Now, you say that after that outer door leading to the outside of room 30 was made secure, you went into room 35?
- A. Well, I was in there, yes, at one time or another.
- Q. I am talking now, Mr. Howard--
- A. My name is Herman.
- Q. Right after that second--
- A. My name is Mr. Herman.
- Q. Yes, Mr. Herman, I am talking right after you heard the second series of sounds, I am trying to trace your steps, what you did; did you go then from room 30 into 35?
- A. I did.
- Q. Who went in there with you?
- A. No one went actually with me, they were either in there or they came in.
- Q. What did you do in 35?
- A. I checked the outer door here, looked at the windows.
- Q. Then what did you do?
- A. Came back into room 30.
- Q. When you came back into room 30, were the other three gentlemen waiting in there?
- A. No, I don't think all three of them were in there at that time.
- Q. Who was in there when you came back?
- A. I don't recall.
- Q. Would you like to resume the stand, it would be more comfortable.
- A. Uh-huh.
- Q. Well, were you in room 35 then, securing and checking the doors when the telephone call was made?
- A. Very possibly.
- Q. But you have no recollection of who made it?
- A. This wasn't a planned affair. It was something done on the emergency of the moment. No one said you go check this and you go check this. We just did it, and we-- maybe all four of us checked the same things.
- Q. Now, when you came back into room 30, the living room, what did you do?
- A. Well, shortly -- or about that time, why, the defendant was observed to be sitting out there. In the mean time, someone had rapped at the door. We decided not to open it.

- Q. Now, was it your recollection that you came back into room 30 where the other three men were in that room while the four of you were there you observed the man you now recognize as Mr. Yanikian sitting out in the patio?
- A. Yes.
- Q. And while you observed Mr. Yanikian sitting out in the patio you heard a knock at the door to Room 30?
- A. No, no. Before we saw him out there.
- Q. How long before you saw him sitting out in the patio did you hear the knock on the door to Room 30?
- A. Oh, not more than a few minutes.
- Q. A few minutes, meaning five minutes?
- A. One minute, two minutes -- I don't know.
- Q. Maybe one or two minutes in time. How long after that second series of sound was it before you heard the knock on the door?
- A. I'd say within five minutes.
- Q. Now, when you heard on the knock on the door, did any of you, the four of you, make any comment to whomever it was knocking on the other side of that door?
- A. No.
- Q. All right. The four of you remained silent, then?
- A. Right.
- Q. Was there a repeat of the knocking?
- A. No.
- Q. I want as best as you can to describe the type or kind of knocking noise that was made?
- A. On the door?
- Q. Yes.
- A. It was just an ordinary rap on a wooden door.
- Q. There was not an unusual pounding on the door, then, was it?
- A. No, it was not loud.
- Q. It was not an unusual loud or forceful type of knocking, was it?
- A. No.
- Q. Was it the type of knocking that would seem to be an ordinary rap on the door?
- A. Yes.
- Q. Now, within perhaps a couple of minutes after the knocking, is that when you observed the gentleman sitting in the patio area?
- A. Yes.
- Q. Was there a window from Room 30 that looks directly out on that patio?
- A. Yes, the one that has been marked there as "Open."
- Q. Right at this point (indicating)?
- A. Yes.
- Q. Now, a person sitting out there in the patio, would you take the marker and place a little "X"-- Was he sitting at that table?
- A. Yes.

- Q. In order that we could get an idea of where that person was sitting at the table and in which direction the person was facing, could you make a little "X" and mark the position near that table where that person is sitting?
- A. (The witness complying.)
- Q. Was that person's back to the window to Room 30?
- A. Well, it's more a side of him than the back; portion of his back, of course, but more of a side view.
- Q. Could you take the pointer and indicate to the jury the direction in which the man was facing as he sat at that table?
- A. (The witness indicating on diagram.) He was facing this way.
- Q. Could you do it again, please, so that we can see it.
- A. (Witness indicating.)
- Q. Was he facing, then, in a direction towards Room 33?
- A. Yes. He turned his head occasionally to talk to the guard.
- Q. Did you observe him while he sat there at any time alone and without any other persons being out there with him?
- A. Yes, when we first observed him, he was alone.
- Q. At the time that you first observed him sitting there alone, did you have any belief in your mind that he was in any way connected with the sounds that had come from Room 34?
- A. No, only that I knew I had seen him go into Room 34, but I didn't know who would make the sounds.
- Q. Did you, while you were at the window of Room 30, make any comments to that man sitting there about those sounds that you had heard?
- A. No.
- Q. Why not?
- A. I think we were -- we were concerned that this might be another instance of someone trying to kill anyone he could locate.
- Q. Well, then, you had a belief at that time as you saw that person sitting alone that he might have been connected with the sound in Room 34?
- A. Or if anyone else had been sitting there, we would have thought he might have been connected with it, too. We knew nothing about this man being connected with it.
- Q. I am just talking now about the man that you saw sitting there.
- A. That's right.
- Q. When you first looked out the window of Room 30, this is, say, a minute or two after the knock on your door, saw this man sitting there in the patio, and you saw him by looking out of that window, that was just not more than five or ten feet away?
- A. Yes.
- Q. At that time you had a belief then that he was connected with those sounds, did you, in Room 34?
- A. Well, we didn't want to find out, let's put it that way.
- Q. No. I'm just asking you about your thoughts now, your beliefs, not the other three men, just yours.

- A. Yes, I thought he might have been connected with them.
- Q. Now, is that one of the reasons why you did not engage in any conversation with the man as you looked out the window not more than several feet from him?
- A. Yes.
- Q. What is your best estimate of the number of feet that you were as you stood at your window from the man as he sat there in the patio?
- A. Oh, I'd say ten to twelve feet, possibly.
- Q. Now, did you remain there at the window of Room 30 watching the individual as he sat there alone in the patio?
- A. Yes.
- Q. What did he do during that -- ?
- A. (Interposing) He did nothing but sit there until someone came up and talked to him.
- Q. You remained there at the window then just observing, and he simply sat there; is that right?
- A. Yes.
- Q. Now, I want you to recall your very, very best recollection, as you stood there by your window and only ten or twelve feet away is a man you thought connected with those shots, and I ask you what you recall about his appearance?
- A. Well, I recall the white beret he was wearing, and he had an overcoat on, I believe it was brown tweed, and we could see his profile, which is distinctive, and the white hair.
- Q. Did he appear to be angry?
- A. No, not to me.
- Q. This was at noontime in broad daylight, wasn't it?
- A. Yes.
- Q. Did he appear to be staring into space?
- A. Well, he was just sitting there, I couldn't tell what he was staring at.
- Q. Was he staring?
- A. Well, he was looking straight ahead.
- Q. Did he appear to be weeping?
- A. No.
- Q. In fact, Mr. Herman, when you stood by that window and saw that man, did he appear to simply be sitting there calmly and relaxed?
- A. That's right.
- Q. Now, was it a few moments later, then, that another man, someone connected, maybe, whoever it might have been, came over where he was sitting?
- A. Yes.
- Q. Did you recognize that man?
- A. No, I did not.
- Q. Did you subsequently learn of his identity?
- A. Only today -- well, no, I believe I read it in the newspaper.
- Q. Who did you learn that that man was?
- A. The manager of the Coral Casino.

- Q. Were you still standing at the window when the manager of the Coral Casino came over into that patio area?
- A. Not when he came up. I had moved away and someone also was at the window.
- Q. Was your window open, by the way?
- A. It was open about 18 inches or so, about this far (Indicating)
- Q. Is this the type of window that slices up and down?
- A. Yes.
- Q. Now, that man that came over, the manager of the Coral Casino, did he sit down there in the patio?
- A. No.
- Q. Did he remain standing?
- A. He stood outside the patio.
- Q. Now, if I were to ask you to take the marker tube and mark, say, an "X" on that diagram so that we can see, according to your best recollection where that man was standing, could you that?
- A. Sure. He might have been have been on this side of hallway. I don't recall, but it was in here in this area (marking on diagram).
- Q. Now, Mr. Herman, then as you recall as you were standing by this window, you could see the Coral Casino manager standing somewhere in this area where you have marked with an X-1.
- A. I saw a man standing there, yes.
- Q. What was that man doing as you saw him standing there?
- A. Well, he spoke to the defendant.
- Q. What is the first thing that you recall him saying?
- A. I don't recall the first thing he said.
- A. Excuse me?
- A. I don't recall, but I believe it was to ask what had happened.
- Q. At the time that he asked that question in essence of what had happened, was that man and the man sitting in the patio there the only two persons outside there?
- A. Well, as far as I could see.
- Q. Well, then, when had the security man come?
- A. He came a few minutes later, I believe.
- Q. Did he come, then, after the conversation had already started between the Coral Casino manager and the man sitting in the patio?
- A. That is my recollection.
- Q. Now, when the Coral Casino manager asked in essence what had happened, did you hear any response from the man sitting in the patio?
- A. One of us heard him say, 'I killed two men.'
- Q. Mr. Howard --
- A. (Interposing) still Mr. Herman.
- Q. I'm sorry, I keep calling you Howard. I apologize to you, Mr. Herman. I only want to know now what you recall that you heard, not what any of the other three men did, just what you did.

- A. Yes.
- Q. Did you hear the Coral Casino manager ask the question in essence, "What has happened?"
- A. Yes.
- Q. Did you hear the response from the man sitting in the patio?
- A. Yes.
- Q. What response did you hear?
- A. That he had killed two men.
- Q. Now, was that the first comment or speech that you heard from that man sitting in the patio since the time of the series of sounds from Room 34?
- A. Yes, sir.
- Q. And when you heard those words from the man sitting in the patio, were they said in a voice of excitement?
- A. No.
- Q. Were they said in a voice perhaps of one who might at that moment have been crying?
- A. I didn't think so.
- Q. Where they said in a voice essentially that might have been described as a calm voice?
- A. Yes.
- Q. No emotion?
- A. None that I noted.
- Q. When the response was given by the man sitting in the patio there, was there a further question asked by the Coral Casino manager?
- A. Not that I heard.
- Q. Was there a further response that you heard at that time by the man sitting in the patio?
- A. No, sir.
- Q. Now, you mentioned on direct examination that you heard the man sitting in the patio say in effect that they had killed seven members of his family. When did that statement occur?
- A. He said that to the hotel guard.
- Q. Now, while the Coral Casino manager was there then, with the man in the patio, and while they were the only two there, the only conversation you can recall is the question in essence "What happened, and the response that you told us about?
- A. Yes.
- Q. How long after that conversation was it then that someone else arrived there?
- A. Just a few minutes.
- Q. Who arrived?
- A. The bank guard --the hotel guard.
- Q. That is a security personnel, some man connected with security from the Biltmore.
- A. A man in a blue uniform. I believe.
- Q. When he arrived, were you still at the window?
- A. I came back there.

- Q. Well, then, you had left the window briefly? :
- A. That's right.
- Q. Where did you go?
- A. I just went to get a drink of water.
- Q. And when you returned to the window, did you see the security man there?
- A. Yes, Sir.
- Q. Now, would you be kind enough to take the marker tube and mark with an "X" on the diagram where the security man was located when you first saw him?
- A. (Witness marking on diagram.)
- Q. And you placed that mark near the table there in the patio then, is that right?
- A. Yes. He was sitting at the table.
- Q. All right. The security man then, when you saw him, was sitting at the table approximately opposite from the first man that you had originally observed there in the patio, is that right?
- A. That's right -- or to one side of him.
- Q. But generally facing each other?
- A. No. The security man was facing the defendant. The defendant was still in approximately the same position he had been before.
- Q. What is the first thing that you heard either one of those men say as you stood again by the window?
- A. I heard -- I heard the defendant ask the security guard for a glass of water.
- Q. Now, from all that you had observed and seen up to that point, is there anything unusual about that request for the glass of water?
- A. No.
- Q. Now, you could observe the man that you have mentioned as the defendant, or you now know as Mr. Yanikian, you could observe him again only ten or twelve feet away from you as he made the request for the glass of water?
- A. Right.
- Q. Was this request again made in a completely calm manner of speech?
- A. As far as I could see.
- Q. When he made that request, what happened next?
- A. Well, the guard went and got him a glass of water.
- Q. The guard got up and left him and went some place for water?
- A. Right.
- Q. Do you know where?
- A. No.
- Q. Now, your room, the door to Room 30, was still locked, wasn't it?
- A. Yes.
- Q. Did you hear any more comments from Mr. Yanikian prior to the time that the security man brought the glass of water for him?
- A. No.
- Q. When the glass of water arrived, what happened?
- A. He drank it.
- Q. And then was there any more conversation that you heard?
- A. Yes. There was additional conversation at that time.
- Q. Who spoke first?

- A. I believe the guard did.
- Q. What did he say?
- A. He asked him why he had done it?
- Q. And was there a response to that question?
- A. Yes. As I understood the defendant, he said that they had killed seven members of his family.
- Q. Did he indicate in his comments at that time to whom he was referring when he said that they had killed seven members of his family?
- A. No. He didn't use their names.
- Q. When you heard this response, these words from Mr. Yanikian was he still speaking in a completely calm and rational voice?
- A. Yes.
- Q. No emotion?
- A. Not that I observed.
- Q. No tears?
- A. I didn't see any.
- Q. No expression on his face?
- A. No.
- Q. When he said, "They had killed seven members of my family," did he immediately, after that, display any emotion of any kind that you observed?
- A. Not that I observed.
- Q. What is the next thing that you recall being said as you were at the window observing out there?
- A. I think I left the window about that time and the others were listening, but I did --I thought I overheard Mr. Yanikian say, "I promised my sister," and I wasn't sure what it was he had promised his sister.
- Q. Who did he say that to?
- A. He was talking to the guard.
- Q. You heard him say words to what you now recall being to the essence of, "I promised my sister?"
- A. That's what I understood him to say.
- Q. Was there part of that statement that you may not have caught entirely?
- A. That is right.
- Q. Then, when he used the words, as you recall, "I promised my sister." there may have been more that he said at that moment, but you don't recall?
- A. There might have.
- Q. You don't recall being able to hear them all?
- A. That is right.
- Q. When this conversation was going on between Mr. Yanikian and the security man, was the security man again sitting down?
- A. Yes.
- Q. Had Mr. Yanikian been handcuffed?
- A. No.
- Q. Were there any guns of any kind or firearms visible?
- A. No.

- Q. Was there a further conversation, then, after the comment, "I promised my sister"?
- A. None that I can recall.
- Q. Do you recall seeing any other person approach that patio area after that comment?
- A. Yes. Later, the police and sheriffs arrived and approached the cottage with guns drawn and apparently an off duty sheriff arrested Mr. Yanikian and handcuffed him.
- Q. Now, you had mentioned on direct examination that some other man had, asked about calling for medical help; do you recall that?
- A. Oh, yes, uh-huh.
- Q. Now, was that comment about medical help made by the security man or someone else?
- A. I believe that was made by the other man standing outside the patio?
- Q. The manager of the Coral Casino?
- A. Yes, sir.
- Q. Now, I believe you indicated previously that that man had asked regarding whether or not a call should be placed for medical help?
- A. Yes.
- Q. And in response to that, Mr. Yanikian made a further statement, didn't he?
- A. Yes
- Q. While you were standing at the window listening?
- A. Right.
- Q. What did you hear Mr. Yanikian say at this point?
- A. That there was no need, that he had shot each man in the head twice.
- Q. Now when Mr Yanikian was saying no, that he had shot each man in the head twice did you observe anything unusual about the appearance of his face?
- A. No, he was very matter of fact.
- Q. As a matter of fact, when he made that comment, he didn't show the slightest bit of emotion, did he?
- A. Not that I observed.
- Q. So that when he said, "I have shot them in the head twice" or "twice in the head" there was absolutely no emotion of any kind that you could discern or observe on the part of Mr. Yanikian?
- A. No. In fact the four of us commented on how cold blooded he seemed.
- Q. Isn't it correct then, that from what you had observed and seen up to that point, that led to comments among the four of you of the total lack of emotion of the man within these few minutes after the events in room 34?
- A. That is right.
- Q. And that that matter was unusual enough and out of the ordinary enough to cause the comments to be made among the four of you; is that correct?
- A. That is correct.
- Q. Now, the officers then arrived, didn't they?
- A. Yes , sir.
- Q. How many officers arrived?

- A. There were several men in uniform, apparently Santa Barbara Policemen, and then several sheriffs. The one who made the arrest was out of uniform, and I later heard him say to one of his fellow officers that he was off duty at the time.
- Q. Was the officer in a sports jacket or civilian clothes?
- A. Just a shirt and trousers.
- Q. Was he the first one to arrive there among officers?
- A. They all came together.
- Q. Did he come, as far as you could see, along with the other officers?
- A. Yes, sir. They all had their guns drawn.
- Q. Did the man in the shirt -- the civilian clothes, the officer off duty, did he have a gun drawn also?
- A. Yes. And he was wrestling his handcuffs from his belt or pocket.
- Q. Now, as these officers approached that patio, then, with their guns drawn, was Mr. Yanikian still sitting there at the patio table?
- A. Yes.
- Q. Was he still calmly drinking his glass of water that they brought to him?
- A. I don't know that he was drinking water, but he still there.
- Q. Or whatever it was that he security man had brought for him to drink?
- A. I don't know whether he was drinking his water at that time or not, but he was still at the table.
- Q. Now, did all the officers then enter into that patio area where he was sitting?
- A. I don't think so.
My recollection is that as soon as the police found out the sheriff was there that they left, so long as everything was under control.
- Q. Now, once these officers arrived, I want to ask you in very particular detail of what occurred, anything that Mr. Yanikian said or did, so we can detect in the very finest possible way from you what you observed as to his mannerisms, his appearance, his reactions; so if I can break this down now in as much detail as I can.
You are still at the window when the officers first arrived?
- A. Yes. We backed away from the window for a moment, because there is also a window on -- I don't know, I guess it is the north side or the east side of the room there, and this is the way they came. We assumed they might not know what had occurred there and might start shooting at any one they saw, so we got away from the windows. I don't mean to say anything derogatory about them. If you don't know, what is going on, I would have my gun out too.
- Q. As a matter of fact, so there is no misunderstanding, at all times the officers performed very credibly, did they not?
- A. They did.
- Q. Was it the officer off duty who made the first comment to Mr. Yanikian?
- A. Yes. He was the officer who had him take his overcoat off so he could handcuff him, and Mr. Yanikian objected to this very much. He didn't think that was necessary in light of the fact that he had surrendered himself.
- Q. Let me take it very slowly now.
The officer off duty walked through the patio up to where Mr. Yanikian was sitting, is that what occurred?

- A. Yes.
- Q. Did the officer first ask him to get up?
- A. Yes.
- Q. When the officer asked him to stand up did Mr. Yanikian immediately do that?
- A. Yes.
- Q. Did he then, so far as you could hear and observe, comply immediately with the request of the officer?
- A. Yes, he did.
- Q. Did he at that time in any way indicate the slightest resistance to the command of the officer?
- A. Only to having the handcuffs put on.
- Q. We haven't reached that point yet, I am just asking you now to his being directed to stand up.
- A. No.
- Q. Once he was standing up, did the officer make any further comment to him.
- A. Yes. He told him he wanted to read his rights, and he took a card out of his wallet or pocket and tried to read them to him.
- Q. Now, when the officer had commenced to try to read his rights---it is commonly
Called the Miranda rights.
- A. Yes. I know.
- Q. -- had he placed the man under arrest as yet?
- A. I am sure he had. I don't recall his saying those exact words.
- Q. Do you recall hearing words to that effect before he read the Miranda—or tried to read the Miranda rights to him?
- A. No, I don't.
- Q. Now do you recall however, hearing the officer commencing to read from the card?
- A. Right.
- Q. At this point was Mr. Yanikian standing immediately in front of the officer?
- A. Yes.
- Q. Was it still in the general area of the table?
- A. Yes.
- Q. Mr. Yanikian was not yet handcuffed?
- A. I think he handcuffed him before he read him the rights.
- Q. Was his coat still on then?
- A. No. His coat was off, and Mr. Yanikian asked to have the coat placed over his shoulders again.
- Q. Now, let's go back.
He was told to stand up; did the officer then order him to remove his coat?
- A. Yes.
- Q. Did Mr. Yanikian remove the coat, or did one of the other officers help with the removal of the coat?
- A. I believe he took it off himself.
- Q. When he took it off, did he set it down someplace?
- A. Yes. I think it was set on the table or a chair-- laid on the table or chair.

- Q. Did you see the officers give him what we call a pat down for any weapons on his person?
- A. Yes. They shook him down.
- Q. Now, at the moment that the officer or officers were giving him a pat down of his person, did you observe Mr. Yanikian indicate the slightest degree of resistance to the officer?
- A. No.
- Q. Now, after that pat down, was he handcuffed?
- A. Yes.
- Q. Was it the plainclothes -- or the officer off duty who did the handcuffing as you best recall?
- A. Yes.
- Q. Was he handcuffed behind or in front?
- A. I am quite sure it was in front.
- Q. Was it during the handcuffing when you heard Mr. Yanikian make some comment about the necessity or lack of necessity of handcuffing?
- A. Yes.
- Q. Now, what did you hear him say about that?
- A. He said that it was not necessary. That after all, he had turned himself in, and there was no need to handcuff him. He was going along willingly.
- Q. Now, as you observed this moment, in time, Mr. Yanikian, was there any show of any kind of emotion on his face?
- A. Yes. There was in connection with the handcuffing.
- Q. Was this then the first indication of emotion that you had noticed on him that day?
- A. Yes .
- Q. When he made that comment, how would you describe whatever the emotion was that he displayed?
- A. Irritability.
- Q. Did he attempt to resist the handcuffing?
- A. No. I didn't notice that he attempted to resist it. He just insisted that it wasn't necessary.
- Q. And did the officer say anything in response to his comment about it being unnecessary to handcuff him?
- A. I don't recall.
- Q. Did you hear Mr. Yanikian tell the officer that Mr. Yanikian had already called the officers?
- A. Yes.
- Q. Well, then, was the officer able to complete these rights from the card?
- A. He did complete them, but Mr. Yanikian was talking most of the time while he was reading them, and the officer kept saying, "Now keep quiet a minute, I want to read these to you, you have to listen to this".
- Q. What do you recall Mr. Yanikian saying when he interrupted the reading of these rights?
- A. He said it wasn't necessary. He said "I know what you are telling me, it isn't necessary."

- Q. All right. Then the officer completed the reading of them, didn't he?
- A. Yes, sir.
- Q. Mr. Yanikian was still standing?
- A. Yes.
- Q. Handcuffed in front?
- A. I think so.
- Q. Now, what is the next thing that you saw happen then?
- A. Well, this was about the end of it.
Oh, wait, before that, just about the same time, the police arrived, an ambulance arrived. We saw the two man taken from the Room 34 out past our windows.
- Q. Did the ambulance people arrive before the officers, or after the officers?
- A. Just after.
- Q. Were there two persons removed from inside of Room 34 while Mr. Yanikian was still there?
- A. Yes.
- Q. Was he still in the patio area?
- A. Yes.
- Q. With the officers?
- A. Yes.
- Q. When the ambulance people arrived, how long were they there before they left with the two men, approximately?
- A. Well, the first ambulance left very quickly. They were actually running with the stretcher out of there.
- Q. Would you say, then, it was not more than a minute or so as to each ambulance when they were there, the men--
- A. (Interposing) They didn't arrive at the same time.
- Q. Now, at the time that the ambulance people were busy in Room 34 and leaving, was the door to your Room 30 still locked?
- A. Yes.
- Q. Then you were not able to observe from Room 30 anything within Room 34, were you?
- A. No.
- Q. Or even down that hall that leads to Room 34?
- A. No .
- Q. Now, did you hear Mr. Yanikian make any comment concerning either one of the two men as the ambulance people were removing them out through that patio area and on beyond to the ambulance?
- A. No, no. We were then looking out of the window on the other side there near the card table in the room, they were taken out across the lawn.
- Q. Well, then, to your knowledge, as each of the two men were being removed in the ambulance gurney, or whatever it is, there was still no showing of any kind of emotion from Mr. Yanikian, was there?
- A. I don't know, because we had moved over to the other window there where we could see what was happening.
- Q. Now, which window had you moved to now?

- A. Well, it's not marked there.
- Q. Oh, I see. Is that a window on the --
- A. (Interposing) There's a fixed window on the upper side there.
- Q. Was there something going on in that direction that you wanted to see?
- A. That was the direction from which the police came and also the direction in which the ambulance people came and left.
- Mr. LINDSEY: Does the Court desire to recess at this time?
- THE COURT. I would much prefer to finish with Mr. Herman, if at all possible, today, to save him a trip back.
- Aren't you about nearing the end of your cross-examination?
- Mr. LINDSEY: I am, your Honor, and just probably a few more questions and I will be completed.
- Q. BY Mr. LINDSEY: Now, both of the men were removed by the ambulance. When was it that you finally got around to unlocking your door to Room 30?
- A. I can't say exactly, because in the meantime the man who -- our man who was in charge of making the arrangements with the Biltmore Hotel had come over to see what was happening you know, why we hadn't shown up for lunch, and we opened the door, I would say, for the sheriff right after they had taken the defendant away, and they told us that they wanted written statements and oral statements and to stay there, so we did, and did not go to the luncheon with the rest.
- Q. All right. You did not at any time, then, enter into Room 34?
- A. No. I glanced in it as I was leaving Room 30, later in the day, but I didn't enter it.
- Q. When you glanced into Room 34, what did you observe, if anything?
- A. Not very much, actually. I looked in the window of it later and saw a lot of blood on the floor, but I didn't observe anything, really, by looking into the doorway.
- Q. Do you recall hearing any other comments or statements by Mr. Yanikian other than what you have told us so far in your testimony?
- A. No, sir. I'm trying to recall exactly what I myself heard and not what someone else who was at the window, when I was not there, told me that he had said.
- Q. Then having in mind now all of the total circumstances and what you observed of Mr. Yanikian during all the time that you saw him there, the only two times you saw any reaction from him is on the handcuffing matter and the other one when he was interrupting the reading of his rights?
- A. Yes.
- Q. And when he was interrupting the reading of the rights and objecting to the handcuffing, did he appear to be indignant about it?
- A. Yes.
- Q. Now, I think just one other little area you mentioned and I will be completed. You mentioned on direct examination something about a hotel bill and a bellboy.
- A. Yes.
- Q. When did that occur in this sequence of events that you have told us about?

- A. It occurred before the police arrived. The bellboy who apparently knew him, approached the patio and I heard Mr. Yanikian saying "Tell them---or " send my bill to the jail."
- Q. Now, did you hear any comment from the bellboy either before that statement or after that statement?
- A. No, I don't recall his saying anything.
- Q. The only thing you do recall is Mr. Yanikian saying, giving reference to the bill and sending it to the jail?
- A. That's right.
- Q. And again there was no emotion shown when he was making that statement, was there?
- A. No. Very matter of fact.
- Q. Did you actually observe him being led away by the officers?
- A. I don't recall observing that, no.
- Q. Could you have observed him?
- A. I could have, yes.
- Q. There was nothing about that, though, whatever, or however dim your recollections may be of that particular event, that you can recall at the present time?
- A. No, sir. I do remember hearing one of the sheriffs say to one of the police man, "Will you take him in? and the answer was, "No he is your prisoner."

Mr. Lindsey: Your Honor, I have no further questions.

Thank you very much.

THE WITNESS: Thank you.

Mr. MINIER: I will be very brief, your Honor

REDIRECT EXAMINATION

BY Mr. MINIER:

- Q. Now, Mr. Herman, during these things that you heard the defendant say and the things that you saw him do, did he appear to be in any kind of a trance?
- A. No.
- Q. Was he acting as a zombie might act?
- A. No. he was very natural, I thought.
- Q. He didn't seem to be dazed?
- A. No.
- Q. Didn't seem to be in a state of shock?
- A. No.
- Q. Didn't seem to be sleepwalking?
- A. No.
- Q. Did he appear to be fully conscious of what was going on around him?
- A. As far as I could tell.

MR. MINIER: Thank you.

Nothing further, your Honor.

Mr. LINDSEY: May I ask one other question.

RECROSS-EXAMINATION

BY MR. LINDSEY:

- Q. Can you recall what, if anything, happened to his coat?

A. He asked that it be put over his shoulders again, and I believe one of the sheriffs complied with his request.

MR. LINDSEY: No further questions, your Honor.

Mr. MINIER: Nothing further, your Honor.

THE COURT: Thank you, Mr. Herman. You are excused and free to leave.

THE WITNESS: Thank you, your Honor.

(Whereupon, the witness was excused and withdrew from the stand)

THE COURT: Ladies and Gentlemen of the jury, it is your duty not to converse among yourselves or with anyone else on any subject connected with the trial, or to form or express any opinion thereon until the cause is finally submitted to you.

We will reconvene the trial tomorrow morning at 10 o'clock a.m.

(Whereupon, at 4:40 o'clock p.m. this date, proceedings were adjourned until the hour of 10 o'clock a.m., Wednesday, June 6, 1973.)

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**4. SANTA BARBARA, CALIFORNIA; WEDNESDAY, JUNE 6, 1973**  
**MORNING SESSION**

THE COURT: Please excuse the delay, Ladies and Gentlemen of the jury.

All jurors are present for the record, Gentlemen, including the alternate jurors.

We have been wrestling with another problem of interpreting certain Armenian language on certain papers and into English, and have been discussing it in chambers since 10:00 o'clock. That is the reason we are a little slow in getting underway this morning. However, we had good reason to think that we have saved a great deal more time than we have lost by reason of this conference. We haven't misspent it.

All right, Counsel.

Mr. MINIER: Your Honor, Mr. Saroyan, would you take the witness stand, please.

**ARAM SAROYAN,**

produced as a witness for and on behalf of the People, was thereupon duly sworn and testified as follows:

THE COURT: First, should the interpreter's oath be likewise administered to Mr. Saroyan at this time or not, Gentlemen?

Mr. LINDSEY: He has been sworn --

THE COURT: Yes, he has already been sworn, not in the presence of the jury, however.

Mr. LINDSEY: I would have no objection to it, your Honor.

Mr. MINIER. We have no objection to his having the specific interpreter's oath, your Honor.

THE COURT: All right. Let's get that out of the way.

THE CLERK: You do solemnly swear that you will well and truly interpret and translate the English language into the Armenian and the Armenian language into the English, to the best of your ability, skill and judgment, so help you God?

THE WITNESS: I do.

**DIRECT EXAMINATION**

BY Mr. MINIER:

Q. Mr. Saroyan, I think we know your full name by now but just for the record, would you state your full name and please spell it.

A. Aram, A-r-a-m, Saroyan, S-a-r-o-y-a-n.

Q. And you have been appointed as the official court interpreter in this proceeding, have you not, to interpret the Armenian language into the English language?

A. Yes, sir.

Mr. MINIER: Your Honor, I have given to the clerk a copy of a typewritten document in several pages which I wonder if we might have marked as People's Exhibit No. 17 for identification.

THE COURT: Yes.

(Whereupon, a document translation of portions of People's Exhibit No. 14 was thereupon duly marked as People's Exhibit No. 17 for identification purposes only.)

BY Mr. MINIER: Mr. Saroyan, I am going to show you People's Exhibit 14 for identification first, which is a manila envelope addressed to the Santa Barbara News Press, containing a document with orange covers, and ask you if you have had occasion to translate various portions of the Armenian language found in that document?

A. I have -- I have seen this document, and I have translated portions of it.

Q. Now, I'm going to show you People's Exhibit No. 17 for identification and ask you if you would look at that and tell us if you are familiar with that translation?

A. Yes. I have read the document, and I am very much familiar with the translation.

Q. Now, does this second document, People's Exhibit No. 17, purport to be a verbatim translation of certain pages in People's Exhibit 14 for identification, the larger manuscript?

A. From Page 111 through 120.

Q. And have you read Pages 111 through 120 in the original Armenian in People's 14 for identification?

A. I have.

Q. And have you compared what is found in Armenian in that original document with the translation found in People's Exhibit No. 17 for identification?

A. I have, and they sound -- and it is verbatim translation from Armenian into English language.

Mr. MINIER: Your Honor, at this time we would offer People's Exhibit 14 for identification, which has not yet been received, into evidence, and we would offer also People's Exhibit No. 17 as a verbatim translation of, of Pages 111 to Pages 120 of the document which is People's Exhibit No. 14 for identification.

Mr. LINDSEY: Your Honor, may we approach the bench a moment, please?

THE COURT: I don't really see any occasion for it. The whole of People's Exhibit No. 14 is being offered.

Do you object to the whole of its being received in view of the fact that only nine pages of it are intelligible as yet?

Mr. LINDSEY: If Mr. Minier desires to have admitted into evidence that portion that is covered by the translation, referred to by 14r. Saroyan, I would have no

objection to that but, if the balance of it is to come in, I do have a question or so on that.

THE COURT: The balance of it would be meaningless to everyone here except those who can read and understand the Armenian language, and I take it there is nobody on the jury that has that ability.

Mr. MINIER: Your Honor, I could propose a solution that I think would probably be acceptable. I would propose, then, to withdraw the offer of People's No. 14 into evidence, namely the manuscript, and in place of that offer of evidence, to offer a stipulation that People's No. 17 is a translation, a verbatim translation of pages 111 through 120 of the document received at the Santa Barbara News Press which was testified to by Mr. Steven Sullivan yesterday; would that be acceptable?

Mr. LINDSEY: Yes, that would be, your Honor.

THE COURT: All right. We will receive, then, People's 17 in evidence; the offer of People's 14 is withdrawn.

Mr. MINIER: Thank you, your Honor. Then, is that stipulation accepted by the Court?

THE COURT: Yes.

Mr. MINIER: Thank you.

(Whereupon translation of pages 111 through 120 of document thereupon received in evidence as People's Exhibit No. 17 in evidence.)

Mr. MINIER: I have no further questions.

Mr. LINDSEY: We have no questions, thank you.

THE WITNESS: No cross-examination?

Mr. LINDSEY: I'm saving it.

Mr. MINIER: Your Honor, I would like to read a portion of People's 17. I realize the whole thing can and perhaps should, at some point, be read. There is other portions

of it I would like to read to the jury at this time. I will read the whole thing if it is necessary, but otherwise, I will read, I think it is the last page or two.

THE COURT: All right.

Mr. MINIER: Thank you, your Honor.

With the Court's permission, I will start on page 10 and read about two and a half pages, beginning in the middle of page 10.

“In case one is called upon for an accounting, there is no doubt in my mind that those persons acting as individuals in claiming our rights will defend their deeds with the same bravery and without remorse and will fully utilize the situation in order to attract the attention of mankind. Every Armenian individual who is waiting for the day that the Turks will be punished should spread this idea.

. “I will do everything in my power to insure that this letter will not only become the property of my fellow countrymen, but also the property of humanity.

I will try to insure that my deed will not remain a secret. I will insure that they will arrest me and I will continue to defend my rights before a world court. I am satisfied that I have chosen the lesser of the evils by uniting two ideas.

First, the need of the present day Armenia to change its present system and demand from the world that the old criminal receive his proper punishment and return to my race its territories and stolen loot.

“It will depend upon the circumstances as to when, where and how I am going to herald the new Armenian individual's war. I hope that it will not take too long.

“It took me years to come to this decision. I needed months to prepare the implementation of my decision because I knew that I was burning all the bridges behind me and there was no question of my return. My family situation also has been instrumental in my decision. My wife has been in the hospital for more than six years with an incurable disease. I did not want to start any action until after her death because except for me, she has no one in this country. Now that she does not recognize me any longer I feel free to pursue my decision. I felt that I might get sick myself and thus be unable to realize my goal if I waited much longer. There is no doubt in my mind that there will be others who, realizing that we do not have any other solution, will rely upon the same means as I, which is the only language understandable to the world.

“There is no doubt in my mind that the number of Armenian individuals who will engage in this type of war is limitless. I wish success to all Armenian individuals in all countries of the world. Those individuals who voluntarily are going to participate in this new type of war. I am concluding my writings so that I can prepare myself for the first step.

“This is an Armenian individual who has crossed the Rubicon and who is going to be an example to many others, not only in America, but in the four corners of the world, wherever children of Armenia have found a temporary haven.

"Son of an Armenian who has turned into a nemesis.

Gourgen Yanikian, Santa Barbara, September, 1972”

Mr. MINIER: Mrs. Ruth Warwick please.

**RUTH WARWICK,**

called as a witness on behalf of the People having been duly sworn testified as follows:

**DIRECT EXAMINATION**

BY Mr. MINIER:

Q. Mrs. Warwick, would you please state your full name and spell your last name?

A. Ruth Warwick,, W-a-r-w-i-c-k.

Q. Where are you employed?

A. Do you want my full time employment or my part time?

Q. First let's have the full time?

A. I am employed full time at Santa Barbara City College.

Q. Doing what?

A. Switchboard operator.

Q. Do you also, upon occasions, work as a switchboard operator at the Biltmore Hotel?

A. Yes, I do.

- Q. Calling your attention to the days, Thursday, January 25th and Saturday, January 27 of this year, did you have occasion to be filling in as a switchboard operator at the Santa Barbara Biltmore Hotel?
- A. Yes, I did.
- Q. Do you know, or do you believe that you have ever seen the defendant before, seated in the blue suit between his two attorneys, before you came to court?
- A. No.
- Q. In other words, before you came into court, you don't recall ever seeing him?
- A. No.
- Q. Now, calling your attention to Thursday the 25th of January of this year, do you recall if, while you were on the switchboard at the Santa Barbara Biltmore, you had any calls from room 34?
- A. Yes. I had several. I don't know to where.
- Q. Did you have one or more?
- A. I am sure I had several.
- Q. Now, can you tell us if there was anything unusual or distinctive about the voice of the person who called?
- A. Oh, yes. He had a very distinctive accent.
- Q. It was a male voice, then, was it?
- A. Oh, yes.
- Q. And it had some kind of a distinctive accent?
- A. Yes.
- Q. Is this a Southern accent or a -- is there any way that you can refer to the type of accent?
- A. I don't know what I would call it, other than perhaps a foreign accent.
- Q. It appeared to be a foreign accent?
- A. Yes.
- Q. As opposed to a regional accent within the country?
- A. Oh, yes.
- Q. Now, were all of the calls -- or with regard to the several calls that you had on the 25th, did it sound like, the same man who was making all of those telephone calls?
- A. Yes.
- Q. Calling your attention to two days later, Saturday the 27th of January, did you have any further calls from Room 34?
- A. Yes.
- Q. Did you have more than one?
- A. I believe I had three.
- Q. Now, did all of these calls on Saturday the 27th sound as if they were being made by the same man that made the earlier calls on the 25th?
- A. Yes, they did.
- Q. With regard to all of the calls, you noticed the same particular accent?
- A. Yes, sir.
- Q. Now, do you recall what time the first call was made on Saturday the 27th from Room 34?

- A. Well, the first one that I received, when I was on duty -- there was another operator on duty, and I went on duty shortly after 9:00, and I picked up Room 34 light as it came in shortly after -- I don't know just how long after.
- Q. And where did that call go then if it went some other place?
- A. He asked for housekeeping.
- Q. And did you then connect the person at the end of the line 34 to housekeeping?
- A. Housekeeping, yes.
- Q. What time was the next call made?
- A. Well, I looked at the clock then, because at the time he told me that he had asked housekeeping to have his room done by 10:00, that he was expecting guests, and it was 20 minutes of and they hadn't arrived yet, so I connected him with housekeeping again.
- Q. What time was that again?
- A. About 20 minutes of 10:00.
- Q. So that would be about 9:40, or 20 till 10:00.
- Did he indicate when he expected the guests to be there?
- A. No, he didn't. He said that he was expecting guests shortly and wanted his room done, so --
- Q. Could you detect any difference in the sound of the person you were talking to with regard to this call at 9:40 when he said that he was expecting guests?
- A. Other than he said, he just told me, well, I asked my room to be clean, and it hadn't been, and I would like it done.
- Q. Now, was there a third call at some later time?
- A. Later he called and asked for the front desk. This call could have been 30 minutes or so later, I'm not real sure.
- Q. Did you connect him with somebody at the front desk?
- A. Yes. I rang the front desk, and at that time I didn't know which clerk answered, but I later heard it was Charles Catlin, -- I found out later.
- Q. Now, calling your attention to within a few minutes after the hour of noon, did you have a telephone call from Room 30 at the Biltmore?
- A. Yes, I did. It was approximately five minutes after, by our hotel clock -- I'm not sure, maybe a minute before or a minute after, but in that vicinity of five after, and some gentleman, and I don't believe he gave me his name, -- he may have, he may have after what he said later, but I forgot the name, but that I should call the security guard, they thought that they had heard shots in the next room.
- Q. Was this a different voice from the one that you already referred to?
- A. Yes, this was.
- Q. After you got the call from Room 30 at 12:05, did you then do anything with regard to trying to find the security officer?
- A. I rang the back dock and asked the person on duty, which was Bruce Parrish, -- I didn't know at the time who was back there, I just called, because I was busy, and asked him if he would locate security and then send them over there.
- Q. Now, immediately thereafter, within a minute or so from the time you got the call from Room 30, did you receive a fourth call from Room 34?
- A. Yes, I did.

- Q. Do you recall what time that was?
- A. I would say between 30 and 60 seconds after the first call from Room 30.
- Q. So then this would be sometime between 12:05 and 12:06?
- A. Right in there, yes.
- Q. And again was it the same voice on the end of the line to Room 34 that you had heard in those three prior conversations on the 27th?
- A. Yes, it was.
- Q. And again it was the same voice that you had heard two days before on Thursday?
- A. Yes.
- Q. Could you tell us what the man said to you at that time?
- A. He said, "You better call the sheriff's office. I just shot two men in my apartment," -- or room. I don't know the exact words he said, but --
- Q. Did he say anything further?
- A. No, that's all he said, and hung up.
- Q. Did he hang up or did you hang up?
- A. He hung up.
- Q. He hung up. After that call did you then make any further calls?
- A. I called Mr. Saul, the manager.
- Q. Where?
- A. He had informed me earlier where he would be, naturally, as they always do, the manager always lets us know where they are, and he told me that he would be over at the Coral Casino.
- Q. Is that where you called him?
- A. That's where I called him, told him what had happened.
- Q. Is the Coral Casino in a part of the Biltmore Hotel?
- A. It's a private club which is owned by the Biltmore, just across the street from the Biltmore.
- Q. And then you called Mr. Saul at the Coral Casino?
- A. Yes.
- Q. Is there a manager of the Coral Casino?
- A. Yes, he was in the manager's office.
- Q. Is that Mr. Clapp?
- A. Yes, Mr. Clapp.
- Q. And then you made your call to Mr. Saul at Mr. Clapp's office in the Coral Casino?
- A. I told him about the phone calls that I had received, and he said, 'I'll be right there,' and so, naturally, I didn't do nothing more until he came and told me -- we don't take it upon ourselves to call the authorities.
- Q. And a short time thereafter, was that call made from the Biltmore to the sheriff's department?
- A. Yes. By that time the chief operator, who was on duty that day, but had been on her lunch hour during this time, had arrived back, and Mr. Saul came in and told her to call an ambulance and the sheriff's department.
- Q. And she did that?

A. She did.

Mr. MINIER: Thank you, Mrs. Warwick.

I have nothing further, your Honor.

**CROSS-EXAMINATION**

BY Mr. LINDSEY:

Q. Mrs. Warwick, where is the switchboard located with reference to the Biltmore itself?

A. Well, as you enter the Biltmore, the front door of the Biltmore is right on the right behind the front desk. The front desk is on the right, and then we have a separate doorway into the switchboard room.

Q. Now, the first recollection you have on this matter is having been on the switchboard, January 25th, when you say you recall several calls being placed either in some way connected with Room 34?

A. Yes.

Q. Now, did you make any records of those phone calls?

A. Of calls within the hotel, no, we do not keep records. Long distance calls, we do, local calls.

Q. Were there any calls made on January 25th from Room 34 to anyplace outside of the hotel?

A. No there wasn't.

Q. Pardon?

A. No.

Q. Now, is there anything that causes you to be able to recall now that there were several calls on January 25th from Room 34?

A. Well, at the time, when I took them, and then after what happened, of course, the sheriff's office took the statements shortly afterwards, and I remember them all. Had I not given a statement and reread that statement, I'm not sure that I would be able to recall every one, but as it was, I am, because it was just an hour later I gave a statement.

Q. You now recall that there were several calls on January 25 from room 34?

A. I have had calls from him, where there were two, we don't keep records within the hotel.

Q. Well, then, you have no present recollection as to whether he was calling, or whoever was calling from room 34, whether he was calling the desk, or housekeeping department, or restaurant?

A. Not on Thursday before, no. I don't know where they went.

Q. No recollection of any kind?

A. No.

Q. How many calls would you now estimate that were made from that room on January 25?

A. Well, the ones that I took on the 25th, I took three. Now, whether the other operator took some, I don't know.

Q. But you have no recollection, now, on January 25, as to how many, as to whom those three calls were --

A. No.

- Q. Was there anything unusual that you can now recall about that voice on the telephone on January 25 on the calls that you took?
- A. No. Other than I recognized the accent. I recognized the name, because we have them written on the-- you know, where we can look and see who was calling from a room as we answered.
- Q. There was nothing, however, in any of those calls on Thursday January 25, that would have caused you to have the slightest question, either about the person making the call or the slightest question about anything pertaining to Room 34, was there?
- A. No, sir.
- Q. In fact, you never told anyone, yourself, connected with the Biltmore, that there was any question about any of those calls on January 25?
- A. No.
- Q. Now, let me direct your attention for a moment, now, to Saturday, January 27; you arrived on Saturday about nine o'clock in the morning?
- A. Yes.
- Q. And was the first telephone call that you took that morning somewhere between nine o'clock and say 9:40 in the morning?
- A. Yes. It was shortly after I arrived at work at nine.
- Q. I can't quite hear you.
- A. It was shortly after I went on duty at nine. I can't say the exact time, no.
- Q. When that first call that you took that morning, when you received that call, did you recognize the voice as the same voice that you heard on January 25?
- A. Yes.
- Q. Did the person in that first call on January 27 identify himself by name?
- A. I don't believe so.
- Q. What?
- A. I don't believe so, no.
- Q. Now, what do you recall was said by that person in that first conversation to you?
- A. First conversation to me, all he did was ask for housekeeping.
- Q. Did he use that term, "May I have housekeeping?"
- A. Yes .
- Q. Now, once that was asked, was the only thing that you did then was to plug the line into housekeeping?
- A. Yes.
- Q. Now, as you heard that voice somewhere between nine and 9:40 that morning of January 27, was there anything unusual about it?
- A. No.
- Q. As a matter of fact, there was nothing about the tone or the manner of speech that caused you to have the slightest question about either the person, or the slightest question about anything pertaining to room 34?
- A. No, of course not. We got a lot of calls for housekeeping. We never think anything about them.
- Q. All right.

Now, about 9:40, you say that you now recall receiving a second call from Room 34; is that correct?

A. Yes.

Q. And this again was the same person?

A. Yes.

Q. Now, to the very best of your recollection, can you tell us as close as you can, the words that the person used in this second call?

A. As near as I remember, he said, "I have asked for my room to be cleaned at ten o'clock. It is now almost ten, and they haven't been here."

I glanced at the clock to see what the time was of course, and I told him I would give him housekeeping, which I did.

Q. Now, did that person then say that he had asked to have the room, or he decided to have the room cleaned by ten o'clock?

A. Yes. That he was expecting guests shortly.

Q. Now, do you recall, then, that he used the phrase,-- the words that he was expecting guests shortly?

A. Yes.

Q. Did he also, at the same time that he said he was expecting guests shortly, make reference to his request to have the room cleaned up by ten o'clock?

A. Yes, same, yes, he did.

Q. Was that the only conversation you had in that second call that morning?

A. Yes.

Q. When those requests were made in that second call, again there was nothing to cause you the slightest question of any kind, either as to the caller or as to the circumstances in Room 34, was there?

A. No.

Q. And you then plugged the line in again to housekeeping?

A. Yes.

Q. Now, the third call that you received from Room 34 was about when?

A. I am not real sure. It was after that -- it could have been 30 minutes later, or 15 minutes later, I am not real sure.

Q. Can you give us your best estimate of the range of time after 9:40 that, to your best recollection, that call may have been made?

A. I am sorry, I am not really sure. I would say within 30 minutes after 9:40.

Q. Would your best present estimate be that that third call that morning on January 27 took place somewhere between 9:40 in the morning and, say, somewhere around ten minutes after ten in the morning?

A. Possibly.

Q. Would it be even later than 10:10?

A. It could have been. As I say, I cannot remember. It was busy that morning, and we were quite busy.

Q. Well, when you mention that it would have been, say, within a half an hour after 9:40, do you mean it could have been half an hour or more after 9:30?

A. I would say it was before 10:30.

Q. All right. Would your present recollection be, then, that somewhere between 9:40 and 10:30 that morning, you received the third telephone call?

- A. But I couldn't be sure. I think so, but I am not real sure. We keep no records of times of house calls within the hotel.
- Q. Now, what was said by the caller in that third telephone call?
- A. Just asked for the front desk. And there was no other conversation other than that?
- A. No.
- Q. Did he use the words "front desk"?
- A. Yes, I believe so. I believe he did, Yes. Either front desk or desk clerk. We get calls for both, meaning the same.
- Q. Now, that's when you immediately plugged in the person to what you would call the front desk?
- A. Yes.
- Q. Now, did the person in that third call indicate in any way why he wanted to talk to someone?
- A. Not he didn't.
- Q. Now, again as to this conversation that you say perhaps occurred possibly somewhere between 9:40 and 10:30 in the morning, was there anything in the sound of the voice of that caller that caused you the slightest question of any kind, either as to the person or any matters pertaining to room 34?
- A. No.
- Q. Were there any calls, to your recollection, placed through your switchboard that morning to room 34?
- A. I don't remember any.
- Q. Excuse me?
- A. No, I don't remember. There could have been, I don't remember.
- Q. All right. There may have been calls placed through the switchboard to room 34, but you have no record of them?
- A. No.
- Q. If there had been a telephone call from outside of the hotel from some other person into room 34, would it have gone through your switchboard?
- A. It could have gone through the switchboard, but not necessarily me. Except for the other operators at lunch hour, there was two of us there.
- Q. There were two operators on the switchboard, then, that Saturday morning?
- A. Yes.
- Q. During this period of time from nine o'clock until around 10.30, was there a second switchboard operator on duty alongside you?
- A. Yes.
- Q. Who was that operator?
- A. Margaret Remmers.
- Q. Is it possible that she may have handled some calls, either to or from room 34 that morning of January 27?
- A. Oh, yes, she could have.
- Q. And of which you have no knowledge?
- A. She could have, yes.

- Q. Now, If a telephone call came from outside of the Biltmore Hotel, say, either in Santa Barbara or outside Santa Barbara coming in for room 34, is a record made at the switchboard of that incoming call?
- A. No. No records are kept of incoming calls.
- Q. Now, supposing other occupants of one of the rooms or cottages of the Biltmore decided to place a call from a room to a phone outside of the Biltmore Hotel, is a record made of those calls?
- A. Yes.
- Q. Even if they may be, say, local Santa Barbara?
- A. Local Santa Barbara there is a record.
- Q. Have you examined the records of the Biltmore telephone calls on Saturday, January 27, to determine if there were any calls placed from Room 34 to any place outside of the Biltmore?
- A. I looked back through our records and found none.
- Q. Then so far as your examination of the records was concerned, on January 27, there is no record of any call being made from room 34 to any place outside of the Biltmore Hotel?
- A. I did not find any. However, there are times that the operators are quiet busy and do not make a record of a local call. Now, a long distance would definitely be written up. Sometimes local ones are not when it is too busy.
- Q. Now, is it your recollection, then, that there was a fourth call that you handled on January 27, and that fourth call came from room 30?
- A. Yes.
- Q. Did you make a record that you were able to refer to that causes you now to recall that the telephone in room 30 was being used?
- A. I didn't make a record, no. I glanced at the clock, but I did not write anything.
- Q. Mrs. Warwick, we have on the board a diagram. Are you generally familiar with Cottage Number Three?
- A. No, I am not. I don't know the grounds of the Biltmore at all. I have been a relief operator for quite some time, but I go to work and go home. I have not been in cottage three at all.
- Q. Are you familiar, however, with the telephones?
- A. Yes. When a light comes on the board, we know what room it is from.
- Q. Is there a telephone in room 34?
- A. Oh, yes.
- Q. A telephone in room 35?
- A. Yes.
- Q. Is there a telephone in room 30?
- A. Yes.
- Q. Now, to your best recollection, the call that came from Room 30 was approximately five minutes after 12:00?
- A. Yes, yes.
- Q. And that call was a message directly to you as the switchboard operator?
- A. Yes.
- Q. Asking for security personnel to be sent to Cottage No.3 is that correct?
- A. Yes, sir.

- Q. And what else was said in that call to you?
- A. Just said the fact they had heard gunshots.
- Q. Now, at that moment did you ask that caller to give you his name so you would have a switchboard record of this man who has said "Security, we think we just heard shots"?
- A. No, sir, I didn't ask for his name.
- Q. Did you after that attempt, make any efforts to try to identify the person who had made that call to you?
- A. No, I didn't.
- Q. Now, when you received that call, is that when you immediately rang and had a conversation with Mr. Parrish?
- A. Yes.
- Q. And is Mr. Parrish employed by the Biltmore?
- A. Yes, he was.
- Q. And what division or department is he in?
- A. I'm not sure what it is called. He is on the receiving dock, I presume, is what it is called.
- Q. What is the receiving dock?
- A. Well, it is just the back of the hotel. There's a timekeeper's -- where the timekeeper stays, and it's right on the receiving dock where deliveries are made. He probably is considered what is considered the timekeeper, I presume, because he was there by the phone.
- Q. Now, when you called back there to the receiving dock, did you intend to talk to Mr. Parrish?
- A. No, whoever answered.
- Q. Is that where security is normally located?
- A. Well, usually, when I work at the Biltmore, it's in the evening, and that is where security is located in the evenings.
- Q. And that was the reason for your placement of the call?
- A. And it was an automatic reaction to me to call back there.
- Q. What did you tell Mr. Parrish?
- A. I told him what the man in Room 30 had said, that he thought he heard gunshots and would he locate the security and send them to Cottage 3.
- Q. Now, was that the end of your conversation with Mr. Parrish?
- A. Yes.
- Q. Now, how long after you finished your call with Mr. Parrish was it when you received the next telephone call from Room 34?
- A. Just a few seconds, perhaps thirty.
- Q. Now, in the call that came now from Room 34, did you recognize again the voice of the caller as being the same person from whom you had had three calls earlier that same morning?
- A. Yes, I recognized the voice.
- Q. And what did the caller tell you?
- A. He said, "You better call the sheriff's office. I just shot two men in my room," - I'm not sure if he said "room" or "apartment." I heard the word "shot," of

- course, and I became excited, so I'm not sure of the last word. He either said "room" or "apartment," but he did say, "I shot two men".
- Q. As the switchboard operator, did you immediately say, "Would you please let me have your name?"
- A. No.
- Q. So that you could make a record?
- A. Because he gave me this information and hung up. He didn't wait for me to make any response.
- Q. In other words, the statement was made to you when the phone was - -
- A. (Interposing) Was hung up.
- Q. Hang up immediately?
- A. Yes
- Q. Now, when you heard that voice making that statement to you that you have just related, did the voice appear to be the same as you had heard it, in the three calls earlier that morning?
- A. Yes.
- Q. Then there was nothing unusual that you detected or noted in that last call from that caller that caused you to have any particular question in your mind insofar as the sound of the voice is concerned?
- A. No. He sounded the same.
- Q. The words or the message, of course, were extremely, you might say, important to you?
- A. Yes.
- Q. Or meaningful?
- A. Yes.
- Q. But the sound of the voice?
- A. The emotion.
- Q. The manner of speech, the rate of speech?
- A. Yes.
- Q. About the same as in the morning, is that correct?
- A. Yes.
- Q. Now, when you received that call, were you satisfied that the call came from the telephone in Room 34?
- A. Oh, yes.
- Q. Is that because the light on your switchboard goes on when the phone inside of 34 is being used?
- A. Yes.
- Q. Now, the call that you received, this call from Room 34, how long after the call from Room 30 did you receive?
- A. I would say about 60 seconds.
- Q. And was it about 60-second lapse of time, then?
- A. May be not that much. I had called the back dock, talked with him, and then shortly after, well, a few seconds after that, the call from 34 came.
- Q. Well, now, if we can put the time sequence in here. You got the call from Room 30 that you estimate was about five minutes after 12:00?
- A. Yes.

- Q. As soon as you got that, you called Parrish back at the receiving dock, and within a matter of seconds as you have indicated, you got the call from Room 34?
- A. Yes.
- Q. So that the distance in time, or the amount of time between the call from 30 and the call from 34 might have been only a minute or so?
- A. It wouldn't have been more than -- it wouldn't have been more than a minute, I don't believe.
- Q. Now, when you received this last call from Room 34, this is when you contacted Mr. Saul?
- A. Yes.
- Q. Where was he then located?
- A. He was in the manager's office across the street at the Coral Casino.
- Q. And what did you tell him?
- A. I told him of the two phone calls that I had had, the one from 30, what that gentleman said, then the one from 34, what he had said.
- Q. Did you tell him anything else?
- A. No. I just told him the two things, and I said, "Should I call the authorities?" And he said, "No, wait. I'll be right there."
- Q. Now, as a result of that phone call with Mr. Saul, you did not then place any call?
- A. No.
- Q. To either the police department or the sheriff's department?
- A. No.
- Q. And you did not place any call for any ambulance then?
- A. No. I waited to hear from him.
- Q. Now, when was it then that Margaret Remmers arrived back at her switchboard?
- A. Very shortly after I talked to Mr. Saul, within a few minutes. She was there when Mr. Saul came in, which I'm sure wasn't more than two or three minutes.
- Q. Now, Margaret Remmers arrived back at her switchboard, -- when she arrived, had you received any further calls pertaining to Cottage No.3?
- A. No, I hadn't.
- Q. Now, how long was she back at her switchboard before Mr. Saul arrived?
- A. Not more than a minute.
- Q. Do you know from where Mr. Saul had come?
- A. From across the street, the Coral Casino.
- Q. Had he come from the Coral Casino directly over to the switchboard?
- A. No. He went directly to Cottage 3 and then came to the switchboard.
- Q. And then did you have a conversation with Mr. Saul there at the switchboard?
- A. Not really. I had already told Mrs. Remmers what had occurred, and he came in and told her to call the authorities. I didn't talk with him after that at all, no.
- Q. So that the conversation, then, was between Mr. Saul and Mrs. Remmers?
- A. Yes.
- Q. Is that right?
- A. Yes.

Q. And you did not yourself place the calls then to the authorities?

A. No, I did not.

Q. Now, did you have any occasion on that same day after Mr. Saul instructed the call to be placed to the authorities, did you have during the remainder of that day any further handling of calls with Cottage 3?

A. No, I didn't.

Q. Did you have occasion at any time that day to personally see Mr Yanikian?

A. No, I didn't.

Mr.LINDSEY: Your Honor, I have no further questions.

Thank you, Mrs. Warwick.

Mr. MINIER: I have nothing further, your Honor.

THE COURT- All right. Thank you, Mrs. Warwick.

(Whereupon the witness was excused and withdrew from the stand.)

THE COURT-. We will take the morning recess at this time,

Ladies and Gentlemen of the jury.

It is your duty not to converse among yourselves or with anyone else on any subject connected with the trial, or to form or express any opinion thereon until the cause is finally, submitted to you.

We will take a five-minute recess.

THE COURT: Members of the jury and the alternate jurors are present, gentlemen.

Mr. MINIER: Mr. Clapp, please?

**BARTON CLAPP,**

called as a witness on behalf of the people having been duly sworn and testified as follows:

**DIRECT EXAMINATION**

BY Mr. MINIER:

Q Would you please state your full name and spell your last name?

A. My name is Barton Clapp, C-l-a-p-p.

Q. What is your occupation, Mr. Clapp?

A. I am the manager of the Coral Casino Beach and Cabana Club, which is part of the Biltmore Hotel. It is the private club that is attached to the Biltmore.

Q. Is it right across the street from the Biltmore?

A. Yes.

Q. Now, were you so employed during the month of January of this year?

A. I was.

Q. Is the Biltmore Hotel, and also the Coral Casino Beach Club, within the County of Santa Barbara?

A. Yes.

Q. Now, calling your attention specifically to January the 27th, a Saturday, around the noon hour, do you recall if you were in your office at the Coral Casino?

A. I was.

Q. Was Mr. Saul, the manager of the Hotel, there with you?

A. Yes. He came by as is custom on Saturday afternoon.

Q. Did he get a call from the switchboard during the time he was at your office?

A. I received the call, and they asked for Mr. Saul, and I gave him the phone.

Q. Did he have a short conversation?

- A. He did, yes.
- Q. After that time, did you and Mr. Saul have occasion to leave the Coral Casino office?
- A. That is right.
- Q. Can you tell us where you went?
- A. We went across the street, directly across Channel Drive to Cottage 3.
- Q. What was the reason for your leaving the office and going over towards cottage 3?
- A. In the telephone conversation Mr. Saul had, he evidently was told of some gentlemen who had called from cottage 3 saying that he had killed two men in his room. Mr. Saul turned to me and asked if I would like to go with him, he didn't want to go into it alone.
- Q. I am going to call your attention to the exhibit on the board, People's Exhibit No. 16, and ask you if you can identify that as being a floor plan of the cottage 3 that you have been referring to?
- A. It is, but there is a patio that is not shown there, I believe.
- Q. Now, calling your attention to the little area at the top, we have a room labeled room 30, a room labeled 34, and then there is an area that is labeled patio.
- A. Yes.
- Q. Now, as far as you can determine, is that a reasonable accurate diagram of a patio which adjoins cottage 3?
- A. Yes.
- Q. Now, showing you People's Exhibit No. 15, this is color photograph of the same cottage number three you were just referring to?
- A. It is.
- Mr. MINIER: May I put this back on the board, your Honor?
- THE COURT: Yes.
- Mr. MINIER: Thank you.
- Q. Can you tell us what happened as you were approaching cottage number three, if anything?
- A. Mr. Saul and I walked across Channel Drive -- you see, cottage three is very close to the Coral Casino. There is a drive, that goes right up in that small area where the printing "Santa Barbara Biltmore" is. It is a parking area for the Coral Casino. We walked through there around by 32 -- there are sidewalks that go in all that direction -- and we met Mr. Jonnson there, the Security Chief for the Biltmore, and he was ahead of us slightly, and we walked up to the patio. Mr. Jonnson was ahead of us.
- Q. Now, as you got to the patio area, did you see anybody on the patio?
- A. Yes. I saw a gentleman sitting under the umbrella.
- Q. I call your attention to the defendant Mr. Yanikian who is sitting between his attorneys, in the blue suit and the blue tie, and ask if you can identify him?
- A. Yes.
- Q. Is he the man that you saw sitting on the patio?
- A. That is correct.
- Q. Did you know him, incidentally?
- A. I did not.

- Q. Did you know whether he had ever been a member of the Coral Casino Club which you now manage?
- A. I know that now, I didn't at that time.
- Q. Did you now know that he had been at one time a member of the club?
- A. Yes, he was.
- Q. Did any of the three of you, that is Mr. Saul, or the security man or you, at that point go into the patio area?
- A. We all three went into the patio area. Mr. Jonnson in front of us, and the two of us behind Mr. Jonnson. Mr. Jonnson asked if there had been --if anyone heard any shots in that area, and Mr. Yanikian -- at that point, we started to go into the room because we -- we evidently knew the room number -- Mr. Saul knew the room number -- and he stopped us.
- Q. When you say "He stopped us," you are referring to Mr. Yanikian?
- A. Yes.
- Q. In what manner did the defendant stop you from going into Room 34?
- A. He said, "Don't go in there, I have just killed two men."
- Q. Was there any conversation about medical help at that point?
- A. Well my first response was perhaps there was someone who needed attention, so I asked Mr. Yanikian if we could send someone to help anyone who was in the room, and he, told me there was no need for that, that they were dead. Except I heard some sounds from the room that indicated to me that someone was alive.
- Q. Was there any kind of a plan, then, that you and Mr. Saul and Mr. Jonnson -- have you given us the name of the security guard was it Mr. Jonnson, J-o-n-n-s-o-n?
- A. Yes sir.
- Q. Was there any kind of a plan the three of you had in order to find out if there was somebody still alive in room 34?
- A. None whatsoever.
- Q. What did you do then after Mr. Yanikian had indicated there was no need for the medical help because they were dead?
- A. Well, I sat down and started talking to him because I felt that if the situation were true, -- I couldn't believe it had happened. I mean, we get a great many peculiar calls at the hotel, and we handle them in a certain calm manner until we find out the facts about them; so I sat down with Mr. Yanikian and started talking to him while the other two gentlemen began to investigate, because we could not get in the room to see if it were true.
- Q. Do you know where the other men were going to at the time you sat down to talk with the defendant?
- A. No, sir, because all I know they were suddenly gone and I was there alone.
- Q. Now, did Mr. Saul reappear shortly thereafter, or did you see him at any time after he suddenly disappeared?
- A. Mr. Saul backed off of that covered patio where you see those three poles. Mr. Jonnson stood behind that middle pole, and I sat down and spoke to Mr. Yanikian, and in the process somehow, Mr. Jonnson, when I was talking to Mr.

- Yanikian, Mr. Jonnson came back and held up his fingers (demonstrating) like this, with two, and nodded his head at me.
- Q. Now, did you continue to sit for a few minutes there at the table with the defendant?
- A. I did.
- Q. And during that time did you have any conversation with him?
- A. I did.
- Q. Were just the two of you there at the table at the time that you had the conversation?
- A. Yes, sir; Mr. Yanikian and myself, and behind Mr. Yanikian in that window in Room 30 were a number of faces peering out. There was a woman in 33 looking out, and I think Mr. Jonnson was around in the general area, although I can't -- I can't recall just exactly where he was at various times. I did not see Mr. Saul again.
- Q. Were there any law enforcement people on the scene at that point?
- A. At that point, no.
- Q. Had any of the ambulance people arrived at that point?
- A. No, they had not.
- Q. So it was, basically just you and the defendant there at the table with some people in the rooms looking out?
- A. Yes.
- Q. Now, can you tell the jury what, if anything, you can recall that Mr. Yanikian said during the course of your conversation with him?
- A. Well, he said a number of things. I asked him as soon as he had made the statement to me -- to us, that we could not go in, I asked him about the medical help, and he said, "No it was not necessary." He kept referring -- "Waiting for Sheriff Carpenter." He wanted to wait for Sheriff Carpenter. I asked him who the people were, and he told me it was the consulate -- Turkish consulate and a friend. I asked him why he did it. He told me they had killed 70,000 of his people. And I said, "You mean the two gentlemen who are in the room?" He says -- he shook his head "No".
- And a number of fragment conversations that went on during that period.
- Q. Did he make any mention when the defendant indicated to you "No, not the two men in the room," did he make any indication to you who it was that had killed 70,000 of his people?
- A. The Turks; he said, "I promised my brother I would do it."
- Q. Do you recall any more of the conversation?
- A. He asked for a glass of water, which was brought to him. I took it and gave it to him. I noticed how very steady his hand was when I handed it to him because mine at this time was not steady. He commented that I was lucky I was a blond.
- Q. Now, did you have any information as to where the two persons in the room had come from, that you gained during this conversation?
- A. Yes. He told me they were from Los Angeles, and he had asked them to come up and they kept giving him excuses, he said, but this morning they came, and he seemed to have great satisfaction in the fact that they came that morning. He said that they had wanted him to come there, but that he had avoided that so

that he would not be looked upon as a hero. He also told me that he had something they wanted.

Q. Now, during this time that you were conversing with the defendant, were there any guns that you could see in the immediate area?

A. No. The gentleman had on a great coat -- it was a very peculiar sight for a man with a beret and a great heavy coat that was almost to the floor sitting under an umbrella, and when I sat down and was visiting with him, it occurred to me that perhaps the weapon might have been in his coat, because he had great pockets in it, and I asked him if he would give me the gun, and he said, "I do not have the guns." I recall it being plural.

Q. Did you have any conversation about the hotel bill that he would be owing, or did you hear anything said in that regard?

A. He made reference to the fact that the bill should be sent to the jail. I didn't ask him, -- I mean, it wasn't something that I was concerned about at that point.

Q. Now, did some law enforcement personnel eventually arrive?

A. The first people who arrived were the ambulance drivers, -- I believe two ambulances came. At first they would not - they could not be admitted, either. Mr. Yanikian refused to admit them, and he was still waiting for Sheriff Carpenter. And then when the law enforcement officers did arrive, I think by that time one ambulance driver had been into the room. I'm not sure at that point. When the officers arrived, I stepped back off of the patio and watched the proceedings.

Q. Now, when Mr. Yanikian at first was refusing to allow even the ambulance attendants into the room, did he give any reason why?

A. The same reason he gave me. "We are waiting for the Sheriff."

Q. Approximately how long do you think it was that you stayed there with the defendant talking to him?

A. Well, it seemed a very long time Mr. Minier, but I think it was perhaps within five and seven minutes, as far as my talking to him was concerned.

Q. During that time that you were talking with him, did he respond to your questions and your statements?

A. Yes. He asked me if I had read his writings, and I said no. And he told me it was a pity. He made reference to atrocities to his people.

Q. When he was doing this, did he seem to be aware of what was going on?

A. Very much so. It was incredible that something of this sort could have occurred and that it could be talked about so coolly and so rationally.

Q. Did he seem then to be rather calm and rational and cool during the entire conversation?

A. Indeed, because he asked me if I wanted a glass of water as well, as his having one.

Mr. MINIER: Thank you, Mr. Clapp.

I have nothing further, your Honor.

### **CROSS-EXAMINATION**

BY Mr. LINDSEY:

Q. Mr. Clapp, how long have you been connected with the Biltmore, please?

A. I am beginning my third year, Mr. Lindsey.

- Q. And at the time of the happening of the event that you have described, you were in a position of manager of the Coral Casino Club?
- A. Yes, Sir.
- Q. You had mentioned that you have since determined Mr. Yanikian was at one time a member of the Coral Casino club?
- A. That's correct.
- Q. Do you recall from your examination of the records during what time?
- A. I believe his membership was terminated in 1968 -- or '69, I'm not sure.
- Q. Somewhere around '68 or '69?
- A. Yes.
- Q. How long had the records indicated that he had been a member?
- A. I think approximately ten years.
- Q. Now, on this particular day when the first call came from the switchboard, or the main office of the Biltmore, you were at the Coral Casino with Mr. Saul?
- A. At my desk.
- Q. At your desk. And Mr. Saul is the manager?
- A. He is the general manager of Santa Barbara Biltmore Hotel.
- Q. General manager. And being at your desk when your phone rang and Mr. Saul was wanted, you simply handed the phone to him then?
- A. Yes. They asked for Mr. Saul and I gave him the receiver.
- Q. Now, did you learn before you left your office the purpose of that call, or the reason for the call?
- A. Mr. Saul informed me after he hung up the receiver that the telephone operator had reported to him that someone in Room -- and I did not catch the room number when Mr. Saul mentioned it to me, -- had killed two men in his room.
- Q. Now, as a result of that, did you both get up immediately then to go over to the area of Cottage 3?
- A. We did.
- Q. And there was no pre-arrangement that on the way you met with Mr. Jonnson?
- A. Mr. Jonnson seemed to be coming from the Biltmore and we came across the street and we met on a sidewalk there.
- Q. And you recognized Mr. Jonnson as being sort of the head of security unit?
- A. He was chief of security.
- Q. Chief of security. Now, the three of you then finished walking as a group then?
- A. No, sir. Mr. Jonnson was in front of us.
- Q. In front. How far in front?
- A. I would say at the most ten feet.
- Q. Now, as Mr. Jonnson was leading the way then about ten feet ahead of Mr. Saul and you, could you indicate with the pointer to the jury, please, the direction that the three of you were coming from as you approached that patio area?
- A. We came around this way (indicating), -- here's the sidewalk here, and it cuts across to here, and we walked into this area right here.
- Q. Now Mr. Jonnson, being in the lead, he came to a stop where?
- A. I would say approximately right under that patio roof area, which is by those three dark areas. He walked right in here.

- Q. Now, when Mr. Jonnson walked in and stopped at the point that you have indicated, which would be underneath that patio roof area, probably, say, roughly, what, ten feet or so from the table, or closer?
- A. Small patio -- it would be eight to ten feet.
- Q. Now, when he stopped at that point, where were you located?
- A. Well, the time that he stopped, we were moving up behind it, but when he stopped is -- I would say we were here (indicating on diagram).
- Q. Just about ready to enter under the patio roof yourself?
- A. Yes.
- Q. Now at that point, did you hear Mr. Jonnson say anything?
- A. Yes, he did.
- Q. At that point, was Mr. Yanikian in your plain view; could you see him at that point?
- A. Yes, I could sir.
- Q. Now, at that moment was Mr. Yanikian sitting on a chair at the patio table at about the point I am indicating here, that's marked with an X -- at that table?
- A. That is correct.
- Q. Then, Mr. Yanikian generally would be facing in a direction generally towards your position, is that correct?
- A. I sat on this side of the table, and Mr. Yanikian was sitting with his knees under the table, and so he would be facing partly toward me, Mr. Lindsey, not directly toward me
- Q. What I want to do first of all is before you got to the table, I want to ask you some questions now about what you heard Mr. Jonnson say, and when Mr. Jonnson was talking, where were you?
- A. Uh-huh.
- Q. Now, when Mr. Jonnson commenced his question, or whatever he had to say, you were not yet at the table, were you?
- A. He was under the patio area by that time.
- Q. But you were near enough so you could hear what was being said?
- A. Yes.
- Q. At that same moment, you were near enough so you could see Mr. Yanikian?
- A. That is correct.
- Q. Now, what was it that Mr. Jonnson asked at that point?
- A. I recall Mr. Jonnson asking, "Did anyone hear some shots here?"
- Q. To whom was he directing it?
- A. To Mr. Yanikian.
- Q. Were there some faces at the window of room 30 at that point; can you recall?
- A. I didn't see those, Mr. Lindsey, until I sat down later.
- Q. Then, to your best recollection, at the time Mr. Jonnson asked that question, Mr. Yanikian was there, Mr. Saul was with you?
- A. Yes.
- Q. And there were no other persons that you can recall at that particular moment?
- A. You mean in the outside area?
- Q. Yes.
- A. Yes, that is correct.

- Q. Now, what I am really getting to is that at that moment when Mr. Jonnson asked that question, was there any particular emotion or expression on the face of Mr. Yanikian that you observed either by way of anger, by way of sorrow, or any other type of emotion?
- A. There was an expression about him. It does not fit what you have described. I mean the words you have described is not what I would say he appeared to be.
- Q. How would you describe what, in the first glance that you have had of him as you walk up there -- incidentally, this was the first time you had seen him?
- A. Yes, it was.
- Q. All right. Knowing why you had walked over there with Mr. Saul, and knowing that Mr. Jonnson the chief security officer is now asking a question to a man sitting there in that patio, and you are looking right at that man, how would you describe what you observed about Mr. Yanikian at that moment?
- A. Determination.
- Q. Determination?
- A. Yes.
- Q. Now, when Mr. Jonnson asked that question, did Mr. Yanikian respond?
- A. He did.
- Q. And what was it that he said?
- A. My recollection of what he said was, "There are two men -- I just killed two men in my room." And we started towards him, and he said, "Don't go in there."
- Q. Now, when you heard Mr. Yanikian speaking for the first time, was there anything about the sound of his voice or the manner of his speaking which caught your attention?
- A. He has a very rich voice which is commanding, and he seemed again determined.
- Q. There was no sound of any anger in his voice, was there?
- A. No. But there was a sense of anxiety about it.
- Q. Would this be coupled with this determination appearance that you described?
- A. I don't understand your question, sir.
- Q. Yes. You indicated that when you first saw Mr. Yanikian he had an appearance of determination?
- A. Yes.
- Q. Now, you are saying that when you first heard his voice that there was an element of anxiety, did you say?
- A. Yes. He was anxious for us not to go in the room.
- Q. I see.  
In other words, in those first few words, included was a statement from him to the three of you?
- A. To Mr. Jonnson.
- Q. To Mr. Jonnson not to go into Room 34?
- A. Uh-huh.
- Q. And in his saying that you detected this element that you have just described in his voice?
- A. Yes, sir.

- Q. Now, when Mr. Yanikian made that statement, was he still sitting at the table?
- A. Yes.
- Q. Where were his hands if you can recall?
- A. I am sorry I can't.
- Q. He was sitting there with the overcoat on, though?
- A. Yes. It was a rather memorable scene.
- Q. Did Mr. Jonnson ask Mr. Yanikian any further questions at that point?
- A. I believe, Mr. Lindsey, I asked the next question, which was about medical attention.
- Q. Now, had you reached the table when you asked about the medical attention?
- A. Yes, I had.
- Q. And had you sat down as yet?
- A. No.
- Q. Now, was there some reason why you posed that question to Mr. Yanikian who was sitting there?
- A. About medical attention?
- Q. Yes.
- A. Well, that was my first response that if some body had indeed met with violence that they might need attention, and I also heard some sounds from that room, or  
down the hallway toward that room.
- Q. Now, up to this incident in time that we are talking about, had you, in your mind, connected Mr. Yanikian with circumstances in room 34?
- A. When he asked us not to go in was the first time I realized that perhaps the gentleman we were talking to was connected with this, as well as his statement about having killed them. I mean, it was the refusal of letting us go in because he said he had killed them.
- Q. Then at that point when he mentioned those matters, then you knew at that point, then, he was directly connected with whatever had occurred in Room 34?
- A. I knew he was directly connected with whatever it was that was going on. I didn't know what had happened in room 34.
- Q. Now, was it immediately after those statements you have just recited that Mr. Jonnson and Mr. Saul in some manner stayed away from that particular area and apparently went in some other direction?
- A. I missed them at that point. I think Mr. Jonnson remained there longer than Mr. Saul remained there.
- Q. To your best recollection, neither Mr. Jonnson nor Mr. Saul entered into that hallway that went down to the entrance of Room 34, then?
- A. As far as my knowledge, sir, no. We were told not to.
- Q. Yes.
- Now, as you remain sitting there at the table, then, with Mr. Yanikian, that's when a conversation commenced between Mr. Yanikian and you; is that correct?
- A. That is correct.

- Q. And is this about the time when you were asking about possible medical assistance?
- A. No. I asked that first before I sat down.
- Q. Before you sat down. And what response did you receive-- now, as close as you can remember the words?
- A. My impression of what he said when I asked about it was they don't need it we will wait for Sheriff Carpenter.
- Q. Did he appear at that point to want to, in essence, preserve everything there was about that room 34, preserve it until the officers can get there, specifically Sheriff Carpenter?
- A. Mr. Lindsey, it struck me that he wanted whatever was happening in that room to complete itself and by our not entering it, it allowed it to continue.
- Q. Did he use the name specifically of Sheriff Carpenter?
- A. He did.
- Q. Now, it was at that point that you were hearing sounds coming from the room?
- A. Yes.
- Q. And was it a few moments later when Mr. Jonnson and Mr. Saul returned?
- A. Mr. Saul did not return.  
Mr. Jonnson came around on the covered patio, stood where I could see him, where Mr. Yanikian could not see him, and held up his fingers of two and nodded his head toward me.
- Q. And you took that -- the meaning that had for you was that there were two persons --
- A. In the room.
- Q. -- in the room. Was it at that same time, then, that you became aware of the persons in room number 30 near the window?
- A. Yes, their faces.
- Q. And you mentioned a lady in room 33?
- A. Yes.
- Q. Was she in room 33 near that window that looks out on the patio?
- A. The reason I know that the lady was in room 33 was that after the officers or the ambulances arrived, I walked over and asked her to leave. I suggested she go to the hotel, and she said she would not, she was going to stay and watch it.
- Q. Have you since ascertained the identity of that lady?
- A. No, sir. She was a guest, I gather, in that room.
- Q. Now, was it about this time, then, in your conversation, that you asked Mr. Yanikian why the events had occurred?
- A. At what point? What do you mean "at this time?" What time?
- Q. Mr. Jonnson --
- A. You mean after he made the sign to me that there were two men in there?
- Q. What was the next thing that occurred?
- A. I believe that was when the conversation ensued around the fact of who they were and why he had done it.
- Q. Did he state to you who they were?
- A. He did.
- Q. Is that when he stated that one of them was a consular person?

- A. A consulate from the Turkish, and I missed that word, and a friend.
- Q. Now, did he make a statement also as to why?
- A. Yes.
- Q. What did he say?
- A. He said, "I promised my brother I would do it." And that "They had killed seventy thousand of my people." And I in turn asked him who they were, and he said, "The Turks."
- Q. Now, did he indicate at that moment what, if anything, had ever happened in the past to his brother?
- A. Mr. Lindsey, there has been enough information about that particular episode that I couldn't tell you whether I picked it up since there, or I heard it there.
- Q. Could you have heard it in the patio?
- A. You mean the fact that they had slit his brother's throat?
- Q. Yes.
- A. I am sorry, I couldn't tell you for sure.
- Q. Then the question -- I see it is twelve o'clock, your Honor.
- THE COURT: Yes, we will take the noon recess.

Ladies and gentlemen of the jury, it is your duty not to converse among yourselves or with anyone else on the subject connected with the trial, or to form or express any opinion thereon until the cause is finally submitted to you. We will reconvene at 1:30 p.m.

(At 12:00 noon an adjournment was taken until 1:30 of the same day.)

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5. SANTA BARBARA, CALIFORNIA; WEDNESDAY, JUNE 6, 1973; 1:30 P.M.

AFTERNOON SESSION

THE COURT: The members of the jury and alternate jurors are all present, Gentlemen. The defendant is present.

Mr. Clapp was on the stand, I believe.

BARTON CLAPP (Resuming)

CROSS-EXAMINATION (Continuing)

BY Mr. LINDSEY:

- Q. Mr. Clapp, I believe just before the noon hour, you were recalling some of the comments that you heard from Mr. Yanikian there in the patio. I believe earlier this morning you indicated that when you had asked why the events in Room 34, that there had been mention of there were 70,000 --do you recall that figure? What was said in that regard, sir?
- A. Mr. Yanikian said, "They killed 70,000 of my people."
- Q. And was there any indication as to whom was meant by 'they'?
- A. I asked him who, and he said "The Turks."
- Q. "The Turks."
- And then do you recall him saying anything else at that time, particularly, as he was explaining?
- A. You mean in sequence to that?
- Q. Yes.

- A. No, I don't.
- Q. Now, I believe you indicated that It was somewhere around in that time that he had asked for -- was it a drink of water?
- A. That's correct.
- Q. And did you obtain the water for him?
- A. No, I did not. The security guard did, Mr. Gunnar Jonnson.
- Q. Now, had Mr. Jonnson then returned from wherever he had gone?
- A. I think this was following when he came to me --I stood over behind Mr. Yanikian and held his hand up with the two on it and nodded his head at me, so I'm assuming that he was in the area, because we sent for -- they went to Room 33 for the water.
- Q. Do you know who went for the water?
- A. Mr. Jonnson brought it to me, I gave it to Mr. Yanikian.
- Q. Now, if I recall, there was a matter of significance as to the manner in which Mr. Yanikian would be drinking the water, that is as you sat across the table from him, his hand appeared to be quite steady?
- A. Indeed, it did.
- Q. While he was drinking?
- A. Yes.
- Q. And I believe you indicated in essence that this was of significance and unusual to you, having in mind what you understood that possibly just occurred in Room 34?
- A. That's correct.
- Q. And nothing from what he had said to you, that he appeared to be directly connected with those matters, for him to be able to sit in a very calm and cool manner and very steadily?
- A. Yes.
- Q. Drink a glass of water?
- A. Uh-huh.
- Q. Not just more than a few minutes after the event, is that correct?
- A. Well, I would say that perhaps it was more than a few minutes past the event. I don't know when the event occurred, but certainly his manner of asking for water, and asking if I would like some, also, and then drinking it with a very calm hand, uh, seemed incredible to me.
- Q. Now, I believe you mentioned there was a comment about the fact that you are blond-haired. Can you recite that again, please?
- A. Mr. Yanikian said, "You're lucky you're blond."
- Q. How did you understand that -- What did you understand that to have reference to?
- A. Well, I thought it referred to my hair.
- Q. Was there any additional clarification given to that, that is, that "you were lucky"?
- A. No. He didn't offer any explanation to that.
- Q. And you didn't press the matter either?
- A. No.

- Q. All right. Was there some comment about Los Angeles about this time by Mr. Yanikian?
- A. Mr. Lindsey, I don't know when the reference to Los Angeles was in the conversation, because there were a number of fragmented comments made by Mr. Yanikian, and I asked him questions, -- that came out, and there was reference made by Mr. Yanikian to the fact that he had invited them up from Los Angeles, and he finally got them there. He said they kept giving him excuses, but they finally came this morning and he seemed very pleased with it, then he made the comment to me that they wanted him to come there but that he had chosen not to go there, -- no reference to who "they" were, -- it was as if I had associated with the fact that they must be the same people that he had described to me earlier, but that he did not want to be involved as a big hero.
- Q. Now, did he seem to have a reference, then, to the "they," whoever "they" were, wanted him to come there--did you take that to mean Los Angeles, for him to come to Los Angeles? Was there anything in the conversation that gave you any meaning as to what he was saying there?
- A. He told me earlier in the conversation that the gentlemen -- I asked him who they were in the room, and he told me it was the consulate from the Turkish -- and I missed a word there, as I told you earlier, -- from Los Angeles. Now, whether or not he repeated at that point that they wanted him to come to Los Angeles, I don't know, but he said they wanted him to come there.
- Q. Now, the last part of that comment that you recall him saying -- if we may go over that again, please?
- A. Surely.
- Q. Was it something in essence that he said that he didn't want to become a hero; what was that now as you best recall, about not wanting to be a hero?
- A. Well the only thing I can do is repeat what he said to me, and your interpretation will have to be your own. I did not pursue it further because I didn't have any sense of what was -- why it was even being commented on. His reference the fact that they wanted him to come there, but he didn't want to be a big hero.
- Q. Now, at the moment that he was stating to you that he didn't want to become a big hero; is that essentially his words, or be a hero?
- A. (No audible response.)
- Q. Was there any particular expression on his face that you may have noted?
- A. Mr. Yanikian changed the expression in his face two or three times during the conversation, and it was usually in reference to himself. When he talked about the fact had I read his writings, and I said no, I had not, he said, "It was a pity." He seemed acquickened at that point. I must say, Mr. Lindsey, he didn't seem to track too well during the conversation.
- Q. Could you explain, so that the jury may understand now, to what you had reference, "He didn't appear to track too well"?
- A. Track means to be in some direction as far as, my own thinking, some logical explanation. I mean, I can't—the comments were generally around himself more than they were around what he had done or why he had done it.

- References to himself, and being a hero, and things of this sort which I found incongruous with the other comments.
- Q. Having in mind what you believed probably had occurred shortly before in this room 34, and in your listening to the nature of his comments as you were sitting out there in the patio with him, was there any appearance of you might call disorientation; that is, that he did not appear to be completely oriented to what had apparently occurred in Room 34?
- A. Mr. Lindsey he appeared to me to be a man who had some sort of a plan, who was waiting for it to take place.
- Q. Now, during all these moments that you were talking with him, was he at all times then remaining, seated at the patio table?
- A. I believe he was, yes, uh huh.
- Q. Was it about this time then, that you had asked about any gun, was this question asked by you?
- A. I asked him-- after I had received the information that there were people, in the room. I asked him if he had a gun. He says, "No, I do not have the guns."
- Q. That's when he used the plural form?
- A. That is correct.
- Q. Was there any particular unusual expression or manner about him when he made reference to the guns any different from what you had already observed?
- A. No. He is rather a shrouded man. He does not show a great deal in his face
- Q. Was there some conversation around this time about the hotel bill?
- A. He offered that.
- Q. How did that come about?
- A. Well, I can't recall what brought it on, why he even made comment about it, but it seems to me that was the time that either the ambulance or the deputies arrived, or whoever, the plainclothesman who came there and there was a small tract on the table of one of his writings which I glanced at.
- Q. On which table?
- A. On the patio table where he was sitting.
- Q. Now, on that patio table, then, there was one of his writings?
- A. A tract, a printed tract. A tract is a small quarter fold thing. I just noticed that it was there.
- Q. Were you able to see the title?
- A. No.
- Q. Do you know what happened to that?
- A. No.
- Q. Now, was the discussion of the hotel bill just between the two of you, or was that with some third person?
- A. I overheard the comment, Mr. Lindsey, I don't know whether it was between us and someone else who was standing there by that time, or whether it was just between the two of us. But I overheard the comment, "You can send me the bill in jail."
- Q. Now, again having in mind all that had occurred up to that point, --
- A. Uh-huh.

- Q. --was that conversation from Mr. Yanikian, this interest at that point in the hotel bill, did that appear to you to be somewhat incongruous --
- A. No, he still seemed very determined.
- Q. Still very determined in his manner or his demeanor at that time?
- A. In whatever it was that he was doing.
- Q. Now, was it about this time then, that the ambulances arrived?
- A. I would imagine in the sequence of events. I mean, the majority of my conversation with him took place before they arrived.
- Q. Now, there were two ambulances, each of which arrived at different times?
- A. I believe so.
- Q. Could you hear them as they were approaching the Biltmore area, that is were they using sirens?
- A. Yes, sir. One went by, and went down to the Biltmore entrance instead of coming in the small driveway, which I described to you, and came back then. I think there were two that came at different times -- intervals. Very close to each other, I gather.
- Q. Did you see the ambulance attendants from the first ambulance as they approached cottage number three?
- A. I went around the corner of the cottage number three, around 32, and met them as they were coming there. I left Mr. Yanikian at that time. Mr. Jonnson was there visiting with him or talking to him at that point, and I went around that corner. They were coming that way. I warned them of the fact that he didn't want them in the room.
- Q. Now, Mr. Jonnson then had joined Mr. Yanikian over by the table?
- A. I believe so, I think he was standing on the far side next to Room 30.
- Q. Mr. Yanikian was still seated at the table?
- A. As far as I know, Mr. Lindsey. I didn't see what happened when I went around the corner then.
- Q. Had you left the place where you had been seated at the table in order to assist, as you might be able to, with the ambulance crew coming in; is that the reason you left the table?
- A. I can't tell you why I left. I don't know. But I got up, evidently when they began to arrive, because Mr. Saul was not there. The security guard was not in charge, and by all means I was. He was evidently away at the hotel. That may have been the reason I got up and left.
- Q. Now, up to that point, had any other persons arrived in that area other than--the persons that you have named so far?
- A. In the patio areas?
- Q. Yes.
- A. Not to my knowledge.
- Q. Now, you met the ambulance crew down around room 33, was it?
- A. No, it is on the side of 32 and 31, they would come that way.
- Q. And you had a conversation with the ambulance crew?
- A. Yes.
- Q. What did you tell them?

- A. I told them to, uh, to be careful, because he didn't want us in the room and we didn't know whether or not he was still armed or not.
- Q. Now, was it somewhere in this area here that you met the ambulance crew (indicating on the schematic)?
- A. I would say around 31 and 32, along that sidewalk that runs right there.
- Q. Where, in through here (indicating)?
- A. Yes.
- Q. Now, was the crew in the ambulance headed in this type of direction?
- A. The ones I encountered were.
- Q. Yes. Now, knowing that Room 34 was involved, was there a rear door to Room 34 that would come out?
- A. There is no rear door on 34.
- Q. So that is no exit way out this at all?
- A. That's correct.
- Q. Now, did you accompany the ambulance crew the rest of the way over towards the patio?
- A. I went back, Mr. Lindsey, and stood on the very edge of the outside of the patio and watched from there, and I think that is about the same time that the deputies arrived.
- Q. Well, now, did you arrive back over near that patio area with the ambulance crew?
- A. I'm sorry, I can't tell you where I walked with them, or whether I went on my own, but I did speak to them as they came around the corner and let them know that I felt there was some danger, -- the young man who was coming was black-headed, with a mustache, and he just warned me of the fact that I was lucky to be a blond -- I warned them.
- Q. Now, what I am getting to now, when you got back over to the patio, were you able to observe Mr. Yanikian?
- A. Yes. I watched him.
- Q. Was he still seated at the table?
- A. Yes, he was, until the gentleman, the plainclothesman, began to pat him down.
- Q. But when you got back over near the patio, had the plainclothes -- or the officer in plainclothes arrived as yet?
- A. I don't believe so.
- Q. So that when you got back over to the patio--
- A. (Interposing) He was still talking with Mr. Jonnson.
- Q. Mr. Jonnson. The ambulance crew was there?
- A. Coming around the corner, going back up to the patio to make their entrance into 34.
- Q. They had entered into the patio ahead of you?
- A. I can't tell you that, I don't know who went first -- I don't know.
- Q. Well, when you got back over near the patio to where you could observe Mr. Yanikian, at that moment where was the ambulance crew?
- A. Well, they were in the general area. Now, whether or not they went by him at that time, because of the circumstances, I don't know--I think there was a

- certain pause while we waited before they went in, and I think they did enter, though- - or one man entered before the police arrived.
- Q. Are those moments somewhat vague in your recollection?
- A. Well, they are, because I was moving around, Mr. Lindsey. I had gone around the corner and then I discovered the News Press was there.
- Q. Already?
- A. Already. And I'm sure that you are aware of the fact that the reputation of any place of hospitality is at stake at a moment like this. I encountered them, too, at the same time.
- Q. Did you recognize whoever it was from the News Press?
- A. Yes.
- Q. Who was it?
- A. Well, I can only tell you the way I recognized him was the fact that he has -- he is a man who has a handicap. He walks in an unusual manner. He has one leg shorter than the other. I know who he is, not by name, but I have seen him.
- Q. Now, when you arrived back there, as you just mentioned, near the patio, where was the News Press reporter when you first saw him?
- A. He was coming around the same way, which is the natural entrance to that whole complex.
- Q. Now, when you say "They were coming around," do you mean that there was someone else with the News Press reporter?
- A. I think there were two, --now, this somehow overlaps into the fact that by this time Mr. Yanikian was talking with the gentleman, whoever he was, the plainclothesman. This was about the same time that they were talking to him on the patio.
- Q. Did you hear any of the -- let me withdraw that and ask it this way: Did the News Press reporter go up to the area where Mr. Yanikian was either seated or standing in the patio at that time?
- A. No.
- Q. Excuse me?
- A. No.
- Q. Now, as you were in that area, apparently at least one of the ambulance attendants had gone back towards Room 34?
- A. I think so.
- Q. What is the next thing that you recall occurring?
- A. Well, I--I recall-- The next thing I recall being involved with--I'm sorry, it's hazy --I can't recall whether the bodies--or whoever it was in 34, was brought out before Mr. Yanikian was taken away or not. But they rolled them out, so perhaps somebody else can clarify the sequence of that event. And I met the News Press people again at the corner of 31 and told them that Mr. Yanikian was gone.
- Q. Were both of the persons brought out at the same time, or different times?
- A. No, they were brought out different times.
- Q. Different times. Now, when the person is brought out, was the ambulance nearby?

- A. The ambulance was parked in that center parkway there where it says "Not to Scale."
- Q. And did that person depart in the ambulance prior to the time of the arrival of the second ambulance?
- A. I'm sorry, I can't tell you. I don't know.
- Q. Did you see the second person brought out?
- A. Yes.
- Q. Now, you cannot recall at this time whether Mr. Yanikian was still there when they were brought out or not?
- A. I'm sorry, I can't.
- Q. When the officers arrived, Mr. Yanikian was still talking with Mr. Johnson, wasn't he?
- A. That's right.
- Q. And was the first officer to arrive the one in plain clothes, or civilian clothes?
- A. Yes. He had a pair of Levis on.
- Q. Did you recognize him?
- A. No.
- Q. Did he arrive by himself or with other officers?
- A. Well, I can recall, Mr. Lindsey, is seeing him talk to Mr. Yanikian on the patio, and he was the only man on the patio with him, -- only officer, evidently.
- Q. Were you near enough at that time to see?
- A. Yes. I was standing right where the X is by the patio there, a rather large group of us had gathered to watch at this time, -- the housekeeper was there from the hotel, --I think Mr. Saul had returned at that time. Mr. Jonnson was still on the patio, I believe, and the bellman -- the head bellman for the Biltmore was also there.
- Q. Were you close enough to hear any of the conversation of Mr. Yanikian at that point?
- A. I heard the conversation from, who I assumed was a deputy.
- Q. And was it moments after that, then, that so far as you know, Mr. Yanikian departed from the area?
- A. Yes. They took him around the corner of 30. I asked them to.
- Q. Now, you asked who?
- A. I asked the gentleman who was leading him off the patio, whoever the deputy was, -- he was by this time handcuffed he had his coat on him again, and he was going, and I knew the News Press was at 31, and I knew he had to go around 30 to miss them.
- Q. I see. Having in mind the fact that the Biltmore is the Biltmore and having in mind a normal desire to avoid any more publicity than necessary on it, and knowing that the reporter for the newspaper is down around 31 or 32, it seemed appropriate to you, then, did it not, to suggest that Mr. Yanikian be taken around the other way to avoid the reporter?
- A. It did. It didn't work.
- Q. Excuse me?
- A. It didn't work. They caught him down --
- Q. (Interposing) On the other side?

- A. Yes.
- Q. Was there a photographer there?
- A. There was.
- Q. A cameraman with the reporter, then?
- A. All I know, Mr. Lindsey, is the next day there was a photograph in the paper of him getting into the squad car in the driveway of the Biltmore, which was the very thing I was trying to avoid.
- Q. Let me ask you just one last little area and I will be all completed. When you had asked about why, why the events in Room 34, you indicated, I believe, that Mr. Yanikian had mentioned something about the atrocities to his people. There was that type of reference somewhere in the conversation that you had with him, is that correct?
- A. Let's see -- he told me that they had killed 70,000 of his people. "I promise my brother I would do it" and I can't -- did I make reference to atrocities to his people?
- Q. Do you recall whether any of the conversation from Mr. Yanikian was in that frame of reference, atrocities to his people?
- A. Not in my best judgment, I can't remember, no.
- Q. Now, have you, to the best of your recollection now, given us as complete a description of the details of the events of this day as you can best recall?
- A. Well, there were some small things -- for example, I, myself, just to verify what was going on, went around, after Mr. Yanikian was being talked to by either Mr. Jonnson or the security guard, and looked in the window of 34 and saw one of the bodies through the window.
- Q. Was there anyone else in the room at that time?
- A. Not that I could see -- not that I could see.
- Q. Was there more than one person in that room?
- A. I could only see one, Mr. Lindsey.
- Q. Where was that person located?
- A. He was stretched right along the window.
- Q. Could you indicate to the jury with the pointer, please.
- A. I believe there are two windows in that end, and I looked in this window (indicating on schematic).
- Q. That would be, as we are looking at the diagram, it would be the window to the right for Room 34, then?
- A. If this is correct, if there are two windows there, then I looked in the window that was the furthest here, and the body was stretched this way (indicating) with the head at this end (indicating on schematic).
- Q. Was that person moving in any way?
- A. No.
- Q. Could you at that time hear anything from your position?
- A. At that time, no.
- Q. Was there any particular disarray in the room other than the person lying there?
- A. Well, it was very peculiar, because there was no light on in the room, and I couldn't very well -- I didn't know whether somebody had already been in the room at that point or not -- and I could only see one body. I didn't know where

the second one was, or if there was one there, so I could tell no -- the man was in a pool of blood.

Q. Could you observe that from your position?

A. Yes, that I would call disarray.

Q. Face down or face up?

A. He was lying flat down, his stomach against the carpet, but his face was turned towards the bed, which is away from the window.

Q. Now, you mentioned the fact that there were some additional details, and you have just recited one, were there any other details that you can recall?

A. Mr. Yanikian told me, in the course of the conversation that we had at the table on the patio, that he was an old man and that it didn't matter.

Q. Do you remember at what point, in the sequence of the conversations you mentioned so far, that he made that comment?

A. That was during the time when he and I were having a rather personal conversation in the early part of events, before the people began to arrive, in the same sequence of when he was talking about who they were.

Q. Now, are there any other particular details that you can recall that you have not as yet mentioned?

A. I told you the lady in 33 wouldn't leave, didn't I?

Q. Yes .

A. I think not, Mr. Lindsey,

Mr. LINDSEY: Thank you very much. Thank you, your Honor.

REDIRECT EXAMINATION

BY Mr. MINIER:

Mr. Clapp, just one or two questions.

Q. At any time while you were talking with the defendant, or while you were watching him after you had left the immediate area at the table, did the defendant appear to be in any kind of a trance?

A. No

Q. Did he appear to you to be dazed?

A. No.

Q. Did he appear to you to be in a state of shock?

A. What is a state of shock, Mr. Minier?

Q. That perhaps is a medical term. Let me withdraw that, and I will ask you another question.

Did he appear to you to be fully conscious and aware that, of what was going on about him?

A. I would say totally.

Mr. Minier: Thank you, nothing further your Honor.

Mr. Linsey: Nothing further your Honor.

THE COURT: Thank you, Mr. Clapp, you are excused and free to leave.

Mr. MINIER: John Kolbert, please

JOHN KOLBERT

Called as a witness on behalf of the People having been duly sworn and testified as follows.

DIRECT EXAMINATION

BY Mr. MINIER:

- Q. Would you please state your full name and spell your last name for the record
- A. John A. Kolbert, K-o-l-b-e-r-t.
- Q. What is your occupation?
- A. Deputy Sheriff, Santa Barbara County.
- Q. How long have you been so employed?
- A. Three years.
- Q. Were you then employed and on duty on Saturday, January 27 of this year?
- A. Yes.
- Q. Were you in a patrol car on that day?
- A. Yes.
- Q. While you were in the patrol car on Saturday, did you have occasion to be dispatched to the area of the Biltmore Hotel?
- A. Yes, I did.
- Q. What was the purpose of your going there?
- A. I received a call that two people had been shot there.
- Q. After you arrived at the Biltmore, did you have occasion to meet with some of the hotel officials?
- A. Yes, I did.
- Q. And then did you discuss with them the subject matter of the report about two men being shot?
- A. Yes. They stated that he was--that the victims were in Cottage 34, and that the suspect was sitting in the patio in front of the cottage.
- Q. Now, is there a deputy sheriff or detective on the Santa Barbara Sheriff's Department by the name of Robert Norton!
- A. Yes.
- Q. Was he there at about the same time that you have just described?
- A. Yes, he was.
- Q. Can you tell when and where it was that you first noted that he was present?
- A. Right after I arrived on the scene, as I was talking to the manager of the Biltmore.
- Q. Did you arrive in your vehicle?
- A. Yes.
- Q. Was that a marked Sheriff's vehicle?
- A. Yes, it was.
- Q. And did you arrive with any kind of emergency procedures, red light or sirens?
- A. Red lights.
- Q. Were you in a uniform?
- A. Yes, I was.
- Q. How was Detective Norton dressed?
- A. Plain clothes, real casual. I believe he was wearing Levis and some type of short sleeve shirt.
- Q. Do you know, however, if he was on duty at that time?

- A. Yes, he was working.
- Q. Is he a detective?
- A. Yes, he is.
- Q. Now, did both you and Detective Norton go from the place where you had parked your patrol vehicle towards the general direction of room number 34?
- A. Yes, we did.
- Q. Did any of the hotel personnel indicate to you the way to go?
- A. Yes.
- Q. Now, was there any decision made as between you and Detective Norton about the possibility of approaching the suspect?
- A. Yes. We decided that since Detective Norton was in plain clothes, since we didn't know the frame of mind of the suspect, he would approach him.
- Q. As opposed to you with your uniform on; is that correct?
- A. Right.
- Q. In your uniform, I assume you are wearing a badge, were you?
- A. Yes.
- Q. And you had a gun which was exposed in an external holster, did you?
- A. Yes.
- Q. Now, Mr. Kolbert. I am going to call your attention to the defendant Mr. Yanikian seated at the counsel table, in the blue suit, between his two attorneys and ask you if you had occasion to see him at the scene?
- A. Yes, I did.
- Q. Calling your attention to the diagram on the board, People's Exhibit 16, would you look at that for a moment and tell us if that appears to you to be a reasonably accurate representation of the floor plan, at least the external floor plan of the cottage towards which you went at the Biltmore on that day?
- A. Yes, it is.
- Q. And do you recognize the area up towards the top, which is labeled "patio" and then there is a round table indicated there?
- A. Yes.
- Q. Now, with respect to the diagram on the board, can you tell us where it was when you first saw the defendant?
- A. He was sitting on the table, -- I am not sure if that is a Z or a 2, whatever that is.
- Q. At any rate, he was seated at the table which appears in the patio area; is that correct?
- A. Right.
- Q. Where were -- let me ask you this first. Were you and Deputy Norton still together, do you recall, when you first saw the defendant?
- A. Yes.
- Q. And was it then after that time that deputy Norton left you to approach the defendant?
- A. Yes, it is.
- Q. At that time do you recall if you had your gun drawn?
- A. Yes, I did.

- Q. Now, after Detective Norton approached the defendant, was the defendant eventually arrested?
- A. Yes, he was.
- Q. And did, you then have occasion to also come up and participate in the arrest
- A. Yes, I did.
- Q. Before the defendant was arrested, did either you or Detective Norton in your presence give any kind of identification to the defendant to show that you were law enforcement officers?
- A. I was in uniform. As Deputy Norton approached him he took out his ID -- Sheriff's ID with badge and showed it to, Mr. Yanikian.
- Q. Now, at that time, did the defendant say anything?
- A. As I approached, I heard him say, "I have been waiting for you." And I can't recall the exact words he used, but he said something to the effect that "I have shot two men."
- Q. Was there any indication of where the two men were?
- A. In the room.
- Q. Now, was this statement by the defendant, where he said, "I have been waiting for you," and words to the effect that "I have shot two men in the room" were there any questions put to the defendant by either you or Detective Norton before he made that statement?
- A. No, there weren't.
- Q. Was that statement made, then, immediately after you had approached and Detective Norton showed his identification and his badge?
- A. Yes.
- Q. And then after that point in time, was the defendant then arrested?
- A. Yes he was.
- Q. Which one of the two of you actually made the physical arrest?
- A. Deputy Norton.
- Q. All right, after the arrest, did either you or Detective Norton in your presence read the defendant or advise the defendant of any legal rights?
- A. I heard him start to advise him of his legal rights.
- Q. As that was happening, what did you then do?
- A. I then left and went into the room.
- Q. Which room was that, do you recall?
- A. It was Room 34.
- Q. Now, at that time do you know if there were any ambulance personnel on the scene?
- A. Yes, there were.
- Q. What did you do with respect to the room?
- A. I entered the room with the ambulance personnel.
- Q. Do you know whether any of the ambulance personnel had actually been in the room before you entered?
- A. I understand Mr. Perry did, or had been.
- Q. What if anything was your function, then, with respect to Room number 34?

- A. My concern was to show what had happened to verify the shooting and to preserve the crime scene.
- Q. By preserving the crime scene, you mean to make sure that everything was left in order until certain evidence could be collected and photographed?
- A. Yes.
- Q. Was the defendant, shortly after the arrest, moved from the scene.
- A. Yes, he was.
- Q. Who took him away?
- A. Deputy Norton.
- Mr. MINIER: Thank you, I have no further questions, your Honor.

CROSS-EXAMINATION

BY Mr. LINDSEY:

- Q. Mr. Kolbert, being a deputy with the Sheriff's Department, how many years have you been with the department now, please?
- A. Three.
- Q. Three Years. On this particular day, that is January the 27th, were you on patrol duty then?
- A. Yes. I was.
- Q. Were you with -- did you have another officer on patrol with you?
- A. In my car?
- A. Yes.
- A. No.
- Q. Now, you first heard of this matter when you received a radio dispatch call then?
- A. Yes,
- Q. And do you recall the approximate time of receiving that call?
- A. Approximately ten after twelve.
- Q. And as a result of that, or on that call, were you advised of the nature of the calls you were to make, that is, the reason you were to report to the Biltmore?
- A. Yes.
- Q. What was the reason that you were given?
- A. That two persons had been shot there.
- Q. So that as you started towards the Biltmore, turned an your red lights, and you knew that there was an apparent -- perhaps two homicides?
- A. Yes.
- Q. Or these two shootings involved two persons. Did you use your siren on the way?
- A. Yes, I did.
- Q. Now, where did you park at the Biltmore?
- A. On Channel Drive right across from the entrance -to the Bonnymeade -- yes, to Bonnymeade.
- Q. How did you know that that was the place most appropriate to park your vehicle?
- A. I was flagged down by the hotel manager.

- Q. There was someone out there in the roadway, then, that signaled you as you came into that area?
- A. Yes.
- Q. Did you then leave your vehicle and walk toward what you now know to be cottage number three?
- A. Not right away.
- Q. Did you remain out there where your vehicle was for a few moments, then?
- A. Yes.
- Q. Was that for additional backup purposes?
- A. Yes.
- Q. How many other cars arrived there before you started over to cottage three?
- A. Deputy Norton and an officer from the Santa Barbara Police Department.
- Q. Do you recall the name of the police department officer?
- A. If I may refer to my notes?
- Q. Please.
- A. Officer Heaton.
- Q. Is that H-e-a-t-o-n?
- A. Yes.
- Q. Now, the Biltmore, is that outside the city limits of Santa Barbara?
- A. Yes.
- Q. Do you have any knowledge as to how the City police officers came to be there? A. I just assumed they were contacted as a backup unit.
- Q. Sort of a mutual assistance sort of a thing on a Saturday, is that it?
- A. Yes.
- Q. Now, once Mr. Norton and Mr. Heaton, had arrived and you were waiting with your vehicle, did the three of you then commence going towards cottage number three?
- A. Yes, we did.
- Q. Were you in the company of some person of the Biltmore Hotel?
- A. The Manager, Mr. Saul.
- Q. Was it Mr. Saul that had flagged you down?
- A. Yes.
- Q. So then the four of you then commenced walking in a direction towards the Cottage number three; is that correct?
- A. Yes.
- Q. And is it correct that Mr. Norton was a little bit in the lead of the group as you were going towards that cottage?
- A. Not until we approached a certain location.
- Q. What location was that, please?
- A. That would be the corner of the building, room 30, and the wall.
- Q. Would you like to take the pointer so that the jury can follow, please?
- A. We approached together from this area up to here. We observed Mr. Yanikian, and then I stayed at this location and Deputy Norton entered the patio this way and approached Mr. Yanikian?
- Q. Where was Mr. Heaton?
- A. He was back here with me.

- Q. Back there in your area?
- A. Right.
- Q. Now, was Mr. Heaton in uniform also?
- A. Yes, he was.
- Q. Now, is it correct that Mr. Heaton and you, being both in uniform, had remained back in that area because it seemed more appropriate to allow Mr. Norton, who was not in uniform, to approach Mr. Yanikian?
- A. Yes, it did.
- Q. Now, were you close enough to hear the conversation right at the beginning between Mr. Norton and Mr. Yanikian?
- A. Yes, because as soon as Deputy Norton made initial contact and was showing his Sheriff's identification, I also quickly approached the patio and walked right up to where they were.
- Q. Did you walk along the same general route that Mr. Norton had and enter into the patio the same way?
- A. Yes.
- Q. Did Mr. Heaton, from the Police Department, was he along with you when you did that?
- A. Yes.
- Q. So that about the time that Mr. Norton was identifying himself as an officer to Mr. Yanikian, the other two of you were in the process then, of coming into the patio yourselves?
- A. Right.
- Q. Now, what do you recall being said at that moment when you heard the first conversation taking place between Mr. Norton and Mr. Yanikian?
- A. I heard Deputy Norton identify himself.
- Q. What did you hear him say?
- A. I don't recall the exact words. I am pretty sure he said, "I am Deputy Norton from the Sheriff's Department."
- Q. Was there any response from Mr. Yanikian?
- A. Yes.
- Q. What did he say?
- A. He said "I have been waiting for you."
I remember that, and I don't recall the exact words, but he made mention of the fact that he had just shot two people.
- Q. Was Mr. Yanikian, in those first comments to the officer, still sitting, or was he standing?
- A. He was sitting.
- Q. Do you recall where his hands were located?
- A. I don't recall.
- Q. Now, when Mr. Yanikian made that comment to the officer, how close were you to Mr. Yanikian?
- A. About ten feet, I'd say.
- Q. What did you observe about his appearance at that time?
- A. How do you mean?
- Q. Did he appear to be calm?

- A. Yes.
- Q. He was not angry, was he?
- A. I didn't notice any anger.
- Q. He was not in tears or crying, was he?
- A. No.
- Q. Did he appear to be calm and cool and relaxed at this point?
- A. I wouldn't say he was totally relaxed, he was aware of the situation, what was going on.
- Q. Now, after Mr. Norton identified himself, what is the next thing that occurred there?
- A. As he -- he was handcuffed, and as Deputy Norton then started to advise him of his rights, and I entered the room to see what had occurred.
- Q. Let me take you back over that but slowly.
Mr. Norton identified himself, and Mr. Yanikian made the comments that he did, and was it immediately after that, then, when he was handcuffed?
- A. Yes.
- Q. Were any Miranda rights read to Mr. Yanikian?
- A. Yes.
- Q. Was that before handcuffing or after handcuffing?
- A. After.
- Q. Now, was he placed under arrest before he was handcuffed?
- A. Yes.
- Q. Did Mr. Norton say anything then in placing him under arrest?
- A. I don't recall what he said.
- Q. How do you know he is placed under arrest, then?
- A. I assumed he had been if he was being handcuffed.
- Q. Now, was he handcuffed with his hands to the front or to the rear?
- A. To the front.
- Q. When he was being handcuffed did Mr. Yanikian say anything?
- A. What I can recall, he was -- an attempt was initially made to handcuff him from the rear, Mr. Yanikian claimed of a -- he had a bad shoulder, complained of it hurting so therefore he was handcuffed in front.
- Q. Then you recall hearing, say, in the conversation something about some shoulder disability, that made it, somewhat of a problem to handcuff him from behind his back?
- A. Right.
- Q. Words to that effect?
- A. Yes.
- Q. Did he resist handcuffing in any way?
- A. He resisted being handcuffed in back because of the sore shoulder.
- Q. Did he say anything else about being handcuffed?
- A. No.
- Q. Now, after he was handcuffed, what was the next thing that occurred? Was this when the reading of the rights occurred?
- A. Right.

- Q. Where were you -- how close were you to Mr. Yanikian when Mr. Norton commenced the reading of the Miranda rights?
- A. May be a foot or two away.
- Q. And did you then hear him read the rights off of the card to him?
- A. I heard the beginning of it.
- Q. And is that when you then left to go to the room?
- A. Yes.
- Q. While you were still within earshot, as Mr. Norton commenced the reading of the rights, did you hear Mr. Yanikian say anything?
- A. I -- there were a lot of people saying different things, I don't recall what exactly he might have said, if he said anything.
- Q. Well, when Mr. Morton commenced the reading of the Miranda rights, were you still about perhaps a foot and a half or two feet away from Mr. Yanikian?
- A. Yes .
- Q. And then once the reading of those rights started, you turned and went towards Room 34?
- A. Yes.
- Q. And you do not presently have any clear recollection of anything that Mr. Yanikian may have said during the time that Mr. Norton was reading the Miranda rights to him?
- A. No, I don't.
- Q. Now, you entered the room with one of the ambulance attendants, or did you enter by yourself?
- A. Two of the ambulance attendants.
- Q. Two of the attendants?
- A. Yes.
- Q. I believe you indicated that one of those attendants had already been apparently in the room previously?
- A. I didn't know. I found out later on that Mr. Perry had been.
- Q. I see. And when you entered into the room, what did you see?
- A. I saw two bodies lying on the floor.
- Q. Would you take the pointer, please, and indicate so that the jury may follow what you saw in Room 34?
- A. Approached the room through here, entered this little hallway, there is a bed here, dresser, one body was here in a prone position with the head facing this wall (indicating on schematic) .
The other body was lying in the same position, same direction, just slightly to the back and up towards the bed.
- Q. Now, at the time that you entered into the room and while you were there, and while both of the men were there on the floor, did you hear any sounds from either of the men?
- A. I don't recall hearing any sounds from them.
- Q. Were you able to observe whether either one of them were breathing?
- A. The one lying towards the bed appeared to be breathing.
- Q. Did you personally check either one of those men to determine any vital signs?
- A. Yes.

- Q. Did you check both of them?
- A. Yes.
- Q. Did they both appear at that time to have vital signs?
- A. The one that was breathing did. However, I was unsure of the other one.
- Q. Now, did the two ambulance attendants immediately perform the work that they were there for?
- A. Yes.
- Q. What did the ambulance men then do?
- A. They -- the first two ambulance men that came in with me took the gentleman that was still -- appeared still to be alive, placed him on the gurney, and took him away to the hospital.
- Q. Now, when they took that gentleman away, that left the other man still there in the room then, did it not?
- A. Yes.
- Q. Was that because the other ambulance had not yet arrived?
- A. They -- I don't know exactly what time they arrived, but they were there when the first gentleman was being taken out of the room.
- Q. Now, at this time when the first man was being removed, there was present in that room the two ambulance people and you, -- were there any other persons in there?
- A. Officer Heaton.
- Q. Mr. Heaton had come in there, also, with you?
- A. Yes.
- Q. That means officer Heaton and you were there with the two ambulance men. Any other persons?
- A. Just the other two ambulance men.
- Q. Excuse me?
- A. The second pair of ambulance men came in.
- Q. Now, did the second pair of ambulance men arrive before the first man was taken from the room?
- A. Yes.
- Q. Now, as soon as the first man then was taken from the room, did you assist with the second man and with the ambulance crew?
- A. Yes.
- Q. And did they then remove the second man from the room?
- A. Yes, they did.
- Q. Now, at that point did that leave then Mr. Heaton and you the only two persons in the room?
- A. Yes.
- Q. Now, having in mind your training as an officer, the fact that from what you could see, it appeared to be two homicides involved -- was there any part of that room that you observed to be in any disarray at that time?
- A. It was generally tidy. The only thing, I noticed that seemed to be out of place was the chair lying on top of the bed.
- Q. A chair where?
- A. Lying on top of the bed.

- Q. Could you indicate to the jury with the pointer, please, first of all, the location of the bed.
- A. The bed was against -- against this wall (indicating), encompassed that part of the room.
- Q. Where was the chair located on that bed?
- A. In the middle -- towards the foot portion of it.
- Q. Now, was the chair in a particular position on the bed?
- A. Like on its side, or back, -- I'm not exactly sure.
- Q. Would you describe that chair for the jury, please?
- A. I believe that it had -- it was a wooden chair, I believe it had arms on it.
- Q. Did you at that time make any determination as to how that chair happened to be on that bed in the position that you saw it?
- A. Not at that time, no.
- Q. Did you subsequently make a determination as to how that chair was in that position?
- A. Yes.
- Q. What did you learn?
- A. I learned that the ambulance attendant that had been into the room prior to my entering had placed it there.
- Q. All right, which ambulance attendant was that, one of them for the first person or one for the second person?
- A. First person.
- Q. Did you determine where the ambulance attendant had first -- from where he had first moved that chair, or why he had moved it?
- A. I don't know.
- Q. Was that a matter that was up to one of the other investigating officers?
- A. Yes.
- Q. Now, did you at any time learn whether or not that chair had been -- or a chair in the room had been thrown at Mr. Yanikian by one of those two men?
- A. I did not know.
- Q. Now, other than that chair being on the bed, did the room appear to be in a normal orderly condition?
- A. Yes.
- Q. Were there any other unusual objects that you noted in that room at that time?
- A. Two guns on top of the dresser -- two handguns.
- Q. Any other item in there of unusual significance?
- A. Expended shell casings, lying on the floor.
- Q. And were there any other unusual items you noted?
- A. A lot of blood lying on the floor.
- Q. Were those in the areas where the two men were on the floor?
- A. Yes.
- Q. And any other unusual aspect you noted?
- A. No.
- Q. How, did you then leave the room and go back through the hallway and back towards the patio area?
- A. Yes.

- Q. Was Mr. Yanikian out there in the patio area?
A. No.
Q. Did you see Mr. Yanikian again at the Biltmore during that day?
A. Not I did not.
Q. Did you remain behind to assist other officers that were coming?
A. I remained there until my sergeant arrived, and turned over the security of the room to him, then I went to the hospital to determine the identity of the persons that had been shot.
Q. Then you went from the Biltmore to which hospital?
A. St. Francis.
Q. And that is where the two individuals had been taken?
A. Yes.
Q. And then when you concluded your work there, was that the end so far as you were concerned for that day?
A. I went back to the Biltmore.
Q. Why did you go back to the Biltmore?
A. To speak to the detectives.
Q. I see. And then after you were there for a brief while, did that end your work on the case that day?
A. Yes, it did.
Q. What I m getting to, did you have any occasion, to see or converse with Mr. Yanikian after he left the Biltmore area?
A. No, I did not.
Q. Now, during all of the time that you did see him there at the Biltmore on that day, have you essentially described it to us as best you can recall his appearance and any of the reactions that you observed of him?
A. Yes.

Mr. LINDSEY: Your Honor, I have no further questions.

Mr. MINIER: I have nothing further, your Honor.

THE COURT: All right thank you, officer. You are excused.

(Whereupon, the witness was excused and withdrew from the stand.)

THE COURT: We will take the afternoon recess, Ladies and Gentlemen of the jury.

It is your duty not to converse among yourselves or with anyone else on any subject connected with the trial, or to form or express any opinion thereon until the cause is finally submitted to you.

Five-minute recess.

(Whereupon a short recess.)

THE COURT-. All members of the jury and the alternate jurors are present. The defendant is present.

All right, gentlemen.

Mr. MINIER: Michael Perry, please.

MICHAEL WILLIAM PERRY,

called as a witness on behalf of the People having been duly sworn testified as follows:

DIRECT EXAMINATION

BY Mr. MINIER:

- Q. Would you please state your full name for the record?
A. Michael William Perry.
- Q. P-e-r-r-y, is it?
A. Correct.
- Q. What is your occupation, Mr. Perry?
A. Manager, Coast Ambulance.
- Q. You work for an ambulance company?
A. Yes.
- Q. Would you keep your voice up a little, please, so all our jurors can hear you?
You are what kind of an employee; do you drive an ambulance, or an attendant, what do you do?
A. On this particular day, I was a driver.
- Q. You are referring to January 27 of this year?
A. Yes.
- Q. Is the uniform you are wearing your ambulance uniform?
A. Yes.
- Q. So I take it then, you were also employed as an ambulance driver on January 27 of this year?
A. Yes.
- Q. Is that for the same company for which you now work?
A. Yes.
- Q. Now, during the course of your duties as an ambulance driver on the 27th of January, did you receive a call from the Biltmore Hotel of Santa Barbara?
A. Yes, we did.
- Q. Do you recall the time?
A. It was approximately 12:10.
- Q. What was the nature of the call?
A. We were requested to respond to a possible murder at the Biltmore Hotel.
- Q. When You say 12:10 I take it you are referring to afternoon; is that correct?
A. Right.
- Q. Did you drive the ambulance to the Biltmore Hotel?
A. Yes, I did.
- Q. Was there anybody in the ambulance with you?
A. My attendant, Skip Harkson.
- Q. Do you know approximately what time it was that you arrived at the Biltmore?
A. Approximately 12:14.
- Q. Incidentally, is there any particular way you know it was 12:10 when you got the call?
A. Off of our radio log.
- Q. Calling your attention to the defendant, the man seated between the two attorneys at the counsel table in the blue tie and blue suit, did you have occasion to see him on the premises at the Biltmore Hotel on the 27th of January?
A. Yes, I did.
- Q. Would you tell us where on the premises that was?
A. He was in the patio area, seated at the table.

Calling Your attention to People's Exhibit 15, which is the color photograph on the board, does that appear to be the patio area and building to which you are referring?

A. Yes.

Q. Again, calling your attention to the larger diagram on the board, People's 16, can you tell us if that appears to be a reasonably accurate floor plan of that building, at least of the external portions of the building in the patio area?

A. Yes.

Q. So the defendant, when you first saw him, was seated on the patio?

A. Yes, he was.

Q. Was he seated at a table?

A. Yes.

Q. Is that the table which appears towards the top of the diagram as a round marking next to the area marked "patio"?

A. Yes.

Q. And on the color photograph the table would be right down below under where you can see that umbrella on the patio?

A. Yes.

Q. When you first saw the defendant do you recall what he was doing at that time?

A. He was talking to Gunnar Jonnson, the head of security at the Biltmore.

Q. At that time, were there any Sheriff's Deputies present?

A. No, there were not.

Q. Had you been informed as to the particular portion of the Biltmore premises where you were to go to see if you could render assistance to anybody?

A. Yes, we were. We were stopped upon arriving by Barton Clapp and Paul Franssen who is the head bell captain.

Q. Did they direct you to that particular portion of the Biltmore premises?

A. Yes, they did.

Q. As you approached the defendant, did you have occasion to say anything to him?

A. Yes. Clapp had told us that he was not allowing anyone in the room, and upon arriving, we asked him -- or I asked him if it would be all right if I went in the room, and he said "No use, they are both dead, I placed a mercy shot at the back of their head." And I asked him if I could go in any way, and he nodded.

Q. Did you then go in?

A. We then went in.

Q. When you say 'we,' are you referring to you and the driver, or you and the bell captain?

A. The bell captain.

Q. Could you tell the jury, please, what you saw as you entered the room -- first let me ask you, was the room you went into the one that is marked 34 on the diagram?

A. Yes.

Q. Would you describe what you saw when you went in, please?

A. When we first went in the room, we saw one body next to the windows and another body at the foot of the bed.

Q. Did you have occasion later to identify the names of those two person as Mehmet Baydar and Bahadir Demir?

A. Yes.

Q. Do you recall which one was in what position with respect to the bed and the window?

A. Baydar would have been next to the windows and Demir at the foot of the bed.

Q. Were they both on their backs or stomachs?

A. They were both on their stomachs.

Q. Did you notice any blood in the immediate vicinity of the two men?

A. There were pools of blood around both heads.

Q. Was there a chair anywhere in the vicinity of both of them?

A. Yes. There was an upright chair at the head of Demir.

Mr. MINIER: Your Honor, I have a series of four photographs which I wonder if we might have marked for identification.

THE COURT: Yes. As the next four exhibits in order.

THE CLERK: 18, 19, 20, and 21.

(Whereupon the four photographs were thereupon duly marked People's Exhibit

Nos. 18, 19, 20, and 21 for identification purposes only.)

Q. Mr. Perry, I'm going to show you People's Exhibit No. 18 for identification and ask you if you can identify this colored photo as being a true and accurate representation of the interior of the room with the exception that the bodies had obviously been removed at the time that the picture was taken, and also there are certain little pieces of paper marked with what appear to be evidence numbers. With those exceptions, does that appear to be the way it looked?

A. (Witness examining exhibit) Yes.

Q. Do what appears to be bloodspots in the picture appear to be in the identical place that they were when you saw the room?

A. Yes.

Mr. MINIER: Your Honor, we would offer People's Exhibit No. 19 into evidence to illustrate the testimony of the witness.

THE COURT: Received.

(Whereupon, the colored photograph duly received in evidence as People's Exhibit No. 18.)

Mr. MINIER: May we put that photograph on the board, your Honor?

THE COURT: Yes.

Mr. MINIER: Thank you (placing exhibit on blackboard.)

Q. BY Mr. MINIER: Mr. Perry, I wonder if with the red marking pencil, if it will work on the photograph, and I think it will, would you be able to approach the board, please, and draw some kind of an outline by way of a circle or an oblong of a line to show the respective locations as best you can of the two bodies as you saw them when you entered the room?

A. There was one body right here, and another one here (drawing on photograph).

- Q. You have drawn an oblong kind of a circle, have you not, to indicate the area of the two bodies.
- Q. Now, with respect to the heads, where were the heads?
- A. The one head would have been next to this cabinet here, and the other head right here (indicating on photograph).
- Q. Are you indicating that the heads of the two men then would have been generally above those two dark areas on the rug that appear to be bloodspots?
- A. Yes.
- Q. And which man did you say was where in the room? Which one was next to the bed and which one next to the window?
- A. Baydar was here (indicating) and Demir was here (indicating).
- Q. I believe Demir is spelled D-e-m-i-r, and would you write that, please, within the circle.
- A. (Witness complying.)
- Q. And Baydar is spelled B-a-y-d-a-r, and could you also write that in.
- A. (witness complying.)
- Q. Now, while you are still standing there, could you tell us where this chair was that you said was there upon your arrival?
- A. The chair was right here (indicating on photograph).
- Q. Are you able to draw in a rough diagram?
- A. Witness marking an "X".
- Q. Diagram of the chair, or can you not do that—or would you rather just put an 'X' there? All right. Was it standing upright at the time or not?
- A. It was standing upright.
- Q. Do you think that you can give us a general indication of where it was if you can show it to be standing upright?
- A. (Witness drawing on photograph.)
- Q. Fine. Would you write the word 'chair' next to that. It is a good diagram, but we could use that word, also. Were all four legs of the chair on the floor?
- A. Yes.
- Q. At the time. And with respect to those little white pieces of papers with numbers, were they there?
- A. Yes.
- Q. The white pieces of paper that are all over the floor?
- A. The casings they represent were there, -- the papers weren't.
- Q. Apparently then you saw some shell casing in the room, did you?
- A. Yes.
- Q. And the little pieces of paper now appear in the general area where you saw the shell casings?
- A. Yes.
- Q. But the pieces of paper were not there when you first entered the room, is that correct?
- A. Right.
- Q. They were put there later?
- A. Yes.

Q. Now, one final thing, there appears to be what is a towel on the floor. Do you know how the towel got there?

A. Yes. We left it there.

Q. Was that part of the various things that you brought in, in an attempt to perhaps aid the two men?

A. Yes.

Q. You can take the witness chair again, if you would like.

Did you do anything with respect to the chair that you said was standing in the position you have outlined on this photograph?

A. Yes. I moved the chair up on the bed.

Q. I'm going to show you People's Exhibit No. 19 for identification and ask if that appears to be the same chair.

A. (Witness examining exhibit) Yes.

Q. Does that appear to be the position in which you left the chair on the bed in that room after you had removed it from the floor?

A. Approximately.

Q. What was the purpose for which you removed the chair?

A. The chair was next to the head of Demir, and I needed to move the chair so I could get to him better.

Mr. MINIER: Your Honor, we would offer People's Exhibit no. 19 into evidence to illustrate Mr. Perry's testimony.

THE COURT: Received.

(Whereupon a colored photograph duly received in evidence as People's Exhibit No. 19.)

Q. BY Mr. MINIER: Now, I'm going to show you People's Exhibit No. 20 and ask if you can identify this as being an accurate portrayal of the room as you saw it, with the exception that the bodies had been removed and the chair is no longer on the floor there, and the towel that you just testified to also appears in the picture. Other than that, is it accurate?

A. (Witness examining exhibit) Yes.

Q. Now with respect particularly, there is what appears in the photograph to be some kind of currency -- or bank note? I will point it out, -- over towards the drape that appears to be hanging next to the window. Was that there when you were in the room?

A. (Witness examining exhibit) Yes, I did notice it.

Mr. MINIER: Your Honor, we would also offer People's Exhibit No. 20 to illustrate the witness's testimony.

THE COURT: May I see it, Mr. Perry?

It is received.

(Whereupon, a color photograph duly received in evidence as People's Exhibit No.20.)

Mr. MINIER: I wonder if we might have the witness circle that bank note, your Honor, with the red marking pencil.

THE WITNESS: (Marking on People's Exhibit No. 20 in evidence.)

BY Mr. MINIER: Mr. Perry, did you do anything with respect to the two men you saw lying on the floor of the room

- A. We started working on Demir, he was aspirating blood, and we needed to clear an airway for him.
- Q. Was he alive at that time?
- A. He was alive.
- Q. Was he conscious?
- A. He was unconscious.
- Q. What, if anything, did you notice regarding any possible wound?
- A. He had a wound in the upper left shoulder and also a wound at the base of the skull.
- Q. Did you do anything with regard to Mr. Baydar?
- A. I checked him for vital signs and then left.
- Q. Did you find any vital signs?
- A. There were none.
- Q. Did you check his pulse?
- A. Yes.
- Q. There was no pulse?
- A. No pulse, no respiration.
- Q. What, if anything, did you notice with regard to injuries on the person of Mr. Baydar?
- A. He had multiple gunshot wounds in the back and head.
- Q. Did you see any guns in the room?
- A. Yes, I did.
- Q. I'm going to show you People's Exhibit No. 21 for identification and ask you if you can identify that?
- A. (Witness examining exhibit) Yes.
- Q. What does that photograph appear to be?
- A. The two weapons that were left laying on a dresser.
- Q. To the best of your recollection, does the picture accurately portray the way those two weapons looked when you first saw them in the room?
- A. Yes.
- Mr. MINIER: Your Honor, we would offer People's 21 into evidence, also, to illustrate Mr. Perry's testimony.
- THE COURT: It is received.
- (Whereupon, a colored photograph of two weapons thereupon duly received in evidence as People's Exhibit no. 21.)
- Q. BY Mr. MINIER: Now, after you had been in the room and had made some attempts to help these men, or to determine if they could be helped, did some law enforcement personnel arrive?
- A. Yes.
- Q. Before they arrived, did you have occasion to leave the room and then to come back into the room again?
- A. Yes, I --
- Q. (Interposing) Go ahead.
- A. (Continuing) I left the room to have my attendant get a portable suction kit out of the car.

Mr. MINIER: Your Honor, may I place People's Exhibits Nos. 19, 20 and 21 on the board, also?

THE COURT: Yes.

Q. BY Mr. MINIER: Mr. Perry, because the jury couldn't see when you were describing the photographs, would you mind going to the board, please, and now with regard to People's Exhibit No. 19, is that the photograph of the chair which appears to be in the approximate place on the bed that you put it after you removed it from the floor?

A. Yes.

Q. On the next one over People's No. 20, could you point to the circle that you drew around what appears to be a bank note?

A. (Witness complies.)

Q. And the towel you testified that you brought in, is where?

A. (Witness pointing on schematic.)

Q. Thank you.

Now, the one dark blood spot which can be seen on People's 20, is that one of the two blood spots which were under the heads of these two men?

A. Yes.

Q. All right. Finally, on People's No. 21, is that the picture of the two guns that you say you saw on the dresser of the room?

A. Yes.

Q. Thank you. Would you like to take your seat again.

A. (Witness complied.)

Q. Now, after you left the room and went out to get some equipment did you have occasion - - first let me ask you this: was the defendant still seated in the patio as you left the room?

A. Yes, he was.

Q. Did you have occasion to say anything to him as you passed?

A. Yes. I told him that both parties were dead.

Q. Was that in fact the case at the time for sure?

A. No.

Q. Was there any particular reason why you said that to the defendant?

A. Because the Sheriff's Office hadn't arrived at the scene yet, and we did not know whether or not he was still armed.

Q. When you made this statement to the defendant that they were both dead, did he make any reply to you?

A. No, he did not.

Q. Following the arrival of the officers, did you then take one of the two bodies to the hospital?

A. Yes, we did.

Q. Which was that?

A. Demir.

Q. Was he still alive at the time?

A. Yes, he was.

Q. Do you know what happened to the body of Mr. Baydar?

A. We left him at the scene. I understand he was later transported by Santa Barbara Ambulance.

Q. Had the other ambulance attendants from Santa Barbara Ambulance arrived on the scene before you left?

A. Yes, they had.

Mr. MINIER: Thank you, Mr. Perry. I have no further questions, your Honor.

CROSS-EXAMINATION

BY Mr. LINDSEY:

Q. Mr. Perry, on this particular day when you arrived at the Biltmore, Mr. Clapp and the Bell Captain directed you to cottage number three; is that correct?

A. Yes.

Q. And then as you arrived in the area of Cottage 3, you first saw Mr. Yanikian talking to Mr. Jonnson?

A. Yes.

Q. That was at the table out there in that patio area?

A. Correct.

Q. And it was at that point that you approached Mr. Yanikian when you asked if it was all right if you could go on into the building?

A. Correct.

Q. Now, how far away were you from Mr. Yanikian when you asked him that question?

A. Approximately two feet, three feet.

Q. Did he appear to be calm?

A. Yes.

Q. Appear to be normal?

A. Yes.

Q. Did he appear to be angry?

A. No, he did not.

Q. Did he appear to be excited?

A. No.

Q. Did he appear to be in tears or in any way emotional?

A. No.

Q. Now, when you asked that question of Mr. Yanikian, he responded, in essence, that he believed that they were already then deceased, didn't he?

A. Yes.

Q. Now, as a result of the answer that he gave you, did you infer from that that it was okay for you to go on into the room?

A. No, I did not. I asked him again.

Q. You asked him a second time? Then what was his response?

A. It was a nod.

Q. Now, up to that time, to your knowledge, had anyone been allowed or gone into that room?

A. To the best of my knowledge, no.

Q. Now, when you asked these questions, that is, was it all right if you could go in, why did you put those questions to Mr. Yanikian instead of to Mr. Jonnson?

- A. He was the one that was supposedly armed, and he was the one that was supposedly not allowing anyone in the room.
- Q. You learned of that from Mr. Clapp?
- A. Correct.
- Q. Did you recognize Mr. Jonnson when you saw him sitting there?
- A. Yes.
- Q. Was Mr. Jonnson armed?
- A. No, he was not.
- Q. Did you recognize him as the Chief Security Officer of the Biltmore Hotel?
- A. Yes, I did.
- Q. Knowing that he was the Chief Security Officer, he was right there with Mr. Yanikian, you still felt that the question should be put to Mr. Yanikian?
- A. Correct.
- Q. Were you able to see Mr. Yanikian's hands?
- A. No, I was not.
- Q. Did you see any firearm on his person at that time?
- A. No, I did not.
- Q. But once he nodded, that was a sufficient clearance to you to enter into the room?
- A. Yes.
- Q. Then you never did ask the chief security officer, did you?
- A. No, I did not.
- Q. Was there something about the very presence -- very appearance of Mr. Yanikian that somehow caused you to feel that he was the one that would have the answer to your question of whether or not you could enter into that room?
- A. Yes. I had been informed by Mr. Clapp that he was seated with Mr. Jonnson.
- Q. Now, you then entered into the room, didn't you?
- A. Yes.
- Q. With your-- with your attendant -- assistant?
- A. No with the bell captain.
- Q. With the bell captain? What happened to your assistant?
- A. He was over at the Coral Casino phoning for backup sheriff's units.
- Q. Do you have a radio in your ambulance?
- A. Yes, we do.
- Q. Was it closer to go to the Coral Casino than to go back to your ambulance?
- A. We were in a dead spot. We weren't able to get out. We weren't able to transmit from that area.
- Q. Now then, he had gone to communicate in some other way for additional assistance?
- A. Yes.
- Q. When he left you, that is your assistant, to go make that call, before or after you talked to Mr. Yanikian?
- A. Before.
- Q. Was this when you had first talked to Mr. Clapp?
- A. Yes.

- Q. Now, knowing that the two of you are especially trained to lend, at least some degree of medical assistance on an emergency basis, was there some reason why you didn't have Mr. Clapp go make that call so that your assistant could remain with you for any emergency help?
- A. No, there was not.
- Q. The bell captain and you then entered into room 34, didn't you?
- A. Correct.
- Q. There was no one else in that room when you entered in there?
- A. No.
- Q. So far as you knew, you were the first person then to enter into that room?
- A. Correct.
- Q. This is when you observed the two persons in there in the manner that you observed them?
- A. Correct.
- Q. Was that currency on the floor in the position where it is shown in the photograph that you have mentioned here a little while ago?
- A. Yes.
- Q. That's this currency note that you have circled, isn't it?
- A. Yes.
- Q. Now, that currency note doesn't show in Exhibit No. 18, does it?
- A. No, it does not.
- Q. It is just outside the picture?
- A. Yes.
- Q. Was that currency note that you observed, was that a United States note or otherwise?
- A. I didn't pay any attention to it.
- Q. Your attention was on what you had to do with the, the room there, correct?
- A. Correct.
- Q. Now, you picked up the chair and moved it by placing it on the bed?
- A. Correct.
- Q. Why?
- A. Because it was in my way.
- Q. And on top of the bed was the easiest place to--
- A. At the time, yes.
- Q. Okay.
- Now, did the bell captain and you render aid to Mr. Demir at that point?
- A. I did. Demir? I checked him, I didn't do anything for him. Wait a minute, I am getting confused. Demir -- I took care of Demir by myself until my attendant had returned.
- Q. What did you do?
- A. At that time, I turned him on his side and started wiping out his mouth with what I had available.
- Q. Did your attendant arrive then?
- A. Yes, he did.
- Q. Was the bell captain still in the room with you when your attendant arrived?
- A. No.

- Q. Had the bell captain gone someplace?
- A. I assume that he had. He was not in the room.
- Q. Was there a moment of time, then, when you were in the room alone by yourself?
- A. Yes.
- Q. While you were rendering aid to Mr. Demir, did your attendant come back in, then?
- A. Yes.
- Q. When he came back in, was that on his return from the Coral Casino?
- A. Yes.
- Q. Now, once your attendant entered the room, was it a few moments after that when you went to the patio where you saw Mr. Yanikian again?
- A. No, that was not.
- Q. Well, after the attendant arrived,--your attendant arrived in the room, what did the two of you do?
- A. We proceeded to load Demir on a stretcher.
- Q. How had the stretcher gotten there?
- A. There were several people coming in and out of the room at this time. My attendant had come in later, quite a bit after I had gone out of the room the first time.
- Q. I see. Well then, during the time you are attending Mr. Demir, there were several people there, then?
- A. Yes.
- Q. Did you recognize any of them?
- A. In the room?
- Q. At that time?
- A. Yes.
- Q. Were they officers?
- A. One of them was, and the other was a driver from Santa Barbara Ambulance.
- Q. The other ambulance crew had arrived?
- A. Right.
- Q. Well, now, what I want to try and fix in time was the moment when you had your second conversation with Mr. Yanikian out on the patio. You had left the room and gone out back to the patio at some point in time, didn't you?
- A. Yes.
- Q. Was that when you say that some trip was being made to get the suction equipment?
- A. Yes.
- Q. Was both you and your attendant going after the suction equipment?
- A. My attendant was not in the room at that time.
- Q. Had he returned from the Coral Casino?
- A. No, he had not.
- Q. He was still over at the Coral Casino, and you were now leaving Mr. Demir so that you could go to the ambulance and get the suction equipment?
- A. Correct.
- Q. Who did you leave behind to help Mr. Demir?

- A. There was no one in the room.
- Q. How did you leave Mr. Demir, then, alone in the room?
- A. I left him propped on his side.
- Q. Did you call anyone of the several people that might have been around outside there?
- A. No, I did not.
- Q. Did you feel that was necessary?
- A. It was necessary, but it would not have done me any good because they didn't know where the equipment was in the Ambulance.
- Q. Now, that suction equipment was medically necessary, as emergency life saving equipment at that moment, wasn't it?
- A. Yes.
- Q. Because of the condition of Mr. Demir?
- A. Yes.
- Q. So as you, left that room, you knew that your sole purpose was to get to your ambulance, get that equipment and get back as quickly as you could, because every second might count?
- A. Correct.
- Q. Now, what did you do when you went past the patio?
- A. I told him that both people were dead.
- Q. Well, was there some reason why you interrupted your trip to your ambulance to get that emergency equipment, to carry on a conversation with Mr. Yanikian?
- A. My conversation with Mr. Yanikian lasted no more than two to three seconds.
- Q. Did you enter into that patio?
- A. No, I did not.
- Q. Well, let's see which way you went here, if we may. You came out of the room 34 did you not?
- A. Yes.
- Q. Walked out that hallway?
- A. Yes.
- Q. Then you had to walk this way to get out of the building, didn't you?
- A. Correct. well, that is not the building, that is the walkway.
- Q. Walkway. As you were coming through here, you paused to conduct this conversation, however slight it might have been, with Mr. Yanikian, didn't you?
- A. Correct.
- Q. Why did you feel at that time that you had to carry on any discussion with Mr. Yanikian?
- A. Because at that time I wasn't sure that he was unarmed. To the best of my knowledge, he still had a weapon, and I was afraid that he might go back in and shoot them again.
- Q. Was the chief security officer for the Biltmore Hotel still there with Mr. Yanikian?
- A. Yes, he was.

Q. Did the chief security officer appear to be held in any way a prisoner or under any kind of duress or some kind of control by Mr. Yanikian?

A. No, he did not.

Q. But as you walked by, you assumed, didn't you, that Mr. Yanikian was in complete control?

A. Yes.

Q. And as you came out, the only two persons out in that area were still only Mr. Jonnson and Mr. Yanikian, is that your recollection?

A. There could have been the bell captain out there,--I'm not sure.

Q. Where might the bell captain have been, on the patio?

A. Possibly.

Q. Did you have a feeling that the bell captain also was being controlled at that time by Mr. Yanikian?

A. No, I did not.

Q. Well, what did you say to Mr. Yanikian in this journey that you are making out to your ambulance?

Mr. MINIER: Objection, your Honor, on the ground that it has been asked and answered twice.

THE COURT: Sustained.

Q. BY Mr. LINDSEY: Well, now, Mr. Perry, you went on over to your ambulance, didn't you?

A. Correct.

Q. Obtained your equipment?

A. Correct.

Q. Came back in?

A. Correct.

Q. To the patio. Did you have any more conversation with Mr. Yanikian?

A. No, I did not.

Q. When you had that talk with Mr. Yanikian, was he still sitting down?

A. Yes, he was.

Q. Did he appear to be in the same way as he was when you had first seen him?

A. Yes.

Q. And then when you went back inside, did you use your emergency equipment?

A. Yes, I did.

Q. Did you subsequently then arrange for Mr. Demir to be placed on the stretcher and to be taken to your ambulance?

A. Correct.

Q. And you then departed?

A. Correct.

Q. Now, have you told us everything that occurred to your best recollection on that day when you were at the Biltmore Hotel?

A. Yes, I have.

Mr. LINDSEY: Your Honor, I have no further questions.

Mr. MINIER: I have no further questions, your Honor.

THE COURT: All right. Thank you, Mr. Perry. You are excused. You are free to leave.

(Whereupon, the witness was excused and withdrew from the witness stand.)

THE COURT: We're going to have to break it about twenty to 4:00 today, Gentlemen, but I guess we better use what time we have left.

Mr. MINIER: Your Honor, I have to confess that our next witness is Dr. Rosander, and his testimony will be quite protracted, and because of the time, I have not told him to be here now because I didn't think that we would even have time to get started with him.

THE COURT: Well, we have only got eight minutes left anyway, before we have to quit.

We have to break a little early, Ladies and Gentlemen, today, I am sorry, because of a previous commitment that nothing can be done about.

We will recess until 10:00 o'clock tomorrow morning.

It is your duty not to converse among yourselves or with anyone else on any subject connected with the trial, or to form or express any opinion thereon until the case is finally submitted to you.

JUROR HARGREAVES-. I have a question. Can you anticipate us having any recess in the next couple of days, or not?

THE COURT: I don't anticipate any, Mr. Hargreaves. As far as I know, we should go right through with the regular hours.

JUROR HARGREAVES: I wanted to make a doctor's appointment.

THE COURT: About your leg?

JUROR HARGREAVES: Yes.

THE COURT: Is it bothering you?

JUROR HARGREAVES.- Well, I can work it around, -- but all he has to do is drain the fluid out.

THE COURT: Well what about Friday afternoon? Do you think that you could make it then?

JUROR HARGREAVES-. I will call and try.

THE COURT: Try to make it sometime Friday afternoon. There is some reason that I had hoped not to have to recess the case Friday at noon, but if you have to see your doctor --

JUROR HARGREAVES: I might be able to make other arrangements.

THE COURT: Well, by all means get your leg comfortable. How long would it take? Would it take the afternoon?

JUROR HARGREAVES: It only takes maybe an hour or so -- all he does is stick some needles in and drain it.

THE COURT: Well, try to get your appointment Friday afternoon, and if you can get it, the probability in that we can recess at noon Friday, for other reasons besides your own, but for your case, I had not wanted to do it and hadn't planned to do it, and won't do it, but I think that you have to get your leg in condition that it doesn't bother you during the trial, so why don't you try to do that and let me know tomorrow, will you?

JUROR HARGREAVES: I will.

THE COURT: All right.

(Whereupon, at 3:40 o'clock p.m. this date, the proceedings were adjourned until the hour of 10:00 o'clock a.m., Thursday, June 7, 1973.)

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**6. SANTA BARBARA, CALIFORNIA, THURSDAY, JUNE 7, 1973, 10:00 A.M.**

(The following proceedings held in chambers outside the presence of the jury.)

THE COURT: All right, gentlemen, the defendant is present, counsel for both sides are present, and we are not in chambers in the absence of the jury for the purpose of considering an objection by the defendant to the use of mannequins.

Mr. LINDSEY: Yes.

Your Honor, as I understand, at this point the prosecution desires to place a medical witness on the stand to testify to certain pathology aspects of the case, and in order to illustrate his testimony, and for the jury to be able to follow it more appropriately the prosecution has prepared two life-size mannequins, and they are of approximately the same height and approximately the same, you might say, body size as the two homicide victims in this case.

In connection with the preparation of those life-sized mannequins, I understand that the mannequins have also been prepared in a way to illustrate to the jury the entrance and exit points of the bullets in the different parts of each of the two bodies. As a part of that, also, to illustrate the path of the bullets, there are wooden rods, so to speak, maybe 12 to 18 inches or more longer in that approximate area passing through those mannequins in the path of the projectiles, and there are several of those on the bodies.

Before the matter may get in front of the jury, we would desire from the standpoint of the defendant, to object to the use of the mannequins, and particularly to object to the use of the round wooden rods that are used to illustrate the path of the projectiles.

Now the reasons for the objection, primarily are that the use of the mannequins and the wooden rods in the manner which they are projected through the heads of the two individuals, would tend to be inflammatory to the jury, exceedingly so, would tend to be particularly shocking to them, and in view of the status of the case, unquestionably as to whether it would have either any probative value or even any relevance in comparison perhaps to the inflammatory nature of it.

Now, in this case the evidence that has been laid so far out there before the jury would indicate not only the killing by means of the bullets from the guns that have already been referred to, though the guns have not as yet been introduced into evidence, but would also indicate from the testimony of the statements made by Mr. Yanikian both to the officers as well as non-officer people, that Mr. Yanikian had been the one—was the one who in fact shot both of these individuals. So the purpose of this evidence, and technicalities that are related to it, are demonstrated by the wooden rods that are directly through the mannequin bodies and the mannequin heads, could not be for the purpose of helping to establish that it was Mr. Yanikian who did the shooting.

The statements he made would seem to connect him to that, and the fact that he was there at the premises, and his conduct and his statements immediately after the shooting and the telephone calls that are alleged to have been made by him would seem that the purpose of this evidence could not be to connect him with the killings.

Now the next thing is what is the purpose then of the testimony?

The mere fact the bullets traverse through a body, that in itself would not be sufficient basis for introducing this type of testimony. The next question would be perhaps if it is not on the matter of the act, would then be on the matter of intent or specific intent; and the question of specific intent, I would suggest with the evidence in there so far that the prosecution would seem from the evidence they put in so far is to establish at least a prima facie case of specific intent. Now, if there is some area in which this particular type of demonstrative evidence might be able or might even be particularly proper to the prosecution case--

THE COURT: How about premeditation and deliberation; that's a part of this case. You have got a not guilty plea on file.

Mr. LINDSEY: The premeditation and deliberation, the question is, do the type of wooden rods and so on going through the bodies and heads in this manner, is this something that is necessary to prove deliberation and premeditation

THE COURT: I think it bears on it.

Mr. LINDSEY: If it bears on the--

THE COURT: If you have got a hundred bullet wounds that is more evidentiary premeditation and deliberation than just one, isn't it?

So if you have got six or seven, or five or six, it is just a matter of degree, it is relevant evidence.

Mr. LINDSEY: The next thing would be, your Honor, with this type of evidence, with the wooden rods going through the body in the manner that they do, is that reasonably necessary to being able to evidence even in the areas of premeditation and deliberation, is that reasonably necessary in front of a lay jury. These are where we lay the objections.

THE COURT: Well, assuming that a proper foundation is first laid for the use of these mannequins, I see no objection to it. I would overrule your objection upon the grounds that they are inflammatory and the like. It is very hard to introduce any real evidence, particularly in a murder case, without it having some motional impact upon the jury to be sure. But weighing the relevance against whatever inflammatory effect that those models might have, I would say the relevance far outweighs it.

The course of the bullet is a very relevant inquiry in the case.

Mr. LINDSEY: Your Honor, may we ask also, our objection of course, runs also to the matter of the rods going through, say, for example, the heads.

THE COURT: That's just to demonstrate the path that the bullets followed. I don't know any better way to do it.

Mr. LINDSEY: Then, your Honor, may I ask this; are there also going to be, on the part of the prosecution, photographs introduced of the bodies and either at --

THE COURT: I don't know. I don't know what's coming.

Mr. LINDSEY: Because if there is also to be photographic evidence and also the mannequins used with the wooden rods going through them, this then creates a further problem.

THE COURT: Well, it is something I will have to pass upon them. I can't rule in advance on these things. I couldn't rule on the photographs or even think about ruling on them until I saw them to start with.

Mr. MINIER: Your Honor, I would be glad to advise the court in that regard. I think we have at least 50 photographs taken during the entire autopsy. They are of the most gruesome autopsy photographs I have ever seen, showing bullets lodged directly in the brain. We intentionally constructed the mannequins so as to have the least inflammatory manner of illustrating the testimony of it.

THE COURT: That settles that.

Mr. LINDSEY: May I ask this, your Honor; for purposes of illustration in the record, having in mind the mannequins are large body size, may we at some point during the course of the trial be allowed to take say reasonably accurate color photographs of each of the two mannequins, and have these photographs introduced into the record of the case so at least there is something in the file that will illustrate and show these mannequins for reference purposes?

THE COURT: Just keep the mannequins as the evidence.

Mr. LINDSEY: Because in the event the case should have consideration beyond here, a photograph would show it, whereas the moving of the mannequins would be, I think quite a problem on it.

THE COURT: I think Courts of Appeal have moved weightier items other than these mannequins before; so it is inconvenient, but they ought to see the very thing we are talking about, not the pictures of it.

Mr. LINDSEY: I respect your thought on that, Judge.

THE COURT: If I were the appellate judge, I would want to see the very thing. I would think they would. It is not that much of a job to get it from here to Los Angeles

Mr. MINIER: Your Honor, could the record reflect the filing of our Points and Authorities on this issue?

THE COURT: Yes. And I will see to it that they are placed in the file.

All right gentlemen, let's proceed.

Mr. MINIER: Thank you, your Honor.

THE DEFENDANT: Thank you.

THE COURT: All members of the jury and alternate jurors are present, Gentlemen.

Mr. MINIER: Dr. John Rosander, please.

**JOHN E. ROSANDER, M.D.,**

Produced as a witness for and on behalf of the people, was thereupon duly sworn and testified as follows:

**DIRECT EXAMINATION**

BY Mr. MINIER:

Would you please state your full name and spell your last name?

A. John E. Rosander, R-o-s-a-n-d-e-r.

Q. What is your profession?

A. I m a Doctor of Medicine and a specialist in pathology.

- Q. Are you licensed to practice medicine in the State of California?
- A. Yes, I am.
- Q. Do you pursue that practice of medicine here in Santa Barbara?
- A. Yes, I do.
- Q. And are you related to the County of Santa Barbara in your work? Do you do pathology work for the County of Santa Barbara?
- A. Yes, I do.
- Q. Do you maintain an office at the County Hospital here in Santa Barbara?
- A. That's correct.
- Q. And you say your specialty is pathology?
- A. Yes.
- Q. Doctor would you briefly review for the Court and Jurors your medical education and experience in your practice?
- A. I received my bachelor of Science degree at the University of Minnesota. I attended the University of Minnesota and graduated with my Doctor of Medicine degree in 1950. I then had a rotating clinical internship for one year at Minneapolis General Hospital. This was followed by four years of training in pathology at the Minneapolis General Hospital, University of Minnesota and UC Hospital in San Francisco and Mills Memorial Hospital in San Mateo.
- I am a Diplomate of the American Board of Pathology at County Hospital in San Mateo, this also included doing coroner's work for San Mateo, doing coroner's cases involving deaths due to either violence or from unknown causes.
- Following twelve years in San Mateo, I was in North Hollywood as medical doctor of biochemical procedures for three and half years, and since December 1971 have been here in Santa Barbara.
- Q. Doctor could you tell us very briefly just what the specialty of pathology involves?
- A. Yes. A pathologist diagnoses the nature and extent of disease in the living by the gross and microscopic examination of tissues and body fluid. Pathologist also does autopsy to determine the nature and extent of disease and injuries, and also to determine the cause of death.
- Q. Do you currently perform autopsies for the County of Santa Barbara?
- A. Yes, I do.
- Q. Is that for the county coroner?
- A. Yes.
- Q. And do you have any rough estimate, Doctor, as to the total number of autopsies that you have performed during your medical career?
- A. Yes. I have done over six thousand autopsies.
- Q. Now, is it generally possible, Doctor, to determine the cause of death of an individual by the performance of an autopsy upon the body of the deceased person?
- A. Yes, it is almost always.
- Q. Have you given expert testimony before in various courts of law regarding your determination of the cause of an individual's death by the performance of an autopsy upon that individual's body?

- A. Yes. On many occasions.
- Q. And has your testimony in that regard been received as that of an expert in these various courts?
- A. Yes, it has.
- Q. Is that in the courts of this county and the state, and also in the courts of other states?
- A. Yes
- Q. Now, Doctor, calling your attention to Sunday, January 28<sup>th</sup> of this year, did you have occasion to perform an autopsy on the body of Mehmet Baydar?
- A. Yes, I did.
- Q. Can you tell us where and approximately what time you performed the autopsy?
- A. This was at 10:00 o'clock in the morning at the Haider's mortuary here in Santa Barbara.
- Q. And briefly could you to tell us what the autopsy consisted of?
- A. Yes. First, the external examination of the body to determine the location, the size and characteristics of any wounds that might be present. This is followed by examination of the internal organs, the brain,--the internal organs of the chest and abdomen.
- Q. Now, with regard to Mr. Baydar's body, were you able to observe what appear to be gunshot wounds?
- A. Yes, sir.
- Q. Was there more than one?
- A. Yes there were fourteen gunshot wounds.
- Q. And were you to determine if some of these appeared to be entry wounds, and others appeared to be exit wounds?
- A. Of these fourteen, eight appear to be entry wounds, six appeared to be exit wounds.
- Q. Was it possible to determine whether these different wounds or some of them appeared to be made by projectiles of one size and others of the wounds appeared to be made by projectiles of another size?
- A. Yes.
- Q. Did you recover any bullets from the body of Mr. Baydar?
- A. Yes; two bullets were recovered from the head.
- Mr. MINIER: Your Honor, here I have a small -- well, we have two mannequins in the courtroom and I wonder if we might have them marked for identification as People's 22, which I believe the doctor will indicate is an illustration of the wounds on Mr. Baydar's body; then People's Exhibit No. 23 for identification, the mannequin which I believe will illustrate the wounds on the body Mr. Demir.
- THE COURT: Yes. They appear to have already been marked.
- Mr. MINIER: They actually have been. We already asked the clerk and she has done so, your Honor.
- (Whereupon, the mannequin depicting Mr. Baydar was thereupon duly marked as People's Exhibit No. 22 for identification purposes; whereupon, the

mannequin depicting Mr. Demir was thereupon duly marked as People's Exhibit No. 23 for identification purposes only.)

Mr. MINIER: Your Honor, I have also here a small plastic bag which contains three small plastic cases. I wonder if we might have this collectively marked as People's Exhibit No. 24 for identification?

(Whereupon, a plastic bag and its contents thereupon duly marked as People's No. 24 for identification purposes only)

Q. BY Mr. MINIER: Now, I'm going to call your attention to People's Exhibit No. 22 for identification, the large mannequin, and ask if this mannequin was prepared under your supervision and at your direction?

A. Yes, it was.

Q. And was it for the purpose of illustrating your testimony here in the courtroom?

A. Yes, sir.

Q. Now, before we go any further, is this mannequin in any way meant to illustrate the exact position that Mr. Baydar may have been at the time that he received any of these wounds?

A. No, it was not. The sole purpose is to illustrate the course of the bullets as they pass through the body.

Q. You actually have any opinion regarding the position Mr. Baydar may have been in when he received any of the wounds?

A. No, I haven't.

Q. Would you mind stepping down, Doctor, and using the mannequin for purpose of illustration, could you please tell the Court and the jury what wounds you noticed as you were doing the autopsy on the body of Mr. Baydar?

A. Yes. These wooden dowels with the points on one end and paint on the other, with the intent of showing the direction in which the bullet passed through, with the painted side being the point of entry and the unpainted side the point of exit. The dowels that are painted green are intended to represent the .9 caliber bullet, the two blue ones are intended to represent the site of entry of the two .25 caliber bullets that were recovered.

As you can see there are .9 caliber wounds through both hands, through the right shoulder, through the left chest, and through the left upper arm. The two .2 caliber sites of entry are in the top of the head.

Q. Now, with regard to-- when you said is it .9 caliber or .9 millimeter?

A. .9 millimeter.

Q. .9 millimeter, and these are the ones indicated by the green, is that correct, Doctor?

A. Yes.

Q. And I assume that the green tips are meant to indicate the point of entry, is that correct?

A. Yes.

Q. And then the sharper tips have that are painted with a silver paint are to show the exit points, is that correct?

A. Yes.

- Q. Doctor, do you have any opinion as to what total number of .9 millimeter bullets might have caused these various wounds that you have testified to, and you have illustrated by use of green painted wooden dowels?
- A. Well, there are six wounds which I feel could have been inflicted by either four or five or six bullets, depending on the volley. For example, the wound of the left interior chest and the left upper arm could have easily have been a single bullet. It is also possible that the wound of the left hand and the right shoulder could have been a single bullet .
- Q. Now, when you say that the wound of the hand and the chest could have been a single bullet, would this be, if the hand had been put up over the chest so that there would actually have been one single line of direction of the bullet?
- A. Yes.
- Q. And it is the same in the case of the other possible combination of wounds?
- A. Yes.
- Q. Now, Doctor, with regard to the two head wounds, you have no exit point here on the mannequin indicating the body of Mr. Baydar, does that indicate that the bullets then did not leave the head?
- A. Correct.
- Q. Were the two bullets that you said that you recovered from the head of Mr. Baydar, the two which were bullets traveling in a direction as indicated by the blue dowels?
- A. Yes.
- Q. Did you come to a conclusion, Doctor as to the cause of death of Mr. Baydar?
- A. Yes, sir. The cause of death and the sole cause of death was the bullet indicated by the red tip. The other bullet wound to the back of the head did not penetrate into the--did not penetrate through the skull, but the bullet on the top of the head went trough the skull, through the entire right side of the brain, and lodged in the base of the skull, and this was the fatal bullet.
- Q. Now did you testify that also just before or after the autopsy of Mr. Baydar, you performed an autopsy upon the body of Mr. Bahadir Demir?
- A. Yes, sir.
- Q. And did you follow the same general procedure with regard to the autopsy upon Mr. Demir?
- A. Exactly.
- Q. Did you observe any gunshot wounds on his body?
- A. Yes, sir, there were.
- Q. And again did you find wounds that appear to have been caused by different sized projectiles?
- A. Yes.
- Q. Did you recover any bullets from the body of Mr. Demir?
- A. One bullet was recovered.
- Q. Now, with regard to People's Exhibit 23, is this another mannequin which has been prepared under your direction?
- A. Yes, it is.
- Q. And was this prepared for the purpose of illustrating your testimony regarding the autopsy performed upon the body of Mr. Demir?

- A. Yes, sir.
- Q. Let me move it over here.
- A. Now, Doctor, would you step over to People's Exhibit 23 for identification, then, and could you tell us what you noticed regarding the wounds of Mr. Demir at the time you performed the autopsy upon him? And again you might refer to the different colored arrows.
- A. I don't recall if I mentioned this one through the back as I was describing it (indicating Exhibit No. 22 for identification).
- Q. Would you like me to turn this around for you? You are going back to Mr. Baydar and referring to a wound in the back. Would you like to point that one out to the jury?
- A. Yes. This one wound has--it just goes under the skin of the back over the left shoulder blade, which I believe goes from the left to the right.
- Mr. Demir has eight gunshot wounds with four entries, -- three entries and three exits. The bullet wound went through the left ear, reentered the skin behind the left ear, and exited again in the left occipital area. Another .9 millimeter wound was very similar to the other one in that it just courses under the skin over the left shoulder blade.
- This one .25 caliber wound in the back of the top of the head, which again did not penetrate into the skull, another .25 millimeter wound went into the right temple directly through the brain and out through the left temple. This was the fatal wound and the cause of death.
- Q. In your opinion what were the total number of .9 millimeter bullets that went into the body of Mr. Demir?
- A. Two.
- Q. And what about the total number of the .25 millimeter bullets?
- A. Two.
- Q. Did you recover any bullets from the body of Mr. Demir?
- A. Yes, one bullet was recovered, the one that entered the left top of the head.
- Q. Now, did you determine the cause of death, or your opinion as to the cause of death of Mr. Demir?
- A. Yes. A gunshot wound coursing through the brain from the right temple through the left temple.
- Q. Is that the one that you have marked the tip of the blue dowel with about three inches of red paint?
- A. Yes.
- Q. That, then, indicates the actual death bullet, is that correct?
- A. Correct
- Q. Is that the one that actually passed through the brain and the bullet went out the other side?
- A. Yes.
- Q. Just going back for a moment to People's 22, the mannequin illustrating Mr. Baydar, is the bullet that caused death the one that you have indicated with another two- or three-inch red tip at the end of the blue dowel?
- A. Yes.
- Q. Would you like to take your seat back again, Doctor.

- Do you have any opinion as to whether Mr. Demir could have inflicted all of these wounds by himself?
- A. He could not have.
- Q. Do you have any opinion as to whether Mr. Baydar could have inflicted all his wounds by himself?
- A. He could not have.
- Q. What did you do with the two bullets that you recovered from the head of Mr. Baydar?
- A. They were submitted to Mr. White.
- Q. Is that Mr. Chuck White a technician with the Santa Barbara County Sheriff's office?
- A. Yes, sir.
- Q. Did you remove the bullets in his presence?
- A. Yes.
- Q. What did you do with the bullet that you removed from the head of Mr. Demir?
- A. I also gave that to Mr. White.
- Q. Was that also removed in his presence?
- A. Yes, it was.
- Q. Doctor, I am going to show you People's Exhibit No. 24 for identification and I would like to ask you to open the plastic bag and withdraw from the plastic bag the three small plastic containers?
- A. (Witness complies.)
- Q. Have you removed the three plastic containers?
- A. Uh huh.
- Mr. MINIER: Your Honor, I think perhaps at this point we might ask if we could have the three plastic containers, in order to distinguish them, marked 24-A, 24-B and 24-C for identification.
- THE COURT: All right.  
(Whereupon the three plastic containers thereupon duly marked People's Exhibits No. 24-A, 24-B and 24-c respectively, for identification purposes only.)
- Mr. MINIER:
- Q. Now, first, showing you people's No.24-A for identification, could you tell us what appears to be in the small container?
- A. It is markedly distorted copper jacketed .25 caliber bullet.
- Q. Is there any way, by looking at this through the case or by opening the case, if you can determine if that is the same or similar to the bullet which you removed from the head of Mr. Demir?
- A. It certainly resembles it, and appears to be my scratched R on the base.
- Q. On the base of the bullet?
- A. Yes.
- Q. Now, would you please look at People's Exhibit for identification 24-B and C and tell us what is within those two plastic containers?
- A. There is a markedly distorted mushroomed copper- jacketed .25 caliber lead bullet. Again I see my scratches on the base.

Q. What about 24-C?

A. Another distorted copper-jacketed .25 caliber bullet that resembles the one I removed from Mr. Baydar. It does have scratches that I put on the base.

Q. Then, do both 24-B and C for identification appear to be the two bullets you removed from the head of Mr. Baydar?

A. Yes.

Mr. MINIER: I have no further questions, your Honor.

Mr. LINDSEY: May I question, your Honor?

THE COURT: Yes.

**CROSS-EXAMINATION**

BY Mr. LINDSEY:

Q. Dr. Rosander, in those six thousand autopsies that you have run, have you made it a practice to request this type of exhibit for use?

A. I have on a few occasions.

Q. Is that for your own use?

A. This is for demonstration in court.

Q. That wouldn't be to create any shock value to a jury with this type of evidence?

A. It is to help demonstrate the course of the bullets when there are multiple bullets involved, and it is very difficult to convey the picture verbally.

Q. Did you feel that it would be too difficult for you on the witness stand to say that a bullet went from the right side of the head through the left side of the head and you needed an exhibit like this to show a jury so that they could understand what you were saying, is that it?

A. Not necessary, but it is helpful.

Q. You thought it would be helpful?

Now, Dr. Rosander, in this field of pathology, which field have you been specializing in?

A. Anatomic pathology.

Q. Anatomic?

A. Uh-huh.

Q. What does that mean?

A. Anatomic pathology.

Q. I can't quite hear you?

A. It is the diagnosis of disease by the microscopic examination of tissues.

Also, performance of autopsies.

Q. Well, that's a pathologist performing autopsies primarily for the purpose of determining the existence, nature or description of a disease?

A. Or injuries involved, either one, yes.

Q. Have you heard of a field called forensic pathology?

A. Surely.

Q. That is a field in itself in pathology also. Isn't it ?

A. Yes it is.

Q. And there are some pathologist who specializes in anatomic pathology, and there are pathologists who specialize in the field of forensic pathology, isn't that correct?

A. Correct.

- Q. And those two areas of specialized pathology are recognized by the College of Pathologist, isn't that correct?
- A. That's correct.
- Q. That is one of the national organizations for pathologists isn't it?
- A. Yes.
- Q. Now, what does forensic pathology means?
- A. Forensic pathology is essentially the performance of coronary autopsies, as I have been doing for about 14 years.
- Q. Are you Board certified in the field of forensic pathology?
- A. No, I am not.
- Q. Forensic pathology is a special field of pathology related to examination of such matters as gun wounds, and being able, in a courtroom, to testify, based upon specialized experience and training, on the cause or an matters related to those wounds, isn't that correct?
- A. Correct.
- Q. But you have not had any certification in that field of forensic pathology, have you?
- A. I have been accepted in court as a specialist in this field for many years.
- Q. You have been in court. I asked you about whether or not you have been Board certified, by the national organization to which you belong, as a forensic pathologist?
- A. No, I have not.
- Q. Have you ever made application to that national group that you belong to ask and to be certified by them to act and to represent yourself as a forensic pathologist?
- A. No, I have not.
- Q. Dr. Rosander, isn't it correct, that the common practice and part of the work of a forensic pathologist is to develop this type of demonstrative evidence for use in a courtroom?
- A. That is right.
- Q. And that it is forensic pathologists who specialize in the courtroom presentation as to cause of death, using evidence of this kind, isn't that correct?
- A. Yes.
- Q. What national groups related to your profession to you belong to, please?
- A. Santa Barbara County Medical Society, the California State Medical Society, and the American Medical Association.
- Q. Do you belong to any other societies?
- A. No, I don't.
- Q. Is there a College of American Pathologists?
- A. Yes.
- Q. Is that the main or principal national organization for pathologists?
- A. Yes.
- Q. Is that, to the best of your knowledge, headquartered out of Chicago, Illinois?
- A. I believe it is.

- Q. Isn't that the organization to which the great majority of the pathologists belong?
- A. Many pathologists do. I am eligible, all I have to do is send them a check.
- Q. Do you belong. Doctor, to the National Association of Pathologists in the field in which you work?
- A. No, I don't.
- Q. Have you ever belonged to the national organization in the field in which you work?
- A. No I haven't joined yet.
- Q. Well, let's turn to the work that you did in this case, then.  
Did you happen to run those two autopsies here because you happened to be working for the County of Santa Barbara at the County Hospital?
- A. Yes.
- Q. How long have you been employed at the Santa Barbara County Hospital?
- A. Since December 1<sup>st</sup>, 1971
- Q. Are your duties there entirely as a pathologist?
- A. Yes.
- Q. Is that in that area of diseases of the body?
- A. Yes.
- Q. Now, is this particular case, who was it that asked you to, on Sunday, January 28th, do any work in this case?
- A. I believe it was Dr. Carroll called me.
- Q. I can't hear you?
- A. I am not quite sure who called me. Dr. Carroll was on duty for autopsies that weekend, and I was called to do these two homicides.
- Q. Who is Dr. Carroll?
- A. He is one of the other pathologists at the Cottage Hospital.
- Q. Do you have a pathologist at the County Hospital that is your superior?
- A. No.
- Q. Is Dr. Carroll the pathologist at Cottage Hospital?
- A. Dr. Dickson, Carroll and Failing are the pathologists at the "Cottage Hospital" They--I am associated with them at the present time, and I am doing work at the "General Hospital" in coroner's work.
- Q. I can't quite hear you, Doctor.
- A. I am associated with Drs. Carroll, Failing, and Dickson, who are the pathologists at the "Cottage Hospital".
- Q. Is that a little bit of moonlighting on the side?
- Mr. MINIER: Objection, your Honor, that is argumentative.
- THE COURT: Sustained.
- Mr. LINDSEY:
- Q. You testified that you are employed at the County Hospital as a pathologist?
- A. Yes.
- Q. Do you, in addition to that, have a business association with the group including Dr. Carroll?
- A. Dr. Dickson, Carroll and Failing have the contract with the County and I am employed by them to do the County work.

- Q. Dr. Carroll, of Cottage Hospital, contacted you, and through his request you did this work?
- A. Yes.
- Q. Now, when you commenced this particular work here, you were aware, were you not, that they involved two homicide matters?
- A. Certainly.
- Q. And by that reason, you were aware that, likely, the matter could come into a courtroom hearing?
- A. Certainly.
- Q. And you were also aware, then, that if you undertook this case, you would likely be on the witness stand being asked questions about how you performed your work?
- A. Certainly.
- Q. Now, the first thing you did was to -- let me ask you this: exactly why did you start the work in this case, for what purpose?
- A. Because they are assigned cases, and I am a forensic pathologist and do the homicide cases.
- Q. You a, "a forensic pathologist?"
- A. Yes.
- Q. Well when you started out this work, what did you hope to determine at the end of your work?
- A. The nature and extent of the various gunshot wounds and the cause of death.
- Q. You expected to be able to determine the cause of the death, particularly, didn't you?
- A. Certainly.
- Q. And the extent of the wounds, didn't you?
- A. Yes.
- Q. And since you were also going to be engaged in the field of a forensic pathologist, then, you knew when you commenced this work, that you were also going to be doing the work connected with distance, position, and manner in which the wounds were caused, then, didn't you, as a forensic pathologist correct?
- A. Distance? I don't understand that question.
- Q. Isn't it correct that one of the aspects or tasks of a forensic pathologist is to determine, from your skill and your experience in the field of forensic pathology, the distance between the body and the weapon that caused the wound -- forensic pathology?
- A. Not unless it is a contact wound or close proximity wound.
- Q. I am talking about a gunshot wound. Isn't correct that the work of a forensic pathologist, which you had undertaken in this case, includes the area of determination of the distance between the body and the weapon that caused the wound?
- Mr. MINIER: Objection your Honor, upon the grounds it was just asked and answered.

THE COURT: Sustained.

Mr. LINDSEY:

Dr. Rosander---

A. Only if it is a proximity wound or a contact wound. If it is farther away than a proximity wound, there is no way anyone can tell the distance.

Q. Doctor did you make—did you take any steps in the course of the work that you did to determine the distance between the body of either one of these persons and the gun that inflicted the wound?

A. No. Only in the case of one wound to the forehead, which was a proximity wound and left powder burns.

Q. Did you make any effort, doctor, to determine the position of the body in the room where the homicides occurred at the time of the entry of any of the bullets into either one of these bodies?

A. No.

Q. Then, Doctor, you have no opinion, then, as to either one of—what either one of these two persons might have been doing or their body positions at the moment of the entry of any of the bullets?

A. Yes. I said this quite a while ago. Yes, sir, that's correct.

Q. Yes, that you have no opinion?

A. Yes.

Q. Did you feel, doctor, in the forensic work that you were doing, forensic pathology it is not important in this case, that you might be asked to testify in, for you to determine from a forensic pathology standpoint of the position of the body at the time of the entry of any of these bullets; did you think that wasn't important

A. I think this is the work of the criminologist and the investigators on the case.

Q. Isn't that an area of work commonly done however, by the forensic pathologist?

A. I would think uncommonly.

Q. Sorry?

A. I would think uncommonly.

Q. Doctor, how many cases have you actually testified in a contested matter before a jury such as you are doing here during the course of those six thousand autopsies?

A. Perhaps a hundred, I don't know.

Q. And in this particular case here, did you work with a criminologist?

A. Did I work with -- they attended the autopsy, Yes.

Q. Who was the criminologist that you worked with, give me his name, please?

A. I don't recall a criminologist on this case

Q. Excuse me?

A. The detective Roger Best and Detective Bill Baker.

Q. I asked you the name of the criminologist that you worked with. You said—I understood there was a criminologist there, who was the name or what was the name of that criminologist please?

A. Well, I don't believe there was a criminologist.

Mr. LINDSEY: Your Honor, I have no further question of Dr. Rosander. Thank you very much.

Mr. MINIER: Just a few questions your Honor

**REDIRECT EXAMINATION**

BY Mr. MINIER:

Q. Doctor, when you received that call on Sunday to perform the autopsies were you asked to do anything else other than perform autopsies upon the bodies of the two deceased persons?

A. No I was not

Q. And what is the purpose of the performance of the autopsies, simply to find what the cause of death, in your opinion, was?

A. Correct. And the nature of the various gunshot wounds.

Q. Now, did you testify that with regard to membership in one of the societies mentioned by Mr. Lindsey that the only requirement was for you to write out a check and send it to them?

A. That is right.

Q. That you were eligible?

A. That is right.

Q. And that by choice, you had elected not to become a member of the society?

A. That is correct.

Q. With regard to this Board certification, is that merely a kind of an honorary title, or whatever that is, bestowed upon members of this particular society?

A. No. It requires special training and experience. This forensic -- the forensic boards were set up after I finished my training and was out in practice.

Q. Well, is there any legal requirement in order to perform autopsies or testify, or to do any of the things related to your work that you would have to make application and become Board certified?

A. Certainly not.

Q. Now, with regard to the presence of the people at the autopsy while you were performing it, I believe you indicated that there was a Detective Best and a Detective Baker there?

A. Yes.

Q. Also you earlier indicated. Mr. Charles White, a technician was there?

A. Yes.

Q. You are not directly a part of law enforcement, are you, doctor?

A. No, I am not.

Q. Your profession is that of a medical doctor?

A. Right.

Q. You are not a deputy sheriff; is that correct?

A. No.

Q. During the time that these officers were there, do you recall if Mr. White was taking any photographs?

A. Yes, he was.

Q. Did he take a great number of photographs?

A. A great number.

Q. Were they in color?

A. Yes.

Q. Did he take photographs of each and every one of the bullet wounds?

A. Yes.

Q. Including the various head wounds?

A. Yes.

Mr. MINIER: Thank you, nothing further, your Honor.

Mr. LINDSEY: No further questions.

THE COURT: All right. Thank you, doctor, that's all.

You are excused.

(Whereupon the witness was excused and withdrew from the stand.)

Mr. MINIER: Your Honor, we would offer People's Nos. 22 and 23 into evidence to illustrate the testimony of Dr. Rosander.

THE COURT: Received.

(Whereupon exhibits previously marked People's 22 and 23 for identification thereupon received as People's Exhibits Nos. 22 and 23 in evidence.)

THE COURT: Where can we keep those, Mrs. Clerk; could we keep them in the jury room, perhaps, or is that too far away from your immediate custody and control?

THE CLERK: We could put them up here, perhaps, your Honor, or in the jury room.

THE COURT: Put them in the jury room.

All right, gentlemen.

Mr. MINIER: Charles White, please.

**CHARLES S. WHITE,**

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

**DIRECT EXAMINATION**

BY Mr. MINIER:

Q. State your full name?

A. Charles S. White, W-h-i-t-e.

Q. What is your occupation, Mr. White?

A. I am identification technician with the Santa Barbara County Sheriff's Department.

Q. In that capacity, do you do certain photograph work?

A. Yes, sir, I do.

Q. And are you also involved, at times, in the preservation and collection of physical evidence?

A. Yes, sir, I am.

Q. How long have you been so employed?

A. Approximately two and a half years.

Q. Were you then employed with the County Sheriff's Office on Sunday January, 28<sup>th</sup> of this year?

A. Yes sir, I was.

Q. Did you happen to be present on that day during the performance of an autopsy by Dr. Rosander upon the bodies of Mehmet Baydar and Bahadir Demir?

A. Yes, I was.

- Q. Did you see Dr. Rosander remove any bullets from the heads of Mr. Demir and Mr. Baydar?
- A. Yes sir, I did.
- Q. Incidentally, throughout the entire course of the two autopsies were you taking colored photographs?
- A. Yes, sir, I was.
- Q. Do you recall approximately how many photographs you may have taken?
- A. Approximately 50 or 60.
- Q. And were these photographs of the various wounds that appeared to have been inflicted upon the bodies of the two deceased persons?
- A. Yes, sir, they were.
- Q. Is each and everyone of those photographs available to Mr. Lindsey should he so desire to have it here in the courtroom?
- A. Yes, sir, they are.
- Q. What anything did you observe Dr. Rosander do with the bullets after you saw him remove them from the heads of Mr. Demir and Mr. Baydar?
- A. They were initialed and given to me.
- Q. I would like to have you look at the objects before you which are labeled for identification People's No. 24A, B, and C and tell us if you can identify them?
- A. These are the projectiles that I received from Dr. Rosander.
- Q. Specifically with regard to the Exhibit 24-A for identification, are you able to determine from which body you saw Dr. Rosander remove that bullet?
- A. This would be from Mr. Demir.
- Q. Mr. Demir?
- A. Yes, sir.
- Q. With regard to No. 24-B and 24-C, can you tell from which body you saw Dr. Rosander remove those two bullets?
- A. These would be from Mr. Baydar.
- Q. Now, did you put all three of those bullets into the little plastic cases that they are now found in?
- A. Yes, sir, I did.
- Q. Did you put certain markings upon each one of the bullets itself?
- A. Yes, sir, I did.
- Q. And is that how you are able to determine that those are the same bullets? Is that namely by the presence of your own markings on each of the three bullets?
- A. Yes, sir.
- Q. Did you also put some of your markings on the plastic cases?
- A. Yes, sir, I did.
- Q. What did you do then with the bullets after you put them in the plastic cases?
- A. I, upon returning to the crime scene, I turned these over to Deputy Rosales.
- Q. Is that on the same day?
- A. Yes, sir.
- Q. And is Deputy Rosales an employee of the Santa Barbara County Sheriff's Department?
- A. Yes, sir he is.
- Q. Does he work with you in the collection of and preservation of evidence?

A. Yes, sir he does.

Q. At that time you gave them to Deputy Rosales were those three bullets in the same physical condition as they were when Dr. Rosander handed them to you, with the exception of your marking that you put on the bullets?

A. Yes, sir.

Mr. MINIER: Your Honor, at this time I would offer People's 24, which is the package in which the others came and People's 24-A, B and C which are three plastic containers with the bullets, into evidence.

THE COURT: Received

(Whereupon, People's Exhibit No.24, a plastic bag and People's Exhibits No. 24-A, B and C previously marked for identification purposes, thereupon duly received in evidence.)

Mr. MINIER: Thank you.

I have no further questions, your Honor.

Mr. LINDSEY: I have a few questions.

**CROSS-EXAMINATION**

BY Mr. LINDSEY:

Mr. White, in the identification, was that the identification Bureau that you are in?

A. Yes.

Q. The Identification Bureau of the Sheriff's Department is such things as fingerprinting matters, is that correct?

A. Yes.

Q. Matters pertaining to photographs, that is, say photographs of persons who have been arrested or photographs of meetings that may be relevant to some investigation of the Sheriff's department?

A. Yes.

Q. In this case here, was your work primarily that of keeping in some type of safe custody, in this case these evidentiary matters as they might be material to this case?

A. Yes.

Q. Now at the time of the autopsy proceedings this was on Sunday, the day after the homicides, isn't that correct?

A. Yes, sir.

Q. This was not the first time you were connected with this case, though, was it, on Sunday?

A. No, sir, it was not.

Q. You had been connected with it on Saturday?

A. Yes, sir.

Q. Now, when Dr. Rosander was performing his—whatever tasks there were, you were present, were you?

A. Yes, sir, I was.

Q. Did you have any conversation at that time with Dr. Rosander?

A. I believe so, yes, sir.

Q. Are you a criminologist?

A. No, sir, I am not.

Q. Do you know what I mean when I use the term criminologist?

- A. Yes, sir, I do.
- Q. Was there present at the time of those autopsy proceedings any person who is qualified as a criminologist?
- A. Not to my knowledge.
- Q. Now, Dr. Rosander handed over to you the three items that you have before you, is that correct?
- A. Yes, sir.
- Q. And it was then your responsibility to see that they are safely kept, is that correct?
- A. At that time, yes.
- Q. So that in the event there was any trial on this matter, there could be no question whatsoever as to the exact possession and location from January 28<sup>th</sup> up until the time of any trial in a courtroom on the matter, isn't that correct?
- A. Yes, sir.
- Q. Was it on January 28<sup>th</sup>, the same day that you received these, that you turned the possession of these items over to some other person?
- A. Yes, sir.
- Q. What time on January 28<sup>th</sup> did you turn these items over to somebody else.
- A. May I check my notes.
- Q. Please.
- A. It was approximately 3:00 P.M.
- Q. What time did you receive them?
- A. I received them at approximately 2:00 p.m.
- Q. Now, Mr. White, isn't it correct that the reason great care was used by you in all cases, including this one, to make a record of the exact time you receive and the period of time in which you had exact possession, so there could be no question of any substitution inadvertently by anyone on a matter of evidence in the case?
- A. Yes, sir.
- Q. So that if someone said, this missile came from this part of the body, there would be no way for a substitution by accident or mistake to occur, isn't that correct?
- A. Not while in my possession, no.
- Q. Now, you can verify to this jury that during that approximate one hour that you had possession of these items, there was no way that there was any change in these items?
- A. That's correct.
- Q. Of any kind?
- A. That's correct.
- Q. Or a change that might be from item A to item C, or from item B to item A, there was none of that that occurred while you had possession of them?
- A. That's correct.
- Q. Were was it that you turned them over to this other person?
- A. At the crime scene.
- Q. You had gone, then, back to the Biltmore Hotel?
- A. Yes, sir.

Q. On Sunday?

A. Yes, sir.

Q. And at the Biltmore Hotel, you met someone there, that is Deputy -- ?

A. Deputy Rosales.

Q. Rosales. Now, why did you turn those over to him back at the Biltmore Hotel?

A. He was in charge of the collection and preservation of the evidence.

Q. He was a superior to you, wasn't he?

A. At this time, yes.

Q. And rather than take them to the evidence locker at the Sheriff's Department, it appeared to you to be more appropriate to entrust them to his safekeeping at that point?

A. Yes, sir.

Q. And about 3:00 o'clock on Sunday when you turned them over to him, your responsibility ended, didn't it?

A. At the time, yes, sir.

Q. And it would then be entirely up to Mr. Rosales to further keep safely and to protect these items from any possible mix up, isn't that correct?

A. Yes, sir.

Mr. LINDSEY: No further questions, your Honor.

Mr. MINIER: No further questions, your Honor.

THE COURT: All right. That is all, Mr. White. You are excused.

(Whereupon, the witness was excused and withdrew from the stand.)

THE COURT: We will take the morning recess, Ladies and gentlemen of the jury and it is your duty not to converse among yourselves or with anyone also on any subject connected with the trial, or to form or express any opinion thereon until the cause is finally submitted to you.

(whereupon a short recess.)

THE COURT: The members of the jury and alternate jurors are present. The defendant is present,

Now, Mr. Hargreaves, would you be good enough to please make that appointment for 1:45 tomorrow, and then, Ladies and Gentlemen, we will adjourn the case tomorrow at noon, we will not be working on the case tomorrow afternoon.

All right, we are ready for the next witness.

Mr. MINIER: Your Honor, prior to the next witness, I have asked the clerk if she would mark two certified death certificates, one for Mr. Baydar and one for Mr. Demir, as People's Nos. 25 and 26 for identification, respectively. They are both certified by Dr. John Nardo, the head of the Santa Barbara County Health Department, as true and correct copies of the certificates of deaths on file with the county.

I have just shown them to counsel and I would like to offer them into evidence now, People's No. 26 being the death certificate for -- pardon me, Exhibit.25 being the death certificate for Mehmet Baydar, and No. 26 being the death certificate for Bahadir Demir.

THE COURT: They are received.

(Whereupon, a death certificate pertaining to

Mehmet Baydar thereupon duly received in evidence as People's Exhibit No.25; whereupon a death certificate pertaining to Bahadir Demir thereupon duly received in evidence as People's Exhibit No. 26)

Mr. MINIER: May I read some of the excerpts on the information portion of the certificate your Honor?

THE COURT: Yes.

Mr. MINIER: Thank you.

People's No. 25, the name of the deceased is Mehmet baydar, Date of death: January 27, 1973. Hour: 12:45. Age: 48. Name of surviving spouse: Guner. Place of death: St. Francis Hospital.

People's Exhibit 26 is a death certificate for Bahadir Demir. Date of death is listed as January 27, 1973. Hour as 2:01 P.M. Place of death, St. Francis Hospital. Age: 30. Name of surviving spouse, Sina. Thank you your Honor.

Call ROY ROSALES

**ROY ROSALES**

Produced as a witness for and on behalf of the People was thereupon duly sworn and testified as follows:

**DIRECT EXAMINATION**

BY Mr. MINIER:

Would you please state your full name, and spell your last name.

A. Roy Rosales, R-o-s-a-l-e-s.

Q. What is your occupation, Mr Rosales?

A. Deputy Sheriff of the County of Santa Barabara.

Q. How long have you been so employed?

A. Approximately four and half years.

Q. What kind of work do you do for the Sheriff's office?

A. I am presently assigned to the Identification Bureau.

Q. Does that work involve you in the collection and preservation of physical evidence?

A. Yes, sir.

Q. Now, did you have occasion to go to the Biltmore Hotel in Santa Barbara on January 27<sup>th</sup> of this year.

A. Yes, sir. I did.

Q. What was your purpose for going there?

A. To assist in the field investigation of a possible homicide.

Q. Did you go there with anybody else that does the same general type of work as you do for the Identification Bureau?

A. Yes , I was assisted by technician Charles White.

Q. Now, did you go to Room 34 at the Biltmore Hotel premises?

A. Yes, sir.

Q. I am going to show you—or call to your attention Exhibit 16 on the board and ask you if you can recognize that as being a non-scale floor plan of the Cottage No.3 at the Biltmore Hotel, which includes Room 34.

A. Yes, sir.

Q. Now, on the 27<sup>th</sup> of January, did you go into Room 35 at the Biltmore Hotel?

A. Yes, sir. I did.

Q. Did you collect certain evidence while you were there?

A. Yes, sir

Mr. MINIER: Your Honor, I have handed to the clerk a floor plan which I believe is a close up of Room 34 in Cottage 3 at the Biltmore Hotel and I wonder if we might have it marked as People's Exhibit No. 27 for identification purposes?

THE COURT: Yes.

(Whereupon a colored floor plan thereupon duly marked as People's Exhibit No.27 for identification purposes only)

Mr. MINIER: Showing you People's Exhibit 15, do you recognize this as being a color photograph of Cottage number three?

A. Yes, sir.

Mr. MINIER: Your Honor, may I put 15 and also People's No. 27 for identification on the board?

In order to familiarize the Court and the jury with People's No. 27, do you suppose you could go to the board Mr. Rosales, and tell us if that appears to be an accurate representation of Room 34 as it appeared when you were at the room on January 27 with the exception of certain things, and if you could point out those exception please?

A. Yes, sir.

The furniture, to the best of my recollection is in the position that it was when we entered the room. There were pieces of clothing and personal articles.

Q. They are not shown on the diagram?

A. No sir, they are not

Q. This diagram, then does not depict room 34, then, does it?

A. Yes.

Q. And the only thing appearing on the diagram other than the indications of the walls and the doors and the window, are some of the furniture in the room, is that correct?

A. Yes, sir.

Q. Now, is there any significance in the degree or extent to which any of the doors are shown open on the diagram or does that only indicate that that is a door?

A. I believe so. They were closed when we arrived.

Q. I think you can take your seat, then, again if you would like.

A. (Witness complies.)

Q. Now, at the time that you arrived, you and Technician White, was there anybody in the room?

A. I believe we were met by Deputy Casey, was outside.

Q. Was he guarding the room?

A. Yes, sir, he was guarding the entrance.

Q. Had the room been sealed off to await your arrival?

A. By the officers present, yes sir.

Q. After you entered the room, did you make a search of the room to determine whether or not there were any bullets in the room and any shell casings in the room?

A. We waited for the Detectives to arrive, then we went in. There was a visual check of the room made.

- Q. Did you find any bullets?
- A. Yes, sir.
- Q. Do you recall the number of bullets you found within the room?
- A. Once we started collecting the evidence?
- Q. Yes. In other words, after you attempted to collect all of the physical evidence there, how many different bullets did you find?
- A. We found nine 9-millimeter projectiles with the casings, and five 25-caliber bullets with the casings.
- Q. Now, when you refer to the nine 9-millimeter projectiles, are you referring then to spent bullets?
- A. Yes, sir.
- Q. That is the projectile portion?
- A. Yes, sir.
- Q. Is it the same case with the five 25 caliber bullets.
- A. There were two found at the scene, I am sorry.
- Q. You found two 25 caliber bullets at the scene?
- A. Yes, sir.
- Q. So, that's a total then, of nine 9 millimeter and two 25 caliber?
- A. Yes.
- Q. That you found in Room 34.
- Now, how many shell casings did you find, and of what caliber?
- A. We found nine 9 millimeter casings and five 25 caliber casings.
- Q. So then, to total that, would that be a total of 14 shell casings?
- A. Yes, sir.
- Q. With regards to the bullets, then, you had found nine of the 9 millimeter, plus two of the 25 caliber for a total of eleven, is that correct?
- A. Yes, sir.
- Q. Now, is it possible, on the diagram on the board, People's No. 27, for you to give us some indication of where the general area of where most of these bullets were found?
- A. Yes, sir.
- Q. All right. If you can do it, then would you take the red marking pencil, please, and draw some kind of a circle to indicate the general area where you found bullets?
- A. The general area where we located most of the casings was in this area here (pointing on schematic.)
- Q. Those are the casings?
- A. Yes, Sir.
- Q. Would you write, "most of casings" within the circle, please?
- A. (Witness complies.)
- Q. And now, was there a general area where you located most of the spent bullets?
- A. Yes, sir.
- They were these two walls here.
- Q. All right. Somewhere in between there, could you write "most bullets," and then draw an arrow to each one of the circles?

A. (Witness complies.)

Q. Thank you, you can take your seat again, if you would like.

A. (Witness complies.)

Mr. MINIER: If I might have a moment, your Honor, I would like to ask the Clerk to mark some photographs for identification.

I have four color photographs, your Honor. I wonder if we might have them marked for identification as People's 28, 29, 30, and 31?

THE COURT: Yes.

(Whereupon the above described exhibit thereupon duly marked People's exhibits

Nos. 28, 29, 30 and 31 for Identification purposes only.)

Mr. MINIER:

Q. Mr. Rosales, was there a telephone in Room 34?

A. Yes, sir, I believe there was.

Q. I am going to show people's exhibit No. 28 and ask you if this appears to be a true and accurate representation of a portion of room 34 containing the bed and also showing a telephone on a stand?

A. Yes, sir, it does.

Q. Does that appear to accurately represent the room the way it was when you saw it?

A. Yes, Sir

Mr. MINIER. Your Honor, we would offer People's No. 28 into evidence.

THE COURT: Received.

(Whereupon the previously marked exhibit thereupon duly received in evidence as People's No. 28 in evidence.)

Mr. MINIER: May we put that on the board, your Honor?

THE COURT: Yes.

Mr. MINIER:

Q. Would you also come to the board, please, Mr. Rosales, and indicate with some kind of a red pen marking where, on the diagram of the room 34, the phone would be?

If you could draw a little circle and write the word "phone," next to it, please?

A. (Witness complies.)

Q. Now, on the picture which is People's 28, would you draw a circle around the phone?

A. Yes, sir

Q. Thank you. You can take your seat again, if you like.

With regard to People's No. 20, may I put this on the board, also, your Honor

THE COURT: Has that been received?

Mr. MINIER: Yes. That has already been into evidence.

Mr. MINIER: I will just place it down here on the board.

Q. Can you tell us from the photograph if it is possible to see any of the shell casings that you earlier described?

A. Yes, sir

Q. Would you point out the general area on that photograph where they were (indicating Exhibit No. 20)?

As a matter of fact, with a red pen, why don't you put a little arrow if you can—well, pardon me, may be we should use a different color because another witness has used red. Would you use the black pen, please, and if you could draw an arrow pointing to each one of the casings that you can see there.

A. There are two casings here, there is a casing here (Witness marking on Exhibit No. 20),---here and here

Q. Now, I am going to show you People's No. 18, which is a picture from a different angle, this also in evidence, your Honor.  
May we put it on the board?

THE COURT: Yes.

BY Mr. MINIER: It is a picture, I believe, of the same portion of the room but from a different angle, and is it also possible in this picture to see a number of shell casings?

A. (Witness examining exhibit) Yes, sir, it is.

Q. What are those little white pieces of paper that appear in that picture?

A. That is identification corresponding with the projectiles or casings, any physical evidence that you might have.

Q. Are these little identification pieces of paper put there by Sheriff's personnel?

A. Yes, sir.

Q. Would you like to take your seat again, please.

Now, do you have any of the casings with you now that you collected in Room 34?

A. Yes, sir.

Q. Would you take them out of the box please.

While you are also in the box, did you also bring any of the bullets with you that you located in the room?

A. Yes, sir.

Q. Could you take them out, also?

First could you hand me the casings? I don't think you need to open the bag yet. You are handing me a bag now that contains how many casings?

A. There is nine .9 millimeter casings

Q. And there are also some other items here?

A. Yes there is some—the five 25 caliber casings are in there and there should be some bullets in there.

Mr. MINIER: Your Honor, may we have the Clerk mark this bag collectively for identification as People's No. 29—sorry, People's next in order

THE CLERK: No. 32.

(Whereupon, a plastic bag and contents therein thereupon duly marked as People's Exhibit No. 32 for identification purposes only.)

BY Mr. MINIER: I'm going to show you now People's Exhibit 32 for identification, and because there are a number of smaller plastic container in the bag, some of which appear to have shell casings, some of which appear to have live bullets, and others spent bullets, perhaps you could tell us what all of the different items are there in the bag and how you identify them. You can take them in groups, if you would like, starting with the shell casings.

A. Do you want me to open them to identify them?

- Q. Yes, that is fine. And when you are referring to them if there are any markings on the plastic containers, you might identify them using those markings.
- A. I have five plastic containers with nine expended millimeter casings.
- Q. Can you tell us then how many of each caliber?
- A. There are nine of the .9 millimeter casings.
- Q. And do you have them in that exhibit any casings of another caliber?
- A. No. Each casing—or each plastic container contains one casing. They are not mixed.
- Q. What do you have in addition there to the nine plastic containers that have the .9 millimeter shell casings?
- A. I have five expended .25 millimeter casings or caliber casings.
- Q. Now, can you identify each and every one of that total of 14 expended shell casings as being ones that you personally collected in Room 34 at the Biltmore Hotel?
- A. Yes, sir, I can identify it by one of two ways. I marked the exterior of the container with the date and my initials, and I also marked each casing with my initials on the inside.
- Q. I suspect that you probably better do that now. Look at each one if you can as rapidly as possible so that you can say with accuracy that each one of those shell casings is the one that you collected in Room 34.

Your Honor, while the witness is doing that, I'm going to have another item marked. I have here another plastic bag envelope which is stapled and within which there are six plastic containers. I wonder if we might have this marked as People's 33 for identification.

THE COURT: Yes.

(Whereupon a plastic bag and contents therein thereupon duly marked as People's Exhibit No. 33 for identification purposes only)

BY THE WITNESS: Okay.

BY Mr. MINIER: Have you looked at all of them now?

- A. Yes I have.
- Q. Have you been able to identify your own markings on each one of the 14 shell casings in this exhibit which you removed from the floor of Room 34 at the Biltmore Hotel on January 27?
- A. Yes, sir I have.
- Q. Now, did you personally put each one of those shell casings into that little plastic container in which it is now found?
- A. Yes, sir.
- Q. Did you then have occasion to seal the plastic container?
- A. Yes, sir
- Q. Did you then put your markings on that plastic container?
- A. Yes, sir.
- Q. When you put the shell casings in the containers, were they in the same condition as they were when you removed them from the floor, with the exception of your markings?
- A. Yes, sir.

- Q. In order that we can know exactly what is in Exhibit 32, could you now describe what additional objects are in the plastic containers besides those 14 shell casings you already told us about?
- A. I have two expended bullets here. The .25 caliber were recovered at the scene. I have one live .25 caliber bullet, which was removed from the chamber of the .25 automatic, or .6 millimeter, I believe, automatic, and I have three expended .9 millimeter bullets that were recovered at the scene.
- Q. Now, have you also examined each one of the items you just mentioned for your markings?
- A. Yes, sir, I have.
- Q. Did you find your mark upon each one of the three expended .9 millimeter bullets that you found at the scene?
- A. Yes, sir.
- Q. Did you find your mark also upon each of the two expended .25 caliber bullets you found on the scene?
- A. Yes, sir.
- Q. And also upon the live .25 caliber bullet that you found in the chamber of a weapon you haven't yet told us about?
- A. Yes, sir.
- Q. All right. With respect to each one of those six items, of evidence you just testified to, did you put each one in its individual plastic box?
- A. Yes, sir, I did.
- Q. Did you seal the box?
- A. Yes, sir.
- Q. Put some of your markings on the boxes?
- A. Yes, sir.
- Q. When you put each one of those five additional items in its box, was that item in the same condition that it was when you took it from the room, with the exception of the markings you put on it?
- A. Yes, sir.
- Q. Would you put all of the individual plastic boxes, please, now back into the large plastic sack which is People's 32 for identification?
- A. (Witness complies.)
- Q. Your Honor, we would offer People's Exhibit 32 into evidence at this time.
- THE COURT: It is received.
- (Whereupon the above described exhibit previously marked for identification thereupon received as People's Exhibit No. 32 in Evidence.)
- Mr. MINIER:
- Q. In order that these don't fall out, would you temporarily staple that plastic bag back up?
- A. (Witness complies.)
- Q. Thank you. Now, by my count in People's 32, there were five expended bullets which you had collected from the scene; is that right?
- A. Yes, sir, that is correct.

- Q. And I believe you testified earlier that you collected a total of eleven expended projectiles at the scene.
- A. Yes, sir.
- Q. I am going to show you now People's Exhibit 33, which contains six plastic containers and ask you if you can look at those, please, and identify them?
- A. Yes, sir.  
These are casings I recovered at the scene.
- Q. Those are what?
- A. Casings-- or bullets that we recovered at the scene.
- Q. What caliber are these bullets?
- A. .9 millimeter.
- Q. So these are six .9 millimeter expended projectiles which you recovered from the scene?
- A. Yes, sir.
- Q. And did you personally put each one of those projectiles into its plastic container?
- A. Yes, I did.
- Q. Have you already identified your own marking upon each one of the projectiles?
- A. Yes, sir.
- Q. When you put each bullet into the plastic case, was the bullet in the same condition as when you collected it from the room, with the exception of your markings?
- A. Yes, sir.
- Q. Then, did you seal each one of the six plastic cases?
- A. Yes, sir, I did.
- Q. And you put some of your own markings on the plastic cases?
- A. Yes, sir.
- Q. Fine. Would you please put those six plastic cases, then, back into the plastic bag and also staple that bag shut, and your Honor, we would now offer People's No. 33 in evidence.

THE COURT: Yes.

(Whereupon the above described  
exhibit previously marked for identification thereupon received as People's  
Exhibit No. 33 in evidence)

THE COURT: And we will take the noon recess at this time gentlemen.

Ladies and gentlemen of the jury it is your duty not to converse among yourselves or with anyone else on any subject connected with the trial, or to form or express any opinion thereon until the cause is finally submitted to you.

We will recess until 1:30 P.M.

(At 12:00 noon an adjournment was taken until 1:30 p.m. of the same day)

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**7. SANTA BARBARA, CALIFORNIA, THURSDAY, JUNE 7, 1973, 1:30 P.M.
AFTERNOON SESSION**

THE COURT: The members of the jury are present and the alternate jurors and the defendant.

All right gentlemen.

Mr. MINIER: Mr. Rosales

ROY ROSALES (Resuming)

DIRECT EXAMINATION(Continued)

BY. Mr. MINIER:

Mr. Rosales in order to summarize the testimony that you gave regarding the finding of shell casings and expended projectiles, would you be good enough to go back to the diagram on the board and take the red marking pencil and some way in the area where it is marked "bathroom" where there is some writing space, would you please write "Total found" and then a colon.

Now, what is the total number of the expended shell casings that you found again?

A. There were nine.

Q. Okay. There were of what caliber?

A. Nine .9 millimeter casings.

A. Next would you put the number of .25 caliber?

(Witness writing) Five .25 caliber.

Q. Now, could you put a line and the "14" underneath to show the total

Now, down below that, would you also indicate in the same manner the number of projectiles that you found, the number of .9 millimeter, the number of .25 caliber, and then the total.

A. (witness complying.)

Q. Now, would you put a line and total that up to "11", please.

A. (Witness complying.)

Q. Would you please return to your seat.

Now, did you have occasion to find any guns in the room when you went into it?

A. Yes, sir, we did.

Q. And what kind of guns did you find?

A. Found one Luger, .9 millimeter automatic, and one Browning .6 millimeter automatic.

Q. Now, I assume that the .9 millimeter would use the .9 millimeter projectiles and casings, is that correct?

A. Yes, sir.

Q. What about the relationship, if any, between the .6 millimeter Browning and the .25 caliber shell casings and bullets?

A. The .6 millimeter Browning will take the .25 caliber bullet.

Q. I'm going to show you now People's Exhibit 29 for identification and ask you if you can identify that as a true and accurate color representation of the area of the room in which you saw the two guns?

A. Yes, sir.

Q. Do they appear in that picture on a dresser?

A. Yes.

Q. Is that the way they looked when you entered the room?

A. Yes, they did.

Mr. MINIER: Your Honor, we would offer People' 29 into evidence.

THE COURT: May I see it, please, Mr. Rosales.

THE WITNESS: Certainly (presenting exhibit to the Court).

THE COURT All right. It is received

(Whereupon, a colored photograph, duly received in evidence as People's Exhibit No. 29.)

Mr. MINIER: May we place this on the board as soon as it is marked, your Honor?

THE COURT: Yes.

Q. BY Mr. MINIER: Now, calling your attention to People's 21, which has already been placed into evidence and which is the one over on the right, is People's 21 merely a close-up photograph of the same guns in the same location as they are shown in People's No. 29?

A. Yes, sir.

Q. Because some of the jurors may not be able to see from here, would you please walk to the board and point out on Exhibit 29 where those guns appear on the dresser?

A. The guns are here (indicating).

Q. Now, did you bring those two weapons into the courtroom with you?

A. Yes, sir, I did.

Q. Could you withdraw from the box, please, the .9 millimeter Luger?

A. (Witness complying)

THE COURT: I wonder if you would hand that to the bailiff, Mr. Minier, so that he may clear it.

Mr. MINIER: Fine, your Honor. I was going to have the witness do that, but I'm sure that the bailiff is equally competent.

(Whereupon the weapon checked by the bailiff)

Mr. MINIER: Your Honor, after that perhaps we can have that marked for identification as People's no. 34, I believe it would be.

THE COURT: Yes.

(Whereupon, a .9 millimeter Luger automatic thereupon duly marked People's Exhibit No. 34 for identification purposes only)

Q. Mr. Rosales, I show you now People's 34 for identification and ask you if you will look at the weapon, please, to determine if you can find your marks on it, and if so, would you then tell us where you first saw it?

A. This is the weapon we first saw at the scene, as seen in the photographs.

Q. With regard to People's Exhibit No. 29, to make sure the two weapons can be distinguished, would you just walk over to the board, please, and point out which one of those two weapons, shown in the picture, this luger is?

A. (Pointing at schematic)

Q. Thank you. Did you then remove the luger weapon from dresser?

A. Yes.

Q. And take it into evidence?

A. Yes, sir.

Q. Would you take the stand again please.

Did you have occasion, later, to inspect the condition of the gun with regard to whether it was loaded or not?

A. Yes, sir.

Q. Could you tell us what you found in that regard?
A. The weapon was empty.
Q. Was there a clip in the weapon?
A. Yes, sir.
Q. And there were no bullets in the clip; is that correct?
A. That is correct.
Q. And also no bullets in the chamber?
A. That is correct.
Q. Did you bring the clip, which was in the weapon at the time that you took it off the dresser, with you?
A. Yes, sir.
Q. Would you see if you can find that also in the box please?
A. (Witness complies.)
Mr. MINIER: Your Honor, might we have this item marked as People's Exhibit 35 for identification?
THE COURT: Yes.
Mr. MINIER:
Q. Which is a clip -- pardon me?
A. The three are together. The one we took out of the weapon.
Mr. MINIER: If I may wait for a moment, apparently this is in three parts.
Q. Could you unwrap the plastic, then, Mr. Rosales, and tell us what you have inside of it?
A. I have two packages; one containing a full magazine and a second -- just a minute. I m sorry, I was in error this is the empty one.
Q. Would you hand me the one that is the clip that you removed from the luger?
A. This would be the one.
Q. Thank you.
Your Honor, may we have that one marked as People's Exhibit 35 for identification
THE COURT: Yes.
(Whereupon the above described exhibit thereupon duly marked People's Exhibit No. 35 for identification purposes only.)
Mr. MINIER:
Q. Now, Mr. Rosales, did you have occasion to inspect the room to find out if there were present any additional clips which would fit the .9 millimeter Luger weapon?
A. Yes, sir, we did.
Q. What did you find in this regard?
A. We found two more loaded magazines.
Q. Do you have them with you?
A. Yes, sir.
Q. And are they the ones that are in the two plastic bags before you?
A. Yes, sir.
Q. Would you let it me have those, please?
A. (Handing.)

Mr. MINIER: Your Honor, could we have these marked as People's Exhibit 36 and 37 for identification?

THE COURT: Yes.

(Whereupon the above described exhibit thereupon duly marked as People's Exhibit Nos. 36 and 37 for identification purposes only.)

Mr. MINIER: Thank you.

Q. I am going to show you People's 35 for identification which I believe is the one you testified you removed from the gun, the magazine, that is. Would you unwrap the plastic and try to keep the exhibit mark from coming off when you do it, please?

A. (Witness complies.)

Q. Can you identify that by some marking as the exact magazine that you found in People's Exhibit No. 34, which is the luger gun.

A. Yes, sir, I can.

Q. Would you hold that up, please, so the Court and jury can see it?

A. (Witness complies.)

Mr. MINIER: Your Honor, at this time, we would offer People's 34, the Luger gun, and People's 35, the clip, into evidence.

THE COURT: Received.

(Whereupon the above described exhibit previously marked for Identification thereupon received as People's Nos. 34 and 35 in evidence.)

Mr. MINIER: Thank you.

Q. Would you roll that magazine back up, please, so we don't lose the exhibit mark?

A. (Witness complies.)

Q. Now, I am going to hand you People's 36 and 37 for Identification; would you open them in turn, please, and tell us if you can identify these by your own marking as being the same two clips or magazines that you found in room 34?

A. Yes, sir, it is.

Q. Would you hold that one up please, so the Court and jury can see it. That is People's

A. 36.

Q. -- 36 for identification.

How many live rounds -- live bullets are in that?

A. Eight.

Q. Would you return that to the plastic case, please, and then look at People's 37 for identification?

A. Yes, I can identify it.

Q. Can you identify that by some marking as the same one that you found in the room?

A. Yes, sir.

Q. Would you also hold that up so the Court and Jury can see it?

A. (Witness complies.)

Q. How many live rounds in that magazine?

A. Eight, sir.

Q. Would you also return that one to the plastic case, please.

Your Honor, we would offer People's 36 and 37 into evidence.

THE COURT: They are received.

Where were they found, Mr. Rosales?

THE WITNESS: In the dresser drawer, sir, the same dresser drawer where the weapons were sitting on top of the dresser.

(Whereupon the above described exhibits previously marked for identification thereupon received as People's Exhibit No. 36 and 37 in evidence)

Mr. MINIER. Could you return those to the outer plastic wrappers that have the identification numbers, please?

(Witness complies)

Could you also return the gun to its wrapping?

(Witness complies)

Mr. Rosales, while I am returning these to the Clerk, would you please go to the board, and on People's 29, the photograph, would you take the red marking pencil and draw an arrow to the guns and at the foot of the arrow write the words "guns" then draw a circle around the drawer in which you found the two clips, and next to the circle write "two clips", please?

(Witness writing)

Thank you. You have indicated then, that the two extra magazines, each with 8 live bullets, were located in the dresser drawer immediately below the place on the top of the dresser where you found the two guns, is that right?

A. Yes, sir.

Q. Now, did you bring with you today the .25 --I'm sorry, the .6 millimeter Browning?

A. Yes, sir.

Q. Would you remove that from the box, please.

A. Yes (witness complying).

Q. Now, before we mark that, let me ask you, did you have occasion to inspect the Browning weapon also to determine whether or not it was loaded?

A. Yes, sir

Q. What did you find in that regard?

A. There was one live round in the chamber and one remaining in the magazine.

Q. Did you bring the magazine with you today?

A. Yes, sir

Q. Would you also remove that from the box, please?

A. Yes (Witness complying).

Q. And what did you do with the live bullet that was in the magazine, is it still in the magazine?

A. Yes, sir, I believe so.

Q. And with regard to the bullet that you said was in the chamber, what happened to that?

A. It was with the group we submitted to evidence here earlier.

Mr. MINIER: Your Honor, may we have the package which we believe contains the gun marked as People's Exhibit 38 for identification, after I hand it to the bailiff for inspection.

THE COURT: Yes.

(Whereupon, a .6 millimeter Browning thereupon marked People's Exhibit for identification purposes only.)

Q. BY Mr. MINIER: Showing you People's 38 for identification, would you please look closely at the weapon to determine if you can by some marking tell us if that is the exact .6 millimeter Browning that you found in Room 34?

A. (Witness examining exhibit) Yes, sir, it is.

Q. Would you hold it up, please, so that the Court and jury can see it.

A. Yes (Witness complying).

Mr. MINIER: Your Honor, we would offer People's 38 into evidence.

THE COURT: Received.

(whereupon a .6 millimeter Browning thereupon duly received in evidence as People's Exhibit No. 38.)

Q. BY Mr. MINIER: If you would put that back and then look into 38-A, which I believe is the package in which you said you placed the magazine that you originally found in the .6 millimeter Browning.

Can you identify that?

A. (The Witness examining exhibit) Yes, sir.

Q. Is that the same magazine that you removed from the .6 millimeter Browning?

A. Yes, it is.

Q. Does it still have the one live bullet in it?

A. Yes, sir.

Q. Would you hold that up also so that the jury and the Court can see it.

A. (Witness complying)

Mr. MINIER: Your Honor, we would offer People's 38-A into evidence.

THE COURT: Received.

(Whereupon a magazine clip thereupon duly received in evidence as People's Exhibit; No.38-A)

BY Mr. MINIER: Now, Mr. Rosales I am going to show you People's exhibit 38-A which is already in evidence and see if you can find in that exhibit the live bullet which you say you have removed from the chamber of the .6 millimeter Browning?

A. (Witness examining exhibit) Yes, sir it is here.

Q. Could you identify which one it is by telling us what the markings on the plastic case are?

A. Yes, the markings on the plastic case indicate that the round was removed from the chamber.

Q. Why don't you tell us exactly what it says there?

A. "Round from chamber".

Q. "Round from chamber"?

A. "1-27-1973 is the date with my initials.

- Q. Now, with regard to the .9 millimeter Luger, did you have occasion personally to seal that into its plastic container after you had collected it and taken it into evidence?
- A. Yes, sir.
- Q. And with respect to the .6 millimeter Browning, did you also yourself seal it into a plastic bag?
- A. Yes, sir.
- Q. When you sealed both of the two weapons into the plastic bag, were they in the same condition as they were at the time you first saw them with the exception of your markings and the fact that you had removed the magazine from both, and also on live round from the .6 millimeter Browning?
- A. Yes.
- Q. Did you have occasion at a subsequent time to send both of the two weapons to the FBI laboratory in Washington?
- A. Yes.
- Q. And did you do this by mail?
- A. Yes we did.
- Q. At the time, you mailed the two weapons, were they still sealed into the plastic bags?
- A. Yes, sir.
- Q. Were they still in the same condition that they had been in at the time that you sealed them into those bags?
- A. Yes, sir.
- Q. And in the meantime had they been under your direction and control?
- A. Yes, sir.
- Q. As far as their custody?
- A. Yes, sir.
- Q. Now, with regard to People's 32 about which you testified earlier, and to summarize, the testimony, let me ask you to make sure I have it correctly, does People's Exhibit 32 contain all 14 of the shell casings that you found in Room 34, and in addition three spent .9 millimeter bullets and two spent .25 caliber bullets?
- A. Yes, sir.
- Q. Now, did you also have occasion to send this entire package, which is People's 32, to the FBI laboratory?
- A. Yes, sir, I did.
- Q. And was that package and all of its contents still in the same condition at the time you sent them to the FBI laboratory as they were at the time you sealed them into the bag?
- A. Yes, sir.
- Q. Had they been in your custody under your direction and control during the interim?
- A. Yes, sir.
- Q. With regard to People's Exhibit 33, this is the other plastic bag containing six plastic cases, let me ask you this by way of summary: Does that contain six .9 millimeter

bullets that you removed from the scene?

A. Yes, sir.

Q. Now, did you also, send that package and all of its contents to the FBI laboratory?

A. Yes, sir.

Q. Was that package also in a sealed condition when you sent it?

A. Yes, sir.

Q. Was the package and all of its contents in the same physical condition when you sent them to the FBI laboratory as they were at the time you sealed them into the package?

A. Yes.

Q. Were they also in your exclusive possession and control during the interim period?

A. Yes, they were.

Q. I am now going to show you People's Exhibit 24, 24-A, 24-B and 24-C, and ask you if you can identify these particular objects by some specific marking?

A. (Witness examining exhibit) Yes, sir.

Q. Can you tell us how these came into your possession?

A. They were turned over to me by Technician White.

Q. Where was that, do you recall?

A. At the crime scene.

Q. And at the time he turned over those three plastic boxes which appear to contain the bullets, were the plastic boxes in a sealed condition?

A. Yes, sir.

Q. Did you at a later time send those three plastic boxes also to the FBI laboratory in Washington?

A. Yes, sir, I did.

Q. Were the boxes still sealed at the time you sent them to Washington?

A. Yes, they were.

Q. Were they still in the same physical condition that they had been at the time that Technician White gave them to you, other than any markings you put on the outside?

A. Yes, sir.

Q. Now, I'm going to show you People's Exhibit No. 19, the photograph, and ask you if you can identify that as a color photograph of the bed and a chair and a blue book in Room 34?

A. Yes, sir.

Q. Did you have occasion to also collect that book?

A. Yes, sir.

Q. Did you bring the book to court with you?

A. Yes, sir.

Q. Would you take it out of the box please.

A. (Witness complying)

Mr. MINIER: May we put No. 19 on the board your Honor?

THE COURT: Yes.

Mr. MINIER: Your Honor, I have here a blue book entitled Who's Who in the West, and I wonder if we might have this marked as People's Exhibit No. 39 for identification.

(Whereupon, a book entitled 'Who's Who in the west' duly marked People's No. 39 for identification purposes only)

Q. I am going to show you People's Exhibit No. 39, the Who's Who Book and ask if you can identify that as being the same book that you got in room 34 at the Biltmore?

A. Yes, it is.

Q. Your Honor, we would offer People's 39 into evidence.

THE COURT: It is received.

(Whereupon the above described exhibit previously marked for identification thereupon received as People's No. 39 in evidence.)

Mr. MINIER: Thank you.

Q. Would you open up People's 39 to page 880, please, and see if there is biographical reference there to Gourgen Yanikian?

A. (Reading)

Q. Maybe I have the wrong page number.

A. No, it is correct, sir. I believe it is just a different spelling.

Q. Is there such a reference there?

A. It is not the same spelling.

Q. It is spelled differently?

A. It is Y-a-m-a-s-a-t-i.

Q. May I see it just a moment?

Did you find the reference how to Gourgen Yanikian?

A. Yes, sir.

Q. Now, would you open the book at the middle and tell us whether there is anything unusual about the book?

A. Yes, sir. There is a portion of the book cut out and some nails driven through it to hold it intact.

Q. Would you hold up the book so that the jurors can see the portion that's hollowed out?

A. (Witness complies.)

Q. Now, would you -- pardon me, I am going to get People's 34. I shouldn't have had you wrap People's 34 back up.

Could you please unwrap People's 34 and take the .9 millimeter Luger out of it and attempt to place the Luger into the hollow in the book?

A. (Witness complies.)

Q. Would you hold it up in a manner so the jury can see it and so that the Court can see it?

A. (Witness complies.)

Q. Thank you.

All right, if you would like, you can take the Luger back out and put it back in its wrapping.

Now, I am going to call your attention to one of the color photographs on the board, People's No.20. I am pointing to a red circle around what appears to

- be a bank note: do you recall seeing the bank note in that particular place on the floor?
- A. Yes, I do.
- Q. I am going to show you People's 4 and ask you if you can identify that as the same bank note that appears in the photograph, and that you saw on the floor of room 34?
- A. Yes, sir, I do.
- Q. Is there some kind of a marking on that that you can identify as yours?
- A. Yes.
- Q. Now, with respect to the dresser on which you found the two guns, did you find any photographs that appeared to be photographs of a painting?
- A. Yes, sir.
- Q. Did you bring them with you?
- A. Yes, sir.
- Q. Could I see them, please?
- A. (Witness handing.)
- Q. Are both of these photographs in the same case?
- A. Yes, sir.
- Mr. MINIER: Your Honor, could we have this marked as People's No. 40 for identification, please?
- THE COURT: Yes.
- (Whereupon the above described photographs of painting thereupon duly marked as People's Exhibit No. 40 for identification purposes only.)
- Mr. MINIER:
- Q. Showing you People's 40 for identification, I would like to ask you if those are the same two photographs that you found on the dresser in room 34?
- A. Yes, sir.
- Q. Are those two the same ones?
- A. Yes.
- Q. I am going to show you People's Exhibit No. 3, a photograph of what appears to be a painting of a Harem and ask you if the two little photographs you have just identified appear to be the same except in size, as People's Exhibit No. 3?
- A. Yes, sir, they do.
- Mr. MINIER: May we put this one back on the board your Honor?
- THE COURT: Yes.
- Mr. MINIER: Thank you.
- Q. Mr. Rosales, would you please come to the board again with a red marking pencil, and on People's Exhibit No. 29, the one at the top, and could you draw another arrow in the approximate location where the pictures were, and at the foot of the arrow put, "photos"?
- A. The approximate location they were sitting under some papers under this suitcase in this general area.
- Q. Now, Incidentally, were those two photographs visible when you first looked at the dresser?
- A. I believe they were partially.
- Q. Partially visible?

A. Yes.

Q. Were they partially under something else?

A. Yes, I believe they were under some papers.

Q. So then you are not actually able to see them on People's Exhibit 29?

A. No, sir.

Q. Now, also on that same dresser that appears in People's Exhibit 29 did you have occasion to find a letter a typewritten letter and an envelope?

A. Yes.

Q. I am going to show you People's 7 and People's 7-B, 7 being a letter addressed to Gourg Yaniki and 7-B being an envelope addressed to Gourg Yaniki and ask you if you can identify them?

A. Yes, sir.

Q. Can you tell us if you found those in room 34?

A. Yes, sir

Q. Where did you find them?.

A. They were on top of the dresser where the guns were.

Q. Right on the same photograph would you please draw another red arrow to the location approximately where you found them, and at the foot of the arrow put the word "letter"?

A. (Witness writing)

Mr. MINIER: While he is doing that, your Honor we would like to offer People's 40 into evidence that's the one package containing the two small color photographs.

THE COURT: Received.

(Whereupon the above described exhibit previously marked for identification thereupon received as People's Exhibit No. 40 in evidence)

Q. Now I am going to show you People's Exhibit No. 8 which appears to be a typewritten receipt for a painting and a bank note and ask if you can identify it and if you also found that item in the room?

A. Yes, sir.

Q. Did you find that one in the room?

A. Yes, sir

Q. Could you tell us where you found it?

A. On the southeast corner, on top of a stand in that location.

Q. I am going to show you People's Exhibit No. 30 and ask if you can identify this as a true and accurate color picture of that portion of the room where there is a table and what appears to be some kind of a written document?

A. Yes, sir, it is.

Q. And does this appear the same way it did when you entered the room on that date?

A. Yes, sir

Mr. MINIER: Your Honor, we would offer People's No. 30 into evidence.

THE COURT: Received.

(Whereupon the above described exhibit previously marked for identification thereupon received as People's No. 30 In evidence.)

Mr. MINIER: Then, your Honor, may we place People's 30 back on the board?

THE COURT: Yes.

Mr. MINIER:

Does the receipt, about which you testified, People's No. 8 namely, does that appear here in the photograph which is People's No. 30)

A. Yes sir.

Q. Would you please go to the board and again, with red marking pencil would you circle it and write the words "receipt", somewhere near the circle?

A. (Witness complies)

Q. Thank you

Now, I have a photograph marked People's 31 for identification, I would like to have you look at this and tell us if you can also identify that as another view of the same room accurately depicting that room as you saw it on January 27 of this year?

A. Yes, sir.

Mr. MINIER: four Honor, we would offer People's—was it 31

THE WITNESS: Yes.

Mr. MINIER: People's 31 Into evidence.

THE COURT: Received

(Whereupon the above described exhibit previously marked for identification

thereupon received as People's Exhibit No. 31 in evidence.)

Mr. MINIER: Thank you.

Your Honor, I have a large brown paper wrapped package here which I wonder if we might have marked as People's 32 for identification.

THE COURT: Yes.

Mr. MINIER: People's 41, pardon me, your Honor.

(Whereupon the above described exhibit thereupon duly marked People's Exhibit No. 41 for identification purposes only.)

Mr. MINIER-. Your Honor, may we place this one on the board, People's No. 31?

THE COURT: Yes.

(Whereupon, People's Exhibit No. 31 being placed on the blackboard.)

Q. BY Mr. MINIER: Now, calling your attention to People's 31, Mr. Rosales, on the board, leaning against the wall is what appears to be a painting wrapped in brown paper. Is that in the same spot where it was when you first saw it in the room?

A. Yes, sir.

Q. And did you also have occasion to take that into evidence?

A. Yes, sir.

Q. I'm going to show you People's Exhibit No. 41 for identification and ask you if you can by your own markings identify that as the same object which appears in the photograph?

A. (Witness examining exhibit) Yes, sir, I can.

Q. That is the same one, is it?

A. Yes, sir.

Mr. MINIER: Your Honor, we would offer People's 41 into evidence.

THE COURT: Received.

(Whereupon, a plastic wrapped parcel thereupon duly received as People's Exhibit No. 41 in evidence.)

Q. BY Mr. MINIER: Mr. Rosales, did you put the plastic wrapping around People's 41?

A. Yes, sir

Q. I'm going to hand it to you now and ask you first if you would slip the object out of the plastic wrapping.

A. (witness complying).

Q. You have removed what appears to be a painting wrapped in brown paper and wrapped in plastic would you now open the paper and show us what is inside.

A. (Witness complying).

Q. For the record, Mr. Rosales, can you tell us what you removed from the brown wrapping?

A. A cork board.

Mr. MINIER: Thank you.

I have no further questions, your Honor.

Mr. LINDSEY: Your Honor, I wonder if I might have a moment or so to be able to organize the bits and pieces here, probably take me about five minutes to get them lined up so that I can be able to handle them in some order.

THE COURT: Take a five-minute recess.

Ladies and Gentlemen of the jury, it is your duty not to converse among yourselves or with anyone else on any subject connected with the trial, or to form or express any opinion thereon until the cause is finally submitted to you.

(Whereupon a short recess.)

THE COURT-. The members of the jury and alternate jurors are present. The defendant is present.

All right, Mr. Lindsey.

Mr. MINIER: Pardon me, Mr. Lindsey, but one thing I neglected to do, your Honor, was to offer the diagram on the board which is People's No. 27, offer it into evidence, and I would like do so now, to illustrate Mr. Rosales's testimony.

THE COURT: Received

(Whereupon a diagram duly received in evidence as People's Exhibit No. 27 in evidence.)

CROSS EXAMINATION

BY. Mr. LINDSEY:

Q. Mr. Rosales you are with the Identification Bureau of the Sheriff's Department?

A. Yes, sir.

Q. And what is your position there?

A. I am Deputy 2.

Q. Deputy, what you call Class 2?

A. Yes, sir.

Q. Now, one of the primary functions that you have in your position and in that department, that portion of the Sheriff's office, is that whenever something

- occurs, such as in this case, your particular department in the Sheriff's office has a task of protecting and preserving evidence?
- A. Yes, sir.
- Q. And the reason for that is that bits and pieces and types of evidence may become material in a court case?
- A. Yes, sir.
- Q. And we want to be sure that it is safely protected and identified, is that correct?
- A. Yes, sir.
- Q. And that any person who has possession of it may be known so that at all times we can make certain as it goes from person to person that it is still the same article that was originally taken into possession?
- A. Yes, sir.
- Q. Right, chain of possession
- A. Yes.
- Q. Now, another reason that you have, is it not true, in the gathering and protecting of evidence, is that the location of the evidence may become a piece of circumstantial evidence in the case?
- A. Yes, sir.
- Q. Circumstantial bearing either on perhaps the act itself, or perhaps, isn't it true, circumstantial on what we call "state of mind," is that correct?
- A. Yes, sir.
- Q. Now, first of all, so that we can orient ourselves to photographs in this particular case, as you have been identifying them, let's see if you can help us put these photographs together so that we can see a total picture of it. Plaintiff's Exhibit 13 is the cottage where the event occurred, isn't that correct?
- A. Yes, sir.
- Q. Cottage No. 3?
- A. Yes, sir.
- Q. And that Cottage No. 3 has several rooms in it, one of which is Room 34 where the homicides occurred, right?
- A. Yes, sir.
- Q. Now, in Room 34, among the photographs, there are four in particular, but No. 19 is with the camera looking at a particular direction in that room, showing the bed and the chair on it, right?
- A. Yes, sir.
- Q. No. 29 is a photograph of that same bed showing the lower part and the chair, is that correct'?
- A. Yes, sir
- Q. And in the background of that photograph is the dresser with a suitcase of some type and showing the dresser with the two guns on it, right?
- A. Yes, sir.
- Q. Now, Exhibit 21 is a close-up of the objects on that dresser shown in No. 29, right?
- A. Yes.
- Q. Now, Exhibit No. 28 is a photograph also showing the same chair but so as to get in the nightstand alongside the bed with the telephone, right?

- A. Yes
- Q. So as we look at those four photographs, this helps to give us an orientation to a part of the interior of that room with at least one close-up for the purpose of showing the guns on the dresser, correct?
- A. Yes, sir
- Q. Now, among the photographs that were taken, Exhibit 20 shows, among other things, two yellow covered chairs in the background, right?
- A. Yes.
- Q. And it shows what appears to be some kind of an end table, or small table in between those two chairs?
- A. Yes that's right.
- Q. And Exhibit No. 30 is a close-up showing the same two chairs but with a close-up of that table in between, isn't that correct?
- A. Yes.
- Q. And the reason for that close-up is to show certain items as they were found on that table?
- A. Yes.
- Q. So you would have preserved as part of the work in the identification Bureau a photographic record of where these items were found?
- A. Yes.
- Q. And again these may be important circumstances in the course of any trial in the courtroom as to where certain things were located when the officers first took custody and possession of the room, correct?
- A. Yes
- Q. Incidentally, it is rather beautiful photographic work. Who is the one that took the photographs?
- A. Technician Charles White.
- Q. And he is a photographer with the Identification Bureau, is that correct?
- A. Yes.
- Q. Were you with him when the photographs were taken?
- A. Yes.
- Q. So that you were able to personally verify to the Court and jury in this case that when these photographs were taken, they were taken shortly after the event in question, photographs were taken in your presence, and that each of those photographs accurately depict the items and the location of those items as shown in those photographs, right?
- A. Yes.
- Q. Now, Exhibit No. 31 is another photograph, and I ask you this, Exhibit 28 is up here, which shows the bed and shows the little stand with the telephone on it, just beside the bed; right?
- A. Yes.
- Q. Exhibit 31 can be tied in with that because the pair of shoes in that stand show in Exhibit 31, correct?
- A. Yes.
- Q. In other words, in Exhibit 28, there is a stand of some type with a telephone on that stand beside the bed?

- A. Right.
- Q. And the lower part of that stand, there appears to be what seems to be like two pairs of shoes?
- A. Yes.
- Q. Now, in the Exhibit 31, so that you preserve a record, of that portion of the room, that same nightstand appears and again appears to be the same pair of shoes, is that correct?
- A. Yes.
- Q. So this would give the jury a continuity as they look in this direction across the room?
- A. Yes.
- Q. And in this Exhibit 31, the brown package that had the cork material, is shown here, isn't it?
- A. Yes.
- Q. Is underneath the table what appears to be a chess or checkerboard; is that correct?
- A. Yes.
- Q. There appears to be a photograph on top of the lamp?
- A. Yes.
- Q. A series of photographs in some type of a frame on the table, isn't that correct?
- A. Yes.
- Q. And some other items on top of that table?
- A. Yes.
- Q. Now, again, the reason for that is that anyone testifying in this case and attempting to recall what they found in the room and where, could take a look at these enlarged photographs, and know exactly where those items were when the officers first came in the room?
- A. Yes.
- Q. So that they are helpful, then, in any testimony or in any case of this nature in the courtroom, isn't that correct?
- A. Yes.
- Q. All right, now the photograph, People's Exhibit No. 18 -- first of all let me ask you about Exhibit 20. Can you step over one minute, I wanted to ask you about one detail in Exhibit 20.
- In Exhibit 20, there appears at this point to be some type of a white type of object; do you notice what I am referring to?
- A. Yes.
- Q. I want to show you Exhibit 18 and ask you if that white object appears to be the portion shown in Exhibit 18?
- A. Yes.
- Q. To confirm that in Exhibit No.20, there appears to be a white towel?
- A. Yes.
- Q. That same white towel appears to be in No. 18, doesn't it?
- A. Yes.
- Q. Now, were these two photographs, Mr. Rosales, taken about the same time?
- A. There was a time in between.

- Q. Mr. Rosales, in that photograph which is Exhibit No. 20 which shows a towel and a portion of the area near that white object that's also shown in 18; No. 18, certain papers with numbers have been placed on the floor shown in that photograph, haven't they?
- A. Yes.
- Q. Mr. Rosales, in the photograph No. 20, are those same numbered papers all shown in that other photograph?
- A. No, sir
- Q. Then, was some of the photography done in this case at one time and part of the photography done at some other time?
- A. Yes, sir
- Q. To your knowledge, Mr. Rosales, which of these two photographs was taken first?
- A. The one without the cards.
- Q. That would be exhibit No. 20.
- How long was it before the second photograph, that other one, No. 18, was taken?
- A. It was approximately within an hour after that.
- Q. Now, was there another photograph taken, No. 18, or similar to No. 18 originally?
- A. Yes.
- Q. Where is that photograph?
- A. I believe it is in evidence.
- Q. Similar to this?
- A. Yes, sir.
- Q. Of that area?
- A. Yes, sir.
- Q. Was it determined in between there to do some kind of numbering for the objects being found on the floor?
- A. The exhibit No. 20 is photographed before any collection of the evidence is done. Exhibit No. 18, which is shown there, is so we can identify -- as you said, document the evidence as we pick it up as to its relation with the corresponding number.
- Q. Now, where did you find the Who's Who Book?
- A. On the bed, sir.
- Q. Excuse me?
- A. On the bed.
- Mr. LINDSEY: Your Honor, I would like permission to read the one brief paragraph that was referred to on page 880 by the witness if I may.
- Q. You looked at page 880 when Mr. Minier asked you, did you not?
- A. Yes sir.
- Q. I believe you were asked with regard to the entry for Gourgen Yanikian?
- A. Yes, sir.
- Q. And this paragraph that I am indicating, is that the paragraph that you were referring to on Direct Examination?
- A. Yes, sir.

Mr. LINDSEY: I would like to ask permission to read it, please your Honor

THE COURT: All right.

Mr. LINDSEY: Your Honor, on two or three words in here they seem to be of Armenian -- probably for pronunciation when I get to them, if I may ask for the Court Interpreter's help on two or three of these words when I get to them.

The paragraph is very brief, it reads this way, and it is found -- the one ahead of it is Yoshio Yanagawa, and the one immediately following is Leon Rene Yankwich probably better known as a Federal Judge. This paragraph you referred to is (reading)

"YANIKIAN, Gourgen Mkdrich, author, engr., b. Tabris, Iran, Mar. 22, 1895; s. Mkdrich Acop and Epraksia (Farmanian) Y.; C.E., Moskow U., 1949; m. Chouchanik Komourdjian, Mar. 24, 1924. Dir., gen. mgr. Societe Nat. des Mines, Iran, 1930-47; pres., gen. mgr. Cougen Yanikian & Co., Teheran, 1935-40; chief engr. Trans-Iranian Rys., 1940-43. Fellow Internat. Inst. Arts and Letters; mem. Writers Inst. Council of Arts. L'Alliance Francaise, Civic Music Assn. Clubs: Coral Casino Engineers (Santa Barbara, Cal.). Author: The Victory of Judas Iscariot, 1950; The Resurrected Christ, 1953; Harem Cross, 1954; Untitled, 1956; The Voice of an American, 1962; Mirror in the Darkness, 1962. Home: 74 Chase Dr., Santa Barbara, Cal."

Now, Mr. Rosales, when you took that book into possession for evidence, was there anything in the hollowed-out portion?

A. No.

Q. Was there any indication there had been anything recently in there or not; could you tell from your inspection of it?

A. I would only have to assume there were, sir.

Q. But there is nothing you could tell from what you saw at that time, one way or another; is that correct?

Now, isn't it correct that one of the reasons for the gathering of the evidence and trying to fix exact locations is so that the other branches of the law enforcement agencies working on the matter could, if they desired, reconstruct what had occurred in the room?

A. Yes.

Q. From the available physical evidence there as you found it?

A. Yes.

Q. And from what you located in the room, there is the knowledge that is what they call a Luger type of pistol, is that right?

A. Yes, sir.

Q. And from the knowledge that -- does a Luger eject the empty shells?

A. Yes, sir.

Q. From the knowledge of the trajectory or path that an empty casing will take, the amount of arc and the amount of distance as the gun is ejecting it, the location of the empty casings on the floor, would be a circumstance of being able to estimate approximately where the gun was located at the time that those casings were being ejected, is that correct?

A. Yes.

Q. Now, does the other gun eject casings, empty casings?

- A. To the best of my knowledge, it does, yes, sir.
- Q. And having that in mind, then, the location of any empty casings in that room related to the trajectory or path or the arc that an empty casing would go, that is ejected from the gun, would also give or be a circumstance in estimating about: where that gun was at the time that gun was fired, wouldn't it?
- A. Yes.
- Q. If there was an approximate estimate from those casings of either one or both of the guns of where the guns were when they were fired, from that law enforcement officer, using the work of your department, could determine about where the person was located -- I could see it coming, your Honor.
- Mr. MINIER: I can wait.
- Mr. LINDSEY: Let me go back and start over again.
- Q. BY Mr. LINDSEY: Let me put it perhaps this way, maybe I can anticipate the objection, -- have you had any special training in the area of empty casing trajectories from particular types of guns?
- A. No, sir.
- Q. But you do know from your work in the Identification Bureau that the location of empty casings in a case are important in part because they may be related to position of the gun, location of gun at time of ejection?
- A. Only if not disturbed.
- Q. Excuse me?
- A. Only if they are not disturbed when they land.
- Q. Right. Now, when that photograph No. -- I guess it's No. 19, is it, over there, with the little white paper markers on it showing the location of some of the empty shells, in your work in the Identification Bureau, that is the parts you were playing in this investigation, were you able to determine if any of those casings had been moved by some person after they were ejected fell on the floor from the gun?
- A. Did I have any direct knowledge of it?
- Q. Yes.
- A. No, I didn't.
- Q. Was there any circumstance that you were able to detect there in that room to tell you as an identification specialist whether or not any of those had been moved by any person such as the ambulance people when they arrived?
- A. Yes.
- Q. Now, had they been moved, some of them?
- A. I would have to assume that they were.
- Q. Was there anything that you have to go for that assumption?
- A. The fact that they were scattered.
- Q. Excuse me?
- A. The fact that they were scattered.
- Q. Supposing that when that gun was being fired and the casings were being ejected, that the person was moving in different locations in the room, would that possibly account for the difference in location of those casings?
- A. It could, yes.

Q. Now, this might be important, mightn't it, Mr. Rosales, because whether a person uses a gun and stayed in one position the whole time, or whether during the use of these guns he had moved about for some unknown reason--

Mr. MINIER: (Interposing) Objection, your Honor, upon the ground it calls for an opinion of the witness, and it also may not be relevant what this witness might think is important in reference to what is important to the jury in the case.

THE COURT: Sustained on both grounds.

Q. BY Mr. LINDSEY: Mr. Rosales, you found how many empty casings, was it?

A. Fourteen total.

Q. Fourteen, totally?

A. Yes.

Q. And Mr Rosales, you determined the two different types, that is, was it nine of them of one type?

A. Yes, sir.

Q. And five of them of the other type?

A. Yes, sir.

Q. Now, was it five in the one gun in approximately the same area, or were they spread at different parts of the room?

A. They were spread.

Q. Excuse me?

A. They were spread.

Q. Now, you had also, and did you in fact try to locate as closely as you could the position of the two persons who had been on the floor?

A. Yes, sir

Q. And those were generally outlined with some kind of chalk or marker, or some kind of marking device, weren't they?

A. Yes, sir.

Q. Isn't it true that would be important because of the position of those persons as they were found related to the position of the empty casings on the floor?

Mr. MINIER: Objection again, your Honor, upon the ground it calls for an opinion.

THE COURT: Sustained. He hasn't been qualified as an expert in this area.

Mr. LINDSEY: I understand that.

Q. BY Mr. LINDSEY: Let me ask you this, Mr. Rosales, you haven't had any special training, then, in what we might call the work of a criminologist, have you?

A. No, I haven't

Q. Are you presently this week attending school?

A. Yes, I am.

Q. Whereabouts?

A. San Francisco.

Q. And in what type of course?

A. It's a photography school put on by Kodak.

Q. This is related to your work?

A. Yes, it's law enforcement work.

Q. Do you know what I mean when I use the phrase "criminologist"?

A. Yes.

Q. What is a criminologist?

A. Well, we have different fields, we have fluorescent chemists, who runs our chemical tests, such as blood alcohol, ammonium-barium tests, and so on. He is especially trained, crime-scene investigator, with advanced knowledge.

Q. Now, was there a criminologist involved in this investigation during the times that you were there in the room?

A. No.

Q. Excuse me?

A. No.

Q. Is there a criminologist qualified as such to your knowledge in the identification Bureau of the Sheriff's Department?

A. No.

Q. Now, in this particular case, you have indicated in your testimony that the bank note was in the location indicated in one of the photographs, which would be—it's No. 20, and in which it has already been circled, is that correct?

A. Yes.

Q. Was there any indication from your observation in the room as to how that currency note which is People's Exhibit No.4 happened to come to be in that part of the room?

A. No.

Q. Or on the floor in that part of the room?

A. No.

Q. Now in the work that you were doing in that room, to your knowledge,--well, let me ask you this, what was done with the bank note once it was taken into possession of your department?

A. It was preserved for processing for fingerprinting by the FBI.

Q. Were there fingerprints found on it, to your knowledge?

A. I—

Mr. MINIER: (Interposing) I will object, your Honor, on the grounds that that in the present state calls for a conclusion of the witness, or an opinion, or it calls for hearsay.

THE COURT: Well, it is sustained. What it calls for -- or what is lacking is the witness's ability to testify to this of his own knowledge, which I guess is another way of putting the hearsay objection,--at least it is close enough so I will sustain the hearsay objection.

BY Mr. LINDSEY: Let me ask you just one or two questions: You are a fingerprint -- you have experience in fingerprint matters in your department, have you not?

A. Yes, sir.

Q. As a matter of fact, you take fingerprints of persons and you are also trained to read those fingerprints, aren't you?

A. Yes, sir.

Q. And to classify them, if necessary?

A. Yes, sir.

Q. Now, did you, yourself, take any steps, or do anything to determine if fingerprints were present on this currency note which is People's No. 4?

A. No, sir.

Q. Did someone else to your knowledge in your department do that?

A. No.

Mr. MINIER: Objection -- well, it's too late. Pardon me.

Q. BY Mr. LINDSEY: Then was this simply sent back, to your knowledge, to the FBI for that type of work?

A. Yes, sir.

Q. And the reason for that is to find out if possible, who might have been the last person to have handled this banknote?

A. Yes, sir.

Q. To your knowledge, do you know who the last person was from any fingerprint information to have handled that note?

Mr. MINIER: Objection, your Honor; that calls for hearsay.

THE COURT: Sustained.

Q. BY Mr. LINDSEY: Mr. Rosales, did you do the mailing-back to the FBI of this banknote?

A. Yes, sir.

Q. Do you know who received it back there, particularly?

A. I received a reply that the evidence had been received. I would have to refer to my notes as to who received it.

Q. And how long was it before it arrived back here in Santa Barbara?

A. I think it was in the area of five weeks.

Q. Excuse me?

A. We got it back within five weeks, -- five or six weeks.

Q. Five to six weeks?

A. Uh-huh.

Q. Now, there has been introduced in evidence, and you have referred to People's Exhibit No. 40, which is the packet of the two little photographs, do you recall that?

A. Yes, sir.

Q. In which one of those -- excuse me, where did you find these two little photographs again?

A. They were on the dresser, Exhibit 21 -- or 29?

Q. Would that be this one? (Indicating).

A. Yes.

Q. All right. There is a note here, "Two photos," and is that where these two photos then were found?

A. Yes.

Q. They were not in this packet as brought here to court, were they?

A. No.

Q. A large photograph that we have in evidence here as People's Exhibit No. 3, which is the same photograph of the same painting, was this in the room at the time?

A. That is an enlargement of the photographs that you have. I

Q. Of these?

A. Right.

- Q. So for purposes of clarifying in these proceedings eventually after the taking into possession of the two photographs, you were able to make the enlargement or have it made so we now have the larger photograph to help illustrate in this particular case; is that right?
- A. Yes.
- Q. Now, with the use of the two different firearms, was there any physical evidence that you were able to observe in the room to determine which one may have been used first, and which one second?
- A. No.
- Q. Were both guns preserved from the standpoint of fingerprint matters?
- A. Yes.
- Q. How was that done, please?
- A. They were, of course, picked up carefully so we would not contaminate them. They were placed in paper envelopes as to not to destroy the fingerprints, if any on it, and sealed.
- Q. Now, to your knowledge, was the fingerprint checking on the two guns done here in Santa Barbara?
- A. No.
- Q. Were the two guns sent by you back to the FBI laboratory?
- A. Yes, sir, they were.
- Q. Do you know the name of the person who received the guns back in Washington?
- A. I would have to refer to my notes.
- Q. Do you know how many persons back in Washington handled those two guns before they arrived back here in Santa Barbara?
- A. No, sir, I do not.
- Q. Do you have any knowledge as to whether any fingerprints were found on the guns?
- A. I believe there were some found.
- Q. Excuse me?
- A. I am not sure.
- Q. You are not sure?
- A. No.
- Q. Now, one of the items of evidence that has been introduced in the case here is an empty clip; do you recall that?
- A. Yes, sir.
- Q. Let me show you Exhibit 35 and ask you if this is an empty clip?
- A. It is an empty magazine, yes, sir.
- Q. You call it a clip or a magazine?
- A. It is spring-loaded, so it would be technically classified as a magazine.
- Q. Is this the only empty magazine that was found?
- A. Yes.
- Q. Now, where did you find this in the room?
- A. This was in the weapon -- in the .9 millimeter Luger.
- Q. This was still in the gun, then, when you found it?
- A. Yes, sir.

- Q. Now, that Luger was found on the dresser in a position as shown here on Exhibit No. 21, the photograph; is that right?
- A. Yes, sir.
- Q. Now, to your knowledge, had any person coming into that room touched that gun before you got it?
- A. No, sir.
- Q. Who was it that first checked the magazine?
- A. It was myself, sir.
- Q. Were you able to do that and still protect the gun for fingerprints?
- A. Yes, sir.
- Q. At that time, did you remove the magazine from the gun?
- A. Yes, sir.
- Q. Did you then keep it separate from the gun itself?
- A. Yes, sir.
- Q. Did you send the magazine also back to the FBI for print checking?
- A. Yes, sir.
- Q. To your knowledge, were any prints found on that magazine?
- A. I don't know sir.
- Q. Excuse me?
- A. I don't know.
- Q. There is also introduced into evidence -- by the way, would you know whether there were any ballistic tests made by the FBI to compare any of the bullets --- the expanded bullets with the rifling -- to the barrel rifling and the guns?
- A. Yes, there were.
- Mr. LINDSEY: Were these 36 and 37?
- THE CLERK: It is marked on the outside wrapping?
- Mr. LINDSEY:
- Q. I believe it is People's No. 36 and 37; it appears to be two separate magazines, loaded?
- A. Yes, sir.
- Q. And I believe you indicated how many, is it eight?
- A. Yes.
- Q. In each one. Does the normal magazine hold eight?
- A. Yes.
- Q. How many -- now, the two that are loaded there in front of you in which there are eight in each one, what caliber is that?
- A. .9 millimeter.
- Q. Would that have been connected with the Luger, then?
- A. Yes.
- Q. How many empty casings did you find on the floor of this .9 millimeter size?
- A. Nine
- Q. Now, to help us understand, is it possible that there could have been one shell in the chamber of the gun, plus a full magazine of eight more?
- A. Yes.
- Q. So that with an empty magazine in that Luger, as you found it empty, and if you found nine empty casings on the floor, would that possibly indicate that the

- one in the chamber, plus the other eight would have equaled the nine on the floor?
- A. (Witness nods.)
- Q. Now, on the other gun that is the .25 caliber, is it the Browning?
- A. It is a .6 millimeter. It can accept .25 caliber ammunition.
- Q. Technically, is it what you call a .6 millimeter?
- A. Yes.
- Q. .6 millimeter Browning?
- A. Yes sir.
- Q. Now, does it have a similar type of magazine or clip for loading in that gun?
- A. Yes, sir.
- Q. How many does that magazine hold?
- A. I believe it is either six or seven, I didn't have the rounds to put in there and check.
- Q. Was there an extra magazine for that gun that was found in the room?
- A. No.
- Q. Could you take a look briefly at 38-A, there appears to be a magazine there, could you take a look and let me ask you if that's connected with the Browning?
- A. Yes.
- Q. And is that a full magazine, is that what you would call a magazine?
- A. Yes.
- Q. If it is a full one, how many rounds does that full cartridge or full magazine hold?
- A. It would be six or seven, I don't know.
- Q. Now, how many—are there some live rounds in that magazine you are holding?
- A. Yes. There is one.
- Q. Did that magazine come from the Browning then?
- A. Yes. It did.
- Q. Now, the number of casings—empty casings found of the same size that might have been used in this Browning were how many?
- A. Five.
- Q. Were there any rounds in the chamber of this gun when you checked it?
- A. Yes.
- Q. That would be one round?
- A. One, yes.
- Q. Plus the number of live rounds that are still remaining in the magazine?
- A. Yes.
- Q. Now, in order to further our work that you were doing so we can understand it, let me go back to the diagram a minute.
- I am going to ask you a series of questions now as to what anything you found in any of the walls and more specifically any used bullets or slugs in any particular walls so we may try to get as complete a picture in what you found in the room as possible.

Now, directing your attention to the interior of room 34 which is shown on People's Exhibit 27, let's take this wall that would be generally along the headboard itself.

Were there any foreign objects found in that wall of any significance to you?

A. No.

Q. Let's take the second wall; anywhere in that wall, which would be on the left side as you are looking at the diagram, including where the dresser is located, were any objects found in that wall?

A. No.

Q. Now, on the wall in the lower part of the diagram which is the wall including along the heater, were any objects found in that wall at any time?

A. Yes.

Q. How many?

A. I believe we had four in that wall.

Q. And how about in the remaining wall which is on the far right side; were any objects found in that wall?

A. Yes.

Q. And how many?

A. We had five.

Q. So there would be four found in what we might call the lower wall and five found in the right-hand wall as we are looking at the diagram; would that be right?

A. I think I will have to refer to my notes.

Q. Do you have notes with you that might help?

A. Yes.

Q. Will you look at them, please?

A. I believe we had three on the west wall -- or east wall, excuse me, and two over by the area, and had a couple more on the side of the heater -- or one more on the side of the heater.

Q. Maybe I should ask you this: is this the same number that you find now from your reviewing your report that you just told us about before you looked at the report?

A. I was one off on the side. I think I told you three.

Q. What I want you to do is be as closely accurate as possible, having to take a look at your report to help refresh your recollection on it. Let me ask you again, now, in this wall, which is on the right side of the diagram, how many projectiles were found, or objects were found in that wall?

A. Three.

Q. Three of them?

And how many objects were found in the wall which is on the lower part of the Exhibit No. 27?

A. Four.

Q. Now, is it correct, Mr. Rosales -- excuse me, let me put the question to you this way: when you were there in that room when the photographs were being taken, were photographs taken up close of each one of those places in the wall

so as to be able to show in the photograph the line of travel of which the projectile might have entered that wall?

A. It would be kind of hard. You would only see the hole, you wouldn't be able to see the line of travel.

Q. Let me ask you the question again, if you were in that room and work was being done by those in your presence from your department, were any photograph taken close-up of the holes in that wall to show the line of travel into that wall of any projectile?

Mr. MINIER: Objection, your Honor. It assumes a fact not in evidence, namely, that a photograph could show the line of travel of the bullet.

Mr. LINDSEY: I said the line of travel into the wall, your Honor, and I would submit that a close-up photograph, if such could be seen, would show the path of an object as it went into the wall.

THE COURT: May I have the question, please, Mr. Reporter.

(Whereupon the record was read.)

THE COURT: Sustained in view of the witness's answer that it could not be shown, -- that is his previous answer. He has already answered that you couldn't take a photograph that would show that, so your question asks him to assume, what he has already repudiated.

Mr. LINDSEY: Well, I would be surprised if the witness was saying that a photograph could not be taken showing something that it went into a wall, your Honor.

Mr. MINIER: Your Honor, I move to strike the testimony of Mr. Lindsey to that effect.

THE COURT: Well, we will let that stand because the jury will be instructed, as they have already been advised, that the remarks of the lawyers in the case are not evidence.

Anyway, the objection is sustained for the reason stated.

Q. BY Mr. LINDSEY: Let me pursue this a little bit more, but in a different way, Mr. Rosales.

Were photographs taken close-up of any of the places where any of the projectiles entered either of those two walls?

A. Yes.

Q. How close?

A. We used a close-up lens, but we can go anywhere from eight to thirteen inches.

Q. Then of your own knowledge in your presence, photographs were taken of the areas where the projectiles entered into the wall within somewhere, oh, eight to fifteen inches from it?

A. Yes.

Q. What was the purpose of taking a photograph that close?

A. To get close-ups of any-- Well, if there was--if there's a deep angle, or steep angle trajectory, you fire into a wall, like from here, may be up to the stand there, and you are close where you can get a steep angle, you will get more of an oval shape as the round enters, but in this case we couldn't determine that, that is what we were going after.

- Q. Well, then, of your own knowledge, one of the purposes of the close-ups is to see if you can determine travel into the wall of the projectile?
- A. Yes.
- Q. Where are those photographs now?
- A. We have them.
- Q. Where?
- A. At the Sheriff's Department.
- Q. And was there a close-up photograph taken of each one of the places in this wall that you have mentioned?
- A. Where the projectiles entered, sir?
- Q. Yes, the close-up photographs.
- A. Yes.
- Q. Was there only one photograph of each opening, or were there multiple photographs from different angles of each opening?
- A. Yes, there were several. There were a series of photographs.
- Q. And did Mr. White take those photographs in your presence, to your knowledge?
- A. Yes, sir.
- Q. And were they taken before any object was removed out of the wall?
- A. Yes, sir.
- Q. Were photographs also taken after the objects were removed out of the wall?
- A. Yes, sir.
- Q. If you know, why were the photographs also taken of the hole after the projectiles had been removed?
- A. Well, once we cut out the portion of the wall, then we can see the angle.
- Q. Then you could see the angle that the projectile traveled as it went into the wall itself?
- A. Yes.
- Q. Now, did you participate yourself, personally, in any part of the investigation of that room connected with the line of travel of any of those projectiles?
- A. Yes.
- Q. Now, from what you observed of the particular holes in the wall, and in that investigation that you participated in that room connected with those holes, did you, yourself, make or participate in any determination as to where the gun was located in that room approximately at the time of firing of those bullets?
- A. Yes.
- Q. Now, could you take the pointer and show the ladies and gentlemen of the jury on the diagram where it was determined the gun was located at the time of the firing of those bullets.
- A. We were using the holes in the curtains, and it would have been in this general area (indicating on diagram).
- Q. Could you take one of the marker tubes and perhaps mark an "X" in the approximate area, approximate location where you believe the gun was located.
- A. (Witness complying.)
- Q. Now, Mr. Rosales, you marked on the diagram, and this is only for the written record here, it is on People's Exhibit No. 27, a black "X" with a circle around it

- where to your best knowledge it was determined that the gun approximately was located that caused the projectiles to go into the wall that you have been telling us about?
- A. Yes.
- Q. Correct. Now, those projectiles that you say were found in the wall, were all of them from the same gun, or were any of them from the second gun?
- A. They were all .9 millimeters.
- Q. Now, when you say they were all .9 millimeters, then all of those projectiles in the wall were from the Luger gun?
- A. Yes, sir.
- Q. And you found no projectiles in the wall from what you call the Browning?
- A. That's correct.
- Q. The weapon.
- Now, you mentioned something about curtains, or draperies; were there indications -- and I am not talking about the wall now, -- my previous questions were about the wall itself. Now, were there evidences of projectile holes in any of the draperies or curtains in the room?
- A. Yes.
- Q. And could you indicate to the jury, please, where the drapery or curtains were located when you found those holes?
- A. In this area here (Indicating on diagram).
- Q. I wonder if perhaps you could with the marker tube make some kind of an identifying mark so that our written record will be able to identify what you are saying.
- A. (Witness complying.)
- Q. Now, Mr. Rosales, you have indicated three different locations with the word "Drapes."
- A. Well, actually, all the four sides were covered.
- Q. All right. But you have placed the word "Drapes" in three different places on that diagram.
- A. Yes.
- Q. Now, were there any indications on any one of those three drapes of any projectile holes?
- A. Yes.
- Q. In each of the three drapes?
- A. No, just the two, the one at the southeast corner and the one to the left of the heater.
- Q. Now, would that mean of the three areas that you have marked with "Drapes," the drapes in the middle, the middle one, do not have any projectile marks?
- A. That's correct.
- Q. But the drapes both to the right and to the left did have projectile marks?
- A. Yes.
- Q. Now, let's take the drapes in the corner, were the holes in those drapes consistent with the projectiles that you found in the wall, that is, did they appear to have been made by the same projectile?
- A. Yes.

- Q. Now, the drapes to the left of the heater as we are looking at it, you say you found a projectile hole in that?-- in those drapes?
- A. Yes, sir.
- Q. Having in mind that you have approximately located the gun at the time of the firing in the black 'X' and the approximate direction between that position and the drapes to the left of the heater, did you find any projectile in the wall behind those drapes?
- A. Yes.
- Q. Well, then, Mr. Rosales, this wall on the right of the room, in this portion of the wall on the lower part, were not the only places then where projectiles were found?
- A. No.
- Q. They were also found, at least one over here (indicating on diagram)?
- A. Yes.
- Q. How many over here (indicating on diagram)?
- A. Two.
- Q. Two of them there.
- A. Were those two also of the .9 Millimeter
- A. Yes.
- Q. And again, therefore, presumably coming from the Luger gun?
- A. Yes.
- Q. Now, having in mind everything you told us so far, how many projectiles were found altogether in the walls?
- A. To the best of my knowledge, there were seven.
- Q. Seven. How many in that wall on the right side?
- A. Three.
- Q. And how many on the wall that runs along the lower part of the diagram?
- A. Four.
- Q. Now, were there any projectiles found in that room from the Browning?
- A. Yes.
- Q. Where?
- A. There was one where there was a large pool of blood, laying on the blood.
- Q. That would be one?
- A. Yes. And the other one was over by the chair by the east wall, embedded into the floor.
- Q. Could you indicate first of all the first one that you have just referred to, where was that found?
- A. I believe it was this pool of blood (indicating on diagram).
- Q. That would be approximately in the area between the foot of the bed and the wall on the lower part of the diagram?
- A. Yes. And the next one was into the -- through the carpeting and into the floor.
- Q. The second one would be then roughly between a lower right-hand corner of the bed and this table that sits between the two chairs in the corner of the room?
- A. Yes, right around this chair here.

- Q. Was there any area in there where you are pointing to of that second projectile, was that in some close proximity to one of the persons that had been on the floor?
- A. There was an outline of a person here (indicating on diagram).
- Q. Now, how far away from the outline of the person was that second projectile found?
- A. Maybe 18 inches.
- Q. Would you resume the stand.
- Now, were those the only two projectiles found from the Browning in the room?
- A. Yes
- Q. You also indicated in your testimony that there were some letters that were found on one of the tables there?
- A. Yes
- Q. Mr. Rosales, when those written matters were found were they also protected for fingerprints?
- A. Yes, sir
- Q. Were they also sent back to the FBI Laboratory for checking?
- A. Yes, sir
- Q. To your knowledge, were any prints found on it?
- A. I believe they did find prints on the receipt.
- Q. On the receipt?
- A. Yes
- Q. I hand you Exhibit No. 8 which appears to be a receipt; would that be the document you are referring to?
- A. Yes.
- Q. Do you have any knowledge as to whose prints were found on that document?
- A. No, sir
- Q. Were you able to determine from anything you found in that room as to which person placed that document in that position on the table?
- A. No.
- Q. This Exhibit No. 7, was this another letter that was found on the desk?
- A. Yes.
- Q. Was that likewise carefully handled for print checking?
- A. Yes.
- Q. To your knowledge, was it determined whether or not any prints were found on that document?
- A. I don't recall.
- Q. There is also, I think, along with that, Exhibit B which is the envelope; was that envelope also with that letter at the time?
- A. Yes.
- Q. Was that also carefully handled for prints?
- A. Yes.
- Q. To your knowledge, were any prints found an that?
- A. I don't recall.
- Mr. LINDSEY: May I have one moment, your Honor, please?

THE COURT: All right.

Mr. LINDSEY:

Q. I think maybe just a few more items, and I will be completed.

I want to go back just a second to some of the matters of the photographs. In photograph Exhibit 31, I believe you indicated previously that the sort of brown paper object sitting on the floor was the item -- the cork that you brought-here -- that you unwrapped here in Court a little while ago?

A. Yes, sir.

Q. Now, on top of the lamp is a large photograph?

A. Yes, sir.

Q. Do you have that here with you today?

A. Not with me.

Q. Was that an item taken into your possession?

A. Yes, sir.

Q. Where is that photograph now?

A. The Sheriff's Department.

Q. Is there some reason you brought that piece of cork to Court?

A. I was directed to.

Q. Excuse me?

A. I was directed to.

Q. Standing on the table appears to be an oval type of frame with a number of photographs in it?

A. Yes, sir.

Q. Did you examine that at the time that you were in that room -- did you examine the photographs that were --

A. Yes, I looked at them.

Q. Did they appear to be photographs of various kinds in the early history of Mr. Yanikian; that is, photographs of Mr. Yanikian himself?

A. Yes, sir.

Q. Did you bring that to Court with you today?

A. No, sir, I did not.

Q. Where is that photograph -- that set of photographs

A. The Sheriff's Department.

Q. On top of the table appears to be some kind of a bluish-looking folder or book; did you take that into your possession also?

A. Yes, sir.

Q. What was that?

A. It is a notebook with miscellaneous papers in it.

Q. Did you bring that with you today?

A. No, sir.

Q. Where is that?

A. The Sheriff's Department.

Q. Were those records and papers of Mr. Yanikian?

A. Yes, sir.

Q. That chess or checkerboard that appears in the photograph, did that belong to the Biltmore Hotel, to your knowledge, or was it Mr. Yanikian's?

- A. I believe it is Mr. Yanikian's.
- Q. Did you take that into your possession?
- A. I believe we have that, too.
- Q. Is that still over in the Sheriff's Department?
- A. Yes, sir
- Q. Now, in this room when you were there, how many suitcases did you find?
- A. I only recall one, sir.
- Q. Is that the one on top of the dresser?
- A. Yes, sir.
- Q. That one is shown in Exhibit No. 29; is that correct?
- A. Yes, sir.
- Q. Now, did you examine the contents of that suitcase?
- A. Yes, we did. I don't recall exactly what was in it.
- Q. Did it have personal articles and clothing, or did it have something beside that?
- A. I believe it contained clothing, personal articles-- I am not positive.
- Q. Now, I believe you testified, and in fact you may have been -- did you mark the word "clips," on this photograph?
- A. Yes.
- Q. Some of the clips that were put into evidence here from the guns were found in that top dresser drawer, weren't they?
- A. Yes.
- Q. Was it only the two full clips that were found in there?
- A. Yes
- Q. Was there anything else in that top drawer along with those two clips?
- A. I believe he had some clothing in there.
- Q. Were photographs taken of the drawer in an opened position to preserve a record of what was in that drawer?
- A. Yes.
- Q. Where is that photograph?
- A. The Sheriff's Department.
- Q. To your knowledge, were there also items in the lower two drawers of that dresser?
- A. As I recall, there were some, not very many.
- Q. I believe you also found some keys there did you not, or some keys were found in the room?
- A. There was one, I believe, attached to the suitcase. There may have been -- we collected numerous items, I can't recall them all.
- Q. I believe it was indicated in one of your reports, that you are connected with, that there was a numbered key; was that the key to room 34 or some other--
- A. I don't think I reflect that in my report.
- Q. Whatever there was with regard to keys, were they handled by one of the other officers?
- A. They would have been handled as safekeeping evidence.
- Q. Are those keys still in the possession of the Sheriff's Department?
- A. If we collected them, they would be, yes sir

- Q. One of the reasons I am asking you for this is there was a quantity of evidence in this case that left Santa Barbara and went back to the FBI, didn't it?
- A. Yes.
- Q. And has all that evidence been received back here in Santa Barbara to your knowledge?
- A. Yes, it has.
- Q. Now, was a portion of that chair also examined for some special reason?
- A. Yes.
- Q. What portion?
- A. The right front leg of the chair, I believe.
- Q. Does that right front leg show any -- this would be perhaps exhibit No. 19?
- A. Yes, sir.
- Q. Now, could you take a look at People's No. 19, and particularly the right front leg of that chair, is there something that was unusual about the condition of that leg?
- A. Yes.
- Q. What was that, please?
- A. There was blood and hairs on it.
- Q. Was that leg, therefore, protected for evidentiary purposes in this case?
- A. Yes, sir.
- Q. Did you have anything to do with obtaining hair samples to check out that particular hair?
- A. Yes, sir .
- Q. What did you do?
- A. I took samples of hair from Mr. Yanikian.
- Q. Where?
- A. At the County Jail.
- Q. How did you do that?
- A. He combed them out using a comb.
- Q. Were they checked against the hair on this chair leg to your knowledge?
- A. Yes.
- Q. Were they the same?
- A. I believe they were similar.
- Q. Did you at any time ask Mr. Yanikian how it appeared to be his hair was showing up on the leg of this chair?
- A. No.
- Q. During the time that you were talking to Mr. Yanikian, did you learn in any manner that he had been struck in the head with the chair?
- A. I believe at one time -- I never questioned him -- in a voluntary statement he told me that he had been hit with a chair.
- Q. Did he tell you whether one of the Turkish individuals in the room had, at some point, picked up a chair and struck him in the head with it?
- A. No.
- Q. When was it that you got the hair samples from Mr. Yanikian?
- A. It was on the 28th.
- Q. This would be on Sunday, the day after the event?

- A. Yes, sir.
- Q. Did you, at that time, ask Mr. Yanikian to examine his head for any type of injury?
- A. No, sir.
- Q. The blood indication you found on the leg of that chair, was it the Federal Bureau of Investigation asked if their laboratory would check out and determine the blood type
- A. Yes, sir.
- Q. To your knowledge, was that blood sample on the chair leg found to be similar to the blood type of Mr. Yanikian?
- A. I don't recall, sir.
- Q. Was that matter of checking done by someone else in the Sheriff's Department?
- A. No.
- Q. Was it done by the FBI?
- A. Yes.
- Q. Who has a copy of that FBI report on the compatibility or not of the blood on that chair leg with the blood of Mr. Yanikian?
- A. Well, we have a copy of it.
- Q. In that conversation that you had with Mr. Yanikian, did he at any time indicate that he had been struck on the head with that chair prior to anything happening in that room, or at somewhere along the line?
- A. No.
- Q. When you were there, knowing that you were asking for samples of hair from his head to compare with the hair found on the leg of the chair, and as Mr. Yanikian was voluntarily talking to you, did you ask him when in time that similar hair might have come from him and gotten on the leg of that chair?
- A. No, I did not.
- Q. Was there any other person with you at the time that you were carrying on that conversation with Mr. Yanikian about the hair sample that compared with the matter on that chair leg of the chair?
- A. The deputy who brought him out of his cell was there, I don't recall who he was.
- Q. Now, was this chair also sent back to the laboratory of the Federal Bureau of Investigation in Washington to be checked for fingerprints to see if they could determine the last person that had handled that chair?
- A. No.
- Q. To your knowledge, was there ever any effort made to determine whether one of those two Turkish individuals in that room had used that chair, or handled it?
- A. Yes, there was.
- Q. And who made that effort?
- A. I did.
- Q. Did you make any determination in that regard?
- A. I was unable to lift any identifiable latent images.

- Q. Now, did you feel then that the work that you were able to do here in Santa Barbara on fingerprint checking was adequate to determine a question of that type?
- A. I did in this case.
- Q. Did you find any portion of any prints on that chair?
- A. I found a smudge, -- couple of smudges.
- Q. Did you dust those smudges?
- A. Yes, I did.
- Q. Did you preserve the record of those?
- A. Yes.
- Q. Did you compare them against the available finger- prints of the two gentlemen that were in the room with Mr. Yanikian?
- A. They were unidentifiable. I couldn't make a comparison.
- Q. Could you make any identification of even one point on the print you found on the chairs?
- A. No, sir.
- Q. Did you make a photographic record of those smudges you found?
- A. They were unidentifiable, there wasn't any reason to.
- Q. Did you make a photographic record of those smudges to preserve them?
- A. We have the transfers.
- Q. Excuse me?
- A. I have the lifts.
- Q. Yes?
- A. Yes, we have them, the physical evidence.
- Q. Good. Now, are those lifts, that bit of evidence, still in the possession of your bureau, or your department here in the Sheriff's office?
- A. Yes.
- Q. Let me go back just a moment, the leg was sent back to Washington, the leg of the chair?
- A. Yes, sir.
- Q. Well, then, the leg was dismantled from the chair, wasn't it?
- A. Yes.
- Q. Mr. Rosales, to your knowledge, did any doctor treat Mr. Yanikian at any time after he was taken into custody for any head injury?
- A. I don't have any knowledge of that, sir.
- Q. At least none in your presence was ever done, was it?
- A. That's correct.
- Q. Did you ever have occasion to talk to Mr. Yanikian at any other time about this chair and any possible head injury that he might have suffered in that room?
- A. I saw Mr. Yanikian on two different occasions, and on both he mentioned it, but I didn't want to talk to him about it.
- Q. Did you have occasion to pass this information along that you had, that is the information that there was a chair leg with blood indications and hair, and that were the hair sample that you had from Mr. Yanikian, the hair sample was similar, did you pass that information along to any other officer in the Sheriff's department so that they might pursue it further?

- A. Yes. It was noted at the scene by Detective Baker,--myself.
- Q. When you first saw Mr. Yanikian, was that on the day that this happened?
- A. Yes, sir.
- Q. About what time?
- A. 12:30 on the 27th.
- Q. Within maybe a half an hour or so after the event occurred?
- A. Yes, sir, assuming it occurred within a half an hour.
- Q. Now, if I can follow this just a little bit further, please, and I would like to direct your attention now to the photograph, Exhibit No. 28, which is a photograph showing some red spots on the bed sheet. Did you take that, or did someone in the time you were in the room take that bedspread into protective custody?
- A. Yes, sir.
- Q. Were there any steps taken to have those bloodspots analyzed, to your knowledge?
- A. No, sir.
- Q. To your knowledge were these bloodspots ever analyzed for blood type?
- A. No, sir.
- Q. To your knowledge was ever any inquiry made as to whether that blood came from either one of those two men, or from Mr. Yanikian, and similar to the blood that was on the log of that chair?
- A. No, sir. May I check my notes, Mr. Lindsey?
- Q. Yes, please -- please do.
- A. May I make a correction on that last statement?
- Q. Please do.
- A. It was sent to the FBI.
- Q. The bed sheet
- A. Yes, sir.
- Q. To your knowledge was a report received back?
- A. Yes, sir.
- Q. Do you have any knowledge yourself as to, whether, to which person the blood came from on the bed sheet?
- A. I would have to refer to the report to try and find it,-- the FBI report.
- Q. Now, in Exhibit No. 29, on the side of that bed, on the carpeting?
- A. Yes, sir.
- Q. There are some additional bloodspots. Having in mind the proximity of the spots on the bedspread, were any samples taken of this area of blood for purpose of laboratory analysis?
- A. I can't answer this yes or no. The bloodspots that show on that bedspread also run along the side and there's a trickling, or straight dip pattern of drops, which are those there on the carpeting, but they do come up the side of the bedspread and over to the front side where we can see them there.
- Q. From what you could recall, in your visual observation of the room, did it appear as though the spots of blood on top of the bedspread shown in Exhibit 28 were also connected with the blood down at the side of that bedspread?
- A. They seem to be, yes, sir.

- Q. And also perhaps related to the bloodspots on the floor?
- A. Yes, sir.
- Q. I don't recall what your answer was when I asked you if samples were taken of the blood on the floor.
- A. No, they were not.
- Q. Shown in Exhibit 28.
- A. Those were not cut out.
- Q. Now, samples of blood were cut out of other parts in the carpet, weren't they, in that room, for laboratory testing purposes?
- A. The portion of the carpeting that was cut out is where the round went through, and those are the portions we cut out.
- Q. Only where the round went through?
- A. Yes, to the best of my recollection, that is all.
- Q. Well then, Mr. Rosales, to the extent of your knowledge, there was never any step taken to find out whose blood, and particularly whether or not Mr. Yanikian's blood was shown in People's No. 29, other than the bedspread going back?
- A. You mean if the blood from the carpeting is shown there was cut out, -- that spot was not.
- Q. Well, let me pursue this one step further. When you first saw Mr. Yanikian, that was about 12:30 that day, wasn't it?
- A. Yes, sir.
- Q. Was he still at the Biltmore?
- A. Yes.
- Q. Did he have over his shoulders a brown, or long coat?
- A. Yes, sir.
- Q. Was he wearing so" type of -- was it a suit underneath or some other type of clothing?
- A. Yes, it was a suit, I believe a gray suit.
- Q. Now, was that jacket, or whatever it was that he was wearing, or all of the clothing that he was wearing at that time, taken into protective possession of the Sheriff's Department?
- A. Yes, sir.
- Q. For any significant evidence that might develop in that case, is that correct?
- A. Yes, sir.
- Q. Were any of those items of clothing sent to any laboratory for blood testing purposes?
- A. Yes sir, they were.
- Q. Was there blood on any of those clothes? And please feel free to refer to your notes if that will be of any help.
- A. There was a speck of blood found on the black beret, I think -- I remember him wearing -- I'm not positive.
- Q. Excuse me?
- A. It was on the black beret, a speck of blood was found.
- Q. At the time that you saw Mr. Yanikian, say, within about a half an hour after the events in Room 34, was he wearing a beret?

- A. I believe he was.
- Q. Is that the beret that you say may have been some indication of blood found on it?
- A. Yes, sir.
- Q. On the outside of the beret, or on the inside of the beret?
- A. I'm not sure. I can't answer.
- Q. Was that beret included among the articles sent to a laboratory for blood sampling, or testing purposes?
- A. Yes, it was.
- Q. Which laboratory?
- A. FBI -- Federal Bureau of investigation.
- Q. Was that also received back with a report?
- A. Yes, sir.
- Q. When it was determined that there was an indication of blood on the beret that he was wearing, and having in mind your knowledge that there was some hair similar to his and blood found on that chair leg, did you make any independent effort on your part to determine how the blood came to be on his beret?
- A. No, sir, I do not.
- Q. When did you first become aware that there was blood on the beret?
- A. I was never aware until I heard from the FBI.
- Q. Was the matter of that beret handled by someone else in your department other than by you?
- A. Yes, the report, the results were sent over to Detective Baker.
- Q. When you first observed Mr. Yanikian about a half an hour after the event, did he appear at that time to be in a normal, rational condition?
- A. Yes, he did to me.
- Q. Did you talk to him?
- A. No, I did not.
- Q. Mr. Rosales, that beret -- let me show you Plaintiff's Exhibit 31 and direct your attention to that photograph, that large photograph that is on top the lamp, does that appear to be a photograph of Mr. Yanikian?
- A. Yes, sir.
- Q. Does it appear in that photograph that he is wearing a head type of, what might be a beret?
- A. Yes, sir.
- Q. Now, if you recall back to January 27th, that Saturday when you saw Mr. Yanikian the first time, was he wearing a beret that was of whitish color similar to what you see in that photograph?
- A. I don't recall -- I don't recall the color.
- Q. In other words, you don't recall, then, whether he was wearing a beret in, say, either a black or white beret?
- A. That's correct.
- Q. Now, People's Exhibit No. 28, so that our written record may, and our photographic record may be as clear as possible, would you take a black marker tube and circle on the photograph what you recognize to be the

- bloodspots that you observed that day in that room, first of all. Will you do that, please.
- A. (Witness complies.)
- Q. Now, Mr. Rosales, in the black outline you have drawn on there, you have outlined on the photograph, People's 28, the bloodspots on top of the spread, also on the side of the spread including the bloodspot areas done on the floor; is that correct?
- A. Yes, sir.
- Q. Now, can you tell us -- well, let's see if we can relate it into this diagram. Can you take that marker tube and draw approximately the same area on People's Exhibit No. 27; can you do that please, so we will be able to relate the photograph to the diagram of the setting of the room itself?
- A. (Witness complies.)
- Q. Now, with the pointer, could you indicate to the jury the approximate position on the floor of each of the two men?
- A. One of the victims was in this general area, and the second was in this general area.
- Q. So that neither one of those two men on the floor were found back up in this area then?
- A. No.
- Q. Likewise, there were no bullet holes or missiles found in the walls of the upper right hand corner of that wall as we are looking at the diagram?
- A. That is right.
- Q. Mr. Rosales, there are two chairs over in the corner of that room -- the two yellow chairs; do you recall?
- A. Yes.
- Q. Were either one of those chairs sent back to the FBI?
- A. No.
- Q. Did either one of those two chairs have any evidence of any missile holes or projectile holes?
- A. Yes, sir.
- Q. Are those the same two chairs that are shown in Photograph No. 30?
- A. Yes, sir.
- Q. People's Exhibit No. 30. Were there projectile holes in only one of the chairs? Feel free to refer to your notes, if it will help you.
- A. Yes.
- Q. Can you indicate to the jury first in the photograph, and then on the diagram, which chair had the projectile hole?
- A. This chair right here.
- Q. In other words, as we are looking at the photograph, it is the chair on the left side of that photograph; is that right?
- A. Yes.
- Q. And as we are looking at the diagram, it is the chair that's furthest up the diagram on the right side of it?
- A. Yes.

- Q. On the right side of the diagram; is that correct?
- A. Yes, that's correct.
- Q. Now, does the projectile hole show in those photographs that we have here in the courtroom; would you examine them carefully, please?
- A. Yes. It is not very clear. This is it here.
- Q. Now, was there a hole on the other side -- on the back side of that chair?
- A. An exit hole, yes.
- Q. Were photographs taken close up of each of those two holes?
- A. Yes.
- Q. Where are those photographs?
- A. The Sheriff's Department.
- Q. Now, did you make any determination in the work that you did in the room as to whether any of the projectiles in the wall were in some way related to whatever projectile went through this chair?
- A. Yes.
- Q. Did you determine that one of the missiles in the wall was apparently the same one -- the same one that went through the chair?
- A. Yes.
- Q. Did you, in the work that you did line up the hole in the wall in a straight line with the two holes in that chair so you could get a line of travel?
- A. Yes.
- Q. From that, then, did you determine the line of travel to where the gun would have been located that fired that missile?
- A. No, not really because assuming there was weight on the chair, it would have moved it back, or maybe there wasn't any weight on the chair. It would have been an erroneous projectile -- flight of projectile.
- Q. There might have been someone sitting in the chair at the time, is that what you mean?
- A. Yes.
- Q. Now, was there something that attracted your attention to cause you to think in terms that there might have been someone in the chair at the time that missile went through the chair?
- A. No.
- Q. Mr. Rosales, you are probably getting mostly questioned because you are the main one from the identification bureau so far, and through which most of the evidence is now coming in, in the case.
- A. I understand.
- Q. But with regard to the two guns, did you make any determination of the ownership of the guns?
- A. No, Sir.
- Q. Did you make any determination as to where they were purchased from?
- A. No, sir.
- Q. To your knowledge, did anyone else in your department do that?
- A. I believe there were.
- Q. To your knowledge, is there a report on that in your department?
- A. If they were checked, there would be, yes.

Q. In coming to court here today to testify, you have not reviewed your records or the records of your department for ownership determination then, have you?

A. I haven't, no sir.

Q. Who would have done that in your department?

A. The investigating officer.

Q. Who was that, please?

A. Detective William Baker.

Mr. LINDSEY: Your Honor, may I have just one more second?

THE COURT: All right.

Mr. LINDSEY: Your Honor, I have no further questions of Mr. Rosales. Thank you very much, Mr. Rosales.

THE COURT: Any redirect examination?

Mr. MINIER: Yes, your Honor. First, I have here an FBI Laboratory report I would like to have marked as People's Exhibit No. 42 for Identification.

THE COURT: All right.

Mr. MINIER: I might mention, your Honor, I have marked my copy. Mr. Lindsay has had an exact copy of this for at least two months, perhaps he would loan us his copy of my copy if it is not unmarked. I would give you another copy later.

Mr. LINDSEY: I have been in some doubt because of the attitude of the FBI as to whether we got all the information from them or not. The Court knows I have had to appear in court to try to see what we can do to get them to send things.

THE COURT: Let's not go into that, gentlemen, at this particular time and place.

Mr. MINIER: Mr. Lindsay, could we stipulate that People's 42, the FBI Laboratory report regarding firearms examination, fingerprints, blood examinations, can go directly into evidence.

Mr. LINDSEY: No. Not until -- secondly, I would be more than happy --

THE COURT: No stipulation?

Mr. LINDSEY: I am going to object to the report unless the FBI --

THE COURT: He hasn't offered the report, he is simply marking it for identification.

(Whereupon FBI Lab report thereupon duly-marked as People's Exhibit No.42

for identification purposes only.)

REDIRECT EXAMINATION

BY MR. MINIER:

Q. Mr. Rosales, have you ever had occasion to review any of the FBI Laboratory reports which were sent back to you as a result of your sending to the FBI Laboratory your request for examination of evidence?

Mr. LINDSEY: Objection, your Honor, immaterial, if there is a report done by some other agency.

THE COURT: Overruled.

BY Mr. MINIER: Have you had occasion to look at such report?

A. Sometime ago they came in.

Q. Would you see if you can identify People's Exhibit No. 42 as being an FBI laboratory report sent to you after you had sent these items to the FBI laboratory?

Mr. LINDSEY: Your Honor, I'm going to object to the line of questioning, because if the purpose of it --

THE COURT: (Interposing) Just object to the last question then.

Mr. LINDSEY: I would, your Honor.

THE COURT: What is the objection?

Mr. LINDSEY: I am objecting to the line of questioning, that if we are leading into what the report does, I submit that the line --

THE COURT: (Interposing) I will rule upon what the report does when I get to that question.

Have you got an objection now to the last question? If so, I will consider it.

Mr. LINDSEY: I'm afraid I will have to object to each question as he goes into it.

THE COURT: By all means do not, if you wish.

Mr. LINDSEY: Yes. I do object.

THE COURT: Have you got anymore than just a general objection?

Mr. LINDSEY: Only on the fact that if this is a report prepared by someone other -- by some other agency, that that appears not to be the one here to validate what is in that report.

Mr. MINIER: If I might be heard on that, your Honor.

THE COURT: It is not necessary. The witness isn't being asked to validate it. He is simply being asked whether or not he ever saw it, and I understand the question, that is the gist of it, isn't it?

Mr. LINDSEY: I know I am having to object to each one as he gets closer to it, your Honor.

THE COURT: That's all right. Overruled.

Q. BY Mr. MINIER: Do you recall the question?

THE COURT: Do you want the question?

A. BY THE WITNESS: Yes, I recall receiving one of these reports.

Q. BY Mr. MINIER- Are you familiar with that?

A. Yes.

Q. Now, in the cross-examination where Mr. Lindsey asked you regarding reports you received from the FBI laboratory about blood analyses, fingerprint identification, and so on, you replied to a number of those questions you did not recall; is that the case?

A. Yes, that's right.

Q. And by looking at this laboratory report, would you be able to refresh your recollection as to the information you got back from the FBI laboratory which might assist you in answering the same questions Mr. Lindsey already asked you on cross-examination?

A. Yes.

Q. Now, I'm going to call your attention --

Mr. LINDSEY: May I see the report, then, please?

Mr. MINIER: You have a copy of it, Mr. Lindsey. I gave it to you two months ago.

Mr. LINDSEY: I don't know which one he gave me.

THE COURT: All right, Gentlemen. I think this would be an appropriate time to take the evening recess.

Mr. MINIER: Could we approach the bench, your Honor, just briefly, regarding the witness and his availability?

THE COURT: You have got a problem with the witness?

Mr. MINIER: He is supposed to return to San Francisco on a plane this afternoon.

Mr. LINDSEY: Your Honor, I have offered to do this, I understand that he is in school and he needs to be there. I am willing that he not return tomorrow, and Mr. Minier may bring him back on Monday, if this will help in his schooling classes. I am willing to allow that interruption for the accommodation of Mr. Rosales.

MR. MINIER: That would be very acceptable because if we adjourn tomorrow at noon, I think that we will still be going on, on Monday.

THE COURT: All right. Fine, Gentlemen.

Ladies and Gentlemen of the jury, it is your duty not to converse among yourselves or with anyone else, on any subject connected with the trial or to form or express any opinion thereon until the cause is finally submitted to you.

We will recess until 10:00 a.m. tomorrow morning.

(Whereupon, at 4:30 o'clock p.m. this date, the proceedings adjourned until the hour of 10:00 o'clock a.m., Friday, June 8, 1973.)

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**8. SANTA BARBARA, CALIFORNIA; FRIDAY, JUNE 8, 1973; 10:00 A. M.  
MORNING SESSION**

THE COURT: All members of the jury are present, the alternate jurors are present, the defendant is present.

Mr. LINDSEY: Your honor, yesterday just before we recessed, there was a question on Exhibit 42 for identification, which was the FBI report matter. I would like this morning to offer to stipulate to go into evidence immediately.

THE COURT: You are talking about the FBI report?

Mr. LINDSEY: Yes, the entire report.

Mr. MINIER: I will so stipulate, your Honor. Thank you, Mr. Lindsey

THE COURT: All right. It's received.

(Whereupon a document FBI report thereupon duly received in evidence as People's Exhibit No. 42 in evidence.)

THE COURT: Ready for the next witness

Mr. MINIER: Robert Frazier,

**ROBERT A. FRAZIER,**

produced as a witness for and on behalf of the People was thereupon duly sworn and testified as follows:

**DIRECT EXAMINATION**

BY Mr. MINIER:

Q. Mr. Frazier, would you please state your full name and spell your last name for the record, please.

A. Robert A. Frazier, F-r-a-z-i-e-r.

Q. Where do you live?

A. I live in Hillcrest Heights, Maryland.

Q. What is your occupation?

- A. I'm a special agent of the Federal Bureau of Investigation assigned to the FBI laboratory in Washington, D. C.
- Q. How long have you been so employed by the Bureau, Mr. Frazier?
- A. 32 years.
- Q. How long have you been assigned to the laboratory?
- A. 32 years.
- Q. Mr. Frazier, would you please review for the Court and the jury your educational background, your training and your actual experience with the Federal Bureau of Investigation?
- A. Yes. In 1940 I received a Bachelor of Science degree from the University of Idaho. Since then I have received a Master of Science degree in forensic science from the George Washington University in Washington, D. C.
- In 1941, I entered the FBI laboratory, was assigned to the firearm identification and tool marks unit, where I received a specialized training course given in the field of firearm identification and tool marks, consisting of making hundreds of comparisons of bullets and cartridge cases with weapons from which they are fired, examining bullets to determine their manufacturer, caliber, their particular type, and making other similar and related examinations such as gunpowder residues examinations, and shop pattern examinations.
- I completed that training course under the supervision of the firearm identification examiners in the laboratory at that time in 1942, and have been assigned since that time to making firearm identification, tool marks and related examinations.
- Q. Mr. Frazier, is it possible in your opinion sometimes to determine whether a questioned projectile or bullet has been fired from a known gun?
- A. Yes, it is.
- Q. And is it also sometimes possible to determine whether a questioned casing, shell casing, has been ejected from a known gun?
- A. Yes, sir.
- Q. Could you tell the jury how that is done in the laboratory?
- A. The examination to determine whether a bullet has been fired from a particular gun is made by first comparing the caliber of the bullet with the weapon, then examining the rifling in the barrel, that to the number of grooves cut into the barrel by the manufacturer, to determine whether they are the same as the weapon. Measuring these grooves in the barrel and comparing those with the weapon and then the actual comparison to determine whether the bullet was fired in the weapon is microscopically done by enlarging the surface of the bullet and comparing it under the same microscope, what we call a comparison microscope, enlarging a test bullet which is fired from the weapon. The examiner who fires the test bullet knows it came from the weapon, and if he finds on the surface of it, what is often called a questioned bullet, if he finds on that bullet the same pattern of individual microscopic marks which originated either in the machining process during manufacture of the weapon, that is the drill that bores the hole through the barrel and the tool that form the rifling in the barrels, and those markings also originate through wear in the weapon, and if

he finds the same pattern of marks, he can determine that the bullet was fired from a particular weapon.

Similarly, if he finds any difference either in rifling or caliber or microscopic marks, he could reach a different conclusion, either that it was not fired in that weapon, or that there had been some changes in the barrel, and he could reach no conclusion as to whether the bullet was fired in that weapon.

There are other reasons why he could not identify a bullet, such as mutilation of the questioned bullet which alters, destroys most of the individual microscopic marks which we need for comparison.

With reference to cartridge case comparisons, the same procedure is used, that is a test cartridge case is fired in the weapon, the marks of the firing pin left in the head of the cartridge case at the time it is fired, and the marks left on -- by the mechanism of the weapon due to the explosion of the gun powder in the cartridge which drives the cartridge back against the face of a bolt, or the face of a slide, or the receiver of the weapon with sufficient force to impress the machining marks of that bolt or slide into the head of the cartridge case, these marks are then used in the microscopic comparison.

The marks are not visible to the naked eye but must be modified through use of special microscope that enables a person to see the two objects at the same time through a single viewing device in the microscope. If the same pattern is found of these individual marks, then it can be stated that the two cartridge cases, the questioned cartridge case and the test, were fired in the same weapon.

Q. Mr. Frazier, is this identification of questioned expended bullets and shell casings identifying them with a known gun, is this something that, at times, can be done with great accuracy?

A. Yes, sir. It is a positive type examination. The results can be stated that the bullet or the cartridge case were fired from that particular weapon and excluding all other weapons.

Q. Now, is this process of identifying unknown bullets and casings with known guns part of the field that we generally referred to as firearms identification?

A. Yes, sir.

Q. And has your testimony and your opinions regarding the field of firearms identification and various tests which have been conducted in that field, has your testimony in that regard been received as that of an expert in various State and Federal Courts throughout the United States for the last period of some 32 years?

A. Yes, it has, for approximately 31 years.

Q. Now, Mr. Frazier, I am going to show you a series of exhibits. First I would like to show you People's Exhibit 32, and then People's Exhibit 33, and I would like to have you examine them and tell us if you can identify them and if they have been in your possession, and if so, under what circumstances they came into your possession?

A. Does that include the individual items in these envelopes, or just the envelopes?

- Q. Well, it will eventually include the individual items, so I guess you might as well look at all of them
- A. (Witness complies.)  
Yes, I have seen all of these items. I received all of these in the FBI Laboratory, including the plastic envelopes, the plastic boxes, and the containers.
- Q. You are referring to all of the component parts of both People's Exhibit 33 and 32; is that correct?
- A. Yes, sir.
- Q. And have you been able to physically identify each component part by the presence of some kind of a marking which you yourself made?
- A. Yes, I have, each box, envelope, and individual items with my initials and a laboratory number.
- Q. Were all of this items in some kind of a larger container when you first had them come into your possession?
- A. Yes, they were.
- Q. Was that a package that was received in the mail?
- A. It was received, as I recall, by air express.
- Q. And then do you know who opened that package?
- A. I opened it.
- Q. This is at the FBI Laboratory?
- A. Yes, sir.
- Q. And after you opened the package did you withdraw these two exhibits in addition to a number of other things?
- A. Yes, I did.
- Q. Was there an indication where the package had come from?
- A. Yes, sir.
- Q. Where was that?
- A. It came from the Sheriff's Office at Santa Barbara, California.
- Q. I m going to show you two additional exhibits and I would like you to look at each of them in turn to determine if you also received those items in the same box that came from the Sheriff's Office, -- I am going to show you People's Exhibit No. 34 and No. 38.
- A. (Witness examining exhibits.) Yes, sir, these items I also removed from that package.
- Q. Is People's 34, a .9 millimeter Luger weapon?
- A. Yes, it is.
- Q. Is People's 38, a .6 millimeter Browning?
- A. 6.35 millimeter, also known as a .25 automatic.
- Q. 6.35. Now, after you had opened the package and withdrawn these various items did you have occasion to make any tests?
- A. I did.
- Q. Now, with respect to People's Exhibit No. 33, does that consist of -- I think that is the one on your right, if you can look at the exhibit mark, does that consist of six plastic containers each one of which contains an expended projectile?
- A. (Witness examining exhibit) Yes, sir.

Q. Now, with regard to People's Exhibit 33, in that exhibit are there a number of expended projectiles and also a number of empty shell casings?

A. There are in Exhibit 32.

Q. I'm sorry, in 32.

A. Yes, sir, and one loaded cartridge.

Q. Did you have occasion, Mr. Frazier, to make any specific tests to determine whether any of the expended bullets which are found in People's Exhibit 32 and 33, and whether any of the empty shell casings found in People's Exhibit 32, were fired from either of the two weapons, namely People's Exhibit 34, the Luger, or People's Exhibit 38, the Browning?

A. Yes, I did.

Q. Could you please tell the Court and the jury what you did in that respect and what, if any, your resulting opinions were?

A. I made what we call a firearms identification of these items in Exhibit 32 and 33. I found numerous fired bullets and cartridge cases in these two exhibits. There were nine, .9 millimeter cartridge cases that is fired shells in these exhibits. There were nine fired bullets of .9 millimeter caliber. There were five Auto -- or 6.35 millimeter cartridge cases and two .25 automatic fired bullets, or 6.35 millimeter fired bullets, and one .25 automatic cartridge, -- loaded cartridge.

The examination I made was to fire test bullets in cartridges from the .9 millimeter Luger, Exhibit 34, and the .25 auto-caliber -- automatic pistol, Exhibit 38, and compare those tests which I fired with the items received.

As a result of this examination I found that all nine of the .9 millimeter cartridge cases had been fired in this particular Luger, Exhibit 34.

I found six of the .9 millimeter bullets could be identified as having been fired in this Luger pistol, Exhibit 34, and that three of the bullets of the .9 millimeter cartridge were mutilated to such an extent that I could not identify them, that is the individual microscopic marks needed for identification were either missing or distorted through stretching in the mutilation of these three bullets.

I found that all five of the .25 automatic cartridge cases bore the marks of the .25 automatic, Exhibit 38, and could be identified as having been fired in that weapon, and the two .25 caliber bullets also bore the marks of the barrel of this automatic and I identified these as having been fired in this particular automatic pistol, Exhibit 38.

Q. Thank you, Mr. Frazier.

Now, I am going to show you People's Exhibit 24, 24-A, 24-B, and 24-C, which contain three additional expended bullets having been received into evidence as removed from the bodies of one Mr. Demir, and one Mr. Baydar, and I would like to have you look at these and tell us if you also received those items in the same package from the Santa Barbara County Sheriff's Office?

(Witness examining.) Yes, I did.

Can you also identify each one of these three bullets, as being one that you saw, by way of a certain marking placed upon it?

A. Yes, sir.

- Q. Mr. Frazier, following your opening of the parcel, did you make any attempt to determine whether those three Exhibits, 24-A, 24-B, and 24-C received as having been removed from the head of Mr. Demir and Mr. Baydar, were fired by the .25 caliber Browning, which is People's Exhibit No. 38?
- A. Yes, I did.
- Q. Could you tell us what you did in that regard, and what if any your conclusions were?
- A. I made the same microscopic comparison using a comparison microscope, and examining the individual barrel marks on these exhibits 24-A, B, and C. I found the same pattern of markings on the test bullets which I had fired from Exhibit 38, and therefore, concluded that these three bullets had been fired from this particular .25 caliber automatic, Exhibit 38.
- Q. Now, in the box that you opened that came from the Santa Barbara County Sheriff's Department, were there various other items that you have not testified to, here today?
- A. Yes, there were.
- Q. Was that including various items of clothing?
- A. Yes, sir.
- Q. Now, I am going to show you People's Exhibit 42, and ask you if, with the exception of the last two pages, if this report was compared by you?
- A. Yes, it was.
- Q. And the last two pages, a report prepared by another division of the laboratory?
- A. Yes, they reported on the fingerprint examinations conducted.
- Q. And the first portion of the report is prepared by you, is that correct?
- A. Yes, it is.
- Q. Now, with regard to the various other items in addition to the ones you testified to today that were received in the package from the Santa Barbara County Sheriff's Department, were certain other tests and inspections performed upon some of those items at your direction and under your supervision?
- A. Yes. I made other tests and also had additional examinations made by other laboratory examiners, and by fingerprint examiners.
- Q. Are all of the tests that you have made personally or caused to be made and supervised on these various items of evidence received from the Ventura—or from the Santa Barbara County Sheriff's Department, are they all summarized in the reports here, are most of them?
- A. No, they are not. There are some of the fingerprint examinations that are not included in this fingerprint report. Some of these examinations having been made in my presence, and I have a note as to their results. However, the fingerprint report does not show all of these examinations. All of the rest of the examinations are included; that is those performed in the FBI Laboratory.
- Q. Does that include all the blood examinations?
- A. Yes, it does.
- Q. Now, Mr. Frazier, with respect to the fingerprint examinations were any fingerprint examinations made in your presence regarding the two guns; that is to say, the Luger and the Browning automatic?
- A. Yes, sir.

- Q. Could you tell us what was done in that regard and what the results were?
- A. One of the first things done with these weapons—or about the second thing that was done, was to—I called a fingerprint examiner over to the laboratory and asked him to process the weapons for latent fingerprints of value. This was done in my presence, and no latent fingerprints of any value were found on them.
- Q. Now, during the course of time that you have been working with the FBI Laboratory in examining firearms, do you have any estimate as to the number of times that weapons processed for prints in the laboratory, with which you are familiar, have actually produced prints of value?
- A. Yes, very few times. Two to four times, possibly, in several years. The prints may be developed, but developing a print of value for identification is very uncommon because either the oily surface of the metal or the fact when the weapon is put down the print is smeared by withdrawing it from the weapon and destroying the individual characteristics.
- Q. With regard to the examinations, for blood, were various articles of clothing submitted by the Sheriff's Department to your laboratory as being clothing of the suspect Mr. Yanikian?
- A. Yes, sir.
- Q. Are you able to tell us, using your report if necessary to refresh your recollection, what different articles of clothing were submitted to you as being clothing of the defendant?
- A. There was a coat, a pair of sox, vest, a T-shirt, underwear, shirt, beret, right and left shoe, suit jacket and trousers.
- Q. Now, what was the result of the examination for the possible presence of blood upon any of this clothing?
- A. There was no blood confirmed on any of this clothing. There was a stain on the beret which gave a preliminary test, indicating the possible presence of blood, but there was an insufficient amount to confirm the presence of blood.
- Q. Was that stain on the inside or the outside of the beret?
- A. It was on the outside. This examination was made by another examiner, not by me. My only knowledge concerning that examination is what is contained in this report.
- Q. Now, among the other items which were in the box that you opened, was there also a bedspread, and in that regard I call your attention to item Q-21.
- A. Q-31. I received a white bedspread.
- Q. Q-31, I am sorry. Was that also processed for the presence of blood?
- A. Yes, it was.
- Q. Calling your attention to page 7, what was the result of the test to determine whether there was any blood on the bedspread?
- A. Human blood originating from a person of blood group B was found on the bedspread.
- Q. Did the laboratory also receive a vial of human blood which was identified as that of the deceased Bahadir Demir?
- A. Yes. sir.
- Q. Was that analyzed?

- A. Yes, sir, it was.
- Q. And what type blood was that determined to be?
- A. It was type B.
- Q. Then, was the blood which was found on the bedspread the same type as that of the blood identified as Mr. Demir's?
- A. Yes, sir.
- Q. Now, calling your attention to item Q-29, was there also a portion of a wooden chair leg submitted in this same box?
- A. Yes, sir.
- Q. And calling your attention again to page 7, was that tested for the presence of blood, and if so what was the result?
- A. Human blood originating from a person of blood group B was found on the chair leg.
- Q. So again, then, was the human blood type found on the chair leg the same as that identified as coming from the body of the deceased Mr. Demir?
- A. Yes, sir.
- Q. In addition to the test that you have testified to, were there also certain tests performed under your direction involving tool-mark examinations, structural analyzes, gun-powder examinations, neutron activation analyses, and hair specimens?
- A. Yes, sir.
- Q. And are the results thereof all found in this report which is labeled People's 42?
- A. Yes, they are.
- MR. MINIER: Thank you, Mr. Frazier.
- I have nothing further, your Honor.

**CROSS-EXAMINATION**

BY Mr. LINDSEY:

- Q. Mr. Frazier, I note in the two sections of the report we identify here as Exhibit 42 that you have before you, that it contains what purports to be at least a signature L. Patrick Gray, III, acting director; was Mr. Gray in any manner connected with the work in this case?
- A. No, sir.
- Q. Why does your name not appear then as the one who conducted the tests and prepared the portions of tests that were prepared?
- A. The names of the examiners are not furnished in laboratory reports, only symbols assigned to those examiners. The report is the report of the Federal Bureau of investigation reporting the results of examinations conducted by the FBI examiner.
- Q. Moving under the authority at that time of L. Patrick Gray, as the signature shows on both of these reports – would you take a look, please? Do you see his signature there?
- A. (Witness examining document) Yes, sir, his signature appears there. I assume it is under his authority, -- actually it is a congressional authority for the establishment of the Federal Bureau of Investigation.

- Q. Yes. Mr. Frazier, how many blood samples – would you take a look, please, at Page 2 of the larger report, please, and in the K Division, how many vials of blood samples did you receive?
- A. Two.
- Q. Is that K-7 and K-8?
- A. Yes, sir.
- Q. And you describe one as being Type A and the other Type B?
- A. Yes, sir.
- Q. You knew at the time you undertook this work in your laboratory that there were three persons involved, Mr. Baydar, Mr. Demir, and Mr. Yanikian, did you?
- A. Yes, sir.
- Q. Did you have a third vial of blood with which to conduct your blood test involving three persons in this case?
- A. No, I did not.
- Q. How did you know that your K-7 that you classified as Type A, how did you know whose blood that was?
- A. We received a communication from the Sheriff's Department of Santa Barbara, California, which included that information.
- Q. Oh, they told you that?
- A. Yes, sir. And secondly, it was tested in the laboratory and found to be Type A.
- Q. But you didn't find it to be -- whose blood was that, by the way, that A?
- A. A Mr. Baydar, I believe his name is pronounced.
- Q. Did you have a sample of his blood to make certain that that vial that you had was from that person Mr. Baydar, or was it simply that someone told you that that vial was from Baydar?
- A. We were told that it was his blood.
- Q. And is that the same way that you concluded that your K-8 sample, the second sample, was from Demir?
- A. Yes, sir.
- Q. Somebody told you that?
- A. That's correct.
- Q. Well, now, Mr. Frazier, with all the skill and years that you have had in the laboratory and knowing that you were being questioned specifically to determine whose blood was involved in a case where there were three persons, when you learned that you had seen samples of only apparently from two persons, did you make any effort to find out where a third sample might be provided?
- A. No, sir.
- Q. Well, is it correct, then, that you, as a laboratory specialist, were asked to commence technical laboratory analyses that would affect three persons, but you had only two samples to work with, K-7 and K-8
- A. I cannot testify as to how many persons would be affected by the results. We were asked to perform certain laboratory examinations, which were specified in this letter as to what was desired, and we performed those examinations.

- Q. Now, Mr. Frazier, isn't it correct that you knew from the report given to you from the Santa Barbara Sheriff's Department that there were two deceased persons, Demir and Baydar?
- A. Yes, sir, that's correct.
- Q. You also knew that there was a suspect, didn't you?
- A. Yes, sir.
- Q. Then you knew there were three persons involved, the suspect and the two deceased persons?
- A. According to the letter, yes.
- Q. Nonetheless, isn't it true, you proceeded to initiate and conduct laboratory blood tests having only two samples available to you?
- A. Yes, sir, that is correct.
- Q. Did you have some type of a report as to the blood type of the suspect?
- A. No, sir.
- Q. Well, when you were rendering any opinion that the blood might not be connected with the suspect -- well, let me rephrase it in this way, Mr. Frazier. When you were running the tests, let's take the beret, you knew from the information provided to you which person was wearing the beret, didn't you?
- A. Yes, sir -- yes, we did.
- Q. Well, then you knew that, that was not worn by the two deceased persons, correct?
- A. No, that is not true. We only knew that it was submitted as the clothing of a suspect.
- Q. Then you knew that, that beret was connected with the suspect, correct?
- A. Yes, sir.
- Q. As a matter of fact, you knew who the suspect was, Gourgen Mkrtich Yanikian was his name, was given exactly as the suspect to you when the Sheriff's Department communicated originally with you?
- A. Yes, that's correct.
- Q. So instead of calling it really a suspect, you knew from the beginning that we are talking about Mr. Baydar, Mr. Demir and Mr. Yanikian, by name, from the information given to you?
- A. Yes, sir, that's right.
- Q. Now, that beret that was presented to your department, and specifically did it eventually reach you?
- A. Yes, it did.
- Q. And your task was to determine, at least in the first step, whether or not there was blood on that beret that from the report you had reason to know was worn by Mr. Yanikian, is that correct?
- A. In part, yes. There was no information that it was worn by Mr. Yanikian.
- Q. Did you have any information that the beret was worn by Mr. Demir or Mr. Baydar?
- A. We had no information it was worn by anyone.
- Q. Now, Mr. Frazier, how many times have you testified in court, please?
- A. Approximately 700 times.
- Q. Will you turn to Page 3 of your report, please, specifically to item K-23.

- A. Yes, sir.
- Q. K-23 is the beret we are talking about, isn't it?
- A. Yes, it is.
- Q. When you tell the Court and this jury that you had no information that it was worn by anyone, isn't it correct that when you prepared this report you put that beret under the heading 'Clothing of suspect'?
- A. Yes, it is.
- Q. And the suspect was Mr. Yanikian?
- A. That's correct.
- Q. Then you knew this beret was Mr. Yanikian's beret?
- A. Yes, we knew it was his beret, yes.
- Q. All right. Have you always testified for the prosecution, Mr. Frazier?
- A. No, sir.
- Q. Now, Mr. Frazier, let me ask you a few more questions about this beret. In that first step that you undertook to determine if there was any presence of blood on the beret, which was a part of the clothing of Mr. Yanikian, what was the type of test you first submitted the beret to?
- Mr. MINIER: Objection, your Honor. It assumes facts not in evidence, and Mr. Frazier has already testified that he didn't personally conduct the test.
- Mr. LINDSEY: Your Honor, I will withdraw the question and rephrase it.
- Q. BY Mr. LINDSEY: Mr. Frazier, do you know what tests were applied to this beret in this report that you are using here this morning?
- A. Not of my own personal knowledge, no.
- Q. Did you write this report?
- A. Yes, I did. The part concerning the blood examination is dictation which was prepared by the serology examiner, and included in the report by me.
- Q. You are familiar with the manner of testing in that laboratory of yours, are you not?
- A. Some of the examinations, yes. I am not a serologist.
- Q. Are you saying, then, that the tests on this beret that were performed by someone else might have been performed in different ways, that the FBI has one way to test at one time and another way to test at another time?
- A. No. I am saying that I do not maintain the complete knowledge in all of the blood tests that the FBI laboratory makes, or the chemicals that they use, or the procedures.
- Q. In the report as you prepared it, Mr. Frazier, you stated preliminary chemical tests for blood were conducted on a faint stain on the outside of K-23, which is the beret?
- A. Yes, sir.
- Q. You knew then that tests were performed on the beret for blood?
- A. Yes, I did.
- Q. And in your report you stated that the chemical tests in essence for the presence of blood on this beret were positive. You want to check your report?
- A. The report says the chemical tests for the possible presence of blood were positive.
- Q. For possible presence of blood?

A. Yes, sir.

Q. Let me read you, Mr. Frazier, what you wrote, please. Page 7 of your report (reading): "Preliminary chemical tests for blood conducted on a faint stain on the outside of K-23 were positives."

Now, where did you get the information that you had the word "possible blood" in there'?

A. If you will read the rest of the paragraph you will see the word in there.

Q. I'm talking about that first sentence there.

Let me ask you this, Mr. Frazier, when you use that word "positive" and knowing that you are talking about a chemical test for blood presence and you use that word "positive", what did you mean by that word "positive"?

A. In this paragraph you are speaking of?

Q. I am talking about that sentence that you wrote. The first sentence when you said -- or used the word "positive," and you are referring to the chemical tests for the presence of blood.

A. The preliminary tests which are normally run for the presence of blood, and which I have seen at several times, consists of applying a chemical which reacts to the presence of blood and other item -- other substances, some vegetable juices and so forth. The preliminary test was positive on the stain on the beret, indicating the possible presence of blood.

Q. Well then, in that preliminary test, of which you have some knowledge apparently, there was a finding from that first step of positive for possible blood, wasn't there?

A. Yes.

Q. Let me put it to you another way: if there had been no blood at all on the beret, the test would have been, at that stage, completed and negative, wouldn't it?

A. Yes, that's right.

THE COURT: Let's take the morning recess at this time.

Ladies and gentlemen of the jury it is your duty not to converse among yourselves or with anyone else, on any subject connected with the trial or to form or express any opinion thereon until the case is finally submitted to you.

We better keep it to five minutes, please.

**(RECESS.)**

THE COURT: The members of the jury and the alternate jurors and the defendant are all present.

All right, Mr. Lindsey.

Mr. LINDSEY:

Q. Mr. Frazier, isn't it also a fact, however, that you indicated in your report -- we are talking now about the beret-- at least from whichever person it was at your laboratory who ran whatever test they ran, that there was an insufficient amount of material in the stain on the beret to permit the necessary additional chemical tests to definitely establish the presence of blood?

A. Yes, sir, that is true.

Q. So that in the first step when there was a positive indication of it, to be able to do a complete, you might say full proper blood test this was not possible because of the

lack of sufficient quantity; would that be correct?

A. Yes, sir.

Q. Now, because of the positive result that was found in the first stage of the tests the FBI report that you prepared on this, could not exclude the existence of blood, then, could you; in other words, because of the positive finding, the blood would have to be within the consideration, at least, as far as the test went?

A. Yes. Of the various substances which we add to this test, one of them would be blood.

Q. Now, let me turn for a moment now to the chair; this was submitted to your laboratory, and for the purpose of the identification in your laboratory, it was known as Q-29; Is that correct?

A. A chair leg, yes.

Q. A wooden chair leg--Q-29.

A. Yes.

Mr. LINDSEY:

Q. Mr. Frazier, I want to be completely fair with you. I have here People's Exhibits 19 and 29, both of them showing a chair on the bed. There has been previous testimony that the right front leg of that chair was removed and sent back to the laboratory.

Now, will you take a look at those photographs, and having in mind my representation to you, do you recognize the right front leg of the chair shown in those two photographs as being similar or even identical to the chair leg that is the subject of this part of your report we are talking about, specifically item Q-29?

A. No, sir, I could not say whether it was or it wasn't. It could be, I am not eliminating it, but I don't have an independent recollection as to the physical shape of the chair leg to that extent.

Q. Did you see the chair leg at some time?

A. Yes, I did.

Q. Well, if I were to tell you those two photographs, that is the chair and that right front leg is the leg that was removed and sent back, would you deny that?

A. No, sir.

Q. Now, what were you asked to do, by way of a laboratory report concerning the chair leg that you know about?

A. There was a request to examine the chair leg for blood.

Q. Whose blood?

A. For the presence of blood.

Q. Whose blood?

A. I don't recall there was any specific mention of whose blood may have been on the chair leg. It is not possible to determine from an examination of bloodstains the identity of the individual from which it originated.

Q. I see. Do you know why you were sent the blood sample of Mr. Demir and Mr. Baydar?

A. It was to be used in the laboratory examinations.

- Q. And of course you had no sample of Mr. Yanikian when you were running the test on this chair leg?
- A. I did not run the tests on the chair leg.
- Q. You merely wrote the report?
- A. Concerning that, yes.
- Q. After, you had consulted with whoever did run the tests?
- A. Yes.
- Q. Now, from the knowledge that you had in your laboratory, however you obtained it that chair leg was put to certain tests to determine if there was the presence of blood on the chair leg?
- A. Yes, sir.
- Q. And was there any determination made as to whether or not there was blood on that chair leg?
- A. Yes, sir, there was.
- Q. As a matter of fact the chair leg being Q-29, group B human blood was identified either on or in Q-29, the chair leg ?
- A. That's correct.
- Q. Now, when you use the term "group B", are you talking in term of again now, if I can translate into laymen language, are you using group B in the same sense that we sometimes talk of blood type 0, or blood type AO, or are you using this group B in that same sense, or are you using the term group B in some other sense? Do you follow me?
- A. The group B is one of the four major classifications,--A, B, AB, and O.
- Q. Then you put in this report that group B blood was found on the chair, what you meant in your report was, and--what were those four types again, please?
- A. A, B, AB and 0.
- Q. Then, Mr. Frazier, if I can go back to before the recess, when you were being asked about the blood samples of Mr. Demir, and you stated it was group B, did you mean in that testimony that the blood sample of Mr. Demir in group B referred to either A, B, AB or O?
- A. Yes. It refers to the B group in those four possible groups of blood.
- Q. Knowing, Mr. Frazier, that your laboratory was being requested by the Santa Barbara County law enforcement agency to do a specially technical analysis, and to receive a report from your department that would help guide this lawsuit if it came into court, did you indicate anywhere in this report whether it was A, B, AB or type O?
- A. Whether what was?
- Q. The blood sample?
- A. Of whom?
- Q. Let's take the blood right off the chair leg.
- A. Yes, it was. It was indicated as group B.
- Q. And group B included A, B, AB and 0?
- A. No, group B is group out of those possible groups.  
There are four groups group A, group, group B, group AB and group 0.
- Q. Let m see if I can get it more clear about this blood type. When you are testing for blood, how many groups may you be working with?

- A. Four major blood groups.
- Q. You work only with the four major ones?
- A. That is all there are.
- Q. Are there variations of each one of those groups?
- A. No, sir, they are either A, B, AB or O. There are additional classification to blood beyond that, in a particular group, you have other subclasses.
- Q. Well, let's got into that for a moment, then, because we are doing a precise laboratory work here now. What sub classifications are there in A?
- A. I don't know.
- Q. What sub classifications are there in group B?
- A. I don't know.
- Q. AB?
- A. I don't know
- Q. O?
- A. I have no idea. There are a great number of them, as many as -- hundreds of them, as I understand. I don't know what they are.
- Q. Since the vial sample of the sample of blood from Mr. Demir and Mr. Baydar were in that laboratory, to your knowledge was there a laboratory breakdown to determine the classification within the group so you would know precisely the classification or sub classification of those vials of blood samples?
- A. I don't know how far they carried it. It was dried blood inside the vial, and dried blood is not the type of sample you need for breaking blood down into all of its types. You can only determine maybe two or three subclasses from dried blood.
- Q. Were those two or three subclasses determined?
- A. I don't know.
- Q. Did you determine from all the information that was available to you that the blood on the chair leg was not from Mr. Yanikian?
- A. I will have to repeat, I did not make the blood examinations, therefore there would be no way for me to determine in any way the answer to your question. But the serologist who made the examination only identified the blood as to its group and reported it, and we had no information concerning Mr. Yanikian's blood type, therefore, there was no way to make a comparison.
- Q. Let me go back just a moment, then, Mr. Frazier, what is your position or nature of duties back there in that laboratory at the time that these tests were being run?
- A. I'm assigned as chief of firearms identification and tool marks identification in the Physics and Chemistry section.
- Q. Were you given the responsibility at somewhere along the line of preparing the final report that was to be submitted back here to this county?
- A. Yes, I was.
- Q. And in the event that you, after the years of experience and training you have had in your laboratory, when you were getting ready to prepare that report, if you had any reason to feel that there was some gap left in the information being given to you, did you have any responsibility to send that segment back for more clarification to you so you could write a complete, adequate report?

- A. No, sir. I merely accepted the dictation given to me by the serologist, or the hair examiner, or whoever prepared the inserts for the report, read them for grammatical correctness and included them in the report. It is the responsibility of the individual examiner to insure that his results are accurate.
- Q. Then you had no responsibility, then, for the correctness or completeness of any information coming to you for this report, is that what you are telling us?
- A. I had the responsibility to see that the examinations were done, but not to check the results of the examiners.
- Did you in these matters that I have been questioning you about at any time ask that these areas of the beret and the chair and the blood classifications be sent back to complete the testing for the purpose of this report coming to this county?
- A. Be sent back to what? I don't understand your question?
- Q. To the division that was doing the serology and so on, that were doing the actual testing.
- Mr. MINIER: I will object to the question, your Honor, upon the ground that it assumes a fact not in evidence, namely, that the tests were in any way incomplete for the purposes of this particular examination.
- THE COURT: Sustained.
- Q. BY Mr. LINDSEY: Well Mr. Frazier, do we understand, then, that whatever the information was that you received from the other divisions, you simply repeated that into the report form, and that is how this report was prepared?
- A. Yes. That is correct.
- Q. And with regard to the blood, insofar as your knowledge and experience in your laboratory work, that is in the FBI lab is concerned, whether the report was either complete or incomplete was not your responsibility?
- Let's talk in terms now of the serology work, whether the work of that division was complete or incomplete was not a matter for you to determine?
- A. Oh, yes, it was, in that the contributor listed in a piece of correspondence the examination that he desired, and it was my responsibility to see that all of the requested examinations had been made. This I did. But it was not my duty to see that the serologist performed all the various examinations he could perform because I don't know what they are.
- Q. Well, let me see then if we can put this -- see if I understand. Are you telling us, then, that the FBI lab did no more than what they understood was being asked to be done by this County of Santa Barbara?
- A. I believe basically that is correct, yes.
- Q. Are you saying knowing that if there were a question of whether there are completeness or incompleteness in your report, that really becomes a matter of Santa Barbara County after they received the report and reviewed it, for whatever purposes they might have desired the report?
- A. I don't know how to answer that question as to what they -- with what they desired or anything else. All we are interested in is making the examinations, submitting a laboratory reports, and what is done with it afterwards is someone else's responsibility.

- Q. Well, let me move for a moment, then, to the matter of the hair examination that was made, connected with the chair leg; is it correct that the laboratory was requested to run certain tests on hair particles found on that chair leg?
- A. Yes, sir.
- Q. And is it correct that for the purpose of running those tests, you were provided—or the department was provided with some hair samples?
- A. That is correct.
- Q. Specifically four samples, and they are items K-9, K-10, K-11, K-12. If you can see page two of your report.
- A. That is correct.
- Q. Now, when your laboratory was running the testing, then, on the hair, your K-9 hair sample was from Mr. Yanikian, wasn't it?
- A. Yes sir.
- Q. You also had a second hair sample from Mr. Yanikian, that is K-10?
- A. That is correct.
- Q. You had a sample K-11 from one of the two gentlemen, right? Have you looked at your K-11?
- A. One of the two gentlemen?
- Q. I am talking about one of the two persons that are deceased?
- A. Yes sir.
- Q. Whose hair is sample is K-11?
- A. I don't know.
- Q. When they sent you the blood sample and said it was Mr. Demir's, and they sent you another blood sample and said it was Mr. Baydar's, is it your recollection that they sent you hair samples K-9 and K-10, and did not tell you whose hair those two samples belonged to?
- A. I have no recollection that they identified the hair samples, they may have. They were from two different individuals. They were marked, as I recall, A and B, or something like that. But I don't remember whose hair is represented by those two samples individually.
- Q. Do you have your copy of a letter dated January 31, 1973, directed to the Lab?
- A. No, I don't.
- Q. And emanating from the Sheriff's Department of this County, which listed an outline, the contents that were being sent to your department, specifying what it is they wanted tested as to each of those items?
- A. No. I do not have a copy with me.
- Q. You had available a copy in your laboratory, however, during the time you were connected with this matter, weren't you?
- A. Yes.
- Q. Now, on this hair sample -- or these hair samples, what did you find to be the quantity of the hair on the chair leg? I assume that's your item, Q-32?
- A. There was no hair on the chair leg. There was no hair on the chair leg. There were two hairs which had been removed from the chair leg and were submitted as separate items.
- Q. Well then, your Items Q-32 and Q-33 were placed in two separate containers, weren't they?

- A. Yes, sir, by the Sheriff's office, and submitted in that manner.
- Q. Do you" have any information as to where on the chair these hairs were taken?
- A. I, don't recall.
- Q. Do you have any information as to whether the hair on that chair leg was at or near the place where the appearance of blood was located?
- A. No, I have no information concerning that. I don't recall whether that was furnished.
- Q. Well then, how long were those two samples of hair that you were told from the chair; how long were they?
- A. May I refer to this short report which reflects the hair examiner' results?
- Q. May I suggest page 7 at the bottom?
- A. One of them was ten inches in length, the other was 1 1/2 inches in length.
- Q. And the one ten inches in length, was there any information that was made available to you as to whether or not either Demir or Baydar might or did have hair of a kind that might be described as gray and possibly as long as ten inches; did you have any such information?
- A. This information was available only through the sample of hair, or the two samples of hair which were submitted as originating from Mr. Baydar and Mr. Demir, and they did not have that type of hair.
- Q. Did you have any information that Mr. Yanikian might be the person who had hair that might possibly include gray of about the length of ten inches?
- A. I don't recall that the length was indicated. However, in the sample from Mr. Yanikian, there were gray hairs. These hairs were listed or were—it was indicated by the hair examiner as a possible source, but could not be either identified or non-identified with Q-32—what we call the Q-32 hair, which is the ten inch long hair, which is—which was listed as an intermediate gray stage.
- Q. Well, Mr. Frazier, you had then a long about ten-inch sample of hair that you knew was a sample from Mr. Yanikian, and you had a shorter sample of about 11/2 inches in length that you also knew was from—let me make sure. In your report on the hair examination on that page seven, you made reference to K-9 and K-10 which are the hair samples from Mr. Yanikian, is that right?
- A. Yes, sir.
- Q. How long were those hair samples?
- A. I don't know.
- Q. Now, you also have the K-11 and K-12 samples which were the samples from at least one of the individuals?
- A. One sample from each, yes.
- Q. How did you know there was one sample from each and not from the same man?
- A. I just assumed that, since there were two samples they probably originated from two different individuals.
- Q. You assumed that, Mr. Frazier?
- A. Yes, sir.
- Q. Now, when you took those four hair samples, two of Mr. Yanikian and the other two from either one or both—assume both of the victims, you compared

- those with or they were compared in the laboratory with the hair that came off of that chair—I am sorry with the hair that you were told came from the chair leg; is that correct?
- A. Yes. Sir.
- Q. Now, was any decision or conclusion reached by the laboratory as to whose hair it was on that chair leg, Mr. Yanikian's, Mr. Demir's or Mr. Baydar's?
- A. Yes, there was a conclusion that the hair from the chair leg did not originate from either victim or either sample of hair which was sent in as the victims hair, but no conclusion could be reached as to whether or not it originated from the person represented by the samples known as Mr. Yanikian's hair.
- Q. Now, let me see if I can go back over that. As a result of the tests that were run—incidentally, what tests were run?
- A. I don't know. The hair examiner made these tests.
- Q. From the information that was provided you by that division, isn't it correct, as indicated in your report, that the hair samples that you were told came from the chair leg, those hairs were conclusively determined not to belong to either Demir or Baydar?
- A. Yes, that is correct.
- Q. So that Mr. Baydar and Mr. Demir, because of the laboratory work done, can be positively excluded as far as being connected to the hair on the chair?
- A. Yes, sir, that is right.
- Q. That left, then, did it not, the question of whether the long gray hair, about ten inches long, might be connected with Mr. Yanikian; is that correct?
- A. Yes, that is right.
- Q. And while no positive conclusion could be reached, there were several similarities between the hair on that chair leg and the hair samples they had of Mr. Yanikian, isn't that correct?
- A. That's what is reported, yes. I don't know what those similarities were, or what the dissimilarities were.
- Q. Knowing that you were going to be coming out here to testify as a laboratory expert connected with these matters, did you request to be provided with any detailed testing information from these different divisions that provided the information to you, that formed the bases for your report?
- A. When I was requested to come out here to testify, it was concerning the results of my own examinations, not concerning the others. Therefore, I have made no special effort to talk to these other individuals. I can only report what is the written report as their results.
- Q. On this matter of hair on the chair leg, isn't it correct that as a result of the laboratory tests, it was determined that Mr. Yanikian could not be excluded?
- A. Yes, that is right.
- Q. In other words, that it was possible from the test results that the hair on that leg might possibly be his, but no conclusive determination could be reached?
- A. Yes, that's right.
- Q. When was the chair and the samples and so on, to your knowledge, returned back to Santa Barbara County?
- A. I shipped them, as I recall, on March 26<sup>th</sup>, 1973.

- Q. The report that you prepared is dated March 6<sup>th</sup>, is there any reason for the additional 20 days delay?
- A. Yes, sir.
- Q. What was that please?
- A. I had some other examination to make concerning additional material received from another source.
- Q. In connection with this case?
- A. Yes, sir.
- Q. What was that?
- A. I received a box of cartridges with the request that they be compared with the magazines from the .9 millimeter Luger and with the .9 mm. Luger to determine whether they could be associated with each other, therefore I retained this material until I finished that examination.
- Q. Is there also a possibility that in the event Santa Barbara County desired further clarification of that report with the material being still back at least for a while longer in your laboratory additional tests could be conducted if required?
- A. Well, that situation would exist. I don't know whether they specifically requested—I don't recall that they specifically requested we hold the evidence.
- Q. Now, the white bedspread, which is your Q-31, was that likewise tested?
- A. Yes.
- Q. And did you prepare in your report statements concerning that bedspread?
- A. Yes, sir.
- Q. Well, let me help you if I may, on page 7?
- A. Here on page No.7, in the second paragraph is the only place that I see that it is mentioned.
- Q. Is that where it states that group B human blood was identified on or in, and includes K-31?
- A. No, sir, it includes Q-31.
- Q. I'm sorry, Q-31.
- A. Yes, sir.
- Q. And Q-31 is the bedspread?
- A. Yes, sir.
- Q. Did you determine from that finding on the bedspread that Mr. Yanikian was excluded, that is, that it was not—
- A. (Interposing) We had no blood example from Mr. Yanikian, had no way to determine that.
- Q. All right. Did you determine, or did the laboratory determine that it was the blood of either Mr. Demir or Mr. Baydar?
- A. No, sir. It is not possible to identify an individual from his blood, but only to determine whether they are the same type. This was the same type of Mr. Demir.
- Q. Now, again, when they were testing, when the tests were being run in the laboratory, so far as you know, there was no breakdown in the sub classifications of this group B?

- A. I don't know of any that were run, no. There may have been attempts to make further breakdowns, but I don't know whether there were or not.
- Q. Well, when you said there may have been attempts to make further breakdown, and then you say that you don't know whether there -- that was done or not, are you really saying that you simply have no idea at all?
- Q. I have no idea at all what the examinations were except the results as shown in the report.
- Q. Were you present when the bedspread was tested?
- A. No, sir, I was not.
- Q. That again, then, was handled entirely by the serology department?
- A. Yes, sir.
- Q. Did they give you a written report of their testings?
- A. Yes, they did. It is included in this report, under the title "Serology Examinations" on page 7.
- Q. But did they give to you their laboratory test results, the actual test conducted and the test results in a written form from the serology department?
- A. Yes, I believe they did.
- Q. Did you bring that with you?
- A. Yes, I did.
- Q. The serology report on the bedspread?
- A. Yes, sir.
- Q. Do you have it with you now?
- A. Yes, I do.
- Q. Now, it is not a part of this report that is in evidence here, is it?
- A. No, sir; this is the results of the individual tests that were performed.
- Q. Now, may I see the serology report from the Serology department?
- A. It is on page 7 of the laboratory report, and the individual's notes who made the examination is perhaps what you are referring to?
- Q. Yes.
- A. The individual's notes?
- Q. Yes .

THE COURT: All right, Gentlemen, I see it is the noon hour. How much longer is your cross-examination going to involve?

Mr. LINDSEY: Your Honor, I have reason to feel that it will be extensive. There is still a great deal of areas to go into yet.

THE COURT: Well, I would like to find some way to avoid having Mr. Frazier come back Monday, but we had planned—did plan to recess this trial at noon today.

THE WITNESS: May I address the Court. I have another trial scheduled for Monday, Tuesday morning of next week.

However, it is not definitely established that I have to be there at 9:00 o'clock or 10:00 o'clock on Monday, but it is in Pennsylvania.

THE COURT: Is it Monday or Tuesday, or don't you know?

THE WITNESS: The trial started last Monday, and is scheduled -- I am scheduled to testify on the first part of the week, but since I have another trial on Wednesday, it would have to be either Monday or Tuesday morning. I am sure

that I could be here Monday morning and still make that other trial. I can arrange that.

THE COURT: All right. I'm sorry that you have to come back -- or stay over, whichever it is going to be.

Ladies and Gentlemen of the jury, it is your duty not to converse among yourselves or with anyone else on any subject connected with the trial, or to form or express any opinion thereon until the cause is finally submitted to you. We will recess the case now for the weekend and reconvene at 10:00 o'clock a.m. Monday.

(Whereupon, at 12:05 o'clock p.m., this date, the proceedings were adjourned until the hour of 10:00 o'clock a.m., Monday, June 11, 1973.)

**9. SANTA BARBARA, CALIFORNIA, MONDAY JUNE 11, 1973; 10:00 A.M.  
MORNING SESSION**

THE COURT: All members of the jury are present, the alternate jurors, the defendant.  
All rights gentlemen. Mr. Frazier is on the witness stand.

**ROBERT A. FRAZIER (Resuming)**

having been previously sworn, resumed the stand and testified further as follows:

**CROSS EXAMINATION (Continuing)**

BY Mr. LINDSEY:

Q. Mr. Frazier, knowing that you have to be another place here tomorrow I am going to try and speed this along, and I will make it as short as I can. I want to cover with you very briefly the subject of fingerprints.

Your test report indicated there were several different type of tests, or requests that were made, and among the requests was one pertaining specifically to fingerprints.

A. Yes, there was.

Q. Now, one of the things that the laboratory was requested to do was to check the book, the "Who's Who" book to determine if there were any latent prints on that book; do you recall?

A. Yes, sir.

Q. Now, was a latent print found on the book?

A. I would have to refer to the fingerprint report, because that is done in an entirely different division.

Q. Could you take a look at your report, please. Do you notice on the first page of the report pertaining to fingerprints, the last paragraph on that page states "One latent fingerprint of value was developed on the book K-6."

Now, that book K-6 in the second report of some several pages, K-6 is indicated to be the "Who's Who" book.

A. Yes, sir, that's right.

Q. Now, what was the nature of that latent finger- print of value that was determined to be on that book?

A. I couldn't answer that. I am not familiar with what type of latent it was. This was not done in my presence, nor in the laboratory, but in the Latent Fingerprint Division.

Normally what they do is treat the book, either with fingerprint powder or chemicals, develop, a latent -- that's a fingerprint that's not normally visible to the eye, then they examine it to see whether there are enough points of identity in that latent. If there are they are reported as a fingerprint of value for comparison.

Now, apparently they had, no prints with which, to compare this or with which to identify it? They just developed the one latent which was suitable for comparison.

Q. Well, now, Mr. Frazier, is there some place in the report that you prepared that you stated -- or advised the Santa Barbara Agency that this latent, print of value that was found on the Who's Who book, that it did not compare in any respect with the three prints that were sent to you, that is you were sent the prints of Mr. Yanikian, Mr. Baydar, and Mr. Demir, and did you indicate in that report anywhere that that print was found back in the laboratory either did or did not coincide with the prints that were given to you?

A. Yes, it says in this report, "The other latent prints are not identical with the fingerprints or palm prints of Yanikian, Baydar or Demir."

- Q. Now, that is on page 2 of your report then, is that correct?
- A. Yes, it is.
- Q. Now, in other words, then the print that you found on the book that was of value was a print belonging to some person who was not Mr. Yanikian, nor Mr. Baydar and not Mr. Demir?
- A. Yes, that is basically what it is, that is essentially, or exactly what the report indicates.
- Q. What type of a print was it that was found on the book?
- A. I don't know what it was.
- Q. Was it simply one finger, or was it several fingers?
- A. I said I don't know what it was. I don't know whether it was a fingerprint or a palm print—what it was because I did not see the latent itself on the book.
- Q. Did you bring with you, Mr. Frazier, any of the records made, or the notes made, or whatever is done by the person in the laboratory who ran those tests, and ran those comparisons, so that you would have them here to sort of give you a backup, or background to this report you have prepared?
- A. No, sir, I did not. The notes of the fingerprint examiners are retained by the fingerprint examiners in the identification division, and which is entirely separate from the laboratory division.
- Q. Once your laboratory developed--found the print where it was one finger or more than one finger, or whatever it was that was of value, did you send a copy of it back here to Santa Barbara County for their use?
- A. I can't answer that, because I don't know whether they did or not.
- Q. Does it appear in your report that a copy or some kind of a description or some indication of what the print was, how to describe it, was sent back here to this county to use in connection with these proceedings?
- A. No. It only says that photographs of the identified latent prints were prepared for the FBI files and retained for possible future comparison.
- Q. Well then, this print of value was retained by the FBI, and so far as you know, a copy of that has never been sent back here for any further use in this case?
- A. I know the original was. I am not sure that that latent was protected on the book, and the book was returned to the Santa Barbara Sheriff with the latent on it.
- Q. The book was returned, wasn't it?
- A. Yes, it was.
- Q. Now, what is a latent? What does that word "latent" mean when you are using it in terms of fingerprints?
- A. Normally, it means a print which is not visible to the average person with his naked eye, but must be developed or examined in some way which makes it become visible, either through photography, chemical tests, dusting with fingerprint powder, or some other method.
- Q. Then, is it your recollections, the book was sent back to Santa Barbara?
- A. Yes, it was.
- Q. Was the print -- may I have that book, please.
- Mr. Frazier, when you sent, or whoever it was in the lab sent this book back, did you tell the authorities in this county where that latent print was, and I am referring to

- People's Exhibit No. 39, so when the book arrived back here that latent print could be protected
- A. We did not advise them, as far as I know, where the latent was in the book.
- Q. If you did not advise the local authorities of where the latent print was that the FBI Laboratory had found on the books, did you have some reason to feel that the Santa Barbara authorities would be able to find it here in Santa Barbara once you sent the book back?
- A. Yes, sir. It is very plainly marked with a red arrow on this page. It is marked "latent", with the tab of the identification division on the page marked 880.
- Q. Now, that's the part that has the Who's Who reference to Mr. Yanikian, is that correct?
- A. Yes, it is.
- Q. Now, the print that was found inside this, then was not a print that you found related to Mr. Yanikian, was it?
- A. I don't know. The only thing I know is what is stated in the report, and that says it is not represented in either the fingerprints or palms prints of Mr. Yanikian or Mr. Baydar or Mr. Demir.
- Q. Let me move on to another item, the Luger. Did you find any prints -- or your Department find any prints on the Luger?
- A. No, sir.
- Q. Of any kind?
- A. No latent prints of value were found on the Luger.
- Q. Now, is the reason for that that perhaps there might be an oil film or maybe almost an invisible type of covering or coating on a gun that might be smudged or smeared and would make prints perhaps undeterminable?
- A. That's one of the reasons, yes.
- Q. In any event, you found no -- or your Department or lab found no identifiable prints on that particular gun?
- A. That is correct.
- Q. And is one of the reasons. Mr. Frazier, for trying to determine if there are any prints on a gun is that that would help you connect some persons, perhaps through the fingerprints, to the gun at the time of its use?
- A. Yes, sir. That somebody had handled that weapon, yes.
- Q. Now, let me turn your attention now to another item which is the envelope and the letter that was examined for fingerprints in the lab; is it correct, in accordance with your report,--and that's that last paragraph of the first page again,--that there were four prints of value found on the letter?
- A. Yes, that is correct.
- Q. And all of these four prints were found to be those of Mr. Baydar?
- A. Yes, sir.
- Q. And the reason you know that they were Mr. Baydar's prints on the letter is because you were sent fingerprint records of Mr. Baydar with which to compare?
- A. Yes, that's right.
- Q. Did you find any prints on that letter of Mr. Yanikian?
- A. No. There were no other prints identified on the letter.

- Q. Now, there were also six other, what they call lifts or prints that were found; is that correct? There were six transparent lifts that were sent back to the laboratory? Do you notice --
- A. Yes. That is listed here in this report.
- Q. Now, were those prints determined to be connected in any way with Mr. Baydar, Mr. Demir, or Mr. Yanikian?
- A. No, sir.
- Q. Those six fingerprints that were sent back to you, or six lifts, once the laboratory determined that those six different lifts of fingerprints indications were not connected with Mr. Yanikian, Mr. Baydar, or Mr. Demir, to your knowledge, did the FBI laboratory or FBI fingerprint division run any check against existing fingerprint files to determine if they could be related to any other persons?
- A. No sir, they certainly did not. That would be almost impossibility.
- Q. To run a test of fingerprint records through the fingerprint files of the FBI?
- A. Through the latent fingerprint files, it would have been, compared with latent fingerprint, or fingerprints of other known -- I shouldn't say-- if I may strike that. It would--that would be compared with the fingerprints of known criminals, but to compare it with the civilian fingerprint files would require months of work and hundreds of people to make such a comparison, because it is not a complete set of fingerprints.
- Fingerprints are compared using all ten fingers, if they are available, and classified to the extent that you can then identify a person if you have all ten fingers.
- If you only have one finger, it is an extremely tedious job, and very expensive to attempt to identify one fingerprint with a set of fingerprint cards which are only filed by a series of numbers.
- Q. Mr. Frazier, are you telling the jury then, this morning, that the six different lifts that were sent back there, each were comprised of only one fingerprint from one finger?
- A. I don't know what they consisted of.
- Q. Could they have been perhaps all five, that is four fingers and a thumb off of one hand that you were sent?
- A. It indicates that there is one fingerprint.
- Q. Where are you referring to in your report?
- A. On page 2 of this report, one fingerprint on a lift from the bathroom by the light switch, one fingerprint and two palm prints on two lifts from the outside surface of the closet door, two palm prints on one lift from wall above toilet in the bathroom. This is all I can say. It appears to be two individual fingerprints and four palm prints are represented in those lifts.
- Q. Did you leave the matter of further checking on those prints to see if they could be connected up with any other person known to be in the area, of the scene of the event, did you leave that matter then up to local authorities?
- A. I don't know what the fingerprint man did. I think this is the only report he furnished and therefore that would be a logical assumption.
- Q. Well, let me ask you about these miscellaneous items, it appears in your report that there were various miscellaneous items that were sent to you. What were those items? Let me perhaps help you. Would those be generally the items that were included, or

referred to in the letter of January 31, 1973, from the Sheriff's dept. here in Santa Barbara when they were requesting the laboratory work?

A. Well, I cannot identify the miscellaneous items as such. It may be it refers to an envelope that was sent in, and a letter—those are the only miscellaneous items in that letter that you just mentioned that might be referred to in the latent fingerprint report.

Q. Mr. Frazier, may be I can put this question to you, we have here in this case that has been introduced into evidence last Friday copies of the two reports you prepared, the two page report dealing with the fingerprint and the several-page report dealing with the other tests that were made. We also have had reference to the letter that was sent from the Sheriff's Department here back to the laboratory requesting the various tests to be made, and we have been referring to that letter also here in these proceedings. Now, the question I want to ask you this morning: do you have with you in this courtroom at this time any other papers, records, notes of any type connected with the work that was done by the laboratory other than those two written reports of yours and that letter from the Sheriff's Department?

A. Yes, I do.

Q. What have you brought here to the courtroom with you in addition to those three things that I have mentioned?

A. I have my notes that I made at the time that I made an additional examination -- I referred to that Friday, when I compared a box of cartridges with the ammunition and weapons referred to in the large report you just mentioned.

Q. May I see those notes, please?

A. Yes.

(Presenting document to counsel.)

This is a Xerox copy of the notes. Let me be sure this is the right one --yes, this is a Xerox copy of my notes that I made at the time of the examination.

Q. All right, Would you hand them to me please.

A. Certainly.

Q. Now, have you brought with you any other records, notes, papers of any kind or description that is related to the work directly or indirectly that the laboratory did, on any of the evidence matters of this case other than what you have disclosed so far?

A. Does this also refer to your last question, referring to these major reports and the fingerprint report?

Q. Yes. Now so far, so that there is no misunderstanding, you have brought here, and we have referred Friday and today to the two reports you prepared, the two-page report on the fingerprints, the several-page report on the other tests that were run. We have made reference to the letter from the Sheriff's Department to the laboratory where the request for the different tests were made, and you have given us now the fourth document which is a photocopy of your own notes from an additional -- whatever task it was, that you performed on some of this evidence.

Now, are there any other papers, records, notes of any kind or type that you have here with you in the court- room pertaining to any of the work done by anyone in the FBI Laboratories, or FBI Department connected with any of the evidence in this case?

A. No, sir.

- Q. Mr. Frazier was the work done in that last photocopy set of notes that you handed me, was that incorporated into the written report then that you sent here on this matter?
- A. I believe that report went to the FBI Los Angeles office in connection with that investigation that I just handed you
- Q. Yes, I am talking about that last two-page set of notes, is the information in that set of notes, was that included within the report, or was in the context of the report that you prepared and sent here to the Santa Barbara Sheriff's Department?
- A. No, it was not.
- Q. Is the information in that report in addition or different from the information you have sent on March 6<sup>th</sup> to the Sheriff's Department here?
- A. Yes, it is—I believe it is. There would be the fingerprint report on March 6.
- Q. Yes. On March 6<sup>th</sup> there were two reports, the two-page report on fingerprints and the several-page report on the other tests that were run.
- A. Yes. We have not as yet seen the written report referring to that worksheet of mine which I just handed to you. This was a report sent to the, as, I recall, to the FBI office in Los Angeles not to the Santa Barbara Sheriff's Department.
- Q. Did that contain additional information on laboratory tests that were run?
- A. Yes, it did.
- Q. Is there some reason why the laboratory did not send a copy of that additional report to the Sheriff's Department here in Santa Barbara?
- A. I don't know that they did not send one. They may have sent one—I don't know. May I see the report. It may show on the front of it whether they did or did not.
- Q. Which report are you referring to now?
- A. My worksheet.
- Q. Your notes.
- A. Yes (Witness examining document). Apparently I did not send a copy of this to the Santa Barbara Sheriff.
- Q. Was there a reason for that?
- A. I can't think of any.
- Q. Did you prepare yourself these two pages that you have just handed me here?
- A. The handwritten material—typewritten material was prepared by a stenographer in the office.
- Mr. LINDSEY: Your Honor, I would like to have this marked for identification as defendant's next in order, if I may, the two-page photocopy of the notes of Mr. Frazier that he has been referring to.
- THE COURT: All right.
- THE CLERK: Defendant' Exhibit E  
(Whereupon, a two-page report was marked as Defendant's Exhibit was marked as defendant's Exhibit E for identification purposes only.)
- Q. BY Mr. LINDSEY: Mr. Frazier, this photocopy is an exact duplicate or replica of the originals of your notes on this matter, are they not?
- A. Yes, it is.
- Q. Prepared entirely by you, that is as you have indicated so far?
- A. Yes, sir.

Mr. LINDSEY: Your Honor, I am going to ask if this may be introduced into evidence at this point.

Mr. MINIER: My I see it first?

Mr. LINDSEY: I am sorry (Presenting Document to counsel).

Mr. MINIER: I haven't seen it yet, your Honor. No objection your Honor.

THE COURT: Received

(Whereupon, a two page document, FBI report was duly received in evidence as defendant's Exhibit E)

Q. By Mr. LINDSEY: Mr. Frazier, I want to refer you first to People's Exhibit No. 42, which was by stipulation or agreement of both sides put into evidence last Friday, and the portion here, and I will indicate it to you, the type of matter indicated there as a murder—murder type of matter, is that correct?

A. Yes, sir

Q I am going to show you defense Exhibit E, where again the type is referred to, and there it has "murder subversive".

Was there some reason that in that defense exhibit that has just been introduced, that you placed the word "subversive" on it?

A. As I recall, it was just copying the references carried by the Los Angeles Field Office of the FBI. I believe-- I can't tell here, it looks like it has been struck out on my notes. I don't know whether that was the final caption, but, at the time, this was just copies from an incoming -- incoming letter from the Los Angeles Field Office.

Q. All right. Then however that got on there was not of any doing of yours, then, was it?

A. No sir, it was not.

Q. You have no information of any kind as to how that word came to be used on any of these records of yours, then, other than it probably appeared on someone else's record and you copied it?

A. Yes, sir.

Q. Let me turn your attention to another phase, and that is the matter of gun powder. Is it correct that among the tests that the laboratory of the FBI was asked to perform is to determine whether gun powder might be found on any of the evidence items that were sent back to the laboratory?

A. Yes, on some of them.

Q. Is it also correct that the gunpowder might be in one of the two general classes, either unburned powder or burned powder; is that correct?

A. Yes. That is the normal connotation of gunpowder.

Q. Now, let's take first of all from the class of the burned gunpowder, that would presumably occur as a result of the firing of the gun; now, is it true that you were sent three samples of carpeting, for example, by the laboratory?

A. Yes, that is correct.

Q. And among the things that the laboratory was asked to determine is whether or not there were any gunpowder residues on any of those three carpet samples?

A. Yes, sir.

Q. Now, is it also correct that the laboratory was asked to determine, scientifically if possible, from what type of gun or more specifically either the Luger or the Browning those three carpet holes may have been made?

- A. Yes, sir, that is correct.
- Q. Now, is it correct that this type of a test that might be done by the laboratory, that is gunpowder -- burned gunpowder indications on the carpet, as well as which of the two guns possibly may have fired the missile that went through the carpet, this information would be important in determining which gun did the firing; that is, either the Browning possibly, or the Luger?
- A. Yes, sir.
- Q. Also, it would be important, if possible, to determine the angle that the bullet penetrated through the carbon, isn't that true?
- A. There was no request for angle determination as far as I recall.
- Q. Had that been requested, the FBI Laboratory could have done some work on that, however, isn't that true?
- A. They may have tried, but I don't believe they could have accomplished anything on that.
- Q. Then, isn't it also true that whether or not there was burned gunpowder on the carpet, would also possibly be important or relevant on the part of the distance between the gun that fired the bullet and the place where it went in the carpet?
- A. Only if there had been a definite gunpowder pattern present. And that is a pattern which is characteristic of the residues which come out of a gun barrel at the time that the shot is fired, which is characteristic to show that nothing has happened to that pattern from the muzzle to the rug, if it is not interrupted by some other object which would affect the shape, the density of the pattern.
- On these rug samples, there were no gunpowder residues found, therefore, it has no significance since some object could have intervened between the muzzle and the rug at the time the shot was fired.
- Q. Or, Mr. Frazier, the particular gun may have been far enough away from the carpet so that the burned gunpowder would never have reached the carpet, isn't that true?
- A. That's correct, yes.
- Q. As you indicated in your report, generally speaking if a Luger weapon, such as the one that you were examining back there in the laboratory, was fired, burned powder may leave a trace up to about seven feet, isn't that correct?
- A. That is the extreme maximum, yes. You may get one or two parcels deposited at about seven feet.
- Q. So that if a gun of that type were to be fired at a range of more than seven feet, generally speaking then you would not expect to find burned gunpowder on whatever object you are examining, if that object is more than seven feet away, isn't that correct?
- A. Yes, that is generally correct.
- Q. Now, the Browning, the smaller gun, its range, instead of seven feet is about four feet, as you indicated in your report?
- A. Yes, that is right.
- Q. Now, you had no information, nor your laboratory as to the distance that either one of those guns were from that carpet at the time of the firing, had you?
- A. No, sir.
- Q. Now, as to the three samples of carpet and the three holes that were found in the carpet, you did determine that they were from the Luger, isn't that correct?

- A. No, sir, that is not right. The holes in the carpet were determined to be a point three-eight inches (.38) in diameter, which is not an indication of the caliber. The caliber of the weapon could have been almost any size, provided the bullet mushroomed or possibly went in sideways or even a larger caliber, and the rug may have stretched a little and come back together; so it is not an indication of the caliber of the bullet, but only an indication of the size of the hole.
- Q. Was the size of the hole of a type that would be approximately the same as the size of the Luger—that is a Luger missile?
- A. Yes. It could have been produced by .9 mm. Luger.
- Q. Let me see if I can fairly ask you, then this: the holes that were found in the carpet could not specifically be related to this Luger pistol, but the hole was sufficiently close so this could be reasonably related to the Luger, isn't that correct?
- A. I wouldn't say, it would be related to the Luger, since I have no knowledge myself that the hole wasn't in the rug before the Luger was fired. All I can say is that this hole could have been produced by a shot from the Luger.
- Q. Let me read to you one sentence in your report, please Mr. Frazier, on page four, titled "Gunpowder examination": A hole having the physical characteristics of a bullet hole, and in parenthesis approximately 38, .9 millimeter caliber end parenthesis was found in each of the three rug sections, Q-34 through Q-36  
Now, when you use the term in your report "approximately 38, .9 millimeter" let me ask it this way: was the Luger a .38 caliber?
- A. Yes. The Luger is approximately what is termed in this country as a .38 caliber. .38 caliber weapons are .357 inches in diameter, and the Luger bullet is about .356 inches in diameter.
- Q. Will you relate the Luger also to .9 millimeter?
- A. The .9 millimeter is the designation for the Luger cartridge which is the equivalent of .356 inches.
- Q. Well, then, in your report, you did relate those three holes in the carpet to the Luger, didn't you?
- A. No sir. The report says the hole is of that size rather than it is related to any particular weapon.
- Q. You didn't relate it to this Luger, but you did relate it to a size that might be similar to one produced by this type of a gun; is that it?
- A. The report very plainly states that the hole is approximately 38 or .9 mm. caliber. Caliber is a diameter measurement indicating that the hole was about .357 inches in diameter.
- Q. Let me go to another matter, then, Mr. Frazier. In trying to determine, scientifically in the laboratory, possibly the distance between firearms and an object, one of the tests that you ran in the laboratory was to try to determine if burned gunpowder could be found on either one of two known coats Q-37 and the other coat known as Q-46, both of those coats being coats worn by either Mr. Baydar or Mr. Demir, isn't that correct?
- A. Yes, sir.
- Q. Isn't it correct that when the examination was made by the laboratory to show if there was burned gunpowder on either one of the coats that I have just mentioned, that there was no gunpowder residue found?

- A. Yes. That is correct.
- Q. Now, from that, Mr. Frazier, would you conclude that either one or both of those guns had been used to fire at any time in the proximity of either one of those two men who may have been wearing the coats at the time, that generally speaking, the Luger would probably have to be more than seven feet away, and the Browning would have to be probably more than four feet away?
- A. No, sir. I would not assume that at all.
- Q. What would you say?
- A. Well, the reason I say that is that the gun powder deposited at the maximum range of seven feet for the Luger, or four feet for the 25 caliber weapon, are very lightly deposited on the garment. This is a laboratory determined range, and it is so lightly deposited that even taking the questioned target down from the rack against which you have fired it can cause a loss of this powder if you are not very careful, so therefore, I would say that it would be somewhat less of a distance, because of the possibility of gun powder being lost when the coat is taken off, or handled, or wrapped, to send to the laboratory. It must have been less than seven feet because of these various factors and, in addition, as I mentioned before, some object could have intervened in part between the muzzle of the weapon and either of the two coats at the time the shot or shots were fired, which would also prevent the gun powder from reaching the target.
- Q. Now, let me see if I can ask you something so that I can understand what you are saying. Would you mean, for example, if someone had a screen, or some type of a drapery between the place where the gun was and say, the person on the other side, are you suggesting that may be something like that might perhaps have captured the burnt gun powder residue and prevented it from reaching, say, the coat of the person?
- A. Yes, sir, or other garments, the powder may have been lost in handling.
- Q. Now, let me turn your attention to two more items of clothing, is it correct that the laboratory also received the shirt from Mr. Baydar, and a shirt from Mr. Demir, and the laboratory was requested by the local agencies here to put through laboratory analysis those two shirts to determine if there was any indication of gun powder residue?
- A. Yes, that is true.
- Q. The shirt of one was identified in the report as Q-31, and the other as Q-39. Now, isn't it true that when the tests were run on the part of the shirts that were exposed, namely the collar and the upper front part of the shirt, that no gun powder residues were found on either one of those shirts?
- A. Yes, that is true.
- Q. Now, let me turn your attention now to the other class of gun powder, the unburned gun powder, is it correct that the laboratory was requested to run tests to see if they could find any traces of unburned gun powder?
- A. Well, I have been assuming that when you talk of gun powder that you are talking about those things which come out of the muzzle, which are gun powder, partially burned gun powder and gun-powder residues. All of my answers have been with reference to both gun powder and gun powder residues.

- Q. Yes. Now in your report you indicate that there was a test run that is commonly, or you indicated in here, a neutronic activation analysis. Is that neutron activation analysis a test that pertains to unburned gun powder?
- A. No, sir, it is not.
- Q. Does it pertain to only burned gun powder?
- A. No, sir it only pertains to those metallic residues which compose the primers of cartridges, and specifically --
- Q. (Interposing) Right.
- A. (Continuing) Antimony and Barium which when they are burned in a cartridge are always emitted from the cartridge and blown out of the weapon along with the gun powder.
- Q. Now, let me see if we can understand the technicalities of this. When a cartridge is fired are there two different types of powder in that cartridge, a primer mix as distinguished when the gun powder that pushes the missile out?
- A. Yes, that's right.
- Q. So there are two types of gun powder then in a bullet, is that correct?
- A. There is a small explosive charge in the primer plus the smokeless powder, the gun powder.
- Q. Now the Neutron activation analysis we are talking about, does that have to do with the primer powder?
- A. Yes, it does.
- Q. As distinguished from the other type of powder which actually propels the missile, is that correct?
- A. Yes, sure.
- Q. Now, to determine whether or not there is any indication of primer powder that may have gone out through the muzzle of the gun, this is where they run a test to determine whether or not any trace of either antimony or barium may be found under laboratory analysis?
- A. No, sir, we did not.
- Q. As a matter of fact, they found no trace of that did they, in the samples, or whatever they were that were sent to the laboratory?
- A. That's right .We found no antimony or Barium on the test materials which were obtained from the hands of Mr. Yanikian, Mr. Baydar and Mr. Demir. We did not test the clothing for antimony and Barium because they are deposited in such small quantities that you couldn't find them on clothing.
- Q. Now, there is a special kit that is provided to local law enforcement agencies for use in this special test, the Neutron Activation Test, isn't that correct?
- A. Some departments use special kits, yes.
- Q. Now, is there some step that would have been taken locally here to prepare some kind of material or sample for testing by the laboratory?
- I am trying to have you describe what it is that they do by way of preparing something for the laboratory to examine.
- They use normally a kit consisting of several cotton swabs and a nitric acid solution to swab the hands of an individual and maintain the swabs in sealed containers. Then they send us-- and they did this in this case, these kits from these three individuals, for Neutron Activation analyses. We examined them and found no primer residue on

any of the swabs from these individuals hands. This, of course, means that we cannot determine whether or not the person has handled or fired a weapon, because these primer residues, Barium and antimony can be robbed off the hand merely by putting your hand in your pocket or washing your hands, rubbing them against your clothing and so forth, so it was an inconclusive -- that is to the extent that we could not determine whether or not any three of these individuals had handled or fired a weapon.

Q. Yes. One of the purposes of these laboratory tests is to try to develop any evidence that might be helpful in determining whether any one of the three actually did the firing of the firearm, is that correct?

A. This is the purpose yes.

Q. Now the swabs that were sent back for laboratory testing, as indicated in your report, there was one swab taken off of the back of each hand of Mr. Baydar, Mr. Demir and Mr. Yanikian, is that correct?

If I may refer you to Q-56 through Q-61?

A. Yes, that's right

Q. And the examination of those six swabs from the back of the hands of each of the three men did not indicate any positive finding in a particular test, is that correct?

A. That's correct.

Q. Now, if you will turn to page 3 of your report, also submitted to the Laboratory by the Santa Barbara Sheriff's department were swabs from the palms of these three men for laboratory testing.

A. Yes, sir.

Q. Now, when the Santa Barbara Sheriff's Department submitted those palm swabs for testing, did the Laboratory do as requested and test those palm swabs?

A. No. We do not use palm swabs because they are too easily contaminated by the first thing that a person may touch during the day, and the residues are easily removed and therefore we have found that palm swabs are not the type of thing you can get reliable results from, so we do not test them.

Q. Mr. Frazier, when the Santa Barbara Sheriff's Department sent back to your laboratory swabs from the palms of each of those three men and requested a laboratory analysis, the FBI Laboratory decided that because it was from the palms they wouldn't even commence running a test to it, is that what you are telling us?

A. Yes. That's right.

Q. Well, then, what you did in the laboratory, or more fairly, what somebody did in the laboratory is to decide before they even tried to test is that because you were told that they were from the palm area the laboratory wouldn't even make the test?

A. That's right. Palm swabs have been proved unreliable so many times. In fact, they have never shown anything in a reliable nature and therefore we don't run palm swabs. They give erroneous results.

Q. Is it the policy of your laboratory then that when a palm swab comes from a local law agency, that you were told that is from a palm, that automatically the laboratory will refuse to test that?

A. That is our policy, yes,

Mr. LINDSEY: I have no further questions, your Honor.

THE COURT: Any redirect?

MR MINIER: Yes, your Honor.

THE COURT: I have to be before the Board of Supervisors unfortunately, on a matter I can't escape. I have got another ten minutes or so, I don't want either of you to rush your examination, but I wish that we could finish this morning. I have got to be there by 11:30 and I am supposed to meet with the other Judges seven minutes ago but I can let that go a while.

Mr. MINIER: Your Honor, I think I might complete it.

THE COURT: All right.

### **REDIRECT EXAMINATION**

BY Mr. MINIER:

Q. Mr. Frazier, were you asked to come here to Santa Barbara for the purpose of testifying only regarding the specific firearms identification test that you personally Performed?

A. Yes, sir.

Q. And does that explain the fact that you didn't bring various notes of those other people who performed the other tests?

A. Yes, it does.

Q. Now, calling your attention again specifically to this question of the possibility of blood on the beret, I would like to call your attention to page 7 of the FBI Laboratory report, and I would like to ask you a question about this paragraph which I will read to you (reading):

“Preliminary chemical tests for blood were conducted on a faint stain on the outside of K-22 were positive.”

Now, is the K-22 the beret that we have been talking about?

A. K-23.

Q. I'm sorry, K-23.

A. Yes, that is the beret.

Q. All right. You say that they were positive. The preliminary chemical test for blood conducted on a faint stain on the outside of K-23 were positive, thereby indicating the possible presence of blood in this stain, and you go on to write, however, there was an insufficient amount of material in this stain to permit the necessary additional chemical test to definitely establish the presence of blood.

Now, translating that just into lay terms, with regard to that faint stain on the outside of the beret, could it be determined in the laboratory, whether it was blood or whether it was anything else?

A. No, it could not.

Q. Could that stain then have been something other than blood?

A. Yes, it could.

Q. Now, with regard to the book, this “Who's Who” book, where again did you say it was that the one latent print of value appeared?

A. On page 880.

Q. Now; 880, this is not one of the pages where the cut begins, is it, where this hollowed portion begins?

A. No, sir.

- Q. So that if a person were to open the book up to the hollow, wherever the hollow is then if the book is closed there is no way that a person's finger or thumb would be on page 880, is there?
- A. I couldn't answer that. It could appear in any position.
- Q. Now, were any prints of value found on the outside of the book?
- A. I don't think so. There are none marked.
- Q. Based upon the report there were none?
- A. That's right.
- Q. Now, there is the fact that there weren't any prints of value found on the outside of the book, does that mean, Mr. Frazier, that Mr. Yanikian never had that book in his hand?
- A. I would say no, it would not mean that.
- Q. Is there any particular reason why prints may not have been found on the outside of the book?
- A. Because of the texture of the material, it's extremely rough and may not have recorded a print, where the print may have, if placed may have slid, as the book was handled, and smudged it. I am not a fingerprint examiner. I can't answer all these.
- Q. Do you have any idea if it is frequently very easy on a book with a rough surface to produce a good number of latent prints of value?
- A. I can't -- I cannot answer that.
- Q. All right. Getting on to the question of the possible distance between the muzzle of one of the guns and the particular item that was examined for the presence of gun powder, in doing this is it based upon the fact that when the gun fires, in addition to the bullet going out of the muzzle, for example, here on the Luger, when the bullet is fired in addition to the bullet going out the muzzle then normally is there a combination of burned and unburned gun powder that also follows out and goes a certain distance?
- A. Yes.
- Q. And then, are these tests that you made with regard to the rug and the various coats and all to detect whether there was the presence of any of those little particles of burnt or unburnt powder?
- A. Yes, sir.
- Q. With regard to the results of your tests, I would like to call your attention to page six of your report. I wonder if you might read the third complete paragraph, which begins, "the lack of gunpowder." If you could read it out loud, please, to the jury, then I will ask you some questions on that paragraph; could you do that, please?
- A. "The lack of powder residues on the items examined, as set out above, precludes the possibility of determining the muzzle to item distances existing at the time the shots were fired. For your information the maximum distance which the K-1 pistol projects residues is approximately seven feet. For K-2, the maximum distance is approximately four feet. It should be noted that the presence of an intervening object may have prevented residues from reaching, the various items or loosely adhering residues from may have become dislodged in the necessary handling of the items.
- Q. All right. Now, by way of interesting your paragraph there, did you reach any conclusion in the test about the possible distance between either of the two guns at

- the time that they were fired at any of the given objects, or, were you unable to arrive at any conclusion?
- A. I arrived at the conclusion, that it wasn't extremely close in which you would necessarily have powders deposited, but it was at several feet distance that I could not determine how many feet.
- Q. Now, with the absence of gunpowder
- A. Excuse me just a moment—I couldn't determine that is providing there was nothing in between the gun and the clothing at the time the shots were fired.
- Q. Could you refine a little bit between what you mean by not "extremely close"?
- A. Well, I would say not within two and a half to three feet for the Luger and not within two feet to three feet for the .25 automatic.
- Q. So to put it in the converse, then in your opinion, is it possible that although there were no powder traces left - that the distance between the Luger and these various objects that you tested for the presence of gunpowder, could have been as little as three feet?
- A. Oh, yes, it could have.
- Q. And again, is it possible, that the distance between the Browning or the .25 caliber, and these various objects that you tested, could have been as little as three feet?
- A. Yes.
- Q. Now, with regard to this Neutron activation test, again this is the test, is it, to determine whether any of the elements of Barium are ejected out of the gun at the time it fires, because of the combustion of the primer is that a fair statement?
- A. Yes. The Barium in the antimony, and where they are deposited on the hands of the individual, or where the individual may have handled a weapon that had been fired.
- Q. And did you testify that it is very easy, merely by putting ones hands in ones pockets to actually wipe these off?
- A. Yes, it is.
- Q. Now, can you tell us what degree of success you have had in the laboratory in past years in finding the presence of antimony or barium on these swabs that are taken of a person's hand with regard first to revolvers and secondly to automatic pistols: is there any difference in the frequency with which you are able to detect the presence of antimony and barium?
- A. With reference to shooting a weapon, yes. The revolver deposits primer residue much more readily, because of the space between the cylinder and the barrel which drives powder gases down off the tops of the fingers, the backs of the fingers, and onto the thumb of the shooting hand.
- Whereas, the automatic pistol is enclosed, and the gunpowder residues are mostly blown out the muzzle. Occasionally, a few are ejected with the cartridge case. It is seldom in an automatic pistol that you get significant primer residue on a shooter's hands.
- Q. And just so that the jury knows what we are talking about, are both of these two weapons that you testified to, namely the Browning and the Luger, are both automatic weapons?
- A. I call them automatic pistols. They are semi-automatic weapons.
- Q. Is that of the type of weapons that you just said you seldom get any significant residue of the antimony and barium?

A. Yes, sir.

Q. Just to show you the Luger here, People's 34, you testified that most of the antimony and barium would actually be projected out the muzzle in this type of a weapon?

A. Yes, sir.

Q. If any of it went out elsewhere, could you show us where it would go?

A. Once the cartridge case is ejected, there may be a slight residual pressure in the barrel which would give a slight puff of material out the ejection port, which is on the top of the weapon.

Q. It would then go upwards?

A. Into the air. It would puff up into the air. It may, by gravity, fall down on the hand.

Q. Is the fact that you usually get more with a revolver, is that because of the construction of the revolver, the antimony and barium can go straight back onto the hand?

A. It can.

Q. Again with regard to People's 38, the Browning; again, would most of the antimony and barium go out the muzzle?

A. Yes, sir.

Q. And if it did not, where is the only other place that it might go?

A. When the weapon is fired, the slide is driven back, and during the extraction of the cartridge case out the ejection port on the right side of the weapon, some of the primed residues could follow this cartridge case out, and then fall down onto the backs of the fingers of the shooter's hand.

Q. Is the reason that you don't test for the swabs taken from the palms, is that the palm is normally wrapped around the handle of the gun in a manner that you wouldn't get these deposits on it?

A. That is one of the reason. Also we found that palms become contaminated in normal use.

Q. So would the fact that you were unable to detect the prints in any of these items on swabs taken from Mr. Yanikian's hands would this in any way indicate that he did not actually fire either one of these weapons?

A. No, sir.

Q. Incidentally, has the FBI Laboratory had any connection with this case other than since the performing or attempting to perform most of the tests that the Sheriff's Department of Santa Barbara County requested to have performed?

A. Yes, that is true.

Q. And did your laboratory do or attempt to do everything that you were requested to do by the Santa Barbara County Sheriff's office that was consistent with what you could reliably do in the laboratory?

A. Yes, sir.

Mr. MINIER: Thank you. I have no further questions your Honor.

THE COURT: Recross?

Mr. LINDSEY: I am going to make this very brief.

I know the Court has that meeting.

THE COURT: Don't curtail it, the meeting can wait. It will just have to wait because Mr. Frazier has to catch a plane at 1:15, so if we have to go to 1:15 or 1:00 o'clock we are going.

Mr. LINDSEY: I will try to make it very brief.

**RECROSS-EXAMINATION**

BY. Mr. LINDSEY:

Q. Mr. Frazier, to your knowledge, in this case, did anyone from either the State Department of our government or from the Turkish Embassy ever make any contact of your department in connection with the testing that was being requested to be done?

A. I don't recall any -- are you separating the County from the State when you say this?

Q. Yes.

A. No. To my knowledge, no contact was made.

Q. I m referring to the Department of State of the Federal Government.

A. Excuse me. The Department of State, as far as I know, never contacted the laboratory requesting or altering anything that was being done.

Q. Or the Turkish Embassy?

A. Not to my knowledge.

Q. If any such contacts would have been made, it would be made on a different level than what you had in the department, isn't that correct?

A. Yes.

Mr. LINDSEY : No further questions, your Honor.

Mr. MINIER: Nothing further, your Honor.

THE COURT: Thank you, Mr. Frazier, you are excused and free to leave

THE WITNESS: Thank you, I appreciate it

(Whereupon the witness was excused and withdrew from the stand )

THE COURT: Ladies and gentlemen of the jury, it is your duty not to converse among yourselves or with anyone else on any subject connected with the trial, or to form or express any opinion thereon until the case is finally submitted to you.

We will recess until 1:30 P.M.

(At 11:25 an adjournment was taken until 1:30 of the same day.)

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10. SANTA BARBARA CALIFORNIA, MONDAY, JUNE 11, 1973; 1:30 P.M.

AFTERNOON SESSION

THE COURT: The members of the jury and alternate jurors are present, gentlemen, and the defendant is present.

Mr. MINIER: Your Honor, Mr. Rosales has returned from San Francisco and with the Court's permission we would like to get into redirect with him at this time.

THE COURT: All right,

Mr. MINIER: Your Honor, I have two exhibit, one is a photograph of an open drawer which we would like to have marked as People's 43 for identification and the second is a series of six photographs which makes one unit which we would like to have marked as People's 44 for identification.

THE COURT: All right.

(Whereupon the colored photograph was marked People's No. 43 for identification only; whereupon, a group of six photographs was marked as People's Exhibit No. 44 for identification purposes only.)

THE COURT: Be seated, Mr. Rosales.

ROY ROSALES,

having been previously duly sworn, produced as a witness on behalf of the People, resumed the stand and gave further testimony as follows:

REDIRECT EXAMINATION

BY Mr. MINIER:

Mr. Rosales, before you left last week for San Francisco, Mr. Lindsey, I believe, had asked you if any pictures were taken of the drawer from which you removed the two magazines for the .9 millimeter Luger, I believe you testified a picture was taken, is that correct?

A. Yes, sir.

Q. I show you People's 43 and ask you if this is the photograph?

A. (Witness examining) Yes, sir, it is.

Q. I am going to show you People's 44 for identification and ask you if the six pictures which are included in this exhibit are pictures which were taken in the room at the time that you were in the room collecting certain physical evidence?

A. (Witness examining exhibit) Yes, sir.

Q. And are these pictures which appear on that piece of cardboard illustrative of the testimony which you gave for Mr. Lindsey on cross examination last week?

A. Yes, sir, they are.

Mr. MINIER: Your Honor, we would offer People's 43 and 44 in evidence.

THE COURT: Received.

(Whereupon, a colored photograph was duly received in evidence as People's Exhibit No. 43; whereupon, a group of six photograph was duly received in evidence as People's Exhibit No. 44.)

Q. By Mr. MINIER: Mr. Rosales, with regard to the evidence, the physical evidence that you brought into court with you last week, did you bring only into court those items which I told you we would be offering into evidence?

A. Yes, sir.

Q. And did the other items which you collected there at the crime scene, did those items, or are they presently at the Sheriff's office?

A. Yes, sir, they are.

Q. And have those items of physical evidence at all time been available to Mr. Yanikian's attorneys for their inspection?

A. To the best of my knowledge, they have been, yes sir.

Q. Now, were more photos taken at the crime scene besides the one you testified -- the ones that you testified about last week and the ones we have just shown you today?

A. Yes, sir.

Q. As a matter of fact, were photos taken of almost everything that you did while you were in that room with regard to the collection of evidence?

A. Yes, sir.

Q. Do you have any idea of the approximate number of photographs that were taken?

A. In excess of two hundred.

Q. And were they all taken by Mr. White?

A. Yes, sir.

Q. Were there any slides taken in addition to the colored photographs?

A. Yes, sir, there were.

- Q. Do you know how many color slides were taken?
- A. Approximately twenty-five.
- Q. And in addition to the over two hundred color photographs and the twenty-five color slides were movies also taken?
- A. Yes, sir.
- Q. Have all of the photos and all of the slides and all of the movies been available to Mr. Yanikian's attorneys?
- A. Yes, sir, they have.
- Mr. MINIER: Your Honor, may I place People's 43 and 44 on the board?
- THE COURT: Yes.
- Mr. MINIER:
- Q. Now, first, Mr. Rosales, with respect to People's 43, could you tell the Court and Jury what that represents?
- A. These are the two loaded magazines we found in the top dresser drawer.
- Q. Would you step up to the board, please, and point the magazines as they show in the drawer?
- A. They are laying one on top of the other.
- Q. Calling your attention to People's 43, if we could-- pardon me, People's 44, if you could the first of the two pictures on the top -- the one on the left, that's the one that shows the bed and the chair, and tell us, in the picture, do certain drops of blood appear both on the spread and as on the floor?
- A. Yes, sir, they do.
- Q. Would you take the yellow marking pencil, please, and draw some kind of a circle -- do we have a red one there today?
- A. Yes, there is a red one.
- Q. Could you draw some kind of a circle, much as you did on the diagram last week, which would include all the areas of blood spots you can see on that picture?
- A. There are blood spots on the side of the bedspread, here. These blood spots extend over the side. They are visible up here in this area, and down on the floor.
- Q. Now, although I realize it is off the picture so you can't see it in the picture, but if this picture were larger, where would the closest yellow chair be?
- A. It would be over in this area.
- Q. You are indicating just off to our right from that area where you have shown the blood by the circles?
- A. Yes, sir.
- Q. Now, going to the next -- the next three pictures. I think I am going to move one of them. Now, the next three pictures in order on there do they depict a certain wall of the room?
- A. Yes, sir.
- Q. If so, could you show us which wall on the diagram, here, which is People's 27, which wall is represented in those three pictures?
- A. The wall scene here, with the heater, this wall, this wall would be the south wall.
- Q. To make it easier, with the marker, beneath each picture, would you write a sequential number one through six?
- A. (Witness complies.)

- Q. Now, do pictures two, three, and four on People's 44, represent the wall which appears along the bottom of the diagram which is People's 27?
- A. Yes, sir, they do.
- Q. Now, last week, I believe you testified about finding a certain number of bullet holes in that south wall, did you not?
- A. Yes, sir, I did.
- Q. How many did you tell us that you found in that wall?
- A. I believe it was four.
- Q. Could you show me now on Peoples 44, with specific reference to the photographs labeled two, three and four, where those four bullet holes appear; and what you might do, please, is to make a red circle around each bullet hole.
- A. Photograph number two, there was a hole right next to the heater.
- Q. Incidentally, is there something sticking out in that hole in the picture?
- A. Yes, sir. There is -- I believe we had a piece of round stick.
- Q. It is a little hard to determine where the hole is. Is the hole in the wall or in the heater?
- A. It is in the wall, sir.
- Q. All right. Now, is there another bullet hole that shows in that same picture number two?
- A. Yes, sir. Right here at the top edge of the molding, there is a second hole.
- Q. Now, I believe you testified with regard to some other photographs last week about the two large blood- spots on the rug that were in the position of the heads of the two Turkish diplomats, did you not?
- A. Yes, sir, I did.
- Q. Does either of those large areas of blood appear in photograph number two there?
- A. Yes, they do, portions of them. The first one is here, and the second one is here (indicating).
- Q. All right, fine.
Now, going on to number three, does that photograph show the additional two bullet holes that appeared in that south wall?
- A. Yes, sir.
- Q. Could you point then out, please, and also circle them?
- A. We have two to the left of the window in this photograph. right here, the second one is here.
- Q. Now, is picture number four merely another picture of the same area as shown in picture number three with the drapes put back into the hanging position?
- A. Yes, sir, it is.
- Q. And in picture number four, can you tell whether there is some bullet holes that are visible in the drape?
- A. Yes. We passed the string, attempting to show the line of travel of the projectile, through the drapes and stuck it into the wall. The second hole would be this one here, which is not visible in the photograph, but the line of travel with the string again going through the drapes.
- Q. Can you draw a circle around the point at the drape where there was a hole?
- A. (Witness complies.)

- Q. Now, on the diagram, People's No.27, could you point to the approximate location of the two bullet holes that are shown on picture number two?
- A. Right here.
- Q. Down beneath that location, would you please write "picture number two"?
- A. (Witness complies.)
- Q. And after picture number two in parenthesis would you put "Ex.44" to indicate it is picture number two on Exhibit 44?
- A. (Witness complies.)
- Q. Could you do something similar with regard to the two bullet holes that are shown in picture number three on the diagram, if you could indicate where the bullets shown in photograph, picture number three, are?
- A. In this area.
- Q. I think what the problem is, I think we have related picture number two to the wrong spot on the diagram, have we not?
- A. No -- I am sorry, that is correct.
- Q. If you would just change. I think, the number two to number three.
- A. (Witness complies.)
- Q. Now, does that correctly relate the portion of the diagram to the portion of the wall shown in picture number three?
- A. Yes.
- Q. Could you do the same with picture number two now?
- A. (Witness complies.)
- Q. Now, going on to picture number five, do any the bullet holes, about which you testified last week, appear in picture number five?
- A. Yes, sir.
- Q. Could you point them out and tell us the number, then draw a circle around them?
- A. There is three holes on the wall, and here, here, and here.
- Q. Fine. Could you draw a circle around them, please?
- A. (Witness complies.)
- Q. Now, is picture number six another picture of the same area of the room?
- A. Yes, sir, it is.
- Q. Is the difference, then, in picture number six, the chair is turned so that you can see what appears to be a bullet hole in the chair?
- A. Yes, it is.
- Q. Could you draw a circle around the bullet hole, and let me ask you, is there something that was stuck into the bullet hole in this picture that appears?
- A. Yes, there is a pen stuck there.
- Q. Could you draw, then, please, a circle around where we can see the pen sticking into what appeared to be a bullet hole?
- A. (Witness complies.)
- Q. Now, which wall on the diagram 27 is represented by these pictures five and six?
- A. It would be the east wall.
- Q. All right. Next to that portion of the diagram, could you do the same thing as you have done with regard to pictures two and three, namely write "Picture No. 5 Exhibit 44"?
- A. (Witness complies.)

- Q. Did you testify last week that you found a total of nine .9 millimeter projectiles in the room?
- A. Yes, sir.
- Q. Now, you have just testified, and made markings showing where you located seven different bullets; were these all .9 millimeter bullets, the ones you have just testified to, in the walls?
- A. Yes, sir, they were.
- Q. Now, calling your attention again to People's 44 and the little picture labeled number two, can you see on that photograph where either of the other two remaining .9 millimeter bullets were found?
- A. Yes sir, I can.
- Q. Can they both be seen, or can the area where they were found both be seen on that photograph?
- A. Yes, sir.
- Q. Could you also circle them, please, with the red marking pencil?
- A. We have one here, one here on the floor.
- Q. The one remaining thing we might do on the diagram No. 27, can you let us know the approximate area there on the diagram where it was that you found these two additional .9 millimeter bullets?
- A. One was here (marking on diagram) and one was here (marking on diagram).
- Q. And you indicated that by writing "9 millimeter" and circling it, is that correct?
- A. Yes.
- Q. The last thing I would like to ask, if you think that you can do it, in approximately the correct location, that is, on the diagram, would be to draw in two circles indicating where the large blood spots appeared under the heads of the two victims? Are you able to do that with some degree of accuracy, or would you have to refer to a photograph?
- A. Well, I believe one was right in this area (indicating) and the second one was right in this area (indicating) .
- Q. All right. First let me just show you one of the other photographs and possibly you can get a fairly exact idea from it.
I am going to show you People's Exhibit No. 18 and ask you if this would assist you in locating the spots on the diagram?
- A. (Witness examining exhibit) Yes, sir, it would.
- Q. All right. Could you draw them in, please.
- A.. (Witness marking on diagram.)
- Q. Why don't you just draw a circle and in the circle write 'Blood.'
You can take your seat, if you like, again. I believe you testified last week, Mr. Rosales, did you not, that you saw the defendant Mr. Yanikian on the afternoon of Saturday the 27th of January, is that correct?
- A. Yes, it is.
- Q. Did you have a chance to see him before he left the scene?
- A. Briefly, yes.
- Q. And then did you have a chance to see him back at the Sheriff's Department?
- A. Yes.

Q. And at the time that you were at the Sheriff's Department did you participate in the taking of swabs from his hands for a certain kind of a test?

A. Yes, sir.

Q. What is that test called, by the way?

A. It's a Neutron Activation Test.

Q. Is that the test for the possible identification of the presence of particles of antimony Barium on the hands of somebody who might have a gun?

A. Yes.

Q. Do you have any idea how long that went on, that is taking the swabs from the defendant's hands?

A. Possibly fifteen minutes.

Q. And approximately what time was that, if you recall?

A. A little after 4:00 o'clock in the afternoon.

Q. A little after 4:00 in the afternoon?

A. Yes.

Mr. MINIER: Your Honor I have another photograph which I wonder if we might have marked as People's No. 45 for identification?

THE COURT: Yes.

(Whereupon, the color photograph was duly marked as People's Exhibit No. 45 for identification purposes only.)

Q. BY Mr. MINIER: During the time when you saw the defendant at the scene of the Biltmore Hotel, did you hear him make any complaint of any kind of an injury?

A. No, sir, I did not.

Mr. LINDSEY: I didn't hear that answer.

THE WITNESS: No, sir.

Q. BY Mr. MINIER: And at that time did you observe any kind of an injury upon him?

A. No, sir.

Q. Later at the jail at about 4:00 P.M.; while you were taking the swabs from the defendant's hands, at that time did he make any complaint of an injury?

A. Yes, sir, to his finger.

Q. And can you tell us what, if anything, he indicated to you in that regard?

A. He told me he had nicked his finger on the safety release of the gun.

Q. Did he make any reference to any other injury to, you?

A. No, sir.

Q. And at that time did you observe any kind of an injury, whether it be a cut or a bruise, or a scratch, or an open wound any place upon his body?

A. Not sir, I did not.

Q. Did you see any blood any place upon his body?

A. No, sir.

Q. I would like to show you People's 45 for identification and ask you if this is a picture which was taken of the defendant at the time you were performing these tests involving these swabs of his hands?

A. (Witness examining exhibit) Yes sir, it was.

Mr. MINIER: Your Honor, we would offer People's 45 into evidence.

THE COURT: May I see it, please, Mr. Rosales.

A. Yes, your Honor (presenting the exhibit to the Court).

THE COURT: Received.

(Whereupon, a color photograph of the defendant was duly received into evidence as People's Exhibit No. 45.)

Q. BY MR, MINIER: In the picture here is the defendant sitting on a stool?

A. Yes, sir.

Q. And as you were working with him, in order to take the swabs, was he sitting on the stool?

A. Yes, sir.

Q. Were you able to see his head?

A. Yes, sir.

Q. Also, in your presence, were his cloths removed shortly thereafter?

A. Yes, sir, they were.

Q. Were they then photographed?

A. Yes, sir.

Q. Now, at the time that the defendant removed his cloths did you see any blood upon his body or head, anywhere?

A. No, sir, I didn't.

Q. Did you see any cuts or bruises or scratches?

A. No, sir.

Q. And when you were taking the swabs, I take it you were standing immediately next to him; were you?

A. Yes.

Q. BY. Mr. MINIER: Your Honor, may I put People's 45 on the board?

THE COURT: Yes.

BY Mr. MINIER: Mr. Rosales do you appear in People's 45?

A. Yes, sir, I am on the right side of the picture.

Q. Is that you in the white shirt?

A. Yes, sir.

Q. Is the other gentleman Detective Baker?

A. I believe so, I am not positive.

Q. And this then was a picture of the defendant sitting on the stool as you were either just completing or beginning to take the swabs, is that correct?

A. That's correct.

Q. In the picture is there anything that appears to be a wound that shows any place about his head or anywhere on his body?

A. Not that I can see, sir.

Q. Now, with regard to the movie that you made in the room, approximately how long is that?

A. The length of the running of the movie?

Q. Yes.

A. It would be seven minutes, eight minutes.

Q. Is there anything to the best of your knowledge in the movie that is not already shown in one of the various color photographs that we have introduced into evidence?

A. No, sir.

Q. Does the movie, however, give a better illustration of your testimony in that it can move from one portion of the room to another so that you can see the relative positions of certain items?

A. Yes, sir.

Q. Do you have the movie with you in the courtroom?

A. Yes, sir.

Mr. MINIER: Your Honor, at this time we would propose to offer the movie into evidence and then have it run by Technician White while Mr. Rosales testifies about certain objects which I believe he has already testified to, but telling the relation of one to another.

Mr. LINDSEY: I think it would be more appropriate, -- I may not have any objection to it at all, but I would like to see it first before that goes into evidence. I don't know what they have done with the movie, if anything at all. But as I say, I may not have any objection to it but I think it should be at least viewed by us first, so if Mr. Minier is proposing to put it into evidence without my first viewing it, I would have to object until I see it.

Mr. MINIER: We would have no objection, your Honor. But as I pointed out, it has been available.

Mr. LINDSEY: Well, there may be a question about that before we are through, your Honor. However, once I see it I may not have any objection to it.

THE COURT: How long does it take to run, seven minutes did you say, Mr. Rosales?

THE WITNESS: Yes, sir. The movie is about seven minutes in length.

THE COURT: All right. Is the man who will run the machine here and ready to show it?

Mr. MINIER: Yes your Honor.

THE COURT: Ladies and gentlemen of the jury, we will have to ask you to absent yourself from the courtroom for the time that it will take to run this movie. Have in mind, please, your duty not to converse among yourselves or with anyone else on any subject connected with the trial, or to form or express any opinion thereon until the cause is finally submitted to you.

We will call you shortly.

(Whereupon, the jurors and alternate jurors were excused and withdrew from the courtroom.)

(Out of Court Proceedings.)

(Whereupon, the following Proceedings had outside the hearing and presence of the jurors, as follows:)

THE BAILIFF: Your Honor, Mr. Begg went down to get a screen. We don't have one available here. We will have to have one brought up.

THE COURT: All right.

Mr. MINIER: Where would the Court like to have it set up?

THE COURT: Where do you want to put the projector?

Mr. MINIER: Mr. White says from here to the end of the table, your Honor, either putting the screen on either end, or have the projector on this end.

THE COURT: Put the screen down here and I can get over there in the jury box and view it.

Mr. MINIER: Fine. Thank you.

THE COURT: And Mr. Lindsey, also.

Mr. MINIER: Your Honor, may we mark the film at this time as People's No. 46 for identification?

THE COURT: Yes.

(Whereupon, a 16-millimeter movie film was duly marked as People's Exhibit No. 46 for identification purposes only.)

THE COURT: Let the record show that the members of the jury and the alternate jurors are now absent from the courtroom.

Mr. MINIER: Your Honor, I've put the projector at this end. Apparently there is only a plug at this end and –well, we will do as the Court suggests.

THE COURT: It doesn't make any difference, however, you are going to have the screen over here when the jury sees it.

Mr. MINIER: Your Honor, Mr. White says the film is ready, shall we begin it?

THE COURT: Yes.

(Whereupon a movie was shown in the absence of the jury.)

Mr. MINIER: May I ask just one or two more questions, then, your Honor?

THE COURT: Yes.

Mr. MINIER:

Q. Mr. Rosales, were all of these movies we have just seen, which is People's 46 for identification, taken in your presence?

A. Yes, sir, they were.

Q. And have they been modified or altered or edited in some way?

A. No, sir.

Mr. MINIER: Your Honor, we would offer People's 46.

MR. LINDSEY: Before that, may I be heard, your Honor, please, or may I first of all, perhaps question the witness?

RECROSS-EXAMINATION

BY Mr. LINDSEY:

Q. Mr. Rosales, did you take these movies?

A. No, sir.

Q. Have you had this reel of movie film in your possession at all times?

A. It has been into evidence, yes.

Q. That is not what I asked you.

Have you had this roll of movie film in your possession at all times?

A. No, sir.

Q. Has someone else had possession of that movie film, then, from time to time since it was taken?

A. Yes, sir.

Q. How many people have had possession of this film?

A. To the best of my knowledge, only detective Baker.

Q. That's to the best of your knowledge?

A. Yes, sir.

Q. There may have been others, however?

A. There may have, I don't know.

- Q. When Mr. Minier asked you whether or not this film has in any way been changed or altered, you don't really know the answer to that, do you?
- A. To the best of my knowledge, it has never been altered.
- Q. That's to the best of your knowledge
- A. Yes, sir.
- Q. If you were not the one that took the film, is there some way that you are able to state that this is a complete film that was taken without editing at that time?
- A. It represents what I recall being photographed that night.
- Q. Yes. But that's the question we are asking. What we are trying to find out if this is the complete film that was taken, all of the things, without exceptions, good or bad?
- A. Yes, sir.
- Q. How do you know that?
- A. We have had strict control in the chain of evidence in this case and if there is any question on that we can take the film and examine it. If there is any splices on it, it would definitely show up.
- Q. Have you done that?
- A. No, sir.
- Q. There appeared in this film Mr. Rosales, a series of breaks in the film; that is what appeared to be white frames showing up on that screen.
- A. Those are light spots.
- Q. Was there only one roll that was taken or was there more than one roll that was spliced together?
- A. There were two rolls.
- Q. Do you know the reason for those breaks that appeared on the screen as the operator was running that film?
- A. They were light flashes. You are talking about the white ones, Mr. Lindsey?
- Q. No. Some were just plain breaks in the film.
- A. That was the tail end of the first reel where we spliced into the second reel. The reason that was there is because nothing was cut out, everything was left there
- Q. Who did the splicing?
- A. Detective White.
- Q. Were you there when he did that?
- A. No, sir.
- Q. Excuse me?
- A. No, sir.
- Q. You were not present when that splicing was done, and yet you are testifying that he did the splicing?
- A. Yes, sir.
- Q. Is that because someone else told you that?
- A. No. Because I directed him to.
- Q. You directed him to do it?
- A. Yes, sir.
- Q. Now, you were not there, but you are assuming that he did it?
- A. Yes, sir.
- Q. Now, Mr. Rosales, did the Sheriff's Department do the developing of that film?
- A. No, sir.

Q. Well, then, was there someone outside the Sheriff's Department that had possession and control of that film for a while?

A. Yes, sir.

Q. Was the development done here in Santa Barbara?

A. No, sir.

Q. Was the development done at some city outside the County of Santa Barbara?

A. Yes, sir.

Q. Did you take the film to the processing place?

A. No, sir.

Q. Did someone in your department transport the film to that processing center?

A. No, sir.

Q. Was the film put in some kind of an envelope and put into the mail box for shipment?

A. It was taken down to Westen's and they sent it in for processing to Kodak.

Q. Who had possession of this film when it was taken to Westens's?

Mr. MINIER: Objection, your Honor, upon the grounds it is not relevant and constitutes an undue waste of the Court's time.

The witness has testified everything he saw on the film he saw in the crime scene.

Mr. LINDSEY: Your Honor, the question Mr. Minier posed is whether or not this film had been modified or altered in any way, and we are pursuing this matter and the amount of knowledge this witness has when he responded it had not been.

THE COURT: Getting awfully close to the point where I will cut it off. The whole question is whether or not this film fully and correctly depicts what it purports to depict that is the first question.

Does it, Mr. Rosales?

THE WITNESS: Yes, sir, it does.

THE COURT: You were there when the film was shot?

THE WITNESS: Yes, sir, I was.

THE COURT: Do you have any recollection of the camera being pointed in any direction or at any object or thing that is not shown on the film that we have just watched?

A. No sir, I do not.

Mr. LINDSEY: May I ask further questions, your Honor?

THE COURT: All right. But I think this is pursuing -- I haven't really seen anything other than what we have already seen on the still photographs except you see it in a better perspective on the film. The film doesn't show anything as far as I can recall that we haven't already seen in the still photographs.

Mr. LINDSEY: Your Honor, that is the point, and perhaps instead of further questions, I might--

THE COURT: (Interposing) Well, go ahead and ask further questions.

Mr. LINDSEY: Well, probably in view of the observation that the Court has just made, this is the next point I wanted to get to is commenting in that area, I would raise the question whether these photographs, or these movies, in essence, aren't really cumulative.

THE COURT: To some extent, but you do get a better perspective, I have that feeling as I watched it.

Mr. LINDSEY: Secondly Your Honor, there seems to be simply a replaying more than once of the same general areas showing up in this film, unless one of the purposes of the film is to tend to verify or confirm what the photographs and the oral testimony of the witness has been so far.

THE COURT: Well, is that an objection to the introduction of the film on the ground that it is cumulative?

Mr. LINDSEY: That would be one, and on the further ground, your Honor, that the film would seem to be nothing more than an effort to confirm or validate what the witness has orally testified and what is already shown in the photographs.

THE COURT: That is another way of saying cumulative, isn't it?

Mr. LINDSEY: Well, either cumulative or, I think that the purpose to verify or confirm the oral testimony of the witness is also involved.

THE COURT: Well, those objections are overruled. Are there any others?

Mr. LINDSEY: No, that is all that I would have, your Honor,

THE COURT: All right. Have the jury come in, please, Mr. Bailiff.

(Whereupon, the out of court proceedings were thereupon concluded.)

(Whereupon the following proceedings had in open court within the hearing and presence of the jurors as follows:)

THE COURT: All the members of the jury and alternate jurors are present again, gentlemen, and the defendant is present.

Mr. MINIER: Your Honor, for the sake of clarity, with the Court's permission, we would like to have Mr. Rosales stand on the left hand side of the screen as we face it with the pointer and when a certain item of evidence about which he has already testified appears on the screen to point to it with the pointer and identify it, if that is acceptable.

Mr. LINDSEY: Yes, I have no objection to that, your Honor. This would help.

THE COURT: All right,

(Whereupon, a 16-millimeter film previously marked as People's Exhibit No. 46 being shown.)

THE WITNESS: (Mr. Rosales) There is the chair that I testified to that was lying on top of the bed (indicating on the screen). The book 'Who's Who in the West,' the receipt, bullet holes, blood spots, currency. Throughout the area there is shell casings.

THE COURT: Could you speak just a little more loudly, Mr. Rosales.

THE WITNESS: Yes, You can see some more shell casings on the floor (indicating).

The towel laying on top of the carpeting. Turkish currency again. More 9-millimeter casings. Three 9-millimeter holes. A 9-millimeter casing. This is a view of the top of the dresser. The Luger. The Browning. Here is the letter that was recovered from the top of the dresser.

Q. BY Mr. MINIER: Where were the small photographs of the painting, Mr. Rosales?

A. They are right under the suitcase under the book, approximately under this corner. This is the right front leg we removed and sent in to the FBI with blood and hair samples taken from this leg.

Q. Would you show us where the blood appears on the floor there?

A. Yes. Right in this area. There is the cork-board that is wrapped in the brown paper. Here is some blood. A pool of blood. Here is your second pool of blood. You can

see a faint outline here where the victim was lying. There is an entry behind the drape, south wall. Here on top of the chair you can see traces of chalk that we have lined up with these two entries here. Another 9-millimeter casing. There is the receipt. White powder is the plaster here. 9-millimeter projectile, and the 25 here.

Q. What is this fishing pole appearing apparatus there?

A. That is the lamp, the lighting lamp we are using for the filming of this.

Q. Mr. Rosales, where were the extra 9-millimeter magazines found?

A. Right in this top drawer.

(Whereupon, the movie film completed.)

Mr. MINIER: Thank you, your Honor. I have no further questions of Mr. Rosales.

Mr. LINDSEY: I have a few.

FURTHER RECROSS EXAMINATION

BY Mr. LINDSEY:

Q. Mr. Rosales, did you finish up the school all right?

A. Yes, sir.

Q. Let me ask you just a few questions here and then I will be completed.

First of all, you brought with you today what we now call People's 43, which is a photograph, of the drawer, is that correct?

A. Yes, sir.

Q. And there is number eight and number nine in that photograph is that for the two clips?

A. Yes, sir.

Q. Number eight would be for one clip, and number nine for the other; is that correct?

A. Yes, sir.

Q. And this photograph was taken so that in the event there was any court proceedings, this would help to recall to the minds of the officers, as well as to help in the courtroom, visualize exactly where those articles were located when they were found; is that correct?

A. Yes.

Q. You know that is a true and correct photograph because you were there at the time it was taken, isn't that right?

A. That is correct.

Q. Then, you mounted six photographs, all on one board. Was there some reason why you put six on one board?

A. Yes. That's the way Mr. Minier wished them.

Q. You were instructed to put six on one board, is that it?

A. I was instructed to mount all seven together, but I couldn't get them on one board, so I had to use two boards.

Q. How many photographs were there altogether, two hundred?

A. There were over two hundred.

Q. And you were instructed to put seven of them, if possible, on the board?

A. Yes.

Q. Now of your own knowledge, those are true and correct photographs depicting the events in the room at that time, because again, you were present when they were taken?

A. Yes, that is correct.

- Q. Who was taking photographs?
- A. Technician White.
- Q. That's with one of the cameras that was capable of taking colored film?
- A. Yes.
- Q. You were in that room all the time that all two hundred photographs were taken, then, or were you?
- A. I believe when these were taken. I was. I may have went to the rest room once or twice, I don't know.
- Q. Now, there were over two hundred photographs that were taken inside that room?
- A. Yes, sir.
- Q. And over twenty-five slides?
- A. Approximately twenty-five slides.
- Q. Plus the movie camera?
- A. Yes, sir.
- Q. There are two rolls of movie camera film, aren't there?
- A. Yes, sir.
- Q. That are now spliced together in one continuous roll?
- A. Yes sir.
- Q. Again, all these matters were taken to, at least have a visual preservation of the physical things in that room, isn't that correct?
- A. Yes, sir.
- Q. Now, you indicated also that the various items of evidence were collected that were material to this case from that that room, and taken into custody of the Sheriff's Department?
- A. Yes, sir.
- Q. And this would include the guns, right?
- A. Yes.
- Q. Any of the casings?
- A. Yes, sir.
- Q. Any of the other matters , such as the chair, which included the chair leg, all of these items, is that correct?
- A. Yes.
- Q. And was it on the same day, January 27th, when they were taken into the custody of the Sheriff's Department and taken into the jail, or were they left in that room for a period of time?
- A. The casings, the projectiles, everything we could gather there, was taken in that night. We had to come back the following day to collect some larger items which we could not transport.
- Q. Excuse me?
- A. We couldn't transport large items, such as the chairs, so we had to come back the next day.
- Q. Now, Mr. Minier asked you if the items of evidence in this case have at all times been available to defense counsel, and you indicated yes; do you recall that answer of yours?
- A. Yes.

- Q. As a matter of facts Mr. Rosales, isn't it correct that you caused several of the item, that were shown in one of the other exhibits, to be sent back to the FBI for work?
- A. Yes.
- Q. And you sent them back on January 31, didn't you?
- A. Yes.
- Q. And that was by letter that you signed on that day when you sent all these items back there and made the request for the lab work to be done?
- A. Yes.
- Q. Then Mr. Rosales, you were aware, then, that from January 31, until those items arrived back in Santa Barbara, they were not available for my inspection?
- A. That is correct, the items were gone.
- Q. Isn't it also correct that the FBI retained these items that you sent back there all through the month of February?
- A. Yes.
- Q. They were not available for my inspection in the month of February, were they?
- A. No, they were not.
- Q. And In fact, you eventually received a letter--or two letters dated March 6th, which Mr. Frazier prepared and sent to you?
- A. Yes.
- Q. And you received that a few days after March 6th, the date it was dated, didn't you?
- A. Yes.
- Q. But, when you received that letter, you did not yet receive back those items from the FBI, did you?
- A. Not at that time, no.
- Q. It was some two or three weeks later in the middle or latter part of March, getting close to two months after the events at the Biltmore, before those items came back here to Santa Barbara isn't that correct?
- A. No, I don't think it was that long.
After I believe, I received the physical evidence back within a week, week and a half of that letter.
- Q. Were you present here in the courtroom when Mr. Frazier testified to how long he retained the articles before he sent them back here to Santa Barbara?
- A. No, I was not.
- Q. Now, were you also aware that in this case now before the Court that the Federal Bureau of Investigation, through the Attorney General's office of the United States in Los Angeles, filed a formal objection to disclosing certain evidence in this case unless I first obtained a consent of the Director of the FBI who at that time was L. Patrick Gray?
- Mr. MINIER: Objection, your Honor. What testimony has been heard by this witness is entirely irrelevant.
- THE COURT: The objection is sustained.
- Mr. LINDSEY:
- Q. Now, when you answered to Mr. Minier all the evidence in this case has at all times been available to me for my inspection, are you aware, Mr. Rosales, that even today your department has certain evidence which is refused for our inspection unless a

- special copy of the Court Order compelling your department to make it available, is presented to your department this afternoon, are you aware of that?
- A. I was not aware of that, no sir.
- Q. Have you been out to your department this afternoon at any time since the noon hour on this case?
- A. Yes.
- Q. Have you talked to anybody out there about whether or not they are making all this evidence really available to me or not today?
- A. No, I did not.
- Q. If they are in any way restricting it, you wouldn't have any knowledge of that, would you?
- A. Since I have control of the physical evidence, the ones we collected, I would have knowledge.
- Q. Have you been aware of the Court Order – the Discovery Order compelling your department to make that evidence available?
- A. No. I m not aware of it.
- Q. Were you aware that your department refused to make any evidence available until the Court made an order directing your department to make it available?
- Mr. MINIER: Objection, your Honor. This assumes a fact not in evidence.
- THE COURT: Sustained.
- Mr. LINDSEY:
- Q. Do you have the date when these matters came back from the FBI. Mr. Rosales?
- A. We have a mailing receipt.
- Q. Excuse me?
- A. We have a mailing receipt.
- Q. You don't have that available with you now do you?
- A. No, I don't sir.
- Q. Did you get all the evidence back from the FBI?
- A. Yes.
- Q. Now, Mr. Rosales, let me ask you about that other photograph that's still up there on the board of Mr. Yanikian; I believe you told Mr. Minier, in essence, that you had no knowledge at any time of any possible injury to Mr. Yanikian, other than maybe his finger, is that your testimony?
- A. Yes.
- Q. Why did you send that beret back to the FBI on January 31 and request them to make a laboratory analysis for presence of blood on the beret?
- A. There was a possibility that he was wearing the beret at the time.
- Q. You mean just because he might have been wearing the beret, that's the only reason you asked the FBI to run a specific test for the presence of blood on that beret?
- A. I sent all his cloths in.
- Q. Let me show you this exhibit 45 and ask you if you can recognize the beret sitting on that pile of clothing; does that look like the same one?
- A. Yes.
- Q. I want you to take a very careful look at that beret as it shows in that photograph, and I will ask you, isn't it correct that the blood that you wanted analyzed by the FBI, or whatever it is, the spots, show on that beret in that photograph?

- Take a careful look.
- A. I don't see them.
- Q. You did not observe it in the photograph, Mr. Rosales?
- A. I did not observe it, no.
- Q. Where was the blood spots on the beret that you wanted the FBI to analyse, please?
- A. I don't recall.
- Q. Didn't you make some kind of a record somewhere so that the beret of Mr. Yanikian -- you have some kind of a memorandum or note as to where the spots were?
- A. The beret was accompanied with the letter of instructions to the FBI.
- Q. Did you make some kind of a written record as to where the spots were on the beret that you wanted to have identified?
- Mr. MINIER: Objection, your Honor It assumes a fact not in evidence, namely, that there was more than one spot, which is contrary to the testimony.
- Mr. LINDSEY: I will withdraw and rephrase it,
- Q. What was it on the beret, Mr. Rosales, that you wanted the FBI to analyze?
- A. May I refer to my notes?
- Q. Please. And, Mr. Rosales, let me help you, if I may, on the letter that you sent back on the third page, on the section entitled "Clothing Items and Fingerprints," would you take a look at Item No. 1, and I will ask you is that the sentence that refers to the subject matter generally we are talking about, the beret? Does that help you?
- A. Yes. Okay, yes. According to this, to the best of my recollection, I didn't detect any blood on there, and I just sent the clothing in for blood analysis, or check for blood and for gun powder residue.
- Q. Are you giving that answer now because you don't find any reference to a particular substance, or whatever it is in your report that you sent back there?
- A. I am using it to refresh my memory.
- Q. And since you don't see any reference in the letter you don't think that you now recall any substance on the beret?
- A. That's right.
- Q. Were you the one that sent the leg of the chair, back there for analysis of blood and for the hair that was found on it
- A. Yes.
- Q. Were you the one that also gathered up the strand of hair from that chair that was approximately 9-inches long and gray in nature?
- A. Yes.
- Q. Did you have some reason when you sent that back to the FBI that that 9-inch long strand of gray hair on the chair might in some way be related to the head of Mr. Yanikian?
- A. Yes.
- Q. Having that thought in mind, did you at any time ask to examine the head of Mr. Yanikian to satisfy yourself that in fact he had no head injury of any kind?
- A. No, I did not examine his head.
- Q. Did you instruct any man under your supervision to go to where Mr. Yanikian was being detained and to check directly with Mr. Yanikian to see if in fact he had suffered a head injury?
- A. That would not have been my responsibility,

Q. Well, whose responsibility was that, Mr. Rosales?
A. Detective Baker.
Q. To your knowledge did he do that, did he check with Mr. Yanikian to find out it he had been injured in the head?
A. I believe there was some inquiry made as to Mr. Yanikian had suffered any injuries.
Q. And is it your testimony, Mr. Rosales, in this trial, that the only injury you ever heard that Mr. Yanikian suffered was to a finger and nothing also?
A. That is all he related to me, yes, sir.
Q. Did you at any time, Mr. Rosales, have any knowledge or information that he had been struck in the head with a chair in that Room 34 on January 27?
A. Not at that time. I believe I heard something about it later,
Q. How such later did you hear that?
A. Possibly within the next week.
Q. Within the next week then you heard that there was possible injury that he had suffered in the head?
A. No, only that he had claimed to have been hit.
Q. Was the chair and the strand of hair at that time back at the FBI for laboratory testing?
A. The leg was.
Q. Did you examine the injury that you mention to his finger?
A. I remember looking at his hand but I don't recall any break in the skin.
Q. You saw Mr. Yanikian for the first time where?
A. At the crime scene -- at the scene.
Q. At the Biltmore?
A. Yes.
Q. This is before he had been taken to the County Jail?
A. Yes.
Q. And when he was there, did he appear to be cooperative with anything that you had occasion to ask him?
A. I didn't speak with Mr. Yanikian.
Q. Did you see him later on at the County Jail?
A. Yes I did.
Q. In fact, you were photographed in part with him in the People's Exhibit 45?
A. Yes I was.
Q. He was cooperating in every way at that time, was he not in your presence?
A. Yes he was.
Q. Any requests made by any of the officers for anything from him he was completely cooperative, isn't that true?
A. Yes.
Q. Did he at any time resist you, Mr. Rosales, at any time in this case?
A. No.
Q. As a matter of fact he has always been a gentleman to you, hasn't he?
A. Yes.
Mr. LINDSEY: No further questions your Honor.
THE COURT: Anything further?
Mr. MINIER: A few, your Honor,

FURTHER REDIRECT EXAMINATION

BY Mr. MINIER:

Q. In addition to being a gentleman, Mr. Yanikian, did he at all times when you were asking for his cooperation, did he cooperate?

A. Yes, he did.

Q. Did he appear to fully understand everything that you were asking him?

A. Yes, he did.

Q. Did he appear to be fully rational at all times?

A. Yes.

Q. Now, with regard to the various photographs and slides and movies you have testified to, have in fact either one of Mr. Yanikian's attorneys ever asked you to look at them?

A. No, sir.

Q. And approximately when do you think that you got that evidence back from the FBI Laboratory?

A. Middle March.

Q. Since mid-March, have either one of Mr. Yanikian's attorneys ever asked you to see any of that evidence?

A. No, sir.

Q. Now, when you sent the clothes worn by Mr. Yanikian back to the FBI Laboratory, you sent all of them, did you not so earlier testify?

A. Yes.

Q. Not just the beret, but all of his clothes?

A. All his clothes.

Q. Did you have any reason whatever to suspect that there would be present on his clothes any of his, namely, Mr. Yanikian's blood?

A. I didn't know that.

Q. In terms of inspection of those garments, and sending them back to the FBI Laboratory for the possible presence of blood, did you have any particular person's blood in mind?

A. No.

Q. Is it a normal -- or would you say it's a routine matter done in investigations of homicides for you to analyze and inspect the garments worn by the suspect to determine if any of the blood of the victims can be found upon the suspect's clothes?

A. Yes.

Q. Did you have any reason whatever to believe that blood from the defendant would be found on anything within the room, or on any portion of his clothes?

A. No.

Q. Now, with regard to this hair that was found on the portion of the chair, did you have any reason to believe that this hair, if it were in fact from the defendant's head, come into contact with that chair by the chair's being struck on the defendant's head?

A. No.

Q. Did you conceive of the possibility that there were other ways that such a hair could come into contact with the chair?

A. Yes.

Q. What other way did you conceive of it?

A. The room was occupied by the defendant, and the chair, sitting on the floor, lying on the bed, could have picked up the hair any number of ways.

Mr. MINIER: Thank you. Nothing further, your Honor.

FURTHER RECROSS EXAMINATION

BY Mr. LINDSEY:

Q. Mr. Rosales, where was the hair found, this 9-inch strand, please?

A. On the right front leg, approximately three quarters of the way up on the leg.

Q. How far from the indication of blood on that chair?

A. It was stuck – excuse me, could you clarify that, Mr. Lindsey?

Q. Yes. I want to find out how close the 9-inch strand of gray hair was to that indication of blood on that right front leg of the chair?

A. It was stuck right on top of the blood.

Q. Do you have any reason to feel that maybe that strand of hair just happened to float through the air some way and attached itself right to the spot where the blood was on the chair?

A. I didn't know how it got there, Mr. Lindsey.

Q. Now, with regard to the blood that you were mentioning, you sent back to the FBI Laboratory a vial of blood sample of Mr. Baydar, and also a vial sample of Mr. Demir to help the laboratory in their tests, didn't you?

A. Yes, sir, that's correct.

Q. Now, in the laboratory, or in your center here that is shown in that photograph of Mr. Yanikian, you mention that Mr. Yanikian was completely cooperative with all the requests that you made of him?

Q. Yes.

A. For some reason why at this time no effort was made to request a blood sample from him as he was cooperating fully with all of your requests

Q. I didn't see any point in it. I didn't see Mr. Yanikian bleeding.

A. When you sent all the various items back, isn't it correct that you were asking the FBI to determine whether any of those matters could be related to any of the three persons in that room Demir, Baydar or Mr. Yanikian?

A. Yes.

Q. Essentially, you asked them to run a test to include whether or not Mr. Yanikian was connected with any of them, and you knew at the time that you were sending the evidence back you were giving them blood samples of only two and without a sample from Mr. Yanikian, and the FBI Laboratory would be unable to either exclude or include Mr. Yanikian as they made their test results, didn't you?

A. If they had grouped an unknown type of blood other than the A or B, I believe, what the victims had, then it would have been a questionable grouping.

Q. Do you know what Mr. Yanikian's blood type was?

A. No sir, I do not.

Q. Did it cross your mind that he might have had the same blood type as one of the other two gentlemen?

A. There was that possibility, yes, sir.

Q. Well; let me put it to you very carefully did you assume, Mr. Rosales when you were requesting the FBI Laboratory testing, did you assume that there was no way that Mr. Yanikian could possibly have had any of his own blood in this case, and that is

the reason you sent no sample of Mr. Yanikian's blood back to help them in their tests?

A. Yes.

Mr. LINDSEY: I have no further questions. Thank you, Mr. Rosales.

THE COURT: Anything further?

Mr. MINIER: Just one thing.

FURTHER REDIRECT EXAMINATION

BY Mr. MINIER:

Q. Mr. Rosales, can you conceive of some way that the FBI could have found Mr. Yanikian's blood upon any of those items if Mr. Yanikian had not bled at some time?

A. No.

Mr. MINIER: Thank you. Nothing further.

Mr. LINDSEY: Maybe I should ask one more, your Honor, and I should be through in just about one second.

FURTHER RECROSS EXAMINATION

By Mr. LINDSEY:

Q. Did you assume, Mr. Rosales, when you sent the leg of that chair back to the FBI that had the appearance of blood on it, that that appearance of blood came from only one of two persons, Demir or Baydar, and never from Mr. Yanikian? Did you assume that?

A. I believe I was trying to determine who the blood did come from.

Q. Did you assume that?

A. Yes.

Q. Did you also assume then you asked the FBI to run fingerprint checks that the only person that could have handled that chair last was only Mr. Yanikian and not Baydar or Demir? Did you assume that, also ?

Well, if you assumed that the blood on the chair leg was only the blood of Demir or Baydar, then isn't it true, that you had to assume there was Mr. Yanikian who wielded the chair?

Mr. MINIER: Objection, your Honor, on the grounds that it is not relevant. It asks for --

THE COURT: It is argumentative mainly.

Mr. LINDSEY: I withdraw the question, your Honor. I have no further questions.

Thank you very, much, Mr. Rosales.

THE COURT: Anything further of Mr. Rosales?

Mr. MINIER: No, your Honor.

THE COURT: All right. Thank you, Mr. Rosales, you are excused.

(Whereupon the witness was excused and withdrew from the stand.)

Ladies and gentlemen of the jury, we will take the afternoon recess. You have already had one, but we haven't. It is your duty not to converse among yourselves on any subject connected with the trial or to form or express any opinion thereon until the cause is finally submitted to you.

We will take a short recess.

(RECESS.)

THE COURT: All members of the jury and the alternate jurors are present and the defendant is present. All right, gentlemen.

Mr. MINIER: Dr. Donald Rink, please.

DONALD TALBOT RINK,

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

DIRECT EXAMINATION

BY Mr. MINIER:

Q. Doctor, would you please state your full name and spell your last name for the record?

A. Donald Talbot Rink.

Q. What is your profession?

A. I m a physician for the County of Santa Barbara.

Q. Are you licensed to practice medicine in the state of California?

A. Yes, I am.

Q. And you are presently employed by the County; is that correct?

A. That is correct.

Q. And do you work at the County Hospital?

A. That is correct.

Q. Doctor, would you please briefly review for the Court and the jury your medical education and experience?

A. I took my undergraduate at Columbia University at New York, Medical School at Boston University in Boston, interned at Santa Barbara General and Cottage Hospitals and I am now, as I said, presently employed for the County of Santa Barbara.

My duties are basically at the jail, however, I do County physicals, take care of the emergency room, and things of that nature.

Q. By County physicals, do you mean that you conduct the physical examinations for the prospective County employees?

A. That is correct.

Q. Doctor, I m going to call your attention to the defendant, Gourgen Yanikian, who is seated at the counsel table, the gentleman in the blue tie and blue suit and ask you if you had occasion to conduct a physical examination on him?

A. Yes, I have.

Q. Did you do that on Sunday, January the 28th of this year?

A. Yes, I did.

Q. Can you tell us why you conducted the examination and where?

A. I received a call, I'm not exactly aware from who it was, whether it was one of the sergeants or the officer on duty, or one of the administrators, who said that Mr. Yanikian had some physical complaints. They had a medical history and they wished a thorough physical exam to be done on him; so I came in and examined him.

Q. And did you examine him then at the jail?

A. Yes, I did, in my examination room.

Q. At the time that you saw him, did he make any complaints to you about any injuries?

A. There was no complaints about injuries. He did have many complaints about various aspects of his past medical history -- what medication he was on.

Q. Did you then conduct a physical examination?

A. Yes. I did.

Q. Do you have any recollection as to approximately how long the examination took?

A. Approximately an hour, hour and fifteen minutes, with the verbiage that we exchanged and the examination itself.

Q. Would that classify as a very thorough physical to take that length of time?

A. Yes, that would probably be classified as a very thorough physical.

Q. Doctor, would you please tell the Court and jury just what that physical consisted of; in other words, what you did with respect to the defendant, and what you observed?

A. Okay. I would like to refer to my notes here.

Q. Certainly.

A. I m not exactly sure what time on Sunday I examined him, I believe it was later in the afternoon or early evening.

“Patient indicated that he was on nembatal, 100 milligrams, it is a sleeping medication at night; hydrodiuril which is a diuretic, 50 milligrams once a day; and phenobarbital quarter grain, one tablet three times a day.”

He indicated that Dr. Hartzman was his personal Physician. I felt he was very alert, oriented, cooperative patient, however he does speak broken English and I felt that I could get a very adequate medical history from Dr. Hartzman; so I decided to call Hartzman the following day and conduct a physical at that time -- at the same day. His blood pressure was 210 over 110, respirations were 18, pulse was 82. In examining the head, he was a balding male with no evidence of trauma, and there was no bruits, a noise that can sometimes be heard in a vessel when it's got arteriosclerotic disease in--

Q. Pardon me just a moment. We are lay people, does trauma mean generally what we lay people think of as injuries?

A. Yes—contusion, abrasion, that kind of thing.

Q. When you say he had no trauma, to his head, you are indicating he had no what, in lay terms that we can understand?

A. He had no bruises, no, you know discoloration of tissue.

Q. Fine, thank you.

A. Examining the ears indicated he was deaf on the left side, and I could not visualize the tympanic membrane, which is a membrane inside the ear. On the right he had adequate hearing, tympanic membrane looked normal. Examining eyes, all reflexes were intact, no evidence of his cornea and conjunctiva were clear. The sclera, which is the white part showed no evidence of injection or increased blood vessels or bleeding, and his fundus, which is the back part of the eye of the retina was benign.

Mr. LINDSEY: Your Honor, I m wandering, so long as the witness is going to be referring to the notes if there is any opportunity I may have to see the notes. I am assuming he is, going to be going down the line of his notes; if I may receive them at this point.

THE COURT: Well, you may certainly see them before you commence your cross examination.

Mr. LINDSEY: Yes, I understand that, too, your Honor, and I assume that all the witness is going to do is relate his examination rather than go beyond the actual examination conducted.

THE COURT: I don't know.

Mr. MINIER: Well, your Honor, I suspect that the witness needs his notes possibly to refresh his recollection about what was done. If Mr. Lindsey wants to see them now we can wait and then have the witness answer, or perhaps we can wait until after the direct is finished.

Mr. LINDSEY: Perhaps if I can talk to counsel just for one second, your Honor, it would take care of the matter,

THE COURT: Very well.

(Whereupon, counsel conferring.)

Mr. LINDSEY: Thank you, your Honor.

Mr. MINIER: I have forgotten where you left off, Doctor. Would you try to pick it up from there.

THE WITNESS: Okay. In examining his notes, he had normal mucosa, mouth, he had upper and lower plate, but otherwise was within normal limits. His neck was supple, his chest showed a slight increase in the anterior-posterior diameter, but on auscultation there was no rales, or rhoncus which are noises in the chest. His heart was regular at the rate of 82, and there was no murmurs. His abdomen showed a large scar below the right upper quadrant of the rib cage. He had two smaller scars in the inguinal area, one on each side. There was no evidence of increased organ size, and there was no tenderness. On his extremities, there were two small, one centimeter by one centimeter bruises on the left arm just below the shoulder. On the neurological exam showed that the cranial nerves feeding the face and the head were within normal limits. That his motor aspect of his arms and legs were fine, and his sensory aspect as far as touch and pain were fine and his reflexes were fine. His skin was normal. There was no increase in lymph nodes. All his pulses and in various parts of his body were approximately 2+, and it is my indication that he had hypertension and arteriosclerotic heart disease, and that at that time we would continue him on hydro-diuril and phenobarbital.

Q. Doctor, did you say that Mr. Yanikian made no complaints of any nature about any specific injuries?

A. No, he did not.

Q. Now, with regards to your examination of his head did you find any, the evidence of any cuts?

A. No, I did not.

Q. I believe you testified that you didn't find any bruises, was that correct?

A. That's correct.

Q. Did you find any evidence of any dried blood?

A. No.

Q. Could you briefly tell us what this neurological examination consisted of? In other words, what you did, what his reactions were.

A. Neurological exam is a very comprehensive diffuse in checking the cranial nerves you, as an example, you ask people to smile, test their muscles. You touch their face, you have them stick their tongue out. You test for the strength of the muscles of their neck, muscles in their ability to lift up their shoulders. If they can move their eyes in all directions, things of that nature. For the testing of muscle in the body, you have them, you know, push against your strength to test whether he is weaker on one side or the other, whether he has any paralysis. For sensation, you use, you know, a

sharp thin-type object, or paper clip on the touch, try deep pain. Testing his sensation in all his extremities. Then we use the typical reflex hammer to test his reflexes.

Q. And how did he respond to these various tests?

A. Very well.

Q. What is the purpose of a neurological examination, Doctor?

A. It is basically to test the ability of the brain to function on the normal physiological manner, as far as the actual basic functioning of a human being, it does not go into psychological examination, if that is what you want.

Q. From this type of an examination did you note any evidence of any malfunctions of the defendants brain?

A. From this examination no, I did not.

Q. Now, I believe you indicated he was a cooperative, alert patient, is that correct?

A. That is correct.

Q. Did he appear to be fully aware of what was going on?

A. Yes.

Q. Did he seem to be gregarious?

A. Yes, he is a very gregarious man.

Mr. MINIER: Thank you. I have nothing further, your Honor,

CROSS EXAMINATION

BY Mr. LINDSEY:

Q. Dr. Rink, generally your office, or the place in which you practice your field is out at the County facility, is that correct?

A. That's correct.

Q. And probably you are aware by this time the events that occurred at the Biltmore were on Saturday, January 27th?

A. Yes.

Q. Is that right?

A. That's the day he was booked.

Q. Did you give a physical examination to Mr. Yanikian on Saturday, January 27th?

A. No, I did not.

Q. Do you know what all happened to Mr. Yanikian on January 27th after he reached the County jail?

A. No, I do not know what happened after he reached the County Jail.

Q. I mean, such things as a shower, or clean-up or change of clothing, or whatever, were you personally familiar with any of those things?

A. Not personally familiar, I know they occur.

Q. Is a prisoner, which he was at that time generally put through a shower there?

A. Yes.

Q. On arrival, or shortly after the booking?

A. Shortly after the booking, correct.

Q. Then having in mind the general procedure of the jail, when a person is brought in and booked, say as Mr. Yanikian was, sometime in the afternoon on January 27th, and after he was booked he would be put through the shower process and given what they call the jail clothing, is that correct?

A. Yes.

- Q. So that he would wear a certain type of clothing that is issued to all persons being detained, is that correct?
- A. That's correct.
- Q. Now, when you examined Mr. Yanikian, on January 28th, that was done because Mr. Yanikian was complaining about apparently problems that he had had in his past medical history, is that correct?
- A. That's correct.
- Q. So that before you ever saw Mr. Yanikian to commence the examination you were aware from the instruction or request that you had from the deputy that he was complaining about something to do with his health
- A. Yes.
- Q. Some aspect of it. And so having in mind the training and experience that you have had, it appeared appropriate to you to give him what you would call a physical examination, is that right?
- A. That's correct.
- Q. Now in all fairness you are not a psychiatrist are you?
- A. That is definitely true.
- Q. And you are not licensed as a psychologist, either?
- A. That is also true.
- Q. And you did not at any time embark upon a psychiatric examination to determine any matters psychiatric on Mr. Yanikian, did you?
- A. No, I did not.
- Q. That would be left to a specialized field, wouldn't it?
- A. That's correct.
- Q. Someone else that has the special training in that field, is that right?
- A. Correct.
- Q. Now, limiting my question then to what you did in your examination, it took maybe an hour, maybe a little bit more than that, including any--whatever it took in the examination to run through the physical that you gave him, and to make the notes that you make, is that correct?
- A. That's correct.
- Q. Now, may I look at your notes a second?
- A. Yes, you may.
- Q. Thank you. The notes that you made in this matter here were made at the time that you were examining Mr. Yanikian?
- A. After I finished the exam.
- Q. And they are the usual kind of notes that are made during the course of an examination by medical doctors such as yourself when you are conducting what you call a routine physical examination?
- A. That is correct.
- Q. Is this what you would call a routine physical examination, or was there anything unusual about this physical examination?
- A. No, it was a routine physical. It's the last two sheets.
- Q. Excuse me?
- A. The last two written sheets with my handwriting on them.
- Q. On top?

A. No, underneath, just above the lab test.

Q. Are all of these part of his records on his health?

A. That's correct.

Q. That I am looking at. Is this a record of all his medication and his treatment that he has had?

A. In the times that I have seen him since he has been at the jail.

Mr. LINDSEY: Your Honor, may I have just a moment to look at these, please.

THE COURT: All right,

Mr. LINDSEY: Thank your Honor.

Dr. Rink, let me just ask a few questions and I will be completed here. You had mentioned that there were certain medications that Mr. Yanikian apparently had been taking prior to the time of his being detained at the County Jail.

A. Yes.

Q. Could you tell me, first of all, I tried to catch it in my notes as you were outlining it, the first medication was what?

A. Nembutal.

Q. Nembutal

A. That's correct,

Q. Could you tell us generally what Nembutal is, what it does?

A. It's a sedative. It's used at night to help people sleep.

Q. He was taking what amount at that time?

A. One hundred milligrams PRN which is as he wishes, at night before he goes to bed.

Q. Now, that amount of one hundred milligrams, is that a normal amount to be taken?

A. That's approximately the normal dose for nembutal.

Q. Did he continue to be prescribed the nembutal, so far as you know, afterwards, in the jail?

A. No, he did not have the nembutal at night.

Q. Now, the second item that he was taking, was what?

A. Hydrodiuril, fifty milligrams.

Q. What is that, please?

A. That's a diuretic.

Q. Would you explain what that has reference to?

A. It decreases the amount of intravascular fluid, and it is used for people who have hypertension, hoping that by decreasing the intravascular volume, their blood pressure will decrease.

Q. See if I can understand that: is that a medication that tends to diminish the fluids? Is this the fluid in the body?

A. Fluid in the vessels.

Q. In the blood vessels?

A. Yes. It will diminish total body fluid.

Q. By reducing the quantity of the fluid in the vessels -- the blood vessels, this makes it easier or a lighter load, so to speak, on the heart?

A. Right.

Q. Does this also have a tendency to ease what you might call hypertension in an individual?

A. That is correct.

- Q. What is hypertension?
- A. It is an elevation in the blood pressure.
- Q. Hypertension generally is indicated by a higher blood pressure?
- A. That is correct.
- Q. What is the effect on an individual if they have high blood pressure?
- A. There is a lot of secondary changes which can occur in most of the organs of the body. Because of the increased pressure, the vessels must react to that increased pressure, so they sometimes got increased in the musculature causing increase in musculature. The vessels in particular parts of the body, because of their increased size, diminish the amount of blood that's flowing to particular cells in various parts of the body, such as the brain, such as the heart, such as the kidney. The secondary changes which occur in these areas can be very detrimental to one's life existence, so by decreasing the blood pressure, we hope that these secondary changes do not occur, thereby prolonging longevity.
- Q. Based upon the training and the skill and knowledge you have in the medical profession, Mr. Yanikian had a hypertension condition then?
- A. He definitely did.
- Q. In fact, that hypertension condition was such that he was being prescribed this -- what did you call it, hydro --
- A. -- diuril.
- Q. And the purpose of that medication was to try to reduce the hypertension?
- A. Correct.
- Q. If the hypertension at any time was manifested, that is, unless it was decreased, if the hypertension was there, it might affect the kidneys, might also affect the heart, might also affect the brain?
- A. That is correct.
- Q. What was the third medication?
- A. Phenobarbital, one quarter grain. He took one tablet three times a day, total of three-quarters grains.
- Q. Generally, what is phenobarbital for?
- A. Make people relax.
- Q. Was the quarter grain three times a day, was that what you would call a normal amount of that to be taken?
- A. I think a quarter-grain is probably a little less than most people prescribed.
- Q. Three times a day, would that be a normal frequency to be taken?
- A. I would say probably I would prescribe a grain a day. He was getting three-quarters of a grain, which is close. However, he was also getting the nembital which is an offshoot of phenobarb, so he was getting, in effect, one and three-quarters grain of phenobarbital a day.
- Q. Let's see; one grain would be perhaps considered an average or a normal dosage. If you connect, then, the phenobarbital with the nembital characteristics practically, you would probably be getting one and three-quarters grain?
- A. That is correct.
- Q. Looking at the two of them together, he was being prescribed a little bit more than average of both medications, would that be fair?

A. Yeah. The phenobarb that he used, the one- quarter grain, is used to relax him during his daily life's activities, because anxiety can cause a spasm of vessels, causing an increase in the blood pressure; so by relaxing him a little bit, we hope that that spasm doesn't occur, and that his blood pressure will be a little lower. Now, the nembatal, the one grain at night, is kind of a one dose used to kind of hit you on the head and make you sleep.

Q. Well, then, let's see, phenobarbital is to keep you relaxed during the day, and away from hypertension; the nembatal is to kind of keep you relaxed as you go to sleep and while you are sleeping to take care of you at night time; is that correct?

A. Uh-huh.

Q. So his indication was such as to keep him relaxed in the daytime, and to continue the relaxation during the nighttime as well?

A. To help his sleep, correct.

Q. Based upon the examination you made, this was the type of medication and the condition that he had apparently prior to the time that you examined him on January 28th?

A. That is correct.

Q. Did you find him generally cooperative with you when you were examining him?

A. Very cooperative guy.

Q. Did you find him gentlemanly?

A. Definitely.

Mr. LINDSEY: No further questions, your Honor.

REDIRECT EXAMINATION

BY Mr. MINIER:

Q. Just one or two more, doctor. Did you find anything unusual about the prescription of these medications you have testified to for a man of the defendant's age?

A. No. I do not.

Q. How would you sum up, if you can, his general physical condition as it appeared on that day, considering his age?

A. At 77 I hope I should be so fortunate. I think he's in very good condition for a gentleman his age. He is a remarkable man.

Mr. MINIER: Thank you. Nothing further.

Mr. LINDSEY: Nothing further

THE COURT: All right, that's all doctor.

(Thereupon the witness-was excused and withdrew from the stand.)

Mr. MINIER: Charles White, please.

CHARLES S. WHITE,

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

DIRECT EXAMINATION

BY Mr.. MINIER:

Q. Mr. White, you testified earlier, did you?

A. Yes, sir, I did.

Q. I believe you testified you are a technician with the Santa Barbara County Sheriff's Department; is that correct?

A. Yes, sir.

- Q. Did you take the movies that were watched a short time ago as People's Exhibit No. 46?
- A. Yes sir, I did.
- Q. Incidentally, did the movies, as they were shown, appear just as you took them without alterations?
- A. Yes sir, they did.
- Q. Are you also the person who took the various color photographs that we have introduced as exhibits in this case?
- A. Yes sir, I am.
- Q. Did you have occasion to be in the Jail on January the 27th, with the defendant present, at a time that certain tests were being made by way of taking swabs from his hands?
- A. Yes, I was.
- Q. Were you then present at the time that the defendant removed his clothes?
- A. Yes, sir.
- Q. What was the purpose of asking him to remove his clothes?
- A. At that time, he was changing into his jail clothing, and we were seizing his clothing for further lab analysis.
- Q. Did you take the picture that I believe we have had in evidence showing the defendant sitting on a stool with Mr. Rosales in one corner of the picture and I think Detective Baker also showing?
- A. Yes, sir.
- Q. Incidentally, we have had some enlargements here in the courtroom of the photographs, were any enlargements made other than the ones you have already made available?
- A. Not to my knowledge.
- Q. Are the smaller photographs the ones that you have in a great supply -- In other words, you have a couple of hundred of the smaller ones?
- A. Yes, sir, we do.
- Q. Has it been only the ones that we have asked to have made larger that you have actually had enlarged?
- A. That our department has had enlarged.
- Mr. MINIER: Your Honor, may we have -- this is a white piece of cardboard with nine individual photographs marked as People's 47 for Identification.
- THE COURT: All right.
- Mr. MINIER:
- Q. Now, during the time that you were present with the defendant there at the County jail on the 27th of January, did he make any complaint regarding any kind of an injury in your presence.
- A. No sir, he did not.
- Q. Do you recall when it was that you first saw him on the 27th?
- A. I saw him at the Biltmore.
- Q. At that time, did you hear him make any complaints about any kind of an injury?
- A. No sir, I did not.
- Q. At the Biltmore hotel, did you observe any injury on the person of the defendant?
- A. No sir, I did not.

Q. Did you see any cuts, scratches, or bruises?

A. No sir, I did not.

Q. Did you see any blood on his person?

A. No sir.

Q. Now, at the jail when you had him remove his clothes in order to get into the jail garb, at that time, did you observe any cuts, or scratches, or bruises, or other injuries on the person of the defendant?

A. No sir. I did not.

Q. Did you see any fresh or dried blood?

A. No sir, I did not.

Q. After he removed his clothes, did you have occasion to have the clothes spread out on the floor and take pictures of them?

A. Yes sir.

Q. In the process of having him remove the clothes, and in the process of their being spread out for the purpose of their taking pictures, did you observe any blood on the clothes?

A. No sir.

Q. I m going to show you people's No. 47, and if you can identify these pictures as pictures taken by you of the defendant's clothing -- that is to say eight of them, -- after the clothing was removed and the eight being a photograph I think which is a smaller one of the one we already have in evidence showing the defendant on a stool?

A. Yes sir.

Q. Do these pictures truly and accurately portray the condition of the defendant's clothes after he removed them at the jail?

A. Yes, sir, they do.

Might I clarify one part. These photos were taken, either on Sunday or Monday. They are in the same wrap, but we just unwrapped them for the purpose of photographing them.

Q. Were they in the same very condition on the day you photographed them as they were at the time the defendant removed them?

A. Yes, they were.

Mr. MINIER: Your Honor, we would offer People's 47 into evidence.

THE COURT: Received

(Whereupon the above described exhibit previously marked for identification thereupon duly received as People's No. 47 in evidence.)

Mr. MINIER: May I place this on the board, your Honor?

THE COURT: Yes.

Mr. MINIER:

Q. Mr. White, would you please step to the board and perhaps, just for clarification, should we get into it, you should number these, if you would, with any of the marking pencils there. If you could put numbers one through nine at the bottom of each picture.

A. (Witness complies.)

- Q. Now, would you remain there at the board and if you would please refer to each picture, using its number, with the exception of five which we already have in evidence, and tell what article of the defendant's clothing is shown in that picture?
- A. Item one is depicting his suit coat jacket. Item two, the white beret and his socks. Item three, his overcoat. Item -- photo four, his shirt. Item six, the vest. Item seven, his suit pants. Item eight, his shoes; nine, his undergarments.
- Q. Are these the same coats that the defendant was wearing when you first saw him at the Biltmore Hotel?
- A. Yes, sir, they were.
- Q. And in the picture of the defendant on the stool, which is picture number five, do all of the items of clothing that he is wearing in that picture appear in these various other pictures?
- A. I believe so with probably the exception of his socks, which I can't see.
- Q. I think the socks might be up in number two.
- A. I thought you meant item five.
- Q. With regard to picture number two, is that the same white beret that you saw in the possession of the defendant at the Biltmore Hotel?
- A. Yes, sir. To my knowledge, it is.
- Q. Is that the only white beret, as far as you know of, that we are involved with in this case?
- A. Yes, sir.
- Mr. MINIER: Thank you. I have no further questions, your Honor.

CROSS EXAMINATION

BY Mr. LINDSEY:

- Q. Mr. White, you were called in to help in gathering up evidence on January 27th, were you not?
- A. Yes sir, I was.
- Q. And as a result, you went out to the Biltmore and helped take photographs and movies and slides; is that correct?
- A. Yes, sir, I did.
- Q. Were you the only one taking photographs and slides and movies?
- A. Yes.
- Q. Then, the purpose of that was to preserve a visual record of as much as might pertain to this case, isn't that correct?
- A. Yes, sir.
- Q. Then, eventually, the photographs and the slides and the movies were developed and now we have them here in the courtroom, isn't that correct?
- A. That is correct.
- Q. Now, this exhibit that you have just identified that is People's No. 47 having the nine photographs, you took all of these pictures yourself, didn't you?
- A. Yes, sir, I did.
- Q. Now, other than the ones showing Mr. Yanikian in the center, all the other photographs are items of his clothing that were removed from his and sent back for FBI testing, isn't that correct?
- A. Yes, sir.

Q. Did you prepare these nine photographs for posting on this board, or were you requested to do this?

A. I was requested to, and I did.

Q. By whom?

A. Mr. Minier.

Q. And the photograph that you put in the middle, of Mr. Yanikian, --

A. Yes, sir.

Q. -- were you requested to put that in the middle?

A. No sir.

Q. Why did you put it there?

A. Just for the sake of having a place to put it.

Q. What is the significance of this photograph being included in this exhibit?

A. I have no idea.

Q. Why did you put it there?

A. I was requested to by Mr. Minier.

Q. You were present and took this photograph, did you not, of Mr. Yanikian?

A. Yes, sir, I did.

Q. What was he doing at the time of the taking of this photograph?

A. He was sitting on a stool.

Q. Was there some processing going on -- any testing going on at that time that caused him to appear as is shown in this photograph?

A. Yes, sir.

Q. What was going on?

A. They were taking swabbings for barium antimony tests.

Q. At that time, they were taking swabbings of the back of each of his hands for the purpose of being able to send those tests back to the FBI to see if there was any antimony or barium traces on the outside of his hands; is that correct?

A. Not necessarily the outside.

Q. They also took swabbings of the palm area, didn't they?

A. Yes, sir, they did.

Q. For which they were going to ask the FBI to run a test on those also?

A. To my knowledge, yes sir.

Q. So as Mr. Yanikian is sitting here on this stool with his hands in that position, that's because at that time the taking of swab samples was then going on or had just gone on; is that it?

A. They were in the process, as I remember.

Q. Now, you have indicated, in your testimony this afternoon, that you never heard any complaint from Mr. Yanikian at the jail of any head injury; is that correct?

A. That is correct.

Q. If he might have said that to any other person, you wouldn't have any knowledge of that, would you?

A. No, sir, I would not.

Q. You also said that you did not observe any injury to him, is that correct?

A. No sir, I did not.

Q. What did you say?

A. Excuse me, I did not see any injury.

Q. Did you examine the person of Mr. Yanikian so that you would be able to testify that there was no injury to him?

A. No sir, I did not.

Q. Were you present here in the courtroom when Dr. Rink testified a few moments ago?

A. For portions of the testimony, yes.

Q. Did you hear the testimony of Dr. Rink about the two small bruises on the left arm of Mr. Yanikian?

A. Yes sir, I did.

Q. Did you observe these bruises?

A. No sir, I did not.

Q. Do you have any knowledge as to how those bruises occurred on his left arm that the doctor observed?

A. No sir, I do not.

Mr. LINDSEY: No further questions, your Honor.

Mr. MINIER: No further questions, your Honor.

THE COURT: All right, that's all, Mr. White.

(Whereupon the witness was excused and withdrew from the stand.)

Mr. MINIER: Your Honor, may we approach the bench briefly.

THE COURT: All right.

SIDE BAR CONFERENCE

(Whereupon the following proceedings were had outside the hearing of the jury at the bench.)

Mr. MINIER: Your Honor, the next two witnesses that I propose to call were first, the FBI Agent Mr. Quick, to continue the hearing that we started last week outside the presence of the jury. Then when he is finished --

THE COURT: What was that about, I forgot.

Mr. MINIER: This was regarding certain items taken from the home of Mrs. Rettig that allegedly belonged to the defendant.

THE COURT: Oh, yes.

Mr. MINIER: In addition to that, your Honor, I would also propose, whenever the Court has sufficient time, to have preliminary testimony from three different officers regarding alleged confessions made by the defendant. So what I am indicating is we may have two hours possibly of outside the presence of the jury matters to take up, and we are at that point now where we can begin.

Mr. LINDSEY: I would concur with that, your Honor.

Mr. Minier has provided us with two written, I guess, transcripts of oral statements made by Mr. Yanikian which we will probably have to have a hearing outside of the presence of the jury on. Then pertaining to the matter of Special Agent Quick, if I recall when he was last testifying on that subject, I think a question was made to introduce into evidence one of the documents --

THE COURT: I don't think they have ever been offered.

Mr. MINIER: We never offered them.

THE COURT: Mr. Minier indicated he wanted to do some research on it before going any further.

Mr. LINDSEY: Is there no offer pending, then, to have them introduced into evidence?

Mr. MINIER: Not yet. I propose to ask a few more questions of Mr. Quick prior to an offer.

THE COURT: We better recess until 1:30 tomorrow afternoon.

Mr. MINIER: I expect so, your Honor.

Mr. LINDSEY: I would anticipate the matter of the two tapes, your Honor, one of them is approximately twenty pages or so in length. The other is much shorter, but there is going to be a fair amount, in addition, when we get onto that. I understand that the written transcript was taken from a tape recording, and we would want to be able to have the Court hear the tape recording and determine the accuracy of the written record of it as compared to what was actually said on the tape; so this may take some additional time, having in mind one of them is 20 pages long.

What I am suggesting is I am not sure that two hours is going to be sufficient time to cover what I think is going to be covered in this.

THE COURT: We will have two and a half, it is four o'clock now, we have an hour left today.

Mr. LINDSEY: However, I am agreeable with the 1:30 for the jury to come back tomorrow. In the event we don't get to it, we can stand by.

THE COURT: Let's try it.

(Whereupon the side bar conference was completed)

THE COURT: Ladies and gentlemen of the jury, we have reached a stage in the case where the matters of law are going to have to be taken up at some length before we go any further, and we have been discussing the amount of time that this will entail. We all think that probably as far as the jury is concerned we should excuse you now until 1:30 tomorrow afternoon and hope to be done with these legal matters by that time so we won't have to keep you waiting, I hope.

So that is what we will do as far as the jurors are concerned.

It is your duty, ladies and gentlemen not to converse among yourselves or with anyone else on any subject connected with the trial, or to form or express any opinion thereon until the cause is finally submitted to you.

You are excused until 1:30 p.m. tomorrow afternoon.

(Whereupon, at 4:00 o'clock p.m. this date the jurors and alternate jurors were excused and withdrew from the courtroom.)

OUT OF COURT PROCEEDINGS

(Whereupon, the following proceedings had outside the presence of the jurors, as follows:)

THE COURT: All members of the jury and the alternate jurors are absent from the courtroom, gentlemen.

Mr. MINIER: Mr. Quick.

JAMES E. QUICK

Previously having been called as a witness for and on behalf of the prosecution thereupon recalled as a witness and testified further as follows:

THE CLERK: You are still under oath.

DIRECT EXAMINATION

BY Mr. MINIER:

Q. May we have your full name, please.

A. James E. Quick -- Q-u-i-c-k.

Q. Now to refresh our recollection, did you testify earlier that you are a special agent for the Federal Bureau of Investigation stationed here in Santa Barbara?

A. Yes, sir.

Q. And that you and a Sheriff's sergeant went to the home of a Mrs. Helen Rettig on Saturday, May 27th of this year?

A. Yes, sir.

Q. And I believe you testified, did you not, that you have knowledge that Mrs. Rettig was a friend of the defendant and had collaborated with him in the writing of certain books?

A. Yes, sir that is true.

THE COURT: I may have indicated to you gentleman at the bench that I had a lesser recollection of the incident than you give me credit for, but all I need was to have my memory triggered as to what the incident was, but I have a very good recall of the testimony.

Mr. MINIER: Thank you, your Honor,

Q. Now, could you tell us, Mr. Quick, the purpose for which you went there?

A. The purpose was to handle our part of the investigation under the federal law that was passed October 1972 on the protection of foreign diplomats and dignitaries, as such, in the assassination of the two Turkish diplomats, one of our prime concerns, our prime concern in that, with one man being in custody was whether or not there was another individual involved, or if there was a group behind this person, any form of conspiracy whatsoever, as we have always come across, and in any assassination that our organization has handled that is one of the primary concerns.

Q. Had you discussed this matter with others of your fellow agents prior to your going to Mrs. Rettig's home?

A. Yes sir.

Q. And were you operating under instructions to go there for that purpose?

A. Yes sir.

Q. And at that time did you consider the possibility of a conspiracy to assassinate not just the two Turkish diplomats who had already been killed, but also other Turkish diplomats?

A. Yes, sir.

Q. At the time that you arrived at Mrs. Rettig's home did she have any company?

A. Yes, sir, she did.

Q. Could you tell us who that was, if you recall?

A. It was a Mr. and Mrs. Broderick, and another lady--I don't recall her name off hand.

Q. How long did you and the Sheriff's sergeant speak with Mrs. Rettig?

A. Somewhere between two and three hours, I believe.

Q. Did any of the other persons who were there as guests in her home at the time you arrived remain with her throughout the conversation that you had with her?

A. Yes, sir

Q. Who remained there?

A. Mr. and Mrs, Broderick were there -- I don't recall how long the other lady was there, but at least she was there the whole time, also.

Q. Now, throughout that three-hour period of time was Mrs. Rettig cordial?

A. Yes, sir.

- Q. Was she cooperative?
- A. Yes, sir.
- Q. Did she at any time refuse to answer any of the questions that you asked her?
- A. No, sir, she did not.
- Q. Did she during that three-hour period give you a great deal of detailed information about the background of the defendant?
- A. Yes, sir, she did.
- Q. Did she refer to any trip that he had taken in recent months?
- A. Yes, sir, It was a trip to - Armenia – Turkish Armenia, I believe, to return a painting.
- Q. Do you recall specifically if that was a trip to Turkish Armenia, or a trip to the Soviet Armenian Republic?
- A. Yes, sir, the Armenian Republic.
- Q. Did she give you some detail about her knowledge of that trip?
- A. Yes, sir, she did.
- Q. During the three hours that you were there did Mrs. Rettig voluntarily bring forth to show you anything that the defendant had written?
- A. Yes, sir. Shortly after we arrived and were discussing this with her she showed us one of the books that Mr. Yanikian had written.
- Q. Do you recall the title of that?
- A. I believe it was “The Voice of an American.”
- Q. Now, did she bring this book to you in response to any question of yours about Mr. Yanikian's writings?
- A. No, sir, I don't believe so.
- Q. Was there any conversation by Mrs. Rettig about what the defendant was doing with his effects or property?
- A. Yes, sir. She stated that several months prior to the shooting that Mr. Yanikian had been divesting himself of a great deal of his personal property, that he had given her his radio and offered her his television set, and also that he had stored several items, a suitcase and several items, I believe, in the way she worded it, in her locker in her carport.
- Q. And did you, based upon what she said in that regard, ask her if you could look at the articles there in the locker in the carport?
- A. Yes, sir, we did.
- Q. What was her response?
- A. Yes, she said we could look at them.
- Q. Did she show any hesitation whatever in responding in the affirmative?
- A. No, sir.
- Q. When you asked her if you could, did you ask her or did you tell her?
- A. No, we asked her -- or I asked her, I'm sorry.
- Q. Now, do you recall any conversation before you and the Sheriff's sergeant left regarding a search warrant?
- A. Yes, sir. As we were leaving Mrs. Rettig stated--it was very cordial, she asked--I believe her statement was, “Mr. Quick, what if I decide that you shouldn't, or that you can't look at these items?” And I simply answered her that if she would decide that way that it would be necessary for me to obtain a search warrant or a court order

- for them, and Mrs. Rettig then says, "Well, Mr. Quick, I wouldn't want to put you through that trouble," -- that these items would be here.
- Q. And did you take her seriously when she suggested that she might decide not to let you see them?
- A. No, sir. It didn't sound like a serious question to me. It was --
- Q. Pardon me?
- A. I'm sorry -- it was, appeared more as an offhand remark, she was smiling, and pleasant at this time, and I didn't take it as to mean that she would not turn these items over to me, or let me see them.
- Q. Now, at any time during this three-hour period when you spoke with Mrs. Rettig, did she seem in any way overawed at your authority?
- A. No, sir.
- Q. Did you then return to her home on the following Monday, the 29th?
- A. Yes, sir, we did.
- Q. And upon that occasion did you ask if you could look at the items in the locker she had told you, you could look at earlier?
- A. Yes, sir.
- Q. On this occasion did you again ask, as opposed to telling her?
- A. Yes, sir.
- Q. Did she agree that you could look into the locker?
- A. Yes, she did.
- Q. Was there any hesitation in that regard?
- A. No sir.
- Q. At that time did she ask to see a warrant?
- A. No, sir
- Q. Was she cooperative at that time?
- A. Yes, sir.
- Q. Was she still friendly?
- A. Yes, sir.
- Q. Could you describe where the locker was in relationship to her apartment?
- A. Yes, sir. Her locker is located up the driveway going on the west side of the apartments. It would be approximately maybe 75 feet west of Mrs. Rettig's apartment, down two small flights of stairs.
- Q. Did she go down with you?
- A. Yes, sir, she did.
- Q. Was she still on crutches at that time?
- A. Yes, sir.
- Q. Did she make any objection about going out with you?
- A. No, sir.
- Q. Now, was it necessary to do anything with her car in order to get at the locker?
- A. Yes, sir. We had to move her car back a few -- a few feet in order to get at the locker.
- Q. Was that with her consent?
- A. Yes, sir.
- Q. Did she make any objection to that?
- A. No, sir

- Q. Could you describe just where in this carport the locker is, and give us its approximate dimensions, if you can?
- A. I believe there is one or two spaces on the south end of the carport prior to where Mrs. Rettig parks her car. It's an open carport, and immediately in front of their car is a locker that covers the entire space from the front of the car, it's a double-door lockers, approximately four foot high, four feet wide and three feet deep, roughly.
- Q. Did she identify this to you as her locker?
- A. Yes, sir.
- Q. How was it opened?
- A. I believe either myself or Mr. Young opened the lock with her permission.
- Q. Do you recall whether it was a key lock or combination lock?
- A. I don't recall, no, Sir.
- Q. Did she make any objection at that time?
- A. No. She asked that we do it, because she was on crutches and it would have been awkward for her.
- Q. Do you recall, if you can, what she said to that effect about your opening it because of her crutches?
- A. No, sir, not her exact words. Words to the effect that we would have to move the -- if we would move the car, because it was difficult for her, and then open the locker, because it would have been difficult for her to do so.
- Q. Is it a fair statement that if you opened it with a key she provided the key?
- A. Yes, sir.
- Q. Or if you opened it with a combination she provided the combination?
- A. Yes, sir.
- A. At any rate, you did not break the locker open, is that correct?
- Q. No, sir, the locker was not broken.
- A. After it was opened did you find out that there were things of Mrs. Rettig's inside the locker?
- A. Yes, sir
- Q. Were there more things in the locker that belonged to Mrs. Rettig, or which she pointed out as belonging to the defendant?
- A. It appeared that there were more items in there that belonged to her then those that belonged to Mr. Yanikian.
- Q. Then did you testify last week that you then took the various items which she indicated belonged to Mr. Yanikian into her apartment?
- A. Yes, sir, we did.
- Q. Did Mrs. Rettig make any objection to that?
- A. No, sir.
- Q. And I think you testified, also, that you spread a lot of these items out on her table?
- A. Yes, sir, on her table -- yes, sir.
- Q. And did you also testify that she explained to you what the various of the different documents and items were?
- A. Yes, sir.
- Q. And at this time did she still seem to be quite friendly and cooperative?
- A. Yes, sir.
- Q. Did on this occasion she seem in any way to be in awe of your authority?

A. No, sir

Q. I show you again People's 13 for identification, is this an exact Xerox copy of the one of the written items that you found among the effects which Mrs. Rettig pointed out to you as belonging to the defendant?

A. (Witness examining exhibit) Yes, sir. It has my initials on it.

Mr. MINIER: Thank you. Your Honor, I have no further questions. I would offer People's 13 into evidence. We would like the opportunity to argue at this time, and I have prepared points and authorities for the Court's consideration.

THE COURT: All right.

Mr. LINDSEY: May I examine, your Honor?

CROSS EXAMINATION

BY Mr. LINDSEY:

Q. Mr. Quick, maybe to help illustrate what and where and how the different things happened, if we were to have a sheet of paper on the board.

THE COURT: Is that really necessary for me, gentlemen?

Mr. LINDSEY: I'm sure it wouldn't be for your Honor.

THE COURTS: Well, I'm the only man that is going to have to decide it.

Mr. LINDSEY: Well, at this point, your Honor.

THE COURT: I see. All right. If you think it really would help. The geography of this thing isn't going to be determinative. How can it possibly be?

Mr. LINDSEY: Well, as it may relate --

THE COURTS: (Interposing) If you think it is necessary to protect your record, go ahead. But I--

Mr. LINDSEY: I don't except the fact that there was a voluntary permission granted by this lady.

THE COURT: What difference does the geography have to do with the voluntariness of the permission?

Mr. LINDSEY: The place and the distance and the time that the lady is on crutches who had to respond to the request of this officer, with the other agent with him, to turn over part of Mr. Yanikian's belongings to them without a search warrant.

THE COURTS: Well, you have got that already. You have got the distance. How is distance going to be made any more clear to as when he says 75 feet, by putting it on a diagram?

MR. LINDSEY: Well, maybe I can save part of it and maybe ask the question, your Honor, in a way that will help to get it as clear as I can.

THE COURTS: I don't want to stop you making whatever records you think you ought to have, but the idea of diagramming a thing like this for a Court is -- it sort of offends me.

Mr. LINDSEY Well, your Honor, frankly I had no real thought to do this in order to advise your Honor of the circumstances, but I have in mind that this may be necessary,

THE COURT: Well, the higher Courts certainly have got as much sense as I have, if not a good deal more or they wouldn't be there.

Mr. LINDSEY: I'm not sure the written record will show it as clear as it ought to be shown.

THE COURT: All right. I will keep my mouth shut. We would have been money ahead and time ahead.

Q. BY Mr. LINDSEY: Now, Mr. Quick, let me get right down to the crux of this matter and see if we can save some time.

You went out to the residence of Mrs. Rettig the first time to generally talk to her about any matters that might be relevant to this case, didn't you?

A. Yes, sir.

Q. And after you were there for a period of time you left with the thought in mind of coming back the next day, or the day after that, didn't you?

A. Yes, sir.

Q. And the reason for coming back a couple of days later was to see if you could pick up some of the articles and property of Mr. Yanikian, isn't that correct?

A. To look at them first, sir, and then, if necessary, to pick them up.

Q. Yes. So you were coming back the second time not to have a further general discussion with Mrs. Rettig. On that first day as you were leaving and you were commenting about returning in a couple of days, you were going to return to see if you could examine Mr. Yanikian's property and, if appropriate, take it into your custody and possession?

A. Yes, sir.

Q. And so on that first day as you were leaving it was then that Mrs. Rettig asked you the question that you now recall in essence as being "What if I decide you should not look at these items?"

A. Yes, sir.

Q. Now, after she put that question to you, you stated in essence that if she did not voluntarily make those available for your inspection and possible taking them into your custody, that you would then find it necessary to get a search warrant, or a court order to do it?

A. Not in that manner, but that is what I told her, that I would - it would be necessary then for me to obtain a court order or a search warrant. It wasn't in that tone.

Q. Now, after she put that question to you, you stated that if she did not voluntarily make those available for your inspection, and possible taking them into your custody, that you would then find it necessary to get a search warrant or a court order to do it?

A. Not in that manner, but that is what I told her; that it would be necessary, then, for me to obtain a court order for a search warrant; it wasn't in that tone.

Q. Forgetting the tone, I am talking about the words-- the essence of the words, isn't that correct?

A. Yes, sir.

Q. And from that point on, Mrs. Rettig did not, at any time thereafter, resist any of your requests to examine the items, nor did she resist your request to take them into your possession, isn't that correct?

A. That is correct.

Mr. LINDSEY: No further questions, your Honor.

THE COURT: You may step down, Mr. Quick.

(Whereupon the witness was excused and withdrew from the stand.)

Mr. MINIER: Your Honor, may I file with the Court, points and authorities on this issue.

THE COURT: Yes.

Mr. MINIER: Thank you.

I don't think there would be any need for me to argue them at length. The Court may wish to have some time to look at them. I could just sum them up.

THE COURT: I would like to see them.

Mr. MINIER: We have basically three grounds, your Honor; first that the defendant has no standing whatever to object, by virtue of by not having made any 1538.5 motion earlier; secondly, there was a true and valid consent of waiver of Mrs. Rettig and third, regardless of the first two grounds there are squarely falling within what is called the Doctrine of Exigent circumstances as set forth in the Sirhan case, and we believe the facts here are virtually on all fours with the situation in that case.

THE COURT: All right.

Mr. LINDSEY: Your Honor, we have not had an opportunity to review Points and Authorities submitted by Mr. Minier, which I notice is about six or seven pages long. I m wondering if perhaps during the evening we might have an opportunity to do that, perhaps if necessary, we could respond to it in the morning some time.

THE COURT: All right. It is practically quitting time anyway. Ten o'clock tomorrow.

Mr. LINDSEY: That's agreeable your Honor.

THE COURT: All right. We are going to recess. Mr. Minier, Mr. Lindsey wants time to look this over and we will recess until ten.

Mr. MINIER: Thank you, your Honor.

(At 4:30 an adjournment was taken until Tuesday June 12, 1973 at ten a.m.)

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**11. SANTA BARBARA, CALIFORNIA, TUESDAY, JUNE 12, 1973, 10:00 A.M.**

THE COURT: Gentlemen, what held us up this morning?

Mr. LINDSEY: Your Honor, Mr. Minasian and I would like to apologize to the Court, about 9:30 or so we were jointly on a long distance telephone call to Los Angeles on a key witness matter trying to make arrangements so it would coincide with the scheduling of the trial, and we were on that phone continuously until just the time to run over here.

We do apologize to the Court.

THE COURT: Let us in the future, start the case at the appointed time, gentlemen.

All right, I will hear your arguments on the admissibility of People's Exhibit No.13.

Mr. MINIER: Your Honor the People's arguments are set forth in the Points and Authorities heretofore filed with the Court, and we do not think there would be any need to elaborate on these unless the Court has specific questions, either now or after the defense arguments.

THE COURT: All right. I have considered them and read them.

All right, Mr. Lindsey.

Mr. LINDSEY: Your Honor, the only point that we would raise on it had to do with the consensual -- the nature of the consensual indication given by Mrs. Rettig, and I would suggest, your Honor--

THE COURT: Well, Mr. Minier's first and last point have nothing to do with the consent of Mrs. Rettig. Either his first or last point is well taken, we needn't concern ourselves with her consent.

Mr. LINDSEY: Yes. I was looking more to consent, and I think even on that aspect, your Honor, your Honor may recall that we had occasion not too long ago in the other case to present that matter to the upper courts on whether the degree of proof was beyond a reasonable doubt or simply by preponderance of the evidence; so on that aspect of it—the upper courts I should say, ruled and agreed with your Honor’s viewpoint on the degree of proof necessary on an issue of that type, to whatever help that may be.

THE COURT: Well do you wish to address yourself to either the first or the last points made by Mr. Minier?

First he says you have no standing, and make objections because you were aware what the evidence in question was before the trial; presumably, you were aware of the fact that it would be offered in evidence by the People, and that therefore, you should have made 1538.5 motion, and failing to do that, it is now too late to, in effect, make the motion during the course of the trial. The subdivision H of section 1538.5, does contain language to the effect that you can make such a motion or object to the introduction of evidence during the trial, provided that you were not aware of your right to make it earlier. If you were aware of your right to make it earlier, you have got to take advantage of section 1538.5. That’s his first point.

What have you got to say about that?

Mr. LINDSEY: Not too much, your Honor because the point does have a certain amount of validity, except for this: one of the policies of the Court—and not of your Honor, but—well, of the Courts generally, but primarily under the scope of the presiding Judge, is that upon an arraignment or somewhere shortly thereafter, the Court sets a deadline, a specific date within which any motions have to be brought. That date, if I recall, was out in one of the early proceedings in this case. Now, that order of the preceding Judge, either did or did not mean something. I will simply have to stand on the record in this case, and my recollection generally is we were given a flat deadline within which to bring such motions.

Now, in this case, we have had the continuing difficulty that, including this document we are talking about, when the FBI acquired the evidence in the case and took documents back east, they were—as I recall, the FBI evidence did not return in to this area for some several weeks, and in fact the FBI through the Attorney General’s office in Los Angeles, made a formal appearance in this courtroom and was objecting to turning over certain evidentiary matters unless we first cleared with the Attorney General.

Now, in response to that point raised by counsel that we had up until the time of the trial or until the time of the trial to raise these issues, my recollection is that in the records in the early stage of this case, the preceding Judge set a deadline within which any such motion would have to be brought. That deadline long since passed. The deadline was a constant problem to us because of the difficulty we were encountering in trying to get our hands on the evidence in this case. And despite what this record may show, either before this jury or yesterday, or the day before, all of this evidence has not been available to us at all times by the prosecution, and for that reason the encountering or the difficulties we have had.

We have had to come into court on the discovery order, we had to obtain a discovery order; even as late as yesterday, the Sheriff’s Department is still resisting making

available some of the evidence in the case unless they had a more -- whatever it is, copy of the discovery order that the Court made.—

Mr. LINDSEY: Now, of course, this needs more effort on our part and I am sure that those could be provided but I don't think that the representation that we had a clear opportunity to raise these issues up to the time of trial coincide with the deadline by the presiding Judge in this case, which I believe is a matter of record.

THE COURT: All right. My analysis of this problem is that I will deal with the matter on the merits, notwithstanding the fact that I think I would be justified in disposing of it upon the theory that the motion to suppress, which is what it amounts to, though it is an objection to the introduction of the evidence is too late. However, I will not dispose of the case on that ground, choosing rather to deal with it on the merits.

As far as Mrs. Rettig's consent is concerned, I am satisfied by a preponderance of the evidence that she did in fact consent to the search, but I don't think that is the crucial question in that particular part of the case. I think the crucial question there is whether or not first, she had the authority to consent and secondly, if she didn't, whether or not the officers were justified in thinking that she did and I think that is a rather close question. However, I don't believe I have to decide that either, and I am not going to decide it, because I do believe that the third ground urged by the people, that the exigent circumstances, if that is the phrase, has announced in the Sirhan case, not for the first time, but that I think is about the last case where the doctrine was dealt with in our courts, is applicable to the facts of this case.

I really can see no distinction.

The only distinction that I can envision between the Sirhan case and this one is the fact that the victim in the Sirhan case was far better known publicly than the victims in this case, but leaving that distinction aside I can see no other.

You are still dealing with what the officers had the right to think was a political assassination, so under the doctrine of exigent circumstances I am going to rule the People's Exhibit 13 admissible in evidence.

It may well have been admissible under point 2 of the People's case, but I am not deciding that it wasn't, nor that it was. I don't have to make that decision since I choose to base my decision on an alternative ground.

There would be good reason to argue in this case, perhaps, that the officers were justified in thinking that Mrs. Rettig had the authority to let the officers open the suitcase—there is no question but what she had the authority to let them in the locker, she was a joint tenant of the locker, if not more—it was her locker. That doesn't disturb me. What disturbs me on that point is whether she had the authority to authorize the officers to open the suitcase and other containers that were open. That, I think, is arguable, but again, I am not going to pass on it.

So the objection to People's Exhibit is overruled and it is received in evidence.

Now we have the next problem which you gentlemen know more about than I do, but I take it involves the admissibility of an alleged confession or confessions.

Mr. Minier: Would the Court like to have me make an offer of proof in that regard as to the various witnesses that we would propose to call in the hearing outside the presence of the Jury?

THE COURT: Well, let me feel my way on it first. In the first place, is there—is there a controversy between you as to whether or not the defendant was properly advised of his rights under the Miranda decision and received it? Is that an issue?

Mr. LINDSEY: We will put that in issue yes, your Honor.

THE COURT: Well, I guess you might as well start calling witnesses then, Mr. Minier, rather than making an offer of proof. That is the first hurdle we have got to get over.

Mr. MINIER: I thought I might just point out to the Court that there are three separate alleged confessions by the defendant that we seek to produce for the jury. The first is an alleged confession made to Detective Robert Norton of the Sheriff's Department. The second alleged confession made to the FBI Agent Ford Rapp, and the third is an alleged confession made to Sheriff's Detective William Baker, and I would propose to call each one of them and ask the preliminary questions.

THE COURT: I have the transcript of two of them, apparently the one involving Detective Norton and the one involving detective Baker, but I don't have anything on the FBI man.

Mr. MINIER: Your Honor, the ones involving Detective Baker and Detective Norton were both tape recorded, then we provided the Court and counsel with copies of the transcription of the tape recording, but the alleged confession made to FBI Agent Ford Rapp was not tape-recorded.

THE COURT: I see. Well, let's proceed then with the Miranda foundation.

Mr. MINIER: Thank you. Call Mr. Norton, please.

**ROBERT D. NORTON,**

produced as a witness for and on behalf of the People, was thereupon duly sworn and testified as follows outside the hearing and presence of the jurors:

**DIRECT EXAMINATION**

BY Mr. MINIER:

Q. Would you please state your full name?

A. Robert D. Norton, N-o-r-t-o-n,

Q. What is your occupation, Mr. Norton?

A. I'm a Sheriff's Deputy for Santa Barbara County.

Q. Were you on duty on Saturday the 27th of January of this year?

A. Yes, sir.

Q. And on that date did you have occasion to arrest the defendant at the Biltmore Hotel?

A. Yes, sir, I did.

Q. Approximately what time was that?

A. At approximately right around noon.

Q. How were you dressed at the time?

A. I was in casual clothes, if I recall a T-shirt, Levi's.

Q. Were there other officers in the vicinity at the time you made the arrest?

A. Yes, sir.

Q. Were you the first officer who approached the defendant?

A. To my knowledge yes, sir.

Q. What was the reason for that?

A. I observed one of our patrol cars and a patrolman, at the time he observed me in the area of the Biltmore, he waved me over and asked me for some assistance. He then advised me, Deputy Colbert advised me, that a man had just shot and possibly killed

two people, and he was sitting in the patio area in one of the rooms, -- bungalows at the Biltmore -- basically, we did not know the subject, who he was, or his mental condition at the time, or if he was still armed, or what the problem was, due to the fact I was in plain clothes then it was immediately decided that I would approach him and make contact with him, which I did.

Q. When you approached him was he on the patio of Cottage No.3?

A. I think it was Cottage No. 34.

Q. Or outside?

A. I am not sure of the bungalow number.

Q. The bungalow number—if it was Room 34?

A. Room 34, yes, sir.

Q. All right. Now, can you tell us exactly what was said as you approached him, by either one of you?

A. I observed Mr. Yanikian over a concrete wall. I could see him sitting in the patio area. He appeared not to be armed at this time. I asked him if he needed any help. He said, "Are you from the Sheriff's Office?" I said, "Yes, I am. I'm detective Norton from the Sheriff's Office." I identified myself with my badge and I.D. card. He said something to the quote of, he asked. "You police? You may go in. I just killed two people. I have been waiting for you."

Q. When he made that statement to you had you asked him any questions?

A. No.

Q. Had you said anything other than that that you just testified to?

A. No, sir.

Q. Did you then place him under arrest?

A. Yes, I did.

Q. As you were placing him under arrest did you indicate anything to him about further statements he might make.

A. Yes. After he did state to me that he had just shot and killed two people and that they were in the bedroom, at this time I told Mr. Yanikian he was under arrest and he should say nothing further.

Q. After you-pardon me. Are you finished?

A. (Continuing) And then I removed from my wallet a Rights card that I carry, and gave him his rights verbatim from the card that was issued to me by the Sheriff's Office.

Q. Could you tell us exactly what you said to him in that regard, and exactly what he replied, if anything?

A. You mean the rights itself.

Q. Yes.

A. This is the same card that I had at the time, and I stated (reading): "Mr. Yanikian, you have the right to remain silent. Anything you say can and will be used against you in a court of law."

At this time he did interrupt me, and I did start all over again, and I told him "Just a minute—settle down." And he did.

So I read it all over to him again, and I started it at the beginning (Reading): "You have the right to remain silent. Anything you say can and will be used against you in a court of law. You have the right to talk to a lawyer and have him present with you while you are being questioned. If you cannot afford to hire a lawyer one will be

appointed to represent you before any questioning, if you wish one. Do you understand each of these rights I have explained to you?

He stated to the affirmative. (Reading) “having these rights in mind, do you wish to talk to me now?”

Q. BY Mr. MINIER: Now, when you say he interrupted you, would you tell us in what manner he interrupted you?

A. Just verbally he said that he understood, or he just kept nodding and said “Yes, yes,”—and basically, that was about it, to my recollection, that was about it.

Q. What if anything, then, did he say after you had completed all of the rights, specifically what did he reply to your question about understanding the rights?

A. He told me that he understood them, that anything he said could be used against him.

Q. Now, shortly thereafter, did you have occasion to transport the defendant to the Santa Barbara County Jail?

A. Yes. Immediately after I did a pat down search for any weapons, I handcuffed Mr. Yanikian, and then walked him to a vehicle and transported him to the Santa Barbara Sheriff’s Office.

Q. Did you have conversation with him at the Sheriff’s Office?

A. Yes, I did.

In making out my basic arrest form, Mr. Yanikian and I were in the Detective Bureau in the conference room—interrogation room, and we sat down together and filled out the forms and exchanged questions and answers.

Q. And did you have a conversation following some of the basic questions and answers?

A. Yes.

Q. Do you recall about what time that conversation in the jail began?

A. Approximately one o'clock.

Q. Then approximately, how much was this after you had arrested him at the Biltmore Hotel?

A. I would say approximately half an hour.

Q. Who was present at this conversation at the jail?

A. Mr. Yanikian, Sergeant Regan, and myself.

Q. Was a tape recording made?

A. Yes, sir.

Q. And prior to or during the conversation there at the jail, did you make any promises to Mr. Yanikian regarding any leniency or immunity from prosecution, or reward for special treatment if he would tell you anything?

A. No, sir.

Q. Did you make any kind of treats against him or use any coercion in order to get him to talk to you?

A. None.

Q. Did he appear to be speaking to you freely and voluntarily?

A. Yes, he did.

Q. Was there any reference in the subsequent conversation right at the beginning about the rights that you had read to Mr. Yanikian at the Biltmore?

A. Not immediately. I would say after I talked to him for five minutes, I did ask him if he did remember me giving him his rights, and he said, “Yes”.

Q. Now, was transcription made of the tape recorded conversation?

A. Yes, sir, there was.

Q. Could you tell us how that was made?

A. I took a secretary—a steno and sat down with her in a room by ourselves, and we would play the tape, and I would tell her what the tape says, and she would write it in shorthand, then she typed out this outline that you have now.

Q. In other words, you listened to the tape, then you dictated what you heard on the tape to the secretary is that correct?

A. Yes, sir.

Q. Was everything that you dictated to the secretary, the verbatim account of what actually had been said between you and the defendant?

A. Yes, it was. As a matter of fact, after I had this typed up, I again listened to the tape and read this through at the same time.

Q. In other words, after the transcript was typed up, you then took the transcript back to the tape recording and compared what was on the tape recording with what was on the verbatim transcription?

A. That's correct.

Mr. MINIER: Your Honor, I have heretofore given the Court a copy of that transcription, and I find that it is the only unmarked copy that I have presently here in the courtroom. I wonder if we could use the Court's copy to have it marked for identification.

THE COURT: Yes.

I did make some marks upon it myself. I don't think it will hurt it any.

Mr. MINIER: Well, I have given, I think, two copies to defense counsel. I have a lot of markings on my own, too. I have another one in the office.

THE COURT: We can use this one.

Mr. LINDSEY: If there is any question, I have no objection to a substitution of a clean copy later on, your Honor.

Mr. MINIER: Fine, thank you. Your Honor, could we have that marked for identification as People's Exhibit 48?

THE COURT: Yes.

(Whereupon the above described transcript duly marked as People's Exhibit 48 for identification purposes only.)

Mr. MINIER:

Q. Detective Norton, would you look at this and tell us if this is a copy of the typewritten transcripts of the tape recording about which you have just testified.

A. It is.

Mr. MINIER: Your Honor, we would offer People's No. 48 into evidence, and I have no further questions of the Detective Norton.

THE COURT: I will defer my ruling until I have heard from Mr. Lindsey.

Mr. LINDSEY: Thank you, your Honor.

### **CROSS EXAMINATION**

BY Mr. LINDSEY:

Q. Mr. Norton, it was on right around that noon hour on Saturday, January 27 that you first appeared out at the Biltmore Hotel area in connection with the two homicide matters; is that correct?

A. Yes, sir.

- Q. And at that time you were off duty?
- A. No, sir.
- Q. You were on duty, but in civilian clothes?
- A. Yes, sir.
- Q. Is it true that you were the first officer even though in civilian clothes, at the time, to approach the area of Cottage—I believe it is 34, do you recall the number of the cottage?
- A. 34, to my knowledge.
- Q. That is the room number in which Mr. Yanikian was subsequently learned to be registered isn't that correct?
- A. Yes, sir.
- Q. Now, Mr. Yanikian at that time as you approached, was sitting in the patio area on the outside of that cottage building, but immediately adjacent to it, isn't that correct?
- A. That is correct.
- Q. Were there any other person around him at that time?
- A. No, sir.
- Q. Then, to your knowledge, you were the first one to approach him, at least so far as you know at that time?
- A. That is correct.
- Q. And what is the first thing that you said to him when you walked up to him?
- A. I asked him something to the quote, "Do you need some help," or "Did you need some help?"
- Q. Now, at that point, did you have any reason to feel that; perhaps he was connected with the report of the homicide there at the Biltmore?
- A. Yes, I did.
- Q. And when you asked him that question, did he remain seated at the patio table?
- A. He did.
- Q. Now, what was his response?
- A. He asked me something to the quote, "Are you from Sheriff's Office?"
- Q. Did you reply?
- A. I did.
- Q. Did he remain sitting?
- A. Yes. I requested him to remain exactly where he was at.
- Q. Did you have your gun drawn at the time?
- A. No, sir I didn't.
- Q. Now, what is the-next thing that was said either by Mr. Yanikian or by you?
- A. I then proceeded -- there was a patio -- there was a wall, I was on one side of the wall, and I proceeded around the wall to the entrance way into the patio.  
At that time, Mr. Yanikian stated something to the quote of. "I have been waiting for you. I just killed two people, they are in the bedroom." At that time I told him, "Okay, that's fine, just stand up, put your hands against the wall, I am a Deputy Sheriff" and I ID'ed myself at that time, and I proceeded to pat him down.
- Q. When the comment was made to you, as you have just mentioned, did you have him stand then?
- A. What comment are you talking about?

- Q. Well, he indicated to you that words to the effect that he was connected with those homicides?
- A. Yes, sir.
- Q. Did you then order him to stand?
- A. To my recollection, I did.
- Q. Is it your recollection, now, that had him leaned up against the wall with his hands?
- A. I don't recall if I had him actually lean physically against the wall, or just put his hand above his head so I could pat him down.
- Q. Let me find out what your recollection is.  
You testified just a moment ago that he was up against the wall, you placed him up against the wall, is that true or not?
- A. I am not sure. I might have just had him stand up and put his hands above his head and frisk him down this way. I am not positive on the wall -- physically on the wall itself or not; I can't recall.
- Q. Well then, you could have either had him against the wall or perhaps you just had him stand up where he was sitting at the patio table, and you can't recall now which one it might have been?
- A. That is correct. My recollection now that you do bring it to my attention, I think he just stood up and then raised his hands, then I searched him that way.
- Q. Did you make some notes of those circumstances you are now testifying to, Mr. Norton?
- A. Not at the time, no.
- Q. Did you make them later on?
- A. No, I did not.
- Q. Have you ever made any notes of any kind?
- A. Just my written report.
- Q. You have what appears to be some loose sheets there, is that your written report?
- A. This is a copy of my arrest report, yes sir.
- Q. Is that a copy of the official report that you filed with your department?
- A. The original arrest report, yes sir.
- Q. Now, did you order Mr. Yanikian to stand up, or did he stand up on his own volition?
- A. I ordered him to stand up. I ordered him to remain seated, told him to sit there, don't move, then after I gave him -- after I approached him, I then had him stand up where I was in arms length of him.
- Q. Did you have him stand up and remain standing right by the table -- patio table where he had been sitting?
- A. I don't recall if it was directly right next to the patio table. There was a patio table in the immediate area.
- Q. What did he say when he stood up?
- A. I think he was in the middle of the quote of saying, "I have been waiting for you " He was talking when I was approaching him. The exact words at that time, I do not know, just that he said I could go in if I was from the Sheriff's Office, that I could go in the room that he wasn't letting anybody else in.
- Q. When he stood up, did you, immediately commence a pat down search of him?
- A. Yes, sir.

Q. Did you face him, then face on for that pat down?

A. At one time, I was face on, then I was also at his side checking the backside of him.

Q. Well, then, when he stood up at the table, did you have him turn in some direction so you would be able to face him for that pat down?

A. I just had him stand up and stand still. If there was any moving, I did the moving around him. He would not have moved around me.

Q. Now, you indicated, you thought you may have stood in front of him when you commenced the pat down; if he stood up in the place where he was sitting right at that table, how were you able to stand in front of him at the beginning of that pat down?

A. I don't recall exactly where the table was. The table was not between the defendant and myself. We were adjacent to the table.

Q. You were alongside of him, were you not?

A. I presume alongside or standing right directly in front of him.

THE COURT: Gentlemen, I thought we were dealing with the sufficiency of the Miranda foundation.

Mr. LINDSEY: We are, your Honor. In order to test the ability of this witness to be able to recall what was said at the time of advising his Miranda Rights, and the voluntariness of the--

THE COURT: I think you have gone far enough in the pat down where people were, which side he was on, and what such a time, and so forth. We are dealing with the sufficiency of the Miranda advice first and foremost.

Now, admittedly, various things have bearing upon that, but I think you have carried it far enough.

Mr. LINDSEY: Your Honor, for my record, if I may, please, the officer, as I understand, on direct examination is testifying --

THE COURT: Just make the record by questions. If I want to stop you, I will stop you. I won't preclude you from making your record. If you want to make a further record, keep asking questions, and I will give some serious thought to stopping it on this particular phase of the case having to do with the pat down.

Mr. LINDSEY: When this officer cannot recall specifically the details leading up to that Miranda, I am raising questions as to his credibility when I asked him about the Miranda statements themselves.

THE COURT: I understand your point, but I have got to consider the time element involved in this case, gentlemen, and I do not think the probative value of this evidence is that heavy.

I think the time fact far outweighs the importance of whatever probative value, if any, this evidence has on whether or not the defendant was properly advised of his Miranda Rights.

After all, the officers invariably, and as you know, always read from the card, or at least then say they do, and I have no reason to disbelieve them.

Mr. LINDSEY: Well, they do, and I have often reason to disbelieve them in order to get-

THE COURT: All right. So let's proceed now. I have made my position clear.

Mr. LINDSEY:

Q. Mr. Norton, did you find any weapon on him, at the time of the pat down?

A. No, Sir, I didn't.

Q. Did you say anything to him during the time you were conducting that pat down?

A. No, sir, I didn't.

Q. Did he say anything to you?

A. He said something to the quote that he wasn't a criminal that was about it.

Q. Well now, exactly what did he say?

A. I would say -- I don't know verbatim the words used. He stated that he had his suitcase in his briefcase. He wanted to make sure he brought that with him. He also brought up he wasn't a criminal, he was a little upset when I had to handcuff him, that was the main things that he stated to me.

Q. Let me take them one at a time. At that point, is it correct that his mind or his comments to you were concerned about suitcases or briefcases?

A. That was one thing that was on his mind.

Q. Now can you recall specifically during the pat down what he was saying to you about suitcases and briefcases?

THE COURT: I am going to instruct you not to answer that question, Officer, on the Court's own motion. My reason being that the probative value of that evidence on the subject we are dealing with is far outweighed by the probability that its admission will necessitate undue consumption of time, and I exercise my discretion vested in me in that regard by section 352 of the evidence code.

Q. BY Mr. LINDSEY: Now, Mr. Norton, when Mr. Yanikian said, whatever he did during the pat down, what was the next thing that occurred?

A. After I patted him down?

Q. Yes.

A. I handcuffed him.

Q. Front or back?

A. Front.

Q. At the time you handcuffed him, or in the process of getting ready to handcuff him, was there any discussion you had with Mr. Yanikian about whether he was to be handcuffed in front or behind?

A. He requested that, uh, he be—that he not be handcuffed at all, and I told him that it was policy, we had to do everything right, and I handcuffed him in the front.

Q. Is that the only conversation at that time about the admission of handcuffing?

A. He stated that he was old, or sore or something to that knowledge, but I don't recall exactly what he said. He was no criminal and he didn't want to be handcuffed at all.

Q. Then, you handcuffed him, what next was said by either Mr. Yanikian or by you?

A. I requested that Mr. Yanikian just take a seat and sit down, and he was concerned about his brief case, and some clothing that he wanted to take with him, since he knew he was going, and some other officers arrived, the ambulance attendants arrived, they entered the room, they came out with the two deceased—or one deceased at this time and one wounded person. They left. The crime scene was protected by enough personnel. At this time I left with Mr. Yanikian and took him out to the Santa Barbara County Sheriff's Office.

Q. Now, during that period of time you just related, did you have any further conversation with Mr. Yanikian?

A. We talked about various things, but nothing of importance, to my recollection, at that time.

- Q. Do you have any recollection at all of what Mr. Yanikian might have said to you during this period of time?
- A. He talked to himself. He appeared to me to be praying,--I'm not sure, on the way to the jail and—or on the way to the Sheriff's Office, and he talked to himself and to me at times on the way to the jail in the patrol vehicle. I do not know exactly what he was saying.
- Q. Was he appearing to you to be talking to himself at the patio during that period of time just before you took him to place him into the patrol car?
- A. I didn't—I did not observe him talking to himself, no.
- Q. You were not around him part of the time then out there at the patio, you had gone into the room?
- A. I never entered the room.
- Q. Did you remain with him at all times?
- A. Yes, sir.
- Q. Now, once you put him in the patrol car there were times in the patrol car when he appeared to be talking to himself?
- A. Yes, sir.
- Q. You couldn't hear intelligibly what he was saying as he appeared to be talking to himself?
- A. That's correct.
- Q. Who else was in that patrol car at that time with you?
- A. Nobody.
- Q. Did he appear to be talking to himself in that patrol car during a fair part of the time it took to go from the Biltmore Hotel to the jail?
- A. No, just occasionally I would hear him talking—I wouldn't say it was a continuous conversation. It was just, he would ask me questions, and say that he was no criminal, and then he would talk to himself—to me it appeared to be praying
- Q. All right. This was just sort of, he would appear to be talking to himself at one point and then, after a while, he would appear again to be talking to himself and then after a while, appear again to be doing the same thing, would this be a fair statement?
- A. Yes, this would be correct.
- THE COURT: Where in the course of the events that you have testified to did you read to him from the Miranda card?
- A. When I first immediately made contact with him at the cottage.
- Q. BY Mr. LINDSEY: Well, let me go back and ask you the questions in the area again then, Mr. Norton.
- Did you, as you now recall, read what we call the Miranda Rights to him before he was handcuffed, or after he was handcuffed?
- A. Before.
- Q. Did you read those, what we call Miranda Rights to him before you ran the pat down, or after the pat down?
- A. I patted him down first.
- Q. Then, it is your present recollection concerning the Miranda Rights that you were concerned with those somewhere between the time of the patdown and the handcuffing?

A. When I felt that he had no weapons on him, I sat him down and at that time I gave him his rights.

Q. Now, he was handcuffed, however, when you sat him down?

A. No, he wasn't.

Q. Did you handcuff him after he sat down?

A. He was sitting down when I handcuffed him.

Q. Now, was he sitting down at the moment you say that you were discussing the Miranda Rights with him, or was he still standing up, or do you remember?

A. No. I had him stand up, I shook him down. At that time I told him to sit down, after I had shaken him down. I then immediately pulled the Rights card out and read it to him verbatim, as I did to the Court. And then after we conversed, he understood them, and I read them to him, when he did interrupt me again, and then at this time, after they removed the bodies from the room, and there was more personnel on the scene, I then handcuffed Mr. Yanikian and transported him to the Sheriff's Office.

THE COURT: The last question on that card reads in substance, Officer, 'Having these rights in mind do you want to talk to me now?' Doesn't it?

A. Yes, sir.

THE COURT: Did you read him that part?

A. Yes, sir.

THE COURT: What, if anything, did he say in answer to that part of the advice?

A. He, uh, stated that he knew, and that he had nothing to hide, and that was about it.

THE COURT: Well, did he ever specifically answer your question "Having the rights that I have just given to you in mind, do you want to talk to us now?"

A. He, uh, he stated that -- let's see, I am trying to get the words, just right -- he stated that he understood, and that he had nothing to hide, and that he would talk to me— "I'll talk to you. You are from Sheriff's Office."

THE COURT: That is what he said when you got done reading the card?

A. Yes, sir.

THE COURT: I have nothing further.

Mr. LINDSEY: Well, your Honor, it is with great timidity that I am making a comment, really don't think that I could put it in the form of an objection, but I think that I would owe an obligation to Mr. Yanikian's position to suggest that the line of questions just put to the witness by the Court, in view of his prior answers, and the man knows in which the question simply reinforced what this witness is saying in essence that he did give the Miranda Rights and did get all those replies, is the difficulty that we have in defending in this case. It is obvious from the questions that I was putting to him, and even from the earlier questions put to the Court, that last question did not appear to be answered from that card, yet as the Court continued to pursue it, then comes a recollection and the answers that he did, and that is right at the heart of the case.

THE COURT: I didn't lead him.

Mr. LINDSEY: It may not have been a direct leading, your Honor, but I would respectfully submit that this is, I think, the problem area that we will be encountering.

THE COURT: You can put on evidence to the contrary. That is what we are having this hearing for. If these conversations didn't take place, I will certainly hear your side of

it to the effect that they did not. After all, you are only two people present, this officer and Mr. Yanikian. If he has got a different side of it, I am going to hear his side as well as this side. You know, I don't usually stick my nose into an examination of a witness, but I have a feeling that you are belaboring this problem now before us to too great an extent, and I guess it caused me some impatience. I want to get down to the heart of the problem before us which is whether or not he was properly advised and whether or not the defendant waived his rights, and I want to know that without roaming all over the landscape about conversations long afterwards, and in the car when the man was talking to himself and so forth and so on. I don't think that has any probative force on this at all.

Mr. LINDSEY: Your Honor, the inability of a witness to recall much of the things that happened in the conversation and then suddenly on the point of the Miranda Rights, recalling with exact clarity each sentence, each line and each answer, I think ought to be taken into context of all his testimony.

THE COURT: Well, within a certain amount—within reason, yes, but you have got to draw a line somewhere. I think that I drawn it fairly.

Q. BY Mr. LINDSEY: Now, Mr. Norton—

Your Honor, I would suggest that there were more than two people present at the conversation, and in fact—

THE COURT: Interposing—Well this is just a conflict in the evidence. This witness says that there were not. I understand that other witnesses have testified in such a way as to cause one to believe that, if you choose to believe them, that they are present. However, this witness says they were not. So all you are saying is that you have got a conflict in the testimony, and that is what I am here to consider is the entire conflict in the testimony. But what I want to get to is just that.

Mr. LINDSEY: Well, may we ask this, your Honor, that when the Court reaches a point of considering on making a determination in this case that the Court would also include within his contemplation the testimony of the persons that were in Room 30 at the time that Mr. Norton was carrying on this conversation.

THE COURT: You are just arguing the case now. Let's take the testimony and I will hear your arguments later.

Q. BY Mr. LINDSEY: Well, Mr. Norton, as a matter of fact, when you commenced to attempt to read the Miranda Rights you were interrupted directly by Mr. Yanikian, were you not?

A. Yes, I stated that, yes, sir.

Q. As a matter of fact, you were interrupted at each stage along the line as you tried to read those Miranda Rights to him, didn't you?

A. I was interrupted at one time, to my knowledge, that was it, and I told Mr. Yanikian that -- I told him to hold up, then I started at the beginning again.

Q. Now, as soon as you finished reading the Miranda Rights, or even before you got to the end of them is when he embarked upon the questions involved with the suitcase and brief case, isn't that correct?

A. It was right at the beginning he interrupted me, about the first line or second line, and at this time I started again.

- Q. Now, Mr. Norton, when you reached the jail and at approximately 1:00 o'clock when Mr. Regan and you had the interview with Mr. Yanikian, did you at the commencement of that interview advise him of his Miranda Rights?
- A. A second time, no, sir.
- Q. However, isn't it correct, that during the course of that interview at the jail, and to assist the Court, I am referring to page 4 of the typewritten transcript of the interview—isn't it correct that during that interview that you had, that you raised the question of that earlier reading of the Miranda Rights? Isn't that correct?
- A. Yes, sir, it is.
- Q. As a matter of fact, you asked Mr. Yanikian—do you have a copy of the transcript?
- A. Yes, sir.
- Q. About the third or fourth line from the bottom of the page 4, you said (Reading): “When you were sitting in the patio, do you remember of me giving you your rights, reading from that card?” And he said, “Oh, yes.” And you said, “You understood all that?” And his answer was not responsive to that, was it?
- A. You want me to read his answer?
- Q. Would you read his answer.
- A. (Reading): “You read me that I can talk and it be used against me. Unintelligible. So and so. And I—and my suitcase, my brief case.”
- Q. And a part of his answer that he was giving to you there at the jail on this exact subject of the Miranda Rights was unintelligible on that tape?
- A. Excuse me?
- Q. Part of his answer that he gave you in the jail on the subject of the earlier giving of the Miranda Rights, a portion of that is unintelligible, as you have indicated in your report?
- A. Yes, sir, as in other spots throughout the report.
- Q. Now, to follow that Miranda -- the first Miranda reading out at the patio, to follow that through a little bit more, when you are at the jail talking to him, you ask him the next question (reading) “You understood all that, though, right?” And you were referring to the first Miranda reading that you gave him at the patio?
- A. That is the only one that I gave him, so it would have to be the first one, yes.
- Q. Now, when you asked him in that interview at the jail about the first Miranda reading, his answer then was (reading): “I, uh, yes, because I told you nobody, came to visit me, nobody bring even after shave. No tooth paste, nothing. I take out soap, shoes, everything necessary, so it can be clean. I know I am long here because it is the-- unintelligible -- investigation. Not question because I did not -- unintelligible -- three years, I was in --unintelligible -- eight months I -- unintelligible.”
- Now, that is the response that he made to you at the jail when you asked him if he had understood the Miranda rights that you had first given there in the patio at the Biltmore, isn't that correct?
- A. That was the statement he did make, yes, sir
- Q. And there was no further question from you at that interview at the jail as any more follow-up on the first reading of the Miranda, was there?
- A. When I -- no -- by me personally?
- Q. In this interview that has now been reduced to a transcript form?
- A. No, sir, there wasn't.

Q. Did you feel that when you asked these questions of Mr. Yanikian at the County jail concerning the first reading out at the patio, that these answers you got from him at the County jail were adequate and sufficient?

A. To me at the time they were, yes sir,

Mr. LINDSEY: Your Honor, I have no further questions.

Mr. MINIER: Just one area, if I might, your Honor.

### **REDIRECT EXAMINATION**

BY MR. MINIER:

Q. Was one of the officers who was in the general vicinity, John Kolbert of the Sheriff's Department?

A. Yes, sir, he was.

Q. I am talking about the Biltmore.

A. Yes, sir, he was.

Q. As you approached the defendant initially at the scene, do you know what happened to Mr. Kolbert.

A. Mr. Kolbert was behind me, I would say approximately ten yards, and then after I took physical custody of Mr. Yanikian, he immediately went into the room to look at the people that were in there to see if he could aid them.

Q. Do you have any idea where he was at the time you began to read the rights to Mr. Yanikian?

A. He went into the room. He exited the room and he yelled for the ambulance attendants, and then went back into the room to my recollection.

Q. Now, do you remember whether you knew or whether you since found out that there were any people in any of the rooms that overlooked the patio at the time that some of this was going on between you and the defendant?

A. Did I know—did I know at that time that there was other people around?

Q. Have you since found out whether there was anybody in any of those rooms that immediately overlooked the patio?

A. Yes, to Mr. Lindsey's statements it appears that there was other people around and I did not know at the time that there was any other people around. I saw just the deputy and I think there was one civilian security guard Mr. Clapp. I think from the Biltmore or from the Coral Casino was in the immediate area.

Q. When I asked you who was present at the time I believe you indicated you and Mr. Yanikian, is that correct? Maybe I didn't ask you that?

A. I don't recall that.

Q. Were the two people who were immediately present in that particular spot on the patio you and Mr. Yanikian?

A. Yes, sir.

Q. And with regards to the possible presence of the people inside the various rooms in the area you had no knowledge of that?

A. I had no knowledge, no sir.

Mr. MINIER: I don't have any further questions your Honor. I think I should point out with regard to the offer into evidence of People's 48, we would like to separate from that a certain portion and we would suggest that it be deleted by marking out or cutting out, namely the portion of the transcript which appears on page 7 and 8, beginning immediately after the answer of the defendant halfway down page 7, "36

years." I realize I will have to show it the Court because the Court does not have a copy. From that point forward, up until the first question which appears on page 8, a question, "You are not drunk, are you?" We would suggest it be deleted because of the contents of questions and answers.

I could show the Court my copy.

THE WITNESS: It is marked here on the exhibit.

Mr. LINDSEY: I had a further observation. It may be in the area of argument, but I would submit to the Court a very quick checking through-it. There is probably in the area of some more or less 50 different areas in this written transcript that are put in here as being unintelligible, and I would submit that prior to the time that this may be allowed into evidence, and I would quite agree with Mr. Minier, in the event the Court does determine that it is admissible that Mr. Minier has referred to should he deleted out --

THE COURT: I already marked it on my own hook.

Mr. LINDSEY: We are probably all in accord, your Honor.

But I do have the further questions when there is virtually around 50 separate places in this transcript that are unintelligible, before this is admitted into evidence where the jury is going to be reading this under the representation that it is an accurate transcription of the tape, that the tape ought to be played first.

THE COURT: Gentlemen, this is a problem we are going to have to deal with certainly, but why don't we proceed one step at a time and get first the question of whether or not the Miranda warnings were properly given, and whether the defendant waived his rights under that.

Because if I should decide that they weren't, then we don't have to worry about all those other problems, so let's take up the first hurdle first. If we get over that one, we can worry about the next one and so forth. It seems to me the only sensible way to handle it.

Now, Mr. Minier has no further questions of this witness, have you, Mr. Lindsey?

Mr. LINDSEY: Not to the Miranda rights your Honor.

THE COURT: All right, officer thank you for the time being at least. Have you further evidence on this—on the Miranda problem, Mr. Minier, insofar as Detective Northon's phase of the alleged confession is concerned?

Mr. MINIER: No, your Honor.

THE COURT: All right. Mr. Lindsey do you want to present any evidence to the contrary to whatever we have heard so far on behalf of the People.

Mr. LINDSEY:

Your Honor, I notice my co-counsel has just disappeared in the back door. I wanted to check with him just in one instance.

THE COURT: Well, we will take the morning recess at this time, and you can check with him.

Mr. LINDSEY: Thank you very much, your Honor.

**(RECESS)**

THE COURT: All right, gentlemen. Where do we stand now?

Mr. LINDSEY: Your Honor, I believe Mr. Minier has completed his presentation, and on this issue of what transpired at the time of the giving of the Miranda Rights and so on, we would like at this time permission from the Court to call Mr. Yanikian to the stand.

THE COURT: Certainly.

**GOURGEN MKRTICH YANIKIAN**

produced as a witness on his own behalf was thereupon duly sworn and testified without the service of an interpreter, as follows:

**DIRECT EXAMINATION**

BY Mr. LINDSEY:

Q. For the record, could you state your full name, please Mr. Yanikian?

A. Gourgen Mkrkich Yanikian-G-o-u-r-g-e-n—Y-a-n-i-k-i-a-n

Q. Mr. Yanikian—

A. (Interposing) Yes.

Q. I would like to direct your attention, please, for a moment to around the noontime on Saturday, January 27 of this year at the Biltmore Hotel premises, and I ask you if around that time you had occasion to be sitting in the patio adjacent to Room 30 out there at the Biltmore Hotel property?

A. Yes.

Q. Now, do you recall while you were sitting there being approached by a man in civilian clothes who identified himself as an officer?

A. Yes.

Q. Would you relate to the Court what was said when that man came up to you?

A. First, I was sit down on the porch—I was sit down there, I was waiting, -- officer from Sheriff's Department. I was sit down there watching that nobody go into the room, because already I called to the Sheriff' officer what I did, was they came, I was sitting down, watching that nobody come and some gentlemen arrive, and I saw two or three, stay far, they looked scared, of course, because they think, you know -- then one approach and --"I am from Sheriff Department." And I say, "Look, where you be? Twenty minutes I am here. I call once. I call second time"---"When you came out from hospital?"

Q. Now, just a moment.

A. (Interposing) He told me.

Q. Did the man that came up to you, did he ask about---?

A. (Interposing) Yes, "When you came out from hospital?"

Q. What did you say?

A. I say, "Well, last year" He look at me—"No, no, I meant the hospital?"—"I was never there -- "But which hospital? I came from cottage Hospital, last year I have my operation. What is about? I did this, two men is dead." And he "Take out your coat." I was under overcoat. I take out my overcoat.

Q. Now, when you took off your overcoat were you standing?

A. Oh, yes. He told me, "Get up." I stand, take them out overcoat, put my hands on the wall and start looking around -- I told, "Don't worry. I have nothing." After, put you know -- want to put chain on my -- my hand is a little broke in here (indicating), I told, "Look, it's not necessary to chain. I, myself, make call. I, myself, call you, and I waiting. Why you chain? I am no criminal that you put in chain. No, no." Anyway, he put chain.

Q. When you say "chain," do you mean handcuffs?

A. Yes, yes -- bracelets -- how do you -- because, I know that it will take me jail. I prepare my suitcase on this, everything, with shirt, you know, handkerchiefs,

- everything, and also my brief case, -- very important documents. I was too naive, I think everything be with me. I prepare, I want to take with me, and I told, "Please, I have the brief case and suitcase. I don't want somebody touch." He start to take from his pocket some paper reading--I say, "look, may I have my brief case."
- Q. Just a moment. What did he take from his pocket, or from some place about him?
- A. Some small paper, start talking, I don't know what, -- reading, -- you, and, because, already people start going into room and out, and I was scared that somebody steal my briefcase which in briefcase I have very important documents. And I insist only, you know afterwards, he read something, put in his pocket, "You are under arrest." Already was in the chain, I know under arrest—"Let's go"-- ask, "May I have my coat on me?" "Yes"—And put coat on me. Button like this, and chain with coat—he take—"Let's go"—"I am sorry, my briefcase.."—"Well, you will receive in the jail" That's all.
- Q. Do you recall being read whatever was said on a little white card?
- A. I don't know what supposed to do because I was never arrested. Nobody read me this.
- Q. Whatever it is that may have been said to you at that time, including from any possible card---
- A. Yes.
- Q. --did you at that time understand what was being read to you?
- A. No I don't know what is this. He told me you read, you, know, what is this? "My briefcase—  
"I will read this to you"  
"All right, go ahead. Read, but I am interested in my suitcase."  
All question was—I insist my briefcase, but he couldn't read, may be one minute like this.
- Q. Did he ask you if you understood what he had read?
- A. Maybe, I don't know. Maybe he ask, but I was too busy because people is going there, I am looking—taking out my briefcase.
- Q. Were you at that time concerned about the brief case and the contents?
- A. It is more important with me than it was his reading. Because what he can read? I am call myself, I am waiting police officer—for Sheriff's Department, I know they will come and take me jail, but I want my brief case. But what is reading, therefore, I don't know.
- Q. After the man on the patio said something to you from the little white card, did he take little white card out at any time after that while you were still in the patio, or was that the only time?
- A. No, only time when I was on the wall, like this, and he read. That's all.
- Q. And from the time that you left the patio until you arrived at the County jail --
- A. Yes.
- Q. -- did anybody read to you from any little white card?
- A. No, nobody there. He was driving. I was behind.
- Q. And at the County jail, up until the time that Mr. Norton and Mr. Regan had the discussion with you about one o'clock, did anyone read to you from the little white card?
- A. I don't remember well.

Q. At the County jail"?

A. The County jail, they came, people talking. I don't know, nobody read. Maybe read something, I pay no attention.

Mr. LINDSEY: Your Honor, I have no further questions, thank you.

**CROSS – EXAMINATION**

BY Mr. MINIER:

Q. Mr. Yanikian, have you had a chance to read this transcript of the tape recording of the conversation between you and Detective Norton?

A. No.

Q. All right. Do you recall the conversation you had with Norton, the same man who arrested you, a half hour or so later back at the jail?

A. No, I don't know. We talk, sit down—you know, sit down friendly, I ask, "May I have a glass of water. Thank you very much."

He get glass of water, we sit down. I told, you know, why when we go where is my suitcase. I insist again where is my brief case. He said don't worry, I took my boss, he wants."

Somebody else came in, ask you for this, and he stopped. He went out. But we sit down, talk about—maybe I talk, or who they are, maybe what I did, maybe. Maybe, I don't exactly—I told myself yes, I did.

Q. When he had the little white card, could that officer—

A. He had lots of cards in his hand. He had ten twelve cards. He looking something like he did know here, you know, piece of paper, he take card—but my whole thing was I wanted my brief case with me in the jail.

For this I look at the people going, brief case—he said, "Don't worry, don't worry."

Q. Could that officer have told you that you had the right to remain silent?

A. Maybe.

Q. Could he have told you that you had the right to have an attorney?

A. Maybe.

Q. Could he have told you that you need not say anything?

A. Maybe, I don't take attention because I am no stupid man. I know what I did. I know my place in the jail, you know. What they can tell -- they cannot give me ticket to Los Angeles.

Q. Could he have told you that anything you said could be used against you in a Court?

A. I don't know. Maybe he told.

Q. Could he have asked you if you understood all those things?

A. Maybe he asked me. Maybe he asked.

Q. Could you have replied to him?

A. We sit down friendly. We talk, that's all.

Q. Could you have told him that you understood all those rights?

A. I told -- I understood what I did, I told. Because he had asked me, "Do you know what you did?" I said, "Yes, I know what I did."

Q. Could he have asked you if you understood all of the rights?

A. Specifically, I don't remember.

Q. Could you have replied yes?

A. Maybe, I don't interest especially. Because most important he asked me, "You know what you did," "Yes, I know what I did." Maybe he ask, "Why?" I told him maybe.

- Q. Could that same officer have asked you if you wanted to waive the rights and talk to him?
- A. Everybody came talk to me there. It is not only him, everybody came, two or three people came -- "What's going on, what you did?"
- Q. Could that officer have asked you if you wanted to waive your rights and talk to him?
- A. Maybe ask, I don't know.
- Q. Could you have told him that because he was a deputy sheriff and because you had nothing to hide, you were willing to talk to him?
- A. When he told this deputy sheriff, then I let people in now. I told now is his business, "You can go in the room, and do everything, please give me my brief case and suitcase." I was waiting that they give them. But they never given them, even now I no receive yet.
- Q. Could you have said to the officer, words to the effect of, "All right, you are a sheriff's deputy, I have nothing to hide, so I will talk with you"?
- A. No. I told what I did I called myself. I don't have secret. I no have secret. I know what I did, and I called myself.
- Q. You told all this to the officer, didn't you?
- A. Sure, I told that I called myself to sheriff. After, I wait ten, fifteen minutes, I asked somebody, he called -- this somebody do not go in my room, I stop. I said, "No." They went over to telephone. They came, tell me that they be here very soon.
- Q. At the time, didn't you think this officer was being a little foolish to tell you about your rights when you had already told him that you had killed two people?
- A. I have no right. Think what he think. It is not -- he will think -- I don't have no rights talk about him.
- Q. When the officer was fumbling with those cards, was your main interest to get on with business of trying to get your suitcase and your brief case?
- A. Yes, suitcase and brief case what I was interested.
- Q. Now, you had been through the criminal court system two times before, had you not?
- A. Yes.
- Q. So you had some familiarity with the procedure of going through the criminal courts?
- A. No, I never take attention.
- Q. Well, didn't you have a trial once before in a criminal matter?
- A. But -- yes, but never I take attention what they read. Even I don't know -- only today, I was sit down there and started reading what it is about on desk, only today. Never I saw.
- Q. Didn't you write a television series regarding courtroom cases?
- A. No, I am never watching television, I am writing to the court cases, but not watching.
- Q. You wrote a television series about court cases?
- A. Yes. But never using this.
- Q. Now, during the time that you were there with this detective trying to get your suitcase and your brief case, were you fully aware of what was going on?
- A. No. I was mad because he no bring, to put me in the car without my suitcase, brief case. When I start talking and drive, all what his business. I talk myself. That is right. I said, "What is this, I prepare everything, I am taking to me to jail, no shirt, nothing.

My documents, this important paper is there, what kind -- what business.” On reality in the car, I think he is doing too much. I think he no have right, you know, take me without my brief case and suitcase. And first time when my lawyer came see me same day, first I told how right he have bring me jail without my suitcase, because I have nothing. I think in the jail, I will have shirts where I could change, I have my papers, you know, even I complain to my lawyer what he no bring this time. When I was in the car, I think he is doing wrong.

Q. Well. you didn't have any hesitation to talk to that officer?

A. No. Screen between us.

Q. So you didn't mind talking to him?

A. No. I sit down, talk myself, because he is driving – noise, car, and he is driving very good, fast –noise—and I talk myself. I talk sometimes Russian, sometimes what business taking to jail without your suitcase, without your brief case—I am sorry your Honor.

I don't know that in the jail you will not have your suits, you will not have any shirts. I don't know the change

Q. Mr. Yanikian, do you remember when the officer first came up as you were seated on the patio?

A. Yes

Q. Do you recall his asking you whether you needed anything—whether you needed any help, something like that?

A. No. First he came, I talk him. When he told, “I am from Sheriff's Officer,” I said, “Where you been, how long I will wait?”

Then he start talk, other officer also came close, they saw this man no have intention to kill anybody more.

Q. When that man first came up, the officer, is that when you said to him, “I did this, two men are dead”?

A. They are very friendly. Until he refused bring me my brief case, after this, I was mad at him. He put—even when I ask coat, he don't like put on me coat. I was in the chair. Coat, they put it on me, and after couple days later in newspaper, you have picture, you can see me, coat on this exactly. Some people stay there and taking picture. When he open his car door, I said, “What you did, where is my brief case?” “You will receive it in jail.” I was mad.

Q. You remember everything that went on there at the -- in this conversation with the officer, don't you?

A. Sure, because, is my brain all the time be, my brief case and suitcase, because this I prepare, of small importance to me, but other conversation, I ask “Water,”- I don't know, he was there, I think, second time I ask, he was there, but he was -- he was very good. He is very, but only was surprised heard I was not from hospital.

Q. Did you know that he was arresting you?

A. What you mean? They put in chain on you, what you think, taking honeymoon?

Q. Did you know that you were being arrested for killing the two men inside the room?

A. I called myself -- I called myself, I am waiting, officer, and I called that they come, and I sit down there, not let anybody go in room. I know I waiting, somebody will come to arrest me, and I prepare two pieces, which I will take with me in the jail, one with my shirt and the other with my documents.

Q. So you knew completely what was going on around you?

A. Sure I know what is mean, surely I knew.

Mr. MINIER: Thank you, Mr. Yanikian. I have no further questions, your Honor.

Mr. LINDSEY: No further question.

THE COURT: All right. You may step down Mr. Yanikian

THE DEFENDANT: Thank you very much.

(Whereupon, the defendant was excused and withdrew from the stand and resumed his seat at the counsel table.)

Mr. LINDSEY: Your Honor, we have nothing further to present.

THE COURT: All right. On the sufficiency of the Miranda warning, the Court finds that the evidence preponderates in favor of the conclusion that the proper Miranda warnings were given the defendant by Officer Norton, that he understood them, and knowingly and intelligently and freely waived these rights. In fact, I can't escape the conclusion, gentlemen just between us, that he was anxious to tell the officer what had happened.

So that disposes of the sufficiency of the Miranda warning, insofar as the statement made in the jail to Officer Norton is concerned.

Now, we have got the problem with—well, that brings us to these problems, we are still on Norton, we might as well stay on that.

Now, what are the other problems?

Mr. MINIER: Your Honor may I suggest to the Court that I have handed to the clerk an unmarked copy of the transcript, and if the Court would like to exchange the two then we can have the Court's personal copy being the marked one, and the official Court copy can be the unmarked one.

The Court: Fine

Mr. LINDSEY: Your Honor, if I may make a suggestion, I think it may perhaps save time of the Court, and perhaps we can resolve many matters, and I will suggest if it may be considered by the Court that Mr. Minier and I and Mr. Vasken get together immediately with the tape and this transcript and outside of the Court—

THE COURT: (Interposing) Haven't you heard it?

Mr. LINDSEY: Not the particular details to cover these unintelligible areas, your Honor, and if we can determine with the help of Mr. Yanikian, and the court interpreter and translator, that we have no problems in those unintelligible areas, then I would not raise issues on them. If there are any questions that Mr. Minier and I can resolve, fine and if—in the event that there are areas that we feel are material and which we cannot resolve, at least we can pinpoint them specifically to the Court for determination, and this would save having the Court to go all through the matter because of the number of unintelligible areas in the tape— or in the transfers, we should say.

THE COURT: Well, that is fine with me. I can't escape the feeling that if the tape was unintelligible to the officer who was there, and after he heard the conversation while it was being taped, bearing in mind the general unintelligibility of tapes that I have heard, that I won't be—it is going to be just as unintelligible to me, if not more so than it is to the officer. But if there are areas that you cannot resolve I will certainly listen to them, seeing if I can—but I have a strong feeling I won't be able to, I never have in the past, and I have heard them many times.

Mr. LINDSEY: I would offer also, your Honor, to remain to work during the noon hour to accomplish it so that we do not unduly delay the Court in that respect.

THE COURT: Well, that is quite all right with me.

Now, you have two more, you are going to have the same problem on that one.

Mr. LINDSEY: I would offer if the tapes are available, on both of these, to work straight through the noon hour with both of those in Mr. Minier's office in these areas so that we can resolve as much of this as possible before we resume in the afternoon.

THE COURT: However, we still have the sufficiency of the Miranda warnings on the other two, at least I assume that we do.

Mr. LINDSEY: Yes, your Honor, although I am assuming, your Honor, that the Court, having found that the Miranda Rights were adequately given in the first instance, that that may be of sufficient finding to cover all subsequent statements that he might have made.

THE COURT: Well, I don't know when these next ones -- this one with Baker was made.

Mr. LINDSEY: Apparently it was a quarter to 3:00 of the same afternoon., your Honor - - it indicate 14:45, or 2:45 on January 27th, on a Saturday.

THE COURT: Do you propose to lay a separate foundation for each of these confessions, Mr. Minier?

Mr. MINIER: Yes, your Honor.

THE COURT: Well, I won't preclude you from doing that.

Mr. MINIER: Well, unless there is no objection, but I think maybe it is a right that can't be waived. I think in any event there probably should be a foundation.

Mr. LINDSEY: I would concur with that, your Honor.

THE COURT: Well, I am wondering what to do with the jury when they get back at 1:30. Obviously, we are not going to be ready to proceed in their presence at 1:30. The question of when we will be is what disturbs me now. You won't really know or have too good an idea until after you have listened to these tapes, I guess.

Mr. LINDSEY: I believe from what I can determine from the transcript that we have, that we should be able to complete the hearing of the tapes and the work that we have to do in those areas prior to 1:30. I would have reason to believe that within an hour and a half we can do all of that, then it would seem to me that if a foundation is suggested along the same lines as has been put on this morning -- well, I see the Court's point, we may be in roughly the same similar time pattern that we just covered.

I would assume an officer would testify your Honor.

THE COURT: If the other two take as long as the one we had this morning, we may as well send the jury home at 1:30.

Then if I have to hear this tape in an effort to resolve any areas of the dispute -- you have got two tapes?

Mr. LINDSEY: Your Honor, Mr. Minier's office has always been reasonable in other cases that I have had with them on these kind of subject areas, and my belief is that if there are any differences in there most of those will probably be resolved on a reasonable basis, because I am sure that I would feel the same way, and I think if I have any questions, if any exist at all, they are going to be relatively few for the court to consider.

THE COURT: Why don't we recess now and you can advise me at 1:30 how much time you think we are in for, and then we can make a decision as to whether to keep the jury standing by or to send them home for the afternoon.

All right, gentlemen.

Mr. LINDSEY: That is satisfactory.

Mr. MINIER: Yes, your Honor.

(Whereupon, the out of court proceedings were adjourned until 1:30 o'clock p.m. this date.)

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12. SANTA BARBARA, CALIFORNIA, TUESDAY, JUNE 12, 1973, 1.30 P.M.

THE COURT: All members of the jury and the alternate jurors and the defendant are present.

All right, ladies and gentleman of the jury, we haven't quite completed this legal matter yet; however, counsel were going to work on it diligently during the noon recess and advise us now as to how much longer they felt would be involved.

Mr. LINDSEY: Yes, your Honor. Mr. Minasian is working with Mr. Begg and Mr. Baker, and they have been working continuously through the noon hour. On the first aspect, they still have, I would guess, another five to ten minutes on that. They are still working trying to get through to the end of that.

THE COURT: How much for the whole thing?

Mr. LINDSEY: At the rate it is taking them, on this first one -- first aspect, I would have to relate it to the time it has taken them so far on the first one, probably I would guess at least an hour and a half on that one, at the rate that they are going. I would advise the Court that Mr. Begg is expediting in every way that he can on the matter, too, so I would estimate probably an hour and a half on the second aspect.

THE COURT: Well, we may be able to go in about ten minutes on the first, is that it?

Mr. LINDSEY: Yes.

THE COURT: What we are primarily concerned with, ladies and gentlemen, is another translation problem, and this is made more difficult by the fact that the—there is a transcription of a tape recording, and the tape is in some respects unintelligible in certain areas. I think that's a fair statement, isn't it gentlemen?

Mr. MINIER: Yes, your Honor.

THE COURT: And what the representatives of both sides are attempting to do to this particular tape to see if they can resolve some of the unintelligible areas and this takes a good amount of time. Then there may be other translation problems aside from that particular one, so when we get it resolved, we will be in a position to give it to you in such condition that both sides are happy about it, rather than have it interrupted every few minutes with inquiries as to whether the transcription is accurate or not accurate and so forth. This is the problem, or one of the problems the main problem time wise.

Well, I guess what we had better do, gentlemen is recess, at least as far as the jury is concerned, maybe we could profitably spend the time, when they are out, in other matters. As soon as we get the first one out of the way, we will call the jury back and take care of that.

So altogether, it looks like a rather piece meal afternoon as far as you are concerned, ladies and gentlemen.

I don't want to waste it, but if you will remain within call of the Bailiff, please, we should hope to be able to have you in some testimony, and we won't delay it in any more than we possibly can, of course.

It is my duty to advise you, as it is on the occasion of each recess, of your duty not to converse among yourselves or with anyone else on any subject connected with the trial, or to form or express any opinion thereon until the cause is finally submitted to you. I hope to be able to call you very shortly.

(Whereupon the jury was excused from the courtroom.)

OUT OF COURT PROCEEDINGS

(Whereupon, the following proceedings had outside the presence of the jurors, as follows:

THE COURT: All right, gentlemen, the members of the jury and the alternate jurors are absent from the courtroom.

Now, with reference to the tape conducted by Detective Norton, we have on page 7 the apparent agreement of everybody that everything on that page after the answer "36 years" should go out.

Mr. MINIER: Yes, your Honor.

Mr. LINDSEY: Yes, I concur with that.

THE COURT: Now, how should we handle that, take a pair of scissors and excise that part?

Mr. LINDSEY: Yes, your Honor.

THE COURT: I want a pair of scissors and People's Exhibit 13 -- no, that is not No. 13 either it's the Norton tape recording.

Mr. LINDSEY: No. 48, your Honor.

THE COURT: That may be it.

THE CLERK: it is 48, your Honor.

THE COURT: What shall we do with the excised portion?

Mr. LINDSEY: I would suggest your Honor, that the excised portion, if that may be marked and left for identification, say, as 48-A, maybe some kind of an alphabetical designation so that the record would show separate and apart from the jury that part of it.

THE COURT: That is all right, with instructions to the clerk that that part should not be made available to the jury.

Now, do I have your permission, gentlemen, to cut that part out of page 7 then?

Mr. MINIER: Yes, your Honor.

Mr. LINDSEY: Yes, your Honor.

THE COURT: All right. Let the record show that I have done so. That part that I have cut, Mrs. Clerk, shall be marked then, is it agreeable, People's Exhibit for identification 48-A?

Mr. MINIER: Yes, your Honor.

Mr. LINDSEY: Yes, your Honor.

(Whereupon an excised portion on page 7 of the transcript of the tape recording of Exhibit 48 thereupon duly marked as People's Exhibit No. 48-A for identification purposes only.)

THE COURT: And make some private note of your own as a flag to remind you, Mrs. Clerk, that it is not to go to the jury.

Now that we have got rid of that, is there something else here wholly aside from the question of interpretation that either side thinks should go out?

I have not read this in its entirety gentlemen.

Mr. MINIER: Your Honor, I think that same particular subject matter carries over also onto the first paragraph of page 8, and I expect that some or all of that first response should also go out.

THE COURT: Oh, yes-- well, what part of that do you think ought to go out, Mr. Lindsey?

Mr. LINDSEY: Your Honor, excuse me but our copies are in the back--

THE COURT: The top of page 8.

MR, LINDSEY: May I have one moment, your Honor -- your Honor I would be agreeable to the entire question being omitted. There are parts in it that I think are permissible in, the parts that may be admissible, but there are unintelligible areas in it and there is considerable difficulty in our being able to resolve, I think, all of that unintelligible area.

THE COURT: I have to agree that the answer in its entirety is generally unintelligible. Is there anything in there you think ought to stay Mr. Minier?

Mr. MINIER: No, your Honor.

THE COURT: Strike the whole answer.

All rights now is it agreeable, gentlemen that I cut that answer at the top of Page 8?

Mr. LINDSEY: Yes, your Honor.

Mr. MINIER: Yes, your Honor.

Mr. MINIER: Yes, your Honor.

THE COURT: All right, I have done so. And would you mark this cut off portion, Mrs. Clark, People's 48-B for identification.

Now, have you got any other parts of this that you think should not come in, wholly without regard to the question of interpreting it and unintelligibility and like.

Mr. LINDSEY: No, your Honor. It would appear that the remainder of the transcript would be not of an objectionable nature as such.

THE COURT: All right. So now, if you can put these together, Mrs. Clerk, please.

All right, so all we have left to resolve is the correctness of the transcription?

Mr. LINDSEY: Yes your Honor.

THE COURT: Now, Mr. Minasian is back-- wait a minute. This is page 7.

THE CLERK: Page 7, sir?

THE COURT: Yes.

THE CLERK: Thank you.

Mr. LINDSEY: Your Honor, what we are chatting about was, as I understand it we are trying to ready Exhibit No. 48 for introduction, and Mr. Minasian has just been reminding me that there is still some of the corrections to be considered yet. I have indicated to him yes, and I understand the correctional work is drawing near the end of it at that point. Assuming all the parties can agree on these corrections, we would have, at least, an agreed type of transcript to approve.

THE COURT: You are still working on that?

Mr. Minasian: Yes, your Honor. We haven't even finished with the first one of 12 pages, and we haven't gotten to the second one, which has about 20 pages.

THE COURT: Have you finished the first one?

Mr. Minasian: No, your Honor. We are about three-quarters of the way through. It is a tedious job.

THE COURT: I can understand. You are representing the defendant in this correctional process outside of the court?

Mr. Minasian: Yes, your Honor, together with the representatives of the prosecution in playing back the tape recorder.

THE COURT: Is it agreeable that you continue to do that outside of the court while we proceed with the foundational matters regarding the other statements?

I don't want—if you would rather be here while we do that, you certainly have the right to be.

Mr. Minasian: I would like to consider the Court's time, however, your Honor, I would like to be present during the proceedings. I don't know how best to resolve that conflict.

THE COURT: How long do you think it will take to wrap up this first one? Let me ask you this, you are three-quarters of the way done now, are you in complete agreement as to the three-quarters that you have completed?

Mr. Minasian: Pretty much, your Honor.

THE COURT: You are not in full agreement?

Mr. Minasian: Well, your Honor, I was out of the room when they commenced doing this, and there were places where it was not indicated as unintelligible, but through the straight transcription where there were certain corrections that came afterwards. I don't have the benefit of say having been there, to have heard it during the first half of the correctional process.

Mr. LINDSEY: I am in agreement with all these that I covered in the first part, your Honor, and I haven't consulted---

THE COURT: I don't understand now. You and Mr. Begg and someone else have completed your correctional work on about three-quarters of the first tape in the transcript, right?

Mr. Minasian: Of half of that period of the three-quarters.

THE COURT: I don't care how long it took you, I just wanted to know if you completed about three-quarters of it?

Mr. MINASIAN: Mr. Lindsey was there the first part, I was there the second part.

THE COURT: Between the two of you, you have done it?

Mr. MINASIAN: Yes.

THE COURT: All right. Now, having completed, are you now in a position to tell me that that first three-quarters, in whatever form it may now be, is correct and may be received?

Mr. LINDSEY: Your Honor, Mr. Minier, I don't believe has had the opportunity to see the corrections that have been written in and they probably would be subject to his review. My own feeling is that the corrections we have made I would anticipate that Mr. Minier will probably find no difficulty with them so his review would probably be very brief, but merely be apprised of where the changes were made.

THE COURT: But are you satisfied with the first three-quarter of it as far as your part of it is concerned?

Mr. LINDSEY: Yes, your Honor.

THE COURT: All right. Well, there is nothing to do but recess until the last quarter to is completed, is there? Mr. Minasian wants to be here during the formal proceedings.

Mr. LINDSEY: Well, we will try to see if there is any way that we can speed it up, your Honor, to move it along.

Mr. MINIER: Your Honor, might I make a suggestion regarding the sequence.

THE COURT: I would welcome one.

Mr. MINIER: Since It will take the same amount of time for Mr. Minasian to review the tapes, no matter when he does it, I have in mind that we have Mr. Ford Rapp here, who is an FBI Agent, who has been waiting all day, because I subpoenaed him to be here to testify, and I thought that there might be some possibility of having him testify on the preliminary matters now so that he could go back to his office. I don't think that he would be nearly as long as Detective Norton was.

THE COURT: It's agreeable.

Mr. MINIER: Thank you, Should I call him now?

THE COURT: Yes.

FERD E. RAPP, JR.,

produced as a witness for and on behalf of the People, was thereupon duly sworn and testified outside the presence and hearing of the jurors, as follows:

DIRECT EXAMINATION

BY. Mr. MINIER:

Q. What is your occupation, Mr. Rapp?

A. I'm a special agent with the Federal Bureau of Investigation.

Q. Were you so employed on January 27th of this year?

A. Yes, I was.

Q. And on that date did you have occasion to see the defendant Mr. Yanikian at the Santa Barbara County Jail?

A. Yes, I did.

Q. Could you tell us the approximate time?

A. It was at 6:21 in the afternoon.

Q. Could you tell us where you were in the jail at hat time and who was present?

A. We were in an interview room at the Santa Barbara County Jail, and Agent Robert X. Ryan was with me.

Q. Was any tape recording made of the interview?

A. There was none.

Q. Approximately how long did the interview last?

A. It lasted till 7:40 p.m.

Q. Now did you prior to asking any questions of Mr. Yanikian, advise him of his legal rights?

A. Yes, we did.

Q. Could you please tell the Court exactly what you said to him and what the defendant reply to you, if anything?

A. When we met Mr. Yanikian, we identified ourselves with the display of credentials and told him we were special agents with the FBI, and we told him the purpose of our interview was hinged upon the fact that Congress had recently passed a law providing for the protection of foreign diplomats and that in view of the shooting of two Turkish diplomats that afternoon we would like to talk to him. At this point we

had a printed Rights form which Mr. Ryan offered to him, and asked him if he had read and understands—understood English, and he said he did. He also commented that after looking at the form that he had already read and signed this for the Sheriff's Office. We asked him to go ahead and read it, and he read it through while we sat silently.

After he read it, Mr. Ryan asked him if he understood it, and then proceeded to clear five matters with him referring to the form. He told him again that he had the right to remain silent and that any thing that he had said could be used against him in court.

He told him of his right to an attorney, and that he had the right to have an attorney before he was asked any questions, and to have him there during questioning.

He was told that if he could not afford a lawyer that one would be appointed for him, and that if he did decide to answer questions without a lawyer present, that he would still have the right to stop answering questions at any time, and he could stop answering questions at any time until he was able to talk to a lawyer,

Mr. Ryan asked him if he understood this, and he indicated that he did. He was asked if he would sign the form and he signed it.

Q. Was he asked anything regarding his desire to waive his rights and talk to you?

A. He was asked if he would sign the form, which is a waiver, and if he would talk to us.

Q. And did he then sign the form?

A. He did sign the form.

Q. Do you have both of the original of the form that Mr. Yanikian signed and also an exact duplicate copy of it with you?

A. I have just the original form.

Mr. MINIER: Perhaps I have a copy. I am going to hand you what appears to be a copy and ask you if you can identify this as an exact duplicate copy of the original one that you have just testified to signed by Mr. Yanikian?

THE WITNESS: Yes, sir, it is.

Q. BY MR. MINIER: Was it signed in your presence?

A. This was.

Mr. MINIER: Your Honor, may we have the exact copy marked as People's 49 for identification?

THE COURT: Yes.

(Whereupon, the document waiver thereupon duly marked as People's Exhibit No. 49 for identification purposes only.)

Mr. LINDSEY: Your Honor, to save time, I was wondering, Mr. Minier, in the various papers and documents that were provided to us was there a page number? Do you recall off hand a page number among the papers?

Mr. MINIER: No. You have not gotten a copy of that, and we first received our copy today.

Mr. LINDSEY: Well, your Honor, this is the problem that we have had in this case of being accused of having everything available to us--

THE COURT: (Interposing) It hasn't even been offered in evidence yet.

Mr. LINDSEY: I know, but there is a problem we have of getting records from the FBI. And Mr. Minier stating everything has been available to us, and this is a prime

example right now of receiving for the first time which should have been turned over to us long ago.

THE COURT: Gentlemen, there is no jury here. You don't have to give me that argument. The paper hasn't been offered in evidence. I may very well consider that a damning circumstance against its admission when it is offered, if it is offered. As I understand the Miranda ruling you cannot prove waiver of your Miranda Rights by any signed piece of paper in any event, -- that is certainly my definite recollection of the rule. So I don't know what the pertinency of the paper is.

Mr. LINDSEY: Mine also, your Honor.

THE COURT: So I don't know what the pertinency of the paper is.

Mr. LINDSEY: I also recall FBI indicating that we were going to get all pertinent matters in this case. I am surprised to see it coming to us in this courtroom in the middle of the trial. I don't think very much of an FBI operation that does that in this kind of a proceedings.

Mr. MINIER.: Your Honor, I would --

Mr. LINDSEY: I am speaking as strong as I can, because it insensate me as a defense attorney to be subjected to this kind of business, especially after this jury has been told and the Court told that all of the information has been available to me at all time. It has not been, and the responsibility lies at the feet of the FBI in this case for not making this even available to Mr. Minier's office, apparently, until today. There is no excuse of this kind of handling of this evidence at all. I am insensed about it.

Mr. MINIER: Your Honor, for the purpose of the record, I would like to point out that over three months ago, I gave to Mr. Lindsey, and I have a signed receipt to indicate that he has had about a six or seven or eight page copy of the entire FBI report of the conversations with Mr. Yanikian. The only thing he has not been supplied with is the written waiver, which I myself have never seen until today. This morning I sent it back over to our office for the purpose of making a duplicate copy, so that the original could be retained in the FBI files.

THE COURT: Well, we had a discovery motion involving the papers in the possession of the FBI, and my recollection of it is that a number of them, those that were made available to the local district attorney's office by the FBI, were made the subject of discovery. Those that the local district attorney's office had no control of were not made the subject of any discovery order because of that rule that you had to get the clearance of the attorney general, or something of that kind. And I recall my ruling was that unless you had that clearance, I felt that I was unable to give you the benefit of that discovery. So this particular paper we are talking about now would fall within the realm of what I did not give you the right to discover, wouldn't it?

Mr. LINDSEY: Yes, your Honor. The Court, as I understood in effect, whatever the FBI was going to be willing to impart over to Mr. Minter's office was we would then have available. And we were not allowed to pursue the FBI further at that point to find out what they were withholding

THE COURT: Well, you could have pursued them if the Attorney General of the United States had said so, that's what the section says. And I didn't feel I could go behind the section.

Mr. LINDSEY: At that time, I objected, your Honor, to the FBI claiming any rights in here that were different from what the Court could have directed the California

authorities to do from the bench. And it is part of the reason -- it is not important to me what document is, it is the fact that now in an issue in the case, it is coming into this courtroom for both prosecution and defense at the same time today, and I see no reason for the FBI to have done that.

THE COURT: I question whether it is going to be an issue in the case.

Mr. LINDSEY: I would move, your Honor, in view of the fact it is coming in here for the first time today from the FBI, both to Mr. Minier and myself, that this not be permitted unto evidence, that this witness not be allowed to present any further testimony in this case as a sort of at least some kind of a sanction against the FBI for handling this portion of the case in this way when they were in this very courtroom represented by the Attorney General's office and knew, and represented, they were going to be turning over evidence timely in this case. They ought not to be allowed to get away with that. I don't care if they are the FBI, they are no different from any other law enforcement agency.

THE COURT: I will consider that when and if the paper is offered into evidence.

Mr. MINIER: Your Honor, might I mention briefly just one additional thing for the purposes of the record?

THE COURT: Yes. .

Mr. MINIER: I would like to represent to the Court that the second sentence of the FBI reports of this, and two additional interviews which I conveyed to Mr. Lindsey's office at least three months ago states, "That he read a form acknowledging his rights and he signed it and said that he was quite willing to talk about the incident."

I merely make that representation to the Court that I can produce this document and the receipt signed by a representative of Mr. Lindsey's office to indicate that Mr. Lindsey was put on notice at least three months ago that the defendant had signed such a waiver.

Mr. LINDSEY: Immaterial, because my understanding in court was that I could not pursue it against the FBI unless I went to the Federal Court, went through the Attorney General's office in Washington, D. C. in order to get it, and there is no reason why I should be required or any defendant in any California criminal case ought to be subjected to this kind of procedure. I don't think the Court ought to permit the FBI to get away with it either.

THE COURT: I haven't permitted anybody to do anything yet. I called your attention to certain language in the Miranda case, gentlemen, I have been trying to find it here, and I now have found it. It is not verbatim, but my notes indicate that the case holds on the question of waiver that a printed police form that defendant has been fully advised and understands all his rights and so forth, signed by the defendant, as part of a written statement will not suffice as a waiver.

If I correctly reported that portion of the case-- it has been a long time since I did, but I was very careful at the time -- the paper would apparently be of no moment in the lawsuit in any event. That's what the case holds, and I think it does.

Mr. LINDSEY: Well, my problem is, your Honor, having in mind the ruling made this morning when the other Sheriff's Deputy was testifying that if the agent then -- and I mean no disrespect at all to the witness, because I am sure he had not intended any kind of a problem in this case, and he is merely in an awkward situation -- but if I follow the thinking of the Court this morning then the mere testimony of the officer

is going to be sufficient to meet some type of a prima facie or a preponderance of the evidence rule, and we are simply defeated on the point and without reserving whatever rights--

THE COURT: I don't think you should draw that conclusion. This is a different time, a different place, different people involved. You are entitled to a full evidenciary hearing on the question of the Miranda Rights being properly given to start with, and on the question of whether they were waived in the second place. The fact that I ruled one way this morning doesn't -- is no indication that I will rule the same way on every other incident. They are separate transactions. I have got to hear the evidence.

Mr. LINDSEY: Well, your Honor, I would suggest -- well, maybe I better not either.

THE COURT: I think what I am about to suggest is that we call the jury in and tell them to go home, because they are going to be -- we are not going to get anywhere with them this afternoon. Mr. Minasian has got to spend another ten minutes on the last quarter of this first statement, and then you have got this second statement which is going to take you an hour and a half you think. In an hour and a half from now, it is getting to be about quarter to 4:00, and you have got the foundation -- the Miranda foundation with regard to each of these two statements, and all in all I think we will be doing fairly well if we get all of this foundational matter out of the way this afternoon with the jury not here.

Mr. LINDSEY: I would agree, your Honor.

THE COURT: My thought was when I let the jury go earlier, that Mr. Minasian, who has not been here, was going to occupy himself with these translations, but that is not what he wants to do, and certainly something I wouldn't ask him to do if he wishes to be here. So I think we are at the end of the road, as far as the jury is concerned. We better let them go home and try and spend the rest of the afternoon in their absence trying to clean these things up until you can come up with some better suggestion, gentlemen. I would certainly, like to get something before them, but I don't see any way out of it unless either of you have got a better idea.

Mr. LINDSEY: I agree with the Court, your Honor.

Mr. MINIER: We agree also, your Honor.

THE COURT: All right, Mr. Bailiff, would you call the jury in, please. You think you can make it by 10:00 o'clock tomorrow morning? We are going to have them back here at 10:00 anyway.

Mr. LINDSEY: I think at least this first portion, your Honor, would be ready for them at 10:00. There may be some doubt to the second phase, but the first phase I am sure would be.

THE COURT: All the members of the jury and the alternates jurors are present, gentlemen.

Well, ladies and gentlemen, we just can't make it. The best that we could give you would be about twenty minutes worth of testimony and we don't know how long that would really be, probably be another three-quarters of an hour, -- so we have to let you go. We have got more of these problems on other translations, and rather than keep you waiting uncertainly out there we have all agreed, on second thoughts to let you go for the afternoon. We will spend our time here trying to get those things worked out. I am awfully sorry, but it is the only way to handle it.

It is your duty not to converse among yourselves or with anyone else on any subject connected with the trial, or to form or express any opinion thereon until the cause is finally submitted to you.

You are all excused until 10:00 o'clock tomorrow morning.

(Whereupon all the jurors and alternate jurors thereupon were excused and withdrew from the courtroom.)

OUT OF COURT PROCEEDINGS

(Whereupon the following proceedings were had outside the hearing and presence of the jurors, as follows:)

THE COURT: All right, the members of the jury and alternate jurors are absent, gentlemen.

I have forgotten where we left off.

Mr. MINIER: I think I was in the middle of the examination of Mr. Rapp.

FERD RAPP, JR, (Resuming) DIRECT EXAMINATION (Continuing)

BY Mr. MINIER:

Q. Now, Mr. Rapp, after you had advised -- or after Mr. Ryan had advised Mr. Yanikian of his right to remain silent and of the fact that anything he said could be used against him, and of his right to an attorney, and of his right to have an attorney present before any questions were asked, then can you recall specifically what was said to him and what he replied regarding his understanding of those rights and his possible desire to waive the right and to speak to you?

Mr. LINDSEY: Your Honor, if I please the Court, may I place an objection to that question, and a motion to strike.

I would object to the question, or any further questions to the witness concerning the waiver of any rights because Plaintiff's Exhibit No. 49 has been made available for the first time today by the agency represented by the witness Mr. Rapp.

THE COURT: He is asking him what was said.

Mr. LINDSEY: I know, but my next thing is that in view of the fact that this waiver was not made available to either side, and I not only object to the questions on the area of the waiver, which is, as I say, includes any claim of oral waiver of it, but that the court impose sanctions as well, and I move the Court to strike all prior testimony of this witness dealing with the waiver form, or any matters pertaining to waiver, either orally or otherwise by the defendant, as sanctioned by the agency, and the reason for that, your Honor is that the agency represented in this courtroom that all relevant matters would be made available, and we were entitled to rely on that, that is the Court and as well, the prosecution.

It would seem to me that when they come into court -- it was another agent of the department -- and they make that type of representation then we find out that they have not complied with what they themselves have represented they were going to do, somewhere, somehow there ought to be some type of sanctions imposed upon that department, and so I object to the question and I make a motion to strike all of his answers that in any way pertain to the form. And I also make a motion to strike all of his testimony pertaining to any, either oral or written waiver, by the defendant in this case, as a sanction measure for having violated their representation in court of what they were going to do.

THE COURT: The objection is overruled and the motion is denied.

Q. BY Mr. MINIER: Do you recall the question, Mr. Rapp?

A. I believe I do. He did. He was asked if he was willing to tell us what had happened that day, and he said that he would.

Q. Now, was it before or after these questions and these answers that Mr. Yanikian signed this form that we have been talking about?

Mr. LINDSEY: Same objections, your Honor.

Your Honor, to save the record on it, may it be deemed because I would understand from the prior ruling of the Court that the Court is going to permit questions in that area,--but may it be deemed that I have the running objection to all questions posed by Mr. Minier?

THE COURT: No, I would rather not--I would rather not.

Mr. LINDSEY: Then I do object, your Honor, upon each and all of the grounds that are previously stated.

THE COURT: Now the question was, was it before or after this statement that he signed the printed form - was that the question?

Mr. MINIER: Yes, your Honor.

THE COURT: Overruled as to that.

THE WITNESS: He was not asked to sign the form until he had read it and the conversation took place.

Q. BY Mr. MINIER: In other words the conversation about which you just testified regarding advice given by you and Mr. Ryan and answers given by the defendant, that conversation took place before he was asked to sign the form?

A. That is true.

Q. Now, in the conversation that followed, either during that conversation or prior to it, did either you or did Mr. Ryan offer the defendant any kind of leniency or immunity from prosecution, or reward if he were to tell you anything about certain events that had transpired?

A. No, sir.

Q. Did you in any way tell him that he had to make a statement to you?

A. No, sir.

Q. Did you make any threats of any nature or exert any coercion against him to make a statement?

A. No, sir.

Q. Did the subsequent conversation on his part appear to be free and voluntary?

A. It did.

Q. Did he appear to be polite and cordial during that conversation?

A. He appeared to be.

Q. Did he indicate any reluctance whatever to talk to you fully?

A. No, he did not.

Mr. MINIER: Your Honor, that would complete the questions that we have on direct examination of the witness regarding the Miranda phase and the voluntariness of the statements.

I realize that we have cross-examination now, but at the point where the Court wishes to concern itself with the subject matter of the conversation, I do have a four-page -- or five-page report. It is not a verbatim transcription of the tape. It is merely a

summary report that we can show to the Court and defense counsel have copies, and I would represent that testimony to be given by this witness regarding that conversation would be in substantial conformity to what is on the report.

THE COURT: All right, I would like to see that after we get done with the foundational part.

Mr. MINIER: Thank you, your Honor. I have no further questions.

Mr. LINDSEY: May I question your Honor?

THE COURT: Yes.

CROSS EXAMINATION

BY Mr. LINDSEY:

Q. Mr. Rapp, where is the original of this form that has been identified as Exhibit 49 for identification?

THE COURT: Mr. Lindsey the document hasn't been offered in evidence. If it is offered in evidence I will sustain your objection to it in order to avoid spending more time on it, because we already have the waiver, prima facie at least, orally articulated by the defendant according to the testimony of the witness which, as I understand it, is the only way that you can waive it, and you can't do it on a printed form. So without particular regard to the soundness of my decision if the document is offered in evidence I am going to sustain your objection to it, if you object, on the theory that the waiver part is already out of the way on a prime facie basis, and the jury is never going to hear anything about this -- the jury is never going to hear it. Your case isn't prejudiced, particularly if I sustain your objection to it.

Mr. LINDSEY: Your Honor, as I understand the rule under *People vs. Randall*, which is a supreme Court case, if a person is in custodial care and if there has been any indication that a defendant up to that time has not desired, -- or has not consented, then the only way that they can establish the consent is by having something taped of his voice, or a form signed, then in the absence of those under *People vs. Randall*, there is no voluntary consent and the statement --

THE COURT: (Interposing) You are talking about -- I am not going to preclude you in any way whatsoever from showing that his consent, if any, was not voluntary. What I am telling you, is that I am not going to consider this printed form consent on that question. I will in no way be influenced in my decision by the fact that he signed something -- I haven't even read it, and I don't intend to read it, because it is my view of the case that you cannot prove a waiver by a written consent. Obviously, there would be no harm in having a little of both, if you had it both orally and in writing it makes it stronger. So in the ordinary course of events I wouldn't sustain your objection, but you are so concerned with the matter now that out of an excess of caution, and in order to disallow your concern I will sustain your objection to it, and that it seems to me completely sets at rest the question of this written consent. I am not going to consider it. The jury will never know, so why spend any more time on it. That is all I am saying. I am trying to cut a little time, and I elect to do it that way, and I think it is a fair way to do it.

Mr. LINDSEY: I do object to the form coming into evidence, your Honor.

THE COURT: There has been no offer of it in evidence.

Mr. LINDSEY: Secondly, I would then move the Court to strike all of his testimony concerning the written form.

THE COURT: I have already passed on that motion and denied it. You made that motion before, and I denied it. Again, the jury hasn't heard it.

MR. LINDSEY: I am troubled, if the form does not come in but all the oral testimony concerning it is allowed to stand, is all, your Honor, that troubles me.

THE COURT: If you want it in. I may let it in.

Mr. LINDSEY: I was making a motion -- I see, you mean on the form?

THE COURT: I have been assuming you didn't want it in. You have been fighting any reference to it. If you want it in, why don't you offer it?

MR. LINDSEY: No. I don't want the form in, merely because it wasn't provided when I think they had the duty to provide it timely-wise.

THE COURT: Well, if you don't want it in, it won't come in, so let us pass on to something else.

MR. LINDSEY: Well, I am confronted with a problem of oral testimony of the agent, then, your Honor being almost automatically a preponderance of the evidence in itself, but I will attempt to question him in that regard.

Mr. LINDSEY:

Q. Mr. Rapp, this was on the Saturday evening when you went to County jail with Mr. Ryan, is that correct?

A. Yes, sir.

Q. Was there a third person along with you?

A. No sir.

Q. Just Mr. Ryan and you; is that correct?

A. Yes.

Q. Your purpose of going there was to talk to Mr. Yanikian because it might relate to the new Federal Act concerning acts against foreign diplomats; is that correct?

A. Yes.

Q. Now, when you arrived at the County jail, you cleared through the authorities there to be able to have a discussion with him, didn't you?

A. Yes, sir.

Q. And you were provided with an interview room; is that correct?

A. Yes, sir.

Q. Now, which interview room was it that you used

A. I don't recall any number of it. As far as I am concerned, there is only one that we have ever used since the new jail opened, a small room that is separate and locked that provides a small desk and three chairs.

Q. Let me see if I can understand where it is.

You came through the three different locked doors in the jail?

A. Yes.

Q. And you get to the back near where the attorneys' conference booths are, you know where these are on the left side as you go back?

A. On the left, yes, sir.

Q. Then, were you directed to the right?

A. To the right.

Q. Maybe about 20, 30 feet down on your left was the room with a little table and three chairs?

A. Yes, sir.

Q. Were you aware that that room normally has bugging and recording equipment in it to record surreptitiously what happens in that room?

A. No, sir, I m not.

Q. Is this the first time that you have heard that that's the bugging room?

Mr. MINIER: Objection, your Honor that assumes a fact not in evidence.

THE COURT: Sustained.

Mr. LINDSEY:

Q. Mr. Rapp, to your knowledge, was any tape recording ever made by the Sheriff's Department of what went on in that room where you conducted the interview?

A. Not to my knowledge at all.

Q. Did either you or Mr. Ryan , to your knowledge, make any advance arrangements with the Sheriff's Department for the taping of any of the conversation that took place in that room?

A. No, sir.

Q. Are you aware in that very same room that there is a microphone near the light switch on the main door, and that microphone may be turned on automatically without you being aware of it and heard in the central control room?

Mr. MINIER: Objection, your Honor, it assumes a fact not in evidence.

THE COURT: Sustained.

Mr. LINDSEY:

Q. Was there a microphone box right near the light switch, Mr. Rapp, as you went in the door?

A. There is device there which you can summon the jail deputy, and that is the only one I am aware of.

Q. Did you recognize that as a two-way speaker mechanism of some other part of the jail?

Mr. MINIER: Objection, your Honor, upon the grounds that that subject matter is not relevant to the determination of whether the Miranda Rights were given and there was a voluntary waiver.

Mr. Lindsey: It is material, though—

THE COURT: I suppose if someone else heard it, it would be relevant, you could call that person in, overruled.

Mr. LINDSEY:

Q. Now, Mr. Rapp, when you were in the room, was Mr. Yanikian already waiting for you?

A. As I recall, we entered together.

Q. Then there were just the three of you in the room sitting at the desk?

A. Yes.

Q. You did not observe any cord that led from the desk to the aperture in the wall?

A. No, sir.

Q. Now, what is the first thing you said to Mr. Yanikian?

A. I don't recall the first thing I said to him.

Q. Did you bring with you here some notes that you made of the conversation?

A. I have no notes, other than my typed interview report.

Q. May I see, that, please?

A. (Witness handing.)

THE COURT: Is this the one that you offered to give me a copy of?

Mr. MINIER: Yes, your Honor.

THE COURT: I wonder if I can see yours now while Mr. Lindsey is looking at that.

Mr. LINDSEY:

Q. Mr. Rapp, do you recall when it was that you provided a copy of this to Mr. Minier's office?

A. As I remember, the Assistant United States Attorney from Los Angeles responded to a motion here on March the 2nd, and I think as a result, within a few days after that, I was instructed to give copies of that to Mr. Minier with the understanding it would be made available to you, Mr. Lindsey.

Q. Was that done, then, some time in the month of March to your knowledge?

A. I think it was between March the 2nd and March the 8th, because on the letter date of March 8, I made available to him some 125 pages of documents and photographs.

Q. Now where are your original notes of this conversation that occurred in the jail?

A. Original notes have been destroyed when this was typed, and I have proofread it.

Q. Did you do the destruction of these original notes?

A. I did.

Q. I notice that the interview was on Saturday January 27th, the dictation for the purpose of this report was two days later on January 29th, is that correct?

A. Yes, sir.

Q. Then. Two days later, the 31th is when it was finally transcribed according to the dates at the top of the date of transcription?

A. That would reflect it took two days for the steno to receive a dictaphone belt and transcribe it.

Q. Did Mr. Ryan make notes of the conversation?

A. As I recall, he did not make notes.

Q. Did you make all the notes?

A. I made the notes.

Q. Now, when you commenced the discussions with Mr. Yanikian, did you say or do anything prior to the time that you say that you advised him of his constitutional rights?

A. Can you be more specific, please; what do you mean?

Q. When I refer to the constitutional rights, I am referring to those things commonly called the Miranda Rights as they existed on your card.

A. Yes, sir.

Q. Before commencing the reading of any of those rights from your card, was there any comment, either by Mr. Yanikian, Mr. Ryan or yourself?

A. Well, there was the identification which I related, and the purpose for, the interview, which I related, and then the statement to him that we would not talk to him until he had read the statement of his rights.

Q. Now, are you saying, then, that the rights were not read to him, by Mr. Ryan or by you?

A. First he was, offered the form and he read it, and then Mr. Ryan went over in summary making note of those five points.

Q. Well, then, is it your recollection that either one of you handed a written form to Mr. Yanikian and then after, a few moments, Mr. Ryan sort of summarized the

- points, is that it?
- A. After he had an opportunity to read it and we sat there and waited for him to read it a sufficient time, and then Mr. Ryan took the form back and reviewed it before he was asked to sign.
- Q. My question was, did he summarize the contents of the form at that point?
- A. In the five paragraphs noted here which I mentioned in response to Mr. Minier's question.
- Q. Are you referring to a particular part in the report?
- A. I am referring to the first one mentioned. You have the right to remain silent, then the fifth, one to five inclusively.
- Q. Well, what I m getting to basically, is that neither Mr. Ryan nor you read verbatim the rights to him, then did you?
- A. That is true.
- Q. And after the summarization that was done by Mr. Ryan, then the questioning, or interrogation commenced?
- A. Then he was asked if he understood the summary which was stated to him, and asked if he was willing to talk to us, and if he would sign it, indicating his consent to talk to us.
- Q. Then the interrogation commenced?
- A. And then it commenced with one other detail, in that Mr. Yanikian had asked for a glass of water at this point, then we went to the locked door and either by tapping on the door, or pushing the button, the jail deputy responded and we told him that Mr. Yanikian wanted a glass of water.
- Q. Well, now, let me ask you this, because I am testing your recollection of those events at that time, isn't it a fact that by tapping on the door no deputy would have come, and that the only way you got a deputy is by using the intercom system, that microphone that is right there by the door switch?
- A. Mr. Lindsey I have tapped on the door, and as you mentioned, it is about twenty steps away, or twenty feet away from where the jail deputy sits at his desk there.
- Q. Well, then, did you tap on the door?
- A. I don't recollect if I tapped on the door, or if I did press the button and talked -- and spoke over the intercome.
- Mr. LINDSEY: I have no further questions, your Honor.
Thank you, Mr. Rapp.

REDIRECT EXAMINATION

BY Mr. MINIER:

- Q. Just one thing, Mr. Rapp, do you recall the manner in which the Rights were summarized after Mr. Yanikian read them, by Mr. Ryan, do you recall what Mr. Ryan said?
- A. Well, as I said in response to your question at first, that these five particular sentences were stressed in that.

THE COURT: Just tell us what he said, as nearly as you can recall, please.

THE WITNESS: Well, without reading these paragraphs verbatim, he mentioned the high points of the meaning of each one.

THE COURT: Just tell us what he said, as nearly an you can remember.

THE WITNESS: He said you have the right to remain silent. Anything you say can be used against you in court. You have the right to a lawyer for advice before we ask any questions and if you cannot afford a lawyer one can be appointed for you, and if you decide to answer questions now without a lawyer, you still have the right to stop answering questions, and you can stop answering questions any time until a lawyer is furnished to you.

Mr. MINIER: Thank you, Mr. Rapp. I have no further questions, your Honor.

Mr. LINDSEY: Your Honor, I am having some difficulty with my record because of the manner in which they come over, and I would like to ask Mr. Minier if he has a recollection of my being provided with a copy of the report.

Mr. MINIER: Well, yes, I have a receipt that it was provided with all of the FBI reports at the same time, all of them came over and they came over in about an inch-thick file sometime in early March.

Mr. LINDSEY: I would ask for a five-minute recess, your Honor, so I may check my file, on it. I would advise the Court that they are in my office across the street, and I need to check on this aspect.

THE COURT: Well, that doesn't have anything to do with the Miranda problem, that just has to do with -- well, we are about to take a recess, anyway, but let's see where we stand on the Miranda foundation.

Anything further of this witness?

Mr. LINDSEY: No, your Honor.

Mr. MINIER: No, your Honor.

THE COURT: Any further evidence on behalf of the People on a sufficiency of the Miranda advice and waiver, on this particular alleged confession?

Mr. MINIER: No, your Honor.

THE COURT: Anything on behalf of the defendant, Mr. Lindsey?

Mr. LINDSEY: One second your Honor—your Honor, we have a practical problem on this, and I am wondering if the Court may consider a recess and if we may respond to that immediately after as we have a question as to whether to put a witness on the stand at this point or not.

THE COURT: All right. We will take a five-minute recess

(Whereupon there was a five minute recess)

THE COURT: All right, gentlemen.

Mr. LINDSEY: Your Honor, I appreciate the recess, and I can advise the Court, by reason of it, we have made a decision. I think we can save time, I would not plan at this point to call any witness to the stand. I'm willing, to submit the issue to the Court.

THE COURT: All right. On that issue of whether or not the defendant was properly advised by Mr. Rapp's associate -- whose name I have forgotten, I think it was Riley.

Mr. MINASIAN: Ryan, your Honor.

THE COURT: -- of his rights under Miranda versus Arizona, the Court finds that the evidence preponderates in favor of the conclusion that he was so properly advised, and that he, knowingly and intelligently and voluntarily, waived his rights under the Miranda Decision, and that his statement to the FBI agents is therefore admissible. With reference to the content of that statement, the only portion that I think the agent should be cautioned not to mention in the presence of the jury is found, I believe in

either the last line or very close to the last line on the last page. Same problem we have had before, gentlemen.

Mr. MINIER: Your Honor, we are agreeable to that, and actually the agent, I believe, had planned to make no reference to any matters past the middle of page four, because they are not directly related.

THE COURT: The rest of it appears to me to be admissible. However, if you have a reason to assert why any part of it you think should not be, Mr. Lindsey, I will hear whatever you have to say.

Mr. LINDSEY: Your Honor, I would concur with Mr. Minier's observation that that one portion the agent may be cautioned on that, and I would agree, in view of the Court's ruling that the remainder of it would appear to be admissible under the ruling of the Court.

THE COURT: All right. Now, that leaves, then, the tape-recorded statement in the presence of the Detective Baker, and Crook.

This one I have not read yet, gentlemen.

Now, do we have some foundational evidence to be taken on this?

Mr. MINIER: Yes, your Honor. We can do that whenever the Court wishes to hear it.

THE COURT: Fine. I think now will be the best time.

Mr. MINIER: All right, Detective Baker, please.

THE CLERK: If the Court please, may I ask first was 48 accepted into evidence?

THE COURT: Forty-eight?

THE CLERK: From which you removed certain excerpts.

THE COURT: Yes. If it already hasn't been, It is.

Well now, wait a minute, no, we haven't received it yet, we still have a translation problem.

THE CLERK: Thank you, sir.

WILLIAM A. BAKER

Produced as a witness for and on behalf of the People, was thereupon duly sworn and testified as follows:

DIRECT EXAMINATION

BY Mr. MINIER:

Please state your full name

A. William A. Bake—B-a-k-e-r.

Q. What is your occupation, Mr. Baker?

A. I am deputy Sheriff for the County of Santa Barbara.

Q. Were you so employed on Saturday the 27th of January of this year?

A. Yes, I was.

Q. And on that day did you have occasion to have a conversation with Mr. Yanikian, the defendant, in the Santa Barbara County Jail?

A. Yes, I did.

Q. Could you please state where in the jail the interview took place, at what time and who was present?

A. I beg your pardon, the interview was not in the jail, it was in the Detective bureau.

Q. Is that in the Administration Building across from the jail?

A. Yes, it is.

Q. Would you please tell us where within the Administration Building the conversation took place, at what time and who was present?

A. The conversation took place in the interview room in the Detective bureau at approximately 14:45 hours – 2:45 p.m.

Q. Who was present, please?

A. Detective William Crook and myself.

Q. And the defendant, correct?

A. That's correct.

Q. Now, prior to your having any discussion with Mr. Yanikian did you advise him of any of his legal rights?

A. Yes, I did.

Q. Could you please tell us exactly what was said by you in that regard?

A. Utilizing a Right and Warning and Waiver form that is provided by my department, - I neglected to bring it up with me. It's at the rear of the courtroom, if I may get it,

Mr. MINIER: May the officer get that, your Honor?

THE COURT: Yes.

(Whereupon the witness withdrew from the witness stand and returned.)

Q. BY Mr. MINIER: Do you have the Rights form with you?

A. Yes, I do.

Mr. MINIER: Your Honor, may we have this marked for identification as People's No. 50 -- well, may I ask you another question if I might, your Honor?

THE COURT: Yes.

Q. BY Mr. MINIER: Do you have with you both the original of the Rights card or paper, and also an exact copy?

A. Yes, I do.

Q. And was this signed by Mr. Yanikian the original, that is?

A. Yes, it was.

Mr. MINIER: Now, could we have the exact copy marked as People's 50 for identification?

THE COURT: Yes.

(Whereupon, a Miranda Rights Warning form was duly marked as People's Exhibit No. 50 for identification purposes only.)

Mr. MINIER: And also, your Honor, I handed the clerk what I believe is an exact copy of the transcription that we gave the Court earlier regarding the conversation between Detective Baker and the defendant, and I wonder if we might have that typewritten transcription marked as People's 51 for identification

THE COURT: Yes.

(Whereupon, a typewritten transcription of conversation between Detective William A. Baker and the defendant was thereupon duly marked as People's Exhibit No. 51 for identification purpose only.)

Q. BY Mr. MINIER: Mr. Baker, could you now tell us please exactly what was said as to Mr. Yanikian regarding his rights and what, if anything, he replied?

A. I explained to him that before we talk to him that I wanted to advise him of certain rights. I handed him a copy of Form SH270 which is the Specific Warning and Waiver form, and I asked him to read the form to himself, as I read aloud from a duplicate form.

As I handed him the form--

THE COURT: (Interposing) was this on tape?

THE WITNESS: Yes, sir, it was.

Mr. LINDSEY: Your Honor, perhaps it would be helpful to the Court, it is on page 1 and 2.

THE COURT: I know that. All right. Go ahead.

THE WITNESS: As I handed him the form, he began to read the form out loud. He stated, in part, "You have the right to remain silent, anything you say can be used against you in a court of law. You have the right to talk to a lawyer. If you cannot afford to hire a lawyer"-- and at that point I interrupted him and I asked him if he could read the form to himself while I read the admonition aloud.

I began reading from the form (reading)

"You have the right to remain silent. Anything you say can be and will be used against you in a court of law. You have the right to talk to a lawyer and have him present with you while you are being questioned. If you cannot afford to hire a lawyer one will be appointed to represent you, before any questioning, if you wish one."

I asked Mr. Yanikian, "Do you understand each of these rights I have explained to you? And having these rights in mind, do you wish to talk to us now?"

Mr. Yanikian had some difficulty during the admonition, and at various times I repeated the specific warnings to him until I felt that he had understood each of the specific warnings.

Upon asking him if he understood each of those rights that I had explained to him he indicated that he had and asking him, "Having these rights in mind do you wish to talk to us now?" He stated "if you ask questions I answer".

Q. Now, at any time during the ensuing conversation, did you have occasion to come back to the subject of the legal rights?

A. Yes. Later in the conversation I did.

Q. Does that appear, incidentally, on one of the pages of this transcription of the tape recording?

A. Yes. I believe it is page 15 at the top.

Q. Could You tell us what was said in that regard?

A. I called Mr. Yanikian's attention once more to the form and explained under item five if he understood each of these rights that I had explained to him.

He stated, "Yes." And I circled "yes" on the form.

I stated, "Okay, and having these rights in mind, do you wish to talk to us now?"

He replied, "Is true." And again I indicated on the form that this was his indication.

I then had Mr. Yanikian sign the form, as well as myself and Detective Crook.

Q. Did Mr. Yanikian appear to have read the waiver form in your presence?

A. Yes.

Q. And did you also, before you gave that to him or before you asked him to read it, ask if he could read English?

A. Yes, sir. I did.

Q. What did he reply in that regard?

A. He said, "Oh, sure."

Q. Was it after he had appeared to read the form that he signed?

A Yes, it was after he had partially read it out loud, then read to himself as I read it out loud and following this he signed it.

Q. And did he sign it only after you had orally given the rights that you just testified to and after the defendant had orally indicated that he understood the rights and was willing to answer questions?

A. Yes, sir.

Q. Now, in the conversation that followed; or prior to the conversation that followed, did you make any kind of a promise or any kind of an offer to the defendant in the form of an indication of leniency or immunity from prosecution or reward or in any way going easy with him if he would talk to you?

A No, none at all.

Q. Did you in any way indicate he might get better treatment in the jail if he were to talk to you?

A. No.

Q. Did you make any kind of a threat or exert any coercion against him in order to get him to talk to you?

A. No, sir.

Q. Did the conversation on his part appear to be free and voluntary?

A. Yes.

Q. Did he appear to be pleasant and cooperative throughout the conversation?

A. Substantially, yes.

Q. I have no further questions on this particular issue, your Honor.

THE COURT: All right.

Mr. LINDSEY: Your Honor, if it pleases the Court, I would desire to have read into the record that portion on page one and two and a portion on page 14 and 15 for the purposes of this, and if I may do that, I will probably have no questions of Mr. Baker.

THE COURT: All right.

Mr. LINDSEY: Referring to the transcript prepared of the conversation that Mr. Baker has been referring to and commencing on page one. I would say partway down in the middle, your Honor, where the letter and I believe is for Baker:

“B”: Sir, is your last name Yanikian?

“D”: Gourgen Yanikian.

“B”: Sir, before we talk to you in any depth, I want to advise you of a few things first, okay? Can you read English all right?

“D” Oh, sure.

“B” Okay. Why don’t you read that to yourself while I read it out loud to you. All right? Under specific warning. See where it’s numbered 1, 2, 3, 4?

“D”: You have the right to remain silent. Anything you say can be used against you in a court of law. You have the right to talk to a lawyer. If you cannot afford to hire a lawyer--

“B”: Okay, why don’t you read it to yourself, sir, and I will read out loud to you, Okay? You have the right to remain silent. Anything you say can and will be used against you in a court of law.

“B”: You have the right to talk to a lawyer and have him present with you while you are being questioned. If you cannot afford to hire a lawyer one will be

appointed to represent you before any questioning, if you wish one. Now, do you understand each of these rights I have explained to you? Do you understand them? Do you have any question at all about them?

“D”: Only a little, because I have one ear, my other ear is dead, twenty five years. Please, if sometimes I ask....

“B”: Okay. I’ll be glad to repeat it. Do you understand what I just advised you though?

“D”: I understand.

“B”: Okay. Having these rights in mind, the rights explained to you, do you wish to talk to us now about it? Do you wish to talk to us about it, keeping these rights in mind? The rights I’ve just explained to you?

“D” Yes.

“B”: Now keeping these rights in mind...

“D”: Yes.

“B”: Do you wish to talk to us about it?

“D”: Write this out?

“B”: No, I say, keeping these rights in mind, that I just explained to you, do you want to talk to us about it? Do you want to talk to us about what happened today?

“D”: If you ask questions, I can answer.

“B”: Do you want to talk to us about what happened today, then?

“D”: “I killed. I called the Sheriff office. Ask superior officer. I no have answer. Then I call switchboard and I told my name and my room. I kill two people. Call Sheriff Office, that I am waiting, they came and he take me.”

That’s as far as on that part, your Honor.

Mr. LINDSEY: (Continuing) on page 14, down near the lower part of page 14, your Honor, where Mr. Crook, I believe the letter C stands for Mr. Crook, is that right Mr. Baker?

THE WITNESS: Yes.

Mr. LINDSEY: Mr. Cook is asking the questions, and his question would start “Mr. Yanikian can I ask you one thing. We have asked you quite a few questions and we have got your reasoning why you did these thing and what have you.”

Mr. Yanikian replied “You asked me questions which is connected, you know, --,” and then Mr. Crook, “What I would like to do, would you just give us a written statement in your own hand as to your own handwriting, as to what occurred today, just however you want to phrase it. It can be brief or whatever else.”

And Mr. Yanikian, “ Because any president tell “Think not what this country can give you, think what you can do for country,” our president tell “is time now. We can take citizen, each citizen, you know, think about what he can do for his country.”

And then Mr. Baker, “Mr. Yanikian, would you do me a favor, see this form that I read to you before?”

And then Mr. Yanikian, “ Yes.”

“Mr. Baker: Okay. Under 5, do you understand each of these rights I have explained to you?”

“A: Yes.

“Mr. Baker: I circled “Yes”

Mr. Yanikian: “Yes, yes.”

And then Mr. Baker, "Okay, and having these Rights in mind, do you wish to talk to us now?"

And the defendant, "It is true."

And Mr. Baker, "Yes, Okay. Would you sign it, right there? Thank you."

Mr. Yanikian, "Thank you. Only what I ask, maybe you can help, because I no have anybody can bring me undershirt, toothpaste, so and so, prepare my case, you know,"—

And then, your Honor, that would be all at that point. I have no further question.

Mr. MINIER: I have nothing further, your Honor.

THE COURT: All right. That is all, Mr. Baker.

Mr. MINIER: Oh, pardon me, your Honor, I am sorry. I should ask some more questions regarding the transcription from the tape.

THE COURT: All right.

Mr. MINIER: Thank you, your Honor.

DIRECT EXAMINATION(Continuing)

BY Mr. MINIER:

Q. Mr. Baker, regarding the preparation of the document which is People's No, 51, I would like to show it to you and ask you if you can identify People's No. 51 for identification as a verbatim transcription of the tape recording made of the conversation between you and Detective Crook and the defendant?

A. Yes, it is.

Q. Now, was all of the conversation that you had at the time and place you just described tape-recorded?

A. Yes, it was.

Q. And then did you supervise and direct the preparation of People's Exhibit No. 51 for identification?

A. Yes, sir, I did.

Q. Would you please tell us in what manner the tape recording was transcribed?

A. Yes, sir,--interview room by myself and listened to the tape, and took handwritten notes of the transcription as I understood it. Upon completion of this I reduced my handwritten notes to rough typewriting notes so I could better read my own writing. After I was satisfied with the content I submitted this to a secretary in our office for a final -- correction, for a typewritten copy of the transcription so I could in turn read this and determine if it was an accurate representation of the notes as I had taken them originally.

Q. And what did you find in that regard when you compared People's 51 for identification with what you heard on the tape recording?

A. The finished copy is a true representation of what I heard.

Q. Was this tape recording under the basis of which you prepared People's 51 for identification an unadulterated tape recording which truly recorded all of the conversation between you and Mr. Cook on the one hand and Mr. Yanikian on the other?

A. Yes, sir.

Q. And when you say that you took these notes as you listened to the tape recording you mean that you took down verbatim notes of what you heard on the tape?

A. That's correct,

Q. And then you in turn wrote out verbatim a verbatim typewritten document from your notes which you then submitted to a secretary?

A. Yes.

Mr. MINIER: I have nothing further, your Honor. We would offer People's 51 into evidence. I realize that should it be received that before it can be received there will probably have to be certain agreements based upon the listening to that tape by the defendant's attorneys,

THE COURT: Yes. All right. Anything further, Mr. Lindsey, of the witness?

Mr. LINDSEY: Nothing further of the witness, your Honor,

THE COURT: All right. You are excused, Mr. Baker.

(whereupon the witness was excused and withdrew from the stand.)

THE COURT: Any further evidence regarding the sufficiency of the Miranda warnings, or the weight thereof, and the free and voluntary nature of the statement?

Mr. MINIER: None on our behalf, your Honor.

Mr. LINDSEY : None on our behalf, your Honor.

THE COURT: All right. The Court makes its independent determination that the Miranda warnings were properly given and that the defendant made a free, voluntary, knowing and intelligent waiver thereof, and that the statement he thereafter made was in all respects free and voluntary.

Now, what we have got left is the translation of the two tapes, isn't it? Is that right?

Mr. LINDSEY: Yes, your Honor.

THE COURT: And this requires you to hear them?

Mr. MINASSIAN: Yes, sir.

THE COURT: All right, I guess we better recess.

Well, all right, gentlemen, I would think that you should have time between now and 10:00 o'clock tomorrow to make up your mind as to what you can agree to. I probably have a sufficient foundation before me right now to rule upon the admissibility of these tapes. All I have before me is that each transcript is a true and correct one of what was said. I have no contrary evidence. I wish to give you the opportunity to check on that, and that is why -- that is what we have been doing, and why we are going to recess early so that you can compare the transcripts against the recording.

I am in hopes that when we reconvene tomorrow at 10:00 o'clock we can have all of these translation problems resolved. If we haven't, I may just rule on the basis of what I have now before me.

Mr. LINDSEY: Your Honor, in the event, which I don't anticipate, because I m sure that Mr. Minier will --

THE COURT: (Interposing) Or I may hear the disputed part read to me on the tape and rule on that. I don't know. I m so little impressed with my own ability to figure out what you people can't figure out, and what the people there couldn't figure out, that it seems to as kind of a waste of time.

Mr. LINDSEY: Other than abundance perhaps of caution, your Honor, we have not cross-examined the witnesses on the discrepancy areas, having in mind that we would be working on those tapes first, and the transcript, so in the event that the Court might determine, it would desire to rule that those transcripts may come into

evidence, I would be in a very awkward position having had in mind that I was of the impression that we would be able to go through those clarification areas first and --

THE COURT: I have given you that opportunity right now, I am giving you the rest of the afternoon until tomorrow morning at 10:00 o'clock.

Mr. LINDSEY: I know. We worked until after midnight last night at the jail, your Honor, and we will try to do the same thing tonight, but -- we will certainly try to have it done by 10:00 in the morning.

Mr. MINIER: Your Honor, might I offer an observation in that regard, from some preliminary indications I have gotten it would appear that we are going to be concerned not merely with the portions of these typewritten transcripts which are now marked "Unintelligible," but we are going to be involved in suggested changes of what apparently are a good number of words. I frankly suspect that if we merely come back into court at 10:00 without having any guidance from the Court, I doubt very much if we are going to be in a position where we will be agreed. In other words, I am looking at this point towards a substantial conflict between our version of what was said and the defendant's version.

THE COURT: Well. If it comes to that, and there is a substantial conflict, I will do one of two things; I will either admit those documents into evidence on the basis of the foundation presently laid for them, or I will excuse the jury for such period of time as it takes me to hear them.

How Much would that be approximately, gentlemen, to hear the two tapes myself?

Mr. LINDSEY: An hour and a half.

Mr. MINIER: Might I ask Mr. Baker, your Honor. I think he knows.

Detective Baker do you know how long the two tapes combined are?

DETECTIVE BAKER: I would say no longer than an hour and forty-five minutes.

Mr. MINIER: He says no longer than an hour and forty- five minutes.

THE COURT: Why don't we just start playing them right now on the off chance I might have to hear them. Let's get the first one in, I will play it, follow it, I will at least then know whether listening to it is going to be of any help to me whatsoever. I don't think it is going to be any help. It may even be worse than no help, based upon the tapes I have heard before. I am not being critical of anyone. I have a little home recorder that does a lot better than all the tapes I have ever heard in law enforcement agencies. Maybe there is some reason for that, but I can never make head or tail out of it.

Mr. LINDSEY: Your Honor, I am troubled about the possibility the Court may allow them in merely on the foundation that has been laid.

THE COURT: I very well may do that. I think I have that right. I think we spent enough time, gentlemen on this. We have spent a whole day. I don't intend to keep that jury cooling its heels in this case any longer.

Mr. LINDSEY: Your Honor, if that is to be any kind of a possibility, I would move immediately to be allowed to put these witnesses back on the stand and do the work in the courtroom on the witness stand that we are trying to do outside of the court, because there are too many areas in that that are relevant and --

THE COURT: You had the chance to cross-examine them. They were on the stand. I didn't mislead you any, did I?

Mr. LINDSEY: No. But it is my impression that our working in the back room was to take the place of all the work in the courtroom. If we are going to be cut off from that and the Court rule on the foundation--

THE COURT: Call the witness back and we will have it out right now. Who do you want first?

Mr. LINDSEY: Whoever is on that first one.

THE COURT: Well, let's see. Who -- the first one was Mr. Norton. Is Mr. Norton here?

Mr. MINIER: Your Honor, I must confess I didn't know Mr. Norton would be required here.

THE COURT: I didn't either. I just thought he might be here. Is Mr. Rapp here -- we don't need him because that's not a tape. Mr. Baker is here, I take it. Well, can we send for Mr. Norton and take up the cross-examination -- would you take the stand, Mr. Baker. I intend to get this case going to the jury again tomorrow, gentlemen. I am telling you that right now.

Mr. MINIER: Your Honor, we can send for Mr. Baker if we are going to be playing the tapes as part of the cross-examinations, I doubt if we would ever get to Mr. Norton.

Mr. LINDSEY: I am going to ask that the tapes be played and everyplace in this transcript that's unintelligible that we play that part to this witness --

THE COURT : I will not permit it.

Mr. LINDSEY: Then I would object to it on the grounds that there are over 50 places on it unintelligible in the transcript.

THE COURT: I have given you until ten o'clock in an effort to straighten out these things. I don't think you are going to get anywhere. As I say, I am going to hear the tapes. I am going to change my mind, Mr. Baker. I am going to hear the tapes right now, and I will decide on the basis of what I hear whether there is any point whatsoever in cross-examining people on what is intelligible and what is unintelligible.

All right, can we get these machines here? How long will it take to get the tapes in here?

Mr. LINDSEY: If the machine is still in back, only a couple of seconds. Is Mr. Begg still here?

If we have the machine, it would only take us a second, your Honor.-

Mr. MINIER: I think they are here, your Honor.

I am informed that the tape recorder is in the back, and is being brought up right now, your Honor.

THE COURT: In cross-examination of the witnesses, Mr. Lindsey, on the basis of the tape, is something I would permit you to do in the presence of the jury if you want to, that's your business. I'm not going to permit you to do it here in this session in the absence of the jury. If you have got anything to demonstrate to the jury to the effect this transcript is not correct or is inaccurate or what not, why certainly you can bring that out, I wouldn't preclude it, but I am going to have you do it in the presence of the jury.

Mr. LINDSEY: Your Honor, what I proposed to do is to review with the witness a number of areas in the tape that he had listed as unintelligible and to see if he agrees as to what is the intelligible transcript of it so we can correct this written exhibit that's being asked to be given to the jury as evidence.

THE COURT: I haven't passed on it yet. They have both been offered. I haven't ruled yet.

Mr. LINDSEY: If the Court would desire. I don't mind doing it in front of the jury if that will save time, so long as I get to do it somewhere before this written thing comes into evidence.

THE COURT: All right. Let's get the tapes played, because I have to hear that before I can rule.

Mr. LINDSEY: Your Honor, to save time on it, too, there are several places that are marked unintelligible I have deemed—at least in my part of it, in the early part several of those areas that are immaterial, even though they are unintelligible, I raise no question on them, so I would indicate to the Court as we go through there of the areas -- those that cannot be determined, I do not think they are material to the transcript.

THE COURT: All right.

Mr. MINIER: Would you like to have the officer remain at the machine so he can stop and start it whenever it is required?

MR. LINDSEY: Does the Court have a copy of it?

THE COURT: Yes.

Mr. LINDSEY: Your Honor, the entire first page--

THE COURT: We will hear the whole business.

(Whereupon the tape was played and reported as follows:)

“Q”. How do you spell your last name?

“A”. Huh?

“Q”. How do you spell your last name?

“A”. Yanikian Y-a-n-i-k-i-a-n.

“Q”. Okay, I got the-- I have your license right here.

“A”. (Not reportable.)

“Q”. Okay. You live at the Biltmore Hotel?

“A”. Yes.

“Q”. Room number what, sir?

“A”. 34.

“Q”. Do you have a phone in your room, sir?

“A”. Yes. No number.

“Q”. Goes through the switchboard?

“A”. (Not reportable.)

“Q”. Are you under any medication right now?

“A”. (Not reportable.)

“Q”. How do you feel now; are you sick, do you need any medication?

“A”. I feel okay. *** (not reportable.)

“Q”. Did you get hurt, did you get hurt today?

(Whereupon, the tape recording being played. Tape recording not reportable.)

(Whereupon, the tape recording machine was turned off.)

Mr. LINDSEY: Your Honor those are the areas right there that we had a couple of corrections to suggest to the Court. When he asked where his wife lives and it says--

THE COURT: (Interposing) Yes, I saw it.

The question was “reside” -- is that what you are talking about?

Mr. LINDSEY: Yes. She lives now and the words actually are "Beverly Manor."
THE COURT: Oh, all right. And I noted that instead of, saying "Where does your wife live?" it says, "Where does your wife reside?"
Mr. LINDSEY: That I wouldn't care about. The answer, though, where it is unintelligible, she lives now at Beverly Manor, in hospital, in rest home. Then the question was "Beverly Hills?"
THE COURT: Well, all right. That is something that is a matter of no consequence, is it? Can't you work that out between yourselves? Is there going to be any dispute as to whether he said "Beverly Hills" or "Beverly Manor?"
Mr., MINIER: Well, we will be happy to stipulate to that change, your Honor.
THE COURT: Let's not take these up. I want to hear this whole tape and see how faithful it is, and I am not going to be particularly disturbed as to whether it is Beverly Hills or Beverly Manor where his wife lives.
Mr. LINDSEY: Would your Honor care to make reference to the one that we have where Mr. Minasian has indicated the changes?
THE COURT: No. I want to read the one that is marked for identification, that is the one that I am going to have to pass upon if you don't get together.
Play the tape please, Mr. Baker,
(Whereupon the tape recording being played; the proceedings not reportable.)
(Whereupon the tape continued to play and was not reported.)
THE COURT: All right, Officer, I think that's it for today. 10:00 o'clock tomorrow morning, gentlemen.
(At 4:40 p.m. an adjournment was taken until Wednesday, June 13, 1973, 10:00 a.m.)
date.)

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**13. SANTA BARBARA, CALIFORNIA, WEDNESDAY, JUNE 13,1973;10:00  
A.M.**

**MORNING SESSION**

THE COURT: All members of the jury are present, the alternate jurors are present and the defendant.  
All right, gentlemen, have you been able to resolve anything since we recessed regarding these transcripts?  
Mr. MINIER: Your Honor, we have had no further contact with either of the defense attorneys after we adjourned yesterday afternoon.  
Mr. LINDSEY: Your Honor, at the time that we broke off contact I was advised by representatives of Mr. Minier's office that they would be unable to agree in a substantial way on the corrections, and therefore there was no further need to proceed further.  
I would suggest to the Court in view of that, that we did nothing further because it would have been a complete waste of time, so I think at this point that we cannot reach any agreement on it, and it would have to be whatever the Court determines to do on it.  
THE COURT: All right. Then, if my recollection is correct, although we have had various witnesses testify on the foundational matters in the absence of the jury regarding the transcripts, we still haven't had any testimony from them foundation wise in the presence of the jury, have we?

Mr. MINIER: No, your Honor.

Mr. LINDSEY: No, your Honor.

Mr. LINDSEY: No, your Honor.

THE COURT: And I assume that you are going to put on some testimony in that regard.

Why don't we proceed then with the Norton statement and we will take it as it comes.

Mr. MINIER: Thank you, your Honor.

Detective Norton, please.

**ROBERT B. NORTON**

Previously having been called as a witness for and on behalf of the people, and testifying outside the presence and hearing of the jurors, was thereupon duly sworn, and testified as follows:

**DIRECT EXAMINATION**

BY Mr. MINIER:

Q. Would you please state your full name and spell your last name?

A. Robert B. Norton-N-o-r-t-o-n.

Q. What is your employment?

A. I'm with the County of Santa Barbara Sheriff's Department.

Q. Were you so employed on Saturday, January 27 of this year?

A. Yes, sir.

Q. And during your employment on that date did you have occasion to be in the area of the Biltmore hotel?

A. Yes, sir.

Q. How were you dressed?

A. I was in Levi's and T-shirt.

Q. Was that what you might call your undercover garb for that particular day?

A. Basically, yes, sir.

Q. Now was there anything that attracted your attention around the time of noon in the Biltmore area?

A. Yes, sir.

Q. Could you tell us what that was?

A. I observed a patrol car, one of the county patrol vehicles and observed Mr. Colbert, who is a Deputy Sheriff, -- he observed me, and there was a large crowd of people around their vehicle, and he waved me over for assistance.

Q. Was Mr. Colbert in a uniform?

A. Yes, sir.

Q. Was he in a marked Sheriff's vehicle?

A. Yes sir.

Q. After you went over to see Mr. Colbert did you and he have occasion to go on to the Biltmore grounds in the general presence of one of the members of the hotel staff?

A. Yes, sir.

Q. What particular area of the grounds did you go to?

A. To the area of bungalow 34.

Q. Calling your attention to the defendant, the gentleman seated between his two attorneys at the table, in the yellow shirt and blue suit, can you identify him?

A. Yes, sir.

- Q. Did you have any occasion to see him in the area of room 34 at the Biltmore Hotel?
- A. Yes, I did.
- Q. Can you please tell us where he was, what he was doing when you first saw him?
- A. He was sitting in the patio area.
- Q. That would be outside the building of which, room 34 is a part?
- A. Yes, sir.
- Q. Did you have occasion to approach the defendant?
- A. I did.
- Q. Could you tell us exactly what it was that you first said, if anything, to the defendant when you approached him?
- A. I asked him if I could help him or if he needed help.
- Q. What if anything did he reply?
- A. He said, "Are you from the police," or "Are you from Sheriff's Office?"
- Q. What did you say?
- A. I said that I was. "I was Detective Norton of the Sheriff's Office," and at this time I ID'ed myself.
- Q. Could you tell us how you ID'ed yourself?
- A. With my identification card and my badge that was in my wallet.
- Q. What did Mr. Kolbert, the other deputy, do when you approached the defendant?
- A. He was behind me, or in my immediate presence, I don't know his exact location, basically as a backup type officer.
- Q. Was there any particular reason that you, in plain clothes went up as opposed to Mr. Kolbert who was in uniform?
- A. We discussed it briefly, Deputy Kolbert, we decided we didn't know the subject's mental condition, if he was still armed, if there was going to be other people shot; due to the fact I was in civilian clothes I would have a little bit of an advantage of him not knowing who I was.
- Q. After you showed your identification card and your badge to Mr. Yanikian, did he say anything?
- A. He said "You are from the Sheriff's office, I have been waiting for you." He asked me, "Are you from Sheriff's Office?" I said, "Yes."  
"I have been waiting for you." I'm sure he said for a length of time. "I just killed two people there in the bedroom."
- Q. Was this statement that he made in response to any question you asked him?
- A. No, sir.
- Q. Did you then place Mr. Yanikian under arrest?
- A. Yes, sir.
- Q. Did you tell him anything at the time about making any statements?
- A. I told him that he shouldn't say anything further that anything he did say would be used against him. I told him not to speak any further, then I gave him his rights.
- Q. Now, when you refer to his rights, are you talking about the legal rights to the effect of his having the right to remain silent that anything he would say might be used against him in a court of law, and that he had a right to have an attorney before he was asked any questions?
- A. I read him his rights. Pursuant to that I did do a pat down search for weapons, then I read him his rights verbatim from a Rights card.

- Q. Were these rights substantially the ones I just asked you about?
- A. Yes, sir.
- Q. After you read him his rights, did you ask him if he understood them?
- A. Yes, sir.
- Q. Did he indicate that he did?
- A. He said yes -- nodded to the affirmative and said yes.
- Q. Did he indicate that he was willing to talk to you?
- A. He said that he had something to the effect he had nothing to hide, that I was from the Sheriff's Office, and he would talk to me.
- Q. Now, at about the same time that you were giving him his rights, did the defendant say anything on any other subject regarding his personal effects?
- A. He was very concerned about a brief case and a suitcase that he had packed previously and wanted to make sure that he had this in his possession.
- Q. Did he say anything about the suitcase -- what it was for?
- A. He never, said anything about the suitcase. I think it was the brief case that he was more concerned about. He wanted that. He wanted to take it with him. He wanted it in his possession.
- Q. Did you have any occasion to handcuff him?
- A. Yes, sir.
- Q. Now, was the defendant seated when you first walked up?
- A. Yes, he was.
- Q. Did he then rise after you approached?
- A. I told him to stand up after I was in arms reach of him.
- Q. All right. At the time that you saw him seated as you approached, and at the time you were standing talking to him, and at the time you were handcuffing him, did you notice any kind of an injury upon the body of Mr. Yanikian?
- A. No sir, I didn't.
- Q. Did you notice any bleeding from any part of his body?
- A. No sir, I didn't.
- Q. Did he complain of any injury to you?
- A. No, sir.
- Q. He wanted to be handcuffed in front -- or, he didn't want to be handcuffed at all. I think he stated it was because he was sore or old or no criminal, but I didn't recall any injuries.
- Q. After that, did you transport him to the Sheriff's Office?
- A. Yes, sir.
- Q. Now, did you have a further detailed conversation with the defendant in the administration building of the Sheriff's Department?
- A. Yes, I did.
- Q. And do you recall approximately how soon in time that began after you had arrested him?
- A. I would say approximately half an hour, approximately one o'clock.
- Q. So you arrested him approximately when?
- A. Approximately 12:15.
- Q. Who was there when you had the conversation at the Sheriff's Office?

- A. Mr. Yanikian, myself, and Sergeant Regan was in a room adjoining the interrogation room where he was located.
- Q. Now, did you make any kind of an offer to the defendant of any leniency or immunity from prosecution if he were to talk to you?
- A. No, sir, I didn't.
- Q. Did you in any way threaten him or tell him that he was compelled to talk to you?
- A. No, sir, I didn't.
- Q. Did you use any kind of coercion at all upon him to get him to talk?
- A. No, sir.
- Q. You didn't make him any promises of any nature?
- A. None, whatsoever.
- Q. Did he speak to you freely and voluntarily?
- A. Completely, yes.
- Q. Was this conversation tape recorded, incidentally?
- A. It was.
- Q. Now, did you know at the time you began the conversation with him that it was being tape recorded?
- A. No, I didn't.
- Q. You learned that subsequently, did you?
- A. About halfway through.
- Q. During the conversation was there any reference made to any kind of an injury, any reference made by Mr. Yanikian?
- A. During our conversation?
- Q. Yes.
- A. Yes. I asked him—I—let me recall, I asked him if he was hurt, or “Did you get hurt.”-- shall I read from this, or you just want my recollection?
- Q. Why don't you just give us ,your recollection now.
- A. I asked him if he was hurt, if he was sick, and he stated, “No, if I recall, he said, “They hit me” -- they hit him with the chair, and I asked him where they hit him, and he pointed to his head, and parted his hair when he was showing it to me. And I got up and stood over him and looked and there was no apparent injury that I could notice. He said “It was nothing, nothing at all.” But that was the only thing that happened him.
- Q. As you stood over him looking at his head, did you see any kind of a cut or a scratch or bruises, or any blood?
- A. No, sir, none.
- Q. Now, has a transcription, a verbatim transcription of that tape recording since been made?
- A. Yes, sir.
- Q. Can you tell us how you made the tape recording transcription?
- A. Detective Baker gave me the tape and I sat down with my secretary at the office, and we played the tape on a tape player, and I would read to her what the tape said and she would take it down in shorthand, then she transcribed it into this form.
- Q. When you listened to the tape recording being played, could you identify that as an exact reproduction on tape of the conversation that you and Mr. Yanikian had?
- A. Yes, sir.

Mr. MINIER: May I have People's No. 48 for identification, please.

Q. Detective Norton, I am going to show you People's Exhibit 48 and ask you if you can identify this as a verbatim transcription of that particular tape recording?

A. (Witness examining exhibit) It is, except for the parts that have been deleted or cut out of it.

Q. Are certain parts marked in this transcript as being unintelligible?

A. There is.

Q. With the exception of the portions marked unintelligible here, is the rest of it to the best of your knowledge and ability a verbatim transcription of what you heard on the tape recording?

A. Yes, it is.

Q. Which would then be a verbatim record of what you actually said and the defendant said there at the Administration building with the exception of the unintelligible portion?

A. That is true.

Q. Have you had occasion to actually take a copy of this document here and read through that copy as you listened to the tape recorder being played to assure that it is a correct transcription?

A. I did, after the secretary got it typed out, I took it and played the tape and reviewed it and read this through at the time that the tape was going.

Mr. LINDSEY: Your Honor, we would offer People's 48 into evidence.

Mr. MINIER: Your Honor, merely for my record, if I may say that I would certainly have to object to it on the ground that there are a number of places that the witness has determined in his work are unintelligible, but which we believe in fact are not.

THE COURT: I will permit you to cross-examine him.

Mr. LINDSEY: I am trying, your Honor --

THE COURT: (Continuing) Before I rule on the objection, I told you I would do that yesterday, and I will.

Mr. LINDSEY: Yes.

THE COURT: I have heard the tape, as you know, and my own feeling is that it is as accurate a transcription of what took place as could be made under the circumstances -- that is my own impression, having heard it. Indeed, there are places where you can't tell what is being said, but I think the sense of the interview is quite well set forth in the transcript, and as well set forth as I personally could have done it. I wasn't there, of course.

Mr. LINDSEY: My position would be, your Honor, that if the conversation is to come into evidence, and the tape itself, excluding the parts already determined to be omitted, the tape itself ought to be what should be played to the jury.

THE COURT: No, no. The transcript is much clearer than the tape, without the transcript by which I followed the tape I wouldn't have gotten nearly as much out of it. I might have, if I had heard it a half dozen times, but we are not going to play it that many.

Mr. LINDSEY: No, your Honor. My only objection is that with the written matter that was prepared, is coming in, it should be more complete than what it is, that is my objection, that it is not sufficiently complete.

THE COURT: Well, I will permit you to cross-examine if you wish so that you will be in a position to make whatever argument you care to make to the jury. I am not foreclosing you, and if you want to go into that now, I will permit it. If you want to play the tape to the jury, I think that would be your right, or such portions of it as you think should be played. All of this I will permit you to do, if you wish to do it.

Mr. LINDSEY: Probably to save time, your Honor, I have an idea, because of the number of areas that the witness has indicated that are unintelligible, that were I to cross-examine on that we would probably be here at least a full day on nothing but that, and I would try to avoid that. What I would desire to do as the alternative, which would save time if I may have permission when I cross-examine him, to have the jury hear the actual tape itself.

THE COURT: Certainly.

Mr. LINDSEY: Then I would not ask the questions at this time on the areas, your Honor.

THE COURT: All right. The objection is overruled and People's Exhibit, whatever it is-

Mr. MINIER: 48, your Honor.

THE COURT: People's 48 is received.

(Whereupon a transcription of a tape recording as it refers to Detective Robert B. Norton, was thereupon duly received in evidence as People's Exhibit No. 48.)

Mr. LINDSEY: May I have just a moment, your Honor?

THE COURT: Yes.

Mr. MINIER: Your Honor, I have here a tape cassette which I wonder if we might have marked for identification as People's 48-A, it is the one that would go with People's Exhibit 48, the transcription.

THE CLERK: We already have a 48-A and B. If you want it to have C, that would be possible.

Mr. MINIER: We have 48-A and B?

Mr. LINDSEY: Yes.

Mr. MINIER: May we have it marked then as 48-C, your Honor?

THE COURT: Yes.

(Whereupon a tape cassette thereupon was duly marked as People's Exhibit 48-C for identification purposes only.)

Q. BY Mr. MINIER: Mr. Norton, I am going to show you exhibit 48-C and ask you if you can identify this cassette as containing the tape recording of the conversation about what you just testified?

A. (Witness examining exhibit) I didn't make this tape -- Detective Baker made the tape, so it is identical to the one that I observed, but I don't know what is on it, so I can't state that it is, it is the same type of tape, however.

Q. We will take that up with Detective Baker.

Your Honor, at this time, we would request permission of the Court to read from the transcript to the jury.

THE COURT: All right.

Mr. MINIER: Because they are different voices here, your Honor, with the Court's permission, I would like to read the part of Detective Norton, and have Detective Norton read the part of the defendant if that's suitable. And I think in two or three

instances there is a statement made by a Sheriff Regan, and I propose at that point, I could merely indicate that it is such a statement as Sergeant Regan.

THE COURT: All right, that's agreeable.

Ladies and gentlemen of the jury, so that you fully understand, this is a question and answer interview, it is in that form, primarily between Detective Norton and the defendant Mr. Yanikian.

Mr. Minier, in the reading of this transcript of the question and answers will play the role of Mr. Norton and Mr. Norton will play the role of Mr. Yanikian.

Mr. MINIER: Thank you, your Honor.

“Q”. How do you spell your last name?

“A”. Huh?

“Q”. How do you spell your last name?

“A”. Yanikian. Y-a----

“Q”. Right here, okay, I have got it I have your license right here.

“A”. Yeah.”

Mr. LINDSEY: May I ask, your Honor, if the places where it is unintelligible, if the witness may indicate that also.

THE COURT: All right. Will you do that officer?

THE WITNESS: Surely.

“A”. Yeah, (unintelligible.)”

THE COURT: The “Yeah” was not unintelligible, what followed it was unintelligible, so say “Yeah. Parenthesis unintelligible”.

Mr. MINIER:

“Q”. Uh-huh okay. You live at the Biltmore Hotel?

“A”. Yes.

“Q”. Room number what, sir?

“A”. 34.

“Q”. You have a phone number in the room, sir?

“A”. Yes. No number.

“Q”. It goes through the switchboard

“A”. Switchboard. This I call through switchboard, and I did not come back. I called Sheriff’s Office.

“Q”. You did what?

“A”. You did not get me Sheriff’s Office.

“Q”. Why did you want the Sheriff’s Office?

“A”. Because I want report that I killed two people, and I am waiting that they come and take me.

“Q”. Are you under any medication right now? Just these?

“A”. If you want to continue your investigation before I die (parenthesis unintelligible) end parenthesis I will have to take.

“Q”. How do you feel now? Are you sick? Do you need any medication?

“A”. High blood pressure-- that is all.

“Q”. Okay. But are you sick now. Do you need to go see a doctor, do you need to go to the hospital?

“A”. No.

“Q”. You feel okay at this time?

“A”. I feel okay. Why I go hospital.

“Q”. I am just trying to make sure; if you are sick, I want to take care of you and if you are hurt, if you got hurt --

“A”. If you get me a glass of water—my stomach.

“Q”. Okay, we will get you a glass of water. Are you hurt, did you get hurt today

“A”. No. They hit me by chair but, nothing, nothing

“Q”. Nothing?

“A”. Nothing. Two people are gone.

“Q”. What two people?

“A”. Two persons. Those two persons there.

“Q”. The two people you shot?

“A”. Yes.

“Q”. They are young people?

“A”. No. Old 35, 40, 45.

“Q”. (Parenthesis talking with Sergeant Regan.)  
Who is the victim on this? You don't put People of the state though, right?  
"SERGEANT REGAN: (Unintelligible.).

“A”. I have car, no.

“Q”. You have no car

“A”. No (unintelligible.) anywhere ,with no car .

“Q”. You know the phone number for the Biltmore Hotel sir?

“A”. I don't know.

“Q”. How long have you lived there now?

“A”. Huh?

“Q”. How long have you lived there now?

“A”. Six days. I move in Monday.

“Q”. You have lived there for six days huh?  
(Talking to Sergeant Regan) Call up and get a log number, will you. I think ID might already have got one though.  
“SERGEANT REGAN: 01216.

“Q”. Do you have any relatives?

“A”. No.

“Q”. You are the only one living that's left huh?

“A”. Only my wife. She cannot talk, she cannot walk, she don't realize. She just a living body.

“Q”. Where does your wife live at, sir?

“A”. She lives now (unintelligible) in hospital, in rest home.

“Q”. In Beverly Hills?

“A”. Yeah (unintelligible).

“Q”. Does anybody else live in that apartment with you; do you live by yourself, those two people were just visiting?

“A”. Nobody lives with me. I live there because (unintelligible) that's all.

“Q”. You live by yourself? You lived there for several days?

“A”. No, no, not long. No visitors, nothing. I was too busy with my (unintelligible) book. My face so dark.

“Q”. The mirror, is all messed up.

“A”. (Unintelligible.)

“Q”. Yeah, it is all messed up. Don't worry about that.

SEARGENT REGAN. Do you have a number for the Biltmore?

“A”. Yeah 9692261.

“Q”. How old are you?

What is your age at this time; how old are you?

“A”. March I will be 78.

“Q”. So you are 77 now, right?

“A”. 77 in ten months. 24 March, I don't know how you go.

“Q”. How much do you weigh, sir?

“A”. 202, 204 pounds different what I eat; six feet.

“Q”. Your room number was 34, sir?

“A”. I am sorry.

“Q”. Your room number was 34?

“A”. 34, yes. Pardon me please (unintelligible)

“Q”. What kind of a watch is this, sir?

“A”. (Unintelligible) this keep 35 years.

“Q”. Uh-huh.

“A”. (Unintelligible) 35 years married tomorrow.

“Q”. What time did you call the Sheriff's Office, or did you call the Sheriff's Office after you shot the people?

“A”. Exactly I can't be sure. Twenty minutes to 12?

“Q”. Twenty minutes to 12. Do you remember me coming up?

“A”. Huh?

“Q”. Do you remember me talking to you earlier? Do you remember me talking to you earlier?

“A”. Where? When you came?

“Q”. When you were sitting in the patio, do you remember me giving your rights, reading from that card?

“A”. Oh, yes.

“Q”. You understood all that?

“A”. You read me that I can talk and it be used against me (unintelligible) so and so, and I, and my suitcase and my brief case and.

“Q”. You understood all that, though, right?

“A”. I, uh, yes, because I told you nobody come visit me, nobody bring even after shave, no toothpaste, nothing, I take out soap, shoes, everything necessary to, so to be clean. I know I am long here, because is (unintelligible) Investigation. Not question because I did not (unintelligible). Three years I was in (unintelligible) eight months I (unintelligible).

“Q”. In other words, you planned this eight months ahead of time?

“A”. Yes, ahead of time. And as you can see, there was my gun (unintelligible).

“Q”. That little black gun was your run?

“A”. Is black and big gun, German Luger, which I have 25 years.

“Q”. What caliber is it?

“A”. German Luger, parabellum, but I don't know what caliber.

“Q”. That's what you used today?

“A”. Yes, I use two.

“Q”. You used two guns?

“A”. Yes.

“Q”. How come you used two guns?

“A”. Because I have this parabellum 25 year I bought, I don't know, maybe not fire, and this morning I go to the store here and (unintelligible) in Santa Barbara, Browning, and I take these two with me and because I don't be sure I shoot them after Parabellum is finished, I shoot into the head each two bullets, my small gun

“Q”. So, you're telling me you planned this eight months ahead of time, you had two guns and after you shot them with the big gun and they were laying on the ground you shot them each two more times into the head?

“A”. That's right, because I don't want to (Unintelligible). I don't want they suffer.

“Q”. You don't want to what?

“A”. I don't want they suffer.

“Q”. You don't want them to suffer?

“A”. Yes.

“Q”. How many times did you shoot them all together? Did you go till your guns were empty?

“A”. No, I use eight, don't know, ten, I don't know. Gun is there. I don't know. I have three pistols but I use only one. I don't take all of (unintelligible), but I shoot one and a chair hit me.

“Q”. After you shot one of them?

“A”. What?

“Q”. When they attacked you, was that before you shot them or after?

“A”. No, we talk.

“Q”. You started the fight, huh?

“A”. We talk. I told you that they don't know I Armenian.

“Q”. Um-hm.

“A”. I don't know.

“Q”. Are they friends of yours?

“A”. No.

“Q”. Have you seen them before?

“A”. Yes.

“Q”. How long have you known them?

“A”. I, possibly three, four, three, four months ago in their office. I know who they are. I go their office and I was thinking, you know, do this there.

“Q”. Why did you kill them?

“A”. Well, your children walk in a much better America.

“Q”. You killed them so my children will have a better America?

“A”. That's right (unintelligible) better American than you have.

“Q”. You've known these people for three or four months is all?

“A”. No, two days old. First and second, they kill two million my people, and they kill six people my family. They (unintelligible) my brother and (unintelligible) and I saw blood is coming and the time is 40 years ago, 45 years ago--1916

“Q”. Have you ever killed anybody before?

“A”. I am against killing. I done everything a democratic was all my life,

is my philosophy (unintelligible).

“Q”. Where do, you work, sir?

“A”. I am writer.

“Q”. You're a writer, huh?

“A”. I know I am against killing (unintelligible).

“Q”. Is that why you did it today?

“A”. Yes. But is different, is different, I'm called. Two million words I have wrote and I spoke and nobody took attention. Maybe this is more noisy -- people take attention and I want to include persons now dying, our country, I am American, diamond cover by dust and nobody want. I wrote book, two thousand words, three thousand words, speeches because maybe this be more noise for two reasons. People are watching and start cleaning off diamond and my people, Armenian people, know that two million people nation killed and taking this position six billion dollars and mankind even now means nothing. Despite the fact that President Woodrow Wilson told to help this Bulgaric nation is not the proof that there is justice, it is the proof that mankind have conscience. It is not next week we (Unintelligible) and two million people killed. I Armenian, I told you.

“Q”. How long have you been in the United States?

“A”. 36 years.

“Q”. You are not drunk, are you?'

“A”. BY WITNESS: Excuse me, my part that I have been reading from doesn't have some parts.

Mr. MINIER: We are on page 8, the first question by Norton.

“Q”. You are not drunk, are you?

“A”. (Defendant laughs) (unintelligible).

“Q”. I didn't think so. Do you drink?

“A”. Huh?

“Q”. Do you drink? Do you drink?

“A”. (Unintelligible) Society, society.

“Q”. Just a little, huh?

“A”. A little (unintelligible).

“Q”. When is the last time you had a drink?

“A”. Last time yesterday, lunch in the Biltmore. One whisky drink lunch, one whisky-water, no ice. You know -- you know how you can tell I save a lot of American lifes, it's very funny. I was engineer. I was building railroad (unintelligible) ten tons supplies to Washington, ally, this merchandise went via North Pole (unintelligible) and German submarine was there. They blow American almost 50 percent ship.

They blow up and people (unintelligible). The allied command think that if they can find, they send me -- may I have a drink of water? I no drink all day, and I dry. My mouth is dry. I cannot --

“Q”. You want some water?

“A”. Yes, please.

“Q”. Okay, I will get you a drink of water.

“A”. Then I will tell the story.

“Q”. Why don't you come with me. There is a drinking fountain out here, sir.

“A”. Sure.

“Q”. There is going to be some other people here. My boss is going to be here. He wanted to talk to you. You are not in a hurry, are you?

“A”. (Defendant laughs.)

“Q”. You are not going anywhere, are you?

“A”. I no think is for a long time. I (unintelligible) my suitcase, before I did, I let know President, our President, Supreme Court, Justice Department, Speaker of House, New York Times, Los Angeles Times, Santa Barbara News Press and send them 120 pages.

“Q”. Um-hm..

“A”. I am not drunk or crazy, no crazy. Everybody needs help for his country. (unintelligible) Speech and writing not help and maybe this act will call attention. It is my country and nation who give my life. Did you bring suitcase here?

“Q”. (Talking to Sergeant Regan) Jim he says he knew he was going to do this and he knew he had going to jail for o great deal of time, he packed his suitcase, am I right?

“A”. Suitcase and brief case, that's all. Other I don't need; shoes, tuxedo, tail, I don't need. (unintelligible).

“Q”. Right there in the bedroom there is a large black suitcase on a chair – there's all his clothes --

“A”. (unintelligible)

“Q”. Well the victims came to his residence, so, it would be his bedroom, right?

“A”. Yes, is my room, my room.

“Q”. Well, we'll get it later.

“A”. (Unintelligible) I don't need. (Unintelligible) I need these too (unintelligible) because I know (unintelligible) who can bring me (unintelligible).

“Q”. Okay. I tell you, we'll make sure --

“A”. In black, this side, this side, you know, suitcase, brief case brown (unintelligible).

“Q”. Okay. They'll get these to you tomorrow, if not today.

“A”. Okay. Scarf, shawl, because I am cold all the time.

“Q”. Okay.

“A”. (Unintelligible) Thank you if you did this. You know how I know look on me criminal, but criminal can also (unintelligible).

“Q”. Yeah.

“A”. Fifteen minutes I sit down and is my fault why I no take out my socks and (unintelligible) when I came out.

“Q”. Well, we'll get them for you.

“A”. People won't go in, I know(unintelligible) and nobody can go in except police.

“Q”. You wouldn't let anybody go in?

“A”. No, they won't go, manager says no, I am sorry. Is my room (unintelligible). I no let anybody go except Sheriff. Then Sheriff people come (unintelligible). I don't want (unintelligible) go in.

“Q”. You don't own a vehicle?

“A”. What?

“Q”. You don't own a vehicle, sir?  
“A”. No.  
“Q”. You don't smoke, do you?  
“A”. Huh?  
“Q”. You want a cigarette? You don't smoke do you?  
“A”. No smoking.  
“Q”. (Talking to Sergeant Regan) I got one of the patrolmen's cars, you know (unintelligible).  
“A”. Did you eat lunch today?  
“Q”. No. Are you hungry?  
“A”. I think I am hungry.  
“Q”. We'll got you something to eat in a little bit.  
“A”. Thank you.  
“Q”. Do you know what today is?  
“A”. What?  
“Q”. What's the date today? Do you know?  
“A”. Saturday.  
“Q”. Do you know what time it is?  
“A”. Time? It is about 2:00 o'clock.  
“Q”. 2:00 o'clock?  
“A”. (What's the date today?)  
“A”. Saturday.  
“Q”. Yeah, what date?  
“A”. 27th.  
“Q”. 27th. I'm serious. I didn't know.  
“A”. Do you think maybe I am crazy?  
“Q”. No, no, no.  
“A”. (Unintelligible.)  
“Q”. I don't think you're crazy.  
“A”. My wife doctor (unintelligible) with me forty years (unintelligible).  
“Q”. Okay. You said I got there about fifteen minutes after you shot these people.  
“A”. I was sit down there on the porch and people cannot go in, nobody can go in, Sheriff and only Sheriff people can go in. I not let anybody in. I talk (unintelligible) talk to police, emergency call quick Sheriff, my name is Yanikian, I kill two people in my room, I am waiting (unintelligible). Then I came out, you know, sit down on the porch and wait.  
“Q”. Um-hm.  
“A”. Then you come, (unintelligible). Detective cop, you know.  
“Q”. Excuse me?  
“A”. You present with Detective cop after you read me everything can be done, you (unintelligible) me, put my hand on the wall, you know (unintelligible).  
“Q”. Do everything right.  
“A”. (Laughs.)  
“Q”. Got to do everything right.  
“A”. My conscience is clear.  
“Q”. It is, huh? In your own mind, it's clear, that's all that matters?

“A. (Unintelligible) I, I did realize what I am doing.  
“Q. Excuse me for a minute, sir.  
“A. (Unintelligible) my (unintelligible) beads (referring to prayer beads).  
“Q. I think I put them in your pocket sir, because I thought you might want them.  
“A. Why you take?  
“Q. I don’t think I did.  
“A. No, you take those.  
“Q. Yeah, but I think I put them back. Let me check.  
“A. You put in pocket.  
“Q. My pocket? Why don't you stand up. We'll take a look. There you go, see?  
“A. Oh, thank you very much.  
“Q. No problem.  
“A. This is, you know, (unintelligible) my girl friend.  
“Q. Your girl friend’s? Okay.”  
Mr. LINDSEY: Your Honor, I have no further questions  
THE COURT: All right. Mr. Lindsey.

**CROSS-EXAMINATION**

BY Mr. LINDSEY:

Q. Mr. Norton, I am going to ask you a few brief questions. I am going to ask, after that, if you can set up the machine so that we can actually hear the tape?  
A. Okay.  
Q. Starting back at the Biltmore , very quickly, by reason of your having come onto the area there, you were the first one to approach Mr. Yanikian as he sat in the patio?  
A. To my knowledge. First law enforcement officer.  
Q. Yes. As you approached there, he was sitting down in a chair at the patio table?  
A. Yes , sir.  
Q. That's when you asked him if there is anything you could do to help, or in essence, if he needed any help or someone needed help; is that correct?  
A. Correct.  
Q. Then, he responded by asking you if you were from the Sheriff's Office?  
A. Yes, sir.  
Q. Then, that's when you said yes, and you produced your badge and identification card to establish to him that in fact you were from the Sheriff's Department; is that correct?  
A. That is correct, yes.  
Q. Now, at that point, he told you that he had been waiting for someone from the Sheriff's Office, didn't he?  
A. He stated -- yes, he did.  
Q. And then when he made the statement that he was connected with the homicides in room 34, you placed him under arrest; is that right?  
A. Yes, sir.  
Q. The reason for that is there was reasonable belief from what you knew at that point, to take a custodial step of placing him under arrest?  
A. Yes, sir.  
Q. Then, is it correct that you had him stand up and you gave him a pat down to insure that there were no weapons on him?

A. That is correct.

Q. And there were none, were there?

A. No sir, there was none.

Q. Then, it was right at that point that you read him what we commonly call the Miranda Rights?

A. Yes, sir.

Q. Now, is it correct, Mr. Norton, that the reason that you read him the Miranda Rights is because now that is the required rule -- the required policy to do?

A. Anybody that is arrested, yes sir.

Q. And the reason for that is so as to alert that person to all of his rights, if he chooses to claim any of them?

A. That's the reason I read them to him, yes sir.

Q. This is to forewarn him that if he chooses to remain silent, at least he is being reminded that he mind not say anything at all about any of the events that may have occurred, isn't that correct?

A. That is correct.

Q. Then, in this instance here, so that you would be able to very fairly, apprise them of those rights, so he would be forewarned of them at least cautioned about them, that's when you read the rights from the card?

A. Yes, sir.

Q. Isn't it true, when you started to read those, he was interrupting you?

A. Yes sir, he did.

Q. What was he interrupting you about?

A. I don't recall the exact statement, but he stated, "Yes, I understand," and I think he was worrying about his suitcase or his brief case.

Q. Now, isn't it correct, Mr. Norton, that when you were in the process of trying to let him know of these protective rights, that by reason of his interruptions, his primary concern was not on these rights, but his primary concern had to do with some brief case or suitcase?

Mr. MINIER: Objection, your Honor, upon the grounds it calls for the opinion of the witness as to the primary concern of the defendant, and I further question its relevancy in light of the Court's prior ruling regarding the Miranda Rights.

Mr. LINDSEY- I agree, the question calls for an assumption on the part of the witness.

THE COURT: Not only that, but the Court has made its determination on the Miranda question, that's the end of it.

Mr. LINDSEY: I understand that, your Honor, but I am inquiring now as to what occurred in the conversation that he just testified to. It would seem to me that any conversation that occurred between the two of them, as he has now testified to before the jury, is relevant.

THE COURT: Well, that depends an what it is. It is not relevant at the time his rights were being given him, his main concern was on the suitcase, if that be the fact, because we have been all through that and the Court has decided it. So the jury has no interest in that question. The Court's determination, as you gentlemen know, is binding.

Mr. LINDSEY: I quite agree, your Honor.

THE COURT: And final.

Mr. LINDSEY: I quite agree.

Q. Now, in the conversation, did anything happen while you were reading him the Miranda Rights?

A. What do you mean by "Did anything happen?"

Q. Did he say anything?

A. He said -- yes, he nodded his head in the affirmative.

Q. Was that all?

A. I think that was all.

Q. Now, after you had read the Miranda thing, was it then that he said he had nothing to hide at all, or word to that effect?

A. Yes. After I gave him his rights. I was the sheriff, he would talk to me, he had nothing to hide.

Q. Now, at the time that you were having the conversations with him then on the patio, isn't it true that he was completely cooperative with you?

A. Yes, sir, he was.

Q. Isn't it true that he responded to all the questions that you may have made of him there on the patio?

A. Yes, he did.

Q. Is it also true that he, in no way, resisted any request that you made or any directions that you gave to him?

A. The handcuffs to a slight, but after I explained it to him, there was no problem.

Q. That had to do with whether the cuffing should be in the front or back?

A. That is correct.

Q. Did you handcuff him in the front?

A. I did.

Q. Was that the result of whatever it was that he mentioned to you about being cuffed in the back?

A. Yes, sir.

Q. Did he appear at all times to be courteous to you?

A. He did.

Q. Now, was it shortly after that, then, when you transported him in the sheriff's vehicle to the county jail?

A. Yes, sir.

Q. Was there any conversation during that trip?

A. I think he was talking to himself. I think he was praying. I think he was praying. That's what he was doing in my opinion. We might have exchanged yes or no questions.

Q. Is there something that causes you to say that it was praying that he was doing?

A. In my opinion, it appeared that he was praying.

Q. What is it that caused you to reach that opinion?

A. He was talking to himself. He had his head bent, his eyes were closed, just my interpretation of what he was doing.

Q. Is it a fact that between the Biltmore and the County jail on different occasions during that trip, that he appeared to be talking to himself as he sat in the back of the car?

A. Every once in a while, he did, yes, sir.

- Q. Now, when you arrived at the jail, he was taken inside and put through the usual process procedure for an incoming person, isn't that correct?
- A. In the jail?
- Q. Yes.
- A. I don't know. I didn't book him.
- Q. When you reached the jail, did you turn him over to someone else then?
- A. No, I didn't.
- Q. About what time did you reach the jail?
- A. Approximately one o'clock.
- Q. Let me ask you this, then; did you take him into the interview room for an immediate interview before he went through the finger printing and photograph procedure and so on
- A. That is correct.
- Q. Now, I believe you indicated a few moments ago that when you were in the interview room, you were not aware, during the first part of the conversation that a tape recording was being made of the conversation?
- A. That is correct.
- Q. Now, you were aware that that room, however, had recording equipment in it, didn't you?
- A. As a matter of fact, I wasn't knowledgeable that there was at this time recording equipment in it. I even picked up the telephone and some other things. I knew that there was a telephone -- one of the rooms was, but I was not positive that that was one.
- Q. Are you able to determine in the taping or the transcript that you made here at what point you became aware that what you were saying or asking was being recorded?
- A. If I recall, it would be approximately the time that I requested the log number from Sergeant Regan.
- A. (Continuing) try page three, about the seventh line down.
- Q. Now, what was there at that point that caused you to become aware that the conversation was being taped?
- A. Sergeant Regan advised me.
- Q. Now, during that conversation at the jail Mr. Yanikian was completely cooperative with you?
- A. I never talked to Mr. Yanikian at the jail.
- Q. Was this your transcript?
- A. Yes, sir.
- Q. I'm sorry -- I think I see what you mean.  
At that new complex out there that the County built for the Sheriff's Department, there are two big main buildings?
- A. Yes.
- Q. One building is known as the jail, the other building is known as --?
- A. (Interposing) The administrative building.
- Q. The administrative building. And when you first arrived out there with Mr. Yanikian it was not the jail building. It was the administration building for the Sheriff's Department?
- A. The Detective Bureau. Yes, sir.

- Q. The Detective Bureau. Okay. Now, during the time that you were conducting the conversation, starting about one o'clock, is it correct that Mr. Yanikian at all times was completely cooperative with you?
- A. Yes, sir.
- Q. And he responded to all questions that you put to him?
- A. Yes, sir.
- Q. And he complied with all requests that you made of him?
- A. That's correct.
- Q. Now, of your own knowledge, you did not make any suggestion of any kind that maybe he would be granted some kind of immunity if he talked to you?
- A. No, sir.
- Q. And at all times there was never ever even an implied threat made to him that he had better talk or something might happen to him?
- There was never any of that, was there?
- A. Not by me.
- Q. Nor anyone else in your presence?
- A. Not to my knowledge.
- Q. And of your own knowledge during that entire conversation, and even prior to it, there was no type of coercion of trying to perhaps, either directly or indirectly, coerce him into making statements, was there?
- A. No, sir.
- Q. And never at any time, either before or during those conversations, that you had with him, was there ever any promises, or even an implied promise made to him, was there?
- A. Not by me, no, sir.
- Q. I mean like, for example, there was never any suggestion that maybe if he made a statement it might go easier for him? There was never anything of that kind, was there?
- A. No, sir.
- Q. Or maybe if he made a statement, maybe the District Attorney's office would look more kindly on him, there is none of that either, was there?
- A. Not by me, no, sir.
- Q. So that actually there was just plainly and simply a situation that you asked him questions and he was free to answer in whatever way that he would desire, isn't that right?
- A. That's correct.
- Q. But once you learned that it was being taped, did you tell him that it was being taped?
- A. No, sir.
- Q. Now, during that conversation he did tell you that he had been struck with a chair, didn't he?
- A. Yes, sir.
- Q. Was that when you were asking him if he had been injured in my way?
- A. I think it was, yes, sir.
- Q. When you observed him in the vehicle on the two or three, or whatever it was, occasions, apparently talking to himself -- well, let me withdraw that.

On page 2 of your transcript you had asked about medication, it you notice on the first line of the transcript.

A. Yes, sir.

Q. "Are you under any medication right now?" And then you asked the question, "Just these?"

A. Yes, sir.

Q. Now, was there something present at the time of that question being asked "Just these," to which you were referring?

A. There was a bottle containing some pills, if I recall, I think they are vitamin pills or blood-pressure pills I'm not sure which.

Q. Some type of medication

A. Yes, sir.

Q. And that is the reason why he gave the responses that he did as shown in your transcript right after that then?

A. Yes, sir.

Q. Now, in the transcript on this matter of being struck with the chair, page 2, when you asked if he had been hurt today, or in essence, he told you then, "No, they hit me by chair, but nothing -- but nothing," and then later on that same subject matter came up again on page 6 of your transcript -- I'm sorry -- well, let me ask you this, near the top of page 6 when he was giving you an answer to that question as part of that question that are unintelligible --

A. Which one are you talking about?

Q. At the top of page 6 you asked the question, then he gave you an answer -- see the answer there?

A. On how many times did you shoot them?

Q. Yes.

A. Yes, I see the answer.

Q. Well, maybe they did talk about a chair, -- the last part of that says, "but I shot one and a chair hit me." Now, this is the second time that he has referred to being struck by a chair then, isn't it?

A. Yes, sir.

Q. Now, the second time that he is referring to being struck by a chair, this was not responding to a question from you about a chair, or about an injury, this being struck by a chair is a comment being made to him as a part of an answer on something beside the chair, isn't that correct?

A. The comment being made to him - I don't follow you?

Q. All right. Let me shift over to something else then. You became aware, did you not, that he was having hearing trouble, hearing difficulty?

A. No. That was never brought to my attention.

Q. Did you have any reason to feel from the way that he was responding to your questions that he had any kind of a hearing problem?

A. No.

Q. Now, during the interview indicated to you that these homicides apparently had been in some type of a planning stage for about eight months previously, isn't that correct?

A. I think that is what he stated.

Q. On page 8 of the transcript.

Your Honor, I have only one or two more questions.

THE COURT: That is all right. Go ahead.

Q. BY Mr. LINDSEY: On page 8 of the transcript about in the middle, that large paragraph that he has for his answer, there are several parts in that that you determined were unintelligible for transcription purposes. I am going to ask you about a couple of them.

A. Okay.

Q. In that answer he was telling you that he was an engineer and had apparently built a railroad somewhere, hadn't he?

A. Yes, sir.

Q. And according to your transcript, as you can best translate it, you had something about ten tons of supplies. Could that have been ten million tons of supplies?

A. In my opinion it was ten tons supplies.

Q. And was it your understanding when you reviewed the tape that it was supplies to Washington?

A. That is my determination, yes, sir.

Q. Could the tape and the conversation have been "supplies to Russia?"

A. In my opinion this is what he said.

Q. He also indicated in that same type of responding about having saved a lot of American lives, apparently at one time; was there anything else indicated in that answer that you can recall having in mind that there is some unintelligible parts here in this transcript?

A. In the same paragraph?

Q. Yes. I am asking you now to draw on your best recollection because it doesn't appear in your written transcript when he mentioned having saved a lot of American lives, can you recall aside from the tape, of your own personal recollection of having sat there and actually heard what he was saying, anything more definitive on that area?

A. No.

Q. Now, one other point, he mentioned to you, and this shows on page 9 of your transcript, he is talking about three-quarters of the way down when he is talking about a scarf or a shawl.

A. Yes, sir.

Q. Because he was cold all the time. Can you recall whether there was any other conversation about the reason that he was cold all of the time?

A. I don't recall, no, sir.

Mr. LINDSEY: Your Honor, may I have one minute, please.

Your Honor, at this point I would not desire to ask further questions. I would desire at this point to have the tape played to the jury, and in the event the Court wishes a recess, if it may be set up during the recess.

THE COURT: All right. We will take a recess while the machine is being set up.

Ladies and gentlemen of the jury, it is your duty not to converse among yourselves or with anyone else on the subject of the trial, or to form or express any opinion until the cause is finally submitted to you.

We will take a short recess

(whereupon a short recess...)

THE COURT: Members of the jury and the alternate jurors and the defendant are present, gentlemen.

Mr. MINIER: Your Honor, with respect to the playing of the tape, it hasn't actually been offered into evidence. The only reason I didn't, was, the tape hasn't been specifically identified today, but perhaps Mr. Lindsey is willing to stipulate that it can go into evidence. There is another portion on the tape that we won't be dealing with until this afternoon, but I wanted simply to advise the Court it is not in evidence. I have no objection to it being played prior to it being actually received.

Mr. LINDSEY: Yes. I think this is -- having in mind if I may reserve the previous objections I had on the written transcript, your Honor.

THE COURT: But aside from that you will stipulate the tape may be received in evidence?

Mr. LINDSEY: Yes, your Honor.

THE COURT: All right, it is received.

(Whereupon the above described exhibit Previously marked for identification thereupon received as People's No. 48-C in Evidence.)

THE COURT: All right. We will proceed with the playing of the tape, then, Officer, if you will.

(Whereupon the tape was played in its entirety.)

THE COURT: Ladies and gentlemen of the jury, it is your duty not to converse among yourselves or with anyone else on any subject connected with the trial, or to form or express any opinion thereon until the cause is finally submitted to you. For the purposes of making your own plans, and also for the guidance of counsel in the matter of arranging witnesses, we will have to recess tomorrow afternoon at 3:30 p.m., and Monday, unfortunately, we will have to recess at noon. I have a longstanding two hour appointment with my dentist at two o'clock. I would much rather be here, but we will have to knock off at twelve o'clock Monday and 3:30 tomorrow afternoon.

All right, 1:30 p.m., please.

(At twelve noon a recess was taken until 1:30 the same day.)

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14. SANTA BARBARA, CALIFORNIA, WEDNESDAY, JUNE 13, 1973, 1:30 P.M.

THE COURT: All members of the jury and the alternate jurors and the defendant are present, gentlemen.

All right.

Mr. MINIER: Thank you. Mr. James Quick.

JAMES E. QUICK,

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

DIRECT EXAMINATION

BY Mr. MINIER:

Q. Would you please state your full name and spell your last name?

A. James E. Quick, Q-u-i-c-k.

Q. What is your occupation, Mr. Quick?

A. I am a special agent with the Federal Bureau of Investigation.

Q. Do you work out of the Santa Barbara office?
A. Yes, sir.
Q. Were you so employed in January of this year?
A. Yes, sir.
Q. I am going to show you People's Exhibit No. 13, which appears to be a typewritten copy of a document entitled "Time For Reparation" by Gourgen Yanikian. I would like to ask you if this is an exact copy of the document that you took into your possession at one time?
A. Yes, sir, it is. I can identify it by my initials at the bottom of each page.
Q. Can you please tell us when and where the original of this copy first came into your possession
A. I first obtained the original of this on January 29 of this year, from a number of papers that we obtained from Mrs. Rettig's residence, 123 East Micheltorena in Santa Barbara.
Q. What is the full name of Mrs. Rettig, if you know?
A. Helen, I believe the middle initial is M. Rettig.
Q. What were the circumstances under which you were at her residence
A. On a prior interview with Mrs. Rettig on the evening of January 27 of this year, Mrs. Rettig advised us that Mr. Yanikian had stored a suitcase and a number of other items in her locker, and we made arrangements with her to come back on Monday and examine these items and this was part of the material that we found.
Mr. MINIER: Thank you. I have no further questions your Honor.
Mr. LINDSEY: May I have one moment.
Thank you, your Honor.

CROSS-EXAMINATION

BY Mr. LINDSEY:

Q. Mr. Quick, the "Time for Reparation," that has just been referred to, this is one of the documents that was received at the home of Mrs. Rettig; is that correct?
A. Yes, sir.
Q. Do you recognize the one that has been introduced here as the one -- either the one that was obtained, or at least an exact copy of it; is that correct?
A. Yes, sir.

MR. LINDSEY- Your Honor, I would like permission, if I may, to have this read to the jury -- it is seven pages long -- if it is in evidence.

Mr. MINIER: Your Honor, I was going to read one page of it. But I think it completely appropriate for Mr. Lindsey, during his case, to read whatever he wants. I didn't propose to read it in its entirety at this time.

THE COURT: I would think that it is preliminarily a question of the order of proof, gentlemen. The People are putting on their case now, and can put on what part of that document they want.

Certainly, if they put in a part of it you will have the right to read any and all of the parts of it that are pertinent to be read. But I would think that should come in at the presentation of your case.

Mr. LINDSEY: I have no objection to that, your Honor, just so long as if I may, in the event Mr. Minier elects not to read the entire seven pages, that at the time that we are

putting on our case that I may read the entire thing without having to call any witness back to do so.

THE COURT: Well, it will be in evidence. In fact, it is in evidence.

Mr. LINDSEY: It is in evidence now, yes.

THE COURT: Well, you will be permitted to read such portion of it as may be pertinent to the part read. If all six pages are pertinent to it, then you will read all six; that is to say, if I get an objection -- if I don't, why you read all six.

Mr. LINDSEY: I would understand that when Mr. Minier put it into evidence he put all of it into evidence, and it is all in evidence now. So I would desire --

THE COURT: Whatever your rights will be at that time will be accorded to you.

Mr. LINDSEY: I accept that, your Honor. Thank you very much.

I have no further questions, your Honor.

THE COURT: All right.

Mr. MINIER: No further questions.

THE COURT: Mr. Quick, I guess that's all.

Mr. MINIER: Your Honor, may I read the last several paragraphs from page 7 of people's Exhibit 13?

THE COURT: Yes.

Mr. MINIER: (Reading)

"All this must be imparted to the world, especially to our younger generations, in a way that will make them clearly understand why an Armenian question still exists and why a good Armenian cannot and shall not forget it as long as it exists".

"A bill for reparation, unpaid and long overdue, must be presented not only to Turkey, actual perpetrator of the massacres of our people, but also to the big powers that were accessories to the crimes, both before and after the fact. If the world's conscience and justice have any meaning for mankind our bill will not forever remain unpaid. We will never allow this Armenian question to be covered with the dust of time as were the ruins of our once great nation nor will we allow it to be sacrificed in the name of political expediency. We shall applaud the older Armenians who in advance of their departure from this world are trying to provide the younger generation with the fighting arm of knowledge about our heritage so they will carry on the battle until it is won. The guilty ones must be made to pay. The Armenian people cannot insult the memory of two million lives."

We will call Mr. Ford Rapp, please.

FERD J. RAPP, JR.,

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

THE CLERK: Take the stand and be seated.

DIRECT EXAMINATION

BY Mr. MINIER:

Q. Would you please state your full name and spell your last name.

A. Ford J. Rapp, R-a-p-p, Jr.

Q. What is your occupation Mr. Rapp?

A. I am a special agent with the Federal Bureau of Investigation.

Q. And are you employed at the local Santa Barbara office of the Federal Bureau of Investigation?

A. Yes, sir

Q. Were you so employed on January 27th of this year?

A. Yes, sir.

Q. On January 27th, did you have occasion to see the defendant Gourgen Yanikian at the Administration Building of the Santa Barbara County Jail?

A. Yes, sir.

Q. Do you recall approximately at what time?

A. It was about 6:21 p.m.

Q. Did you have a conversation with Mr. Yanikian at that time?

A. Yes, sir.

Q. Who was present?

A. Special Agent Robert K. Ryan accompanied me.

Q. He is also a FBI agent, is he not?

A. That is true.

Q. Did you before you asked any question of Mr. Yanikian advise him of what we call his Miranda Rights?

A. Yes, we did.

Q. Did that consist of telling him basically that he had the right to remain silent, that anything could be used against him, and that he had the right to have an attorney before he was asked any question?

A. Yes, sir.

Q. And did he acknowledge to you that he did understand his rights and was willing to talk to you?

A. Yes, he did.

Q. Did either you or Mr. Ryan make him any kind of an offer of immunity from prosecution or any leniency or any other form of reward or enticement in order to get him to tell you something?

A. No, sir.

Q. Did you make any kind of threats against him or exert any coercion or duress of any nature in order to get him to talk to you?

A. No, sir.

Q. Did he speak with you freely and voluntarily?

A. Yes, he did.

Q. During the time that you were with him there at the Sheriff's Administration Building, did the defendant complain or make reference to any injuries?

A. No, sir, he did not.

Q. Was any reference made whatever to his head by him?

A. No, sir.

Q. During the time that you were talking to him, did you observe any injuries on any place of his body?

A. No, sir.

Q. Did you see any bruises or cuts or scratches?

A. No, sir.

Q. Did you make a report of your conversation?

A. Yes, sir.

Q. Now, Mr. Rapp, would you tell us to the best of your recollection, refreshing your memory with your report if necessary, just what it was that Mr. Yanikian told you at that time and place.

A. Yes, sir.

Mr. Gourgen Yanikian was interviewed in custody at the Santa Barbara County Jail on January 27th of this year. He was advised that the agents wanted to talk to him concerning the shooting which had occurred that day and that the reason for FBI interest was recent law that had been passed by Congress concerning the protection of foreign diplomatic persons.

He said that he was an Armenian-American and that he had come to the United States to live in 1946. He became a naturalized citizen at Los Angeles in 1954.

He said he was a writer and had written seven books, also authored many articles and had written poetry. He said he had written two million words and had spoken four million words concerning the Armenian grievance against the Turks which dates back as far as 1915.

Several times he mentioned that two million of his Armenian countrymen had been killed, six members of his family had been killed, including his brother, and that six billion dollars worth of property had been confiscated by the Turks.

He complained that no one had listened to his complaint about this matter over the years and that no justice had been done. He said he resolved four months ago that he would destroy a person or persons connected with the Turkish Consulate in Los Angeles in order to focus world attention on this problem, and he said this was necessary because no one would listen to him.

Four months ago, he said he visited the Turkish Consulate, on the Avenue of Stars in Los Angeles, and took with him a piece of Turkish currency which he said was a valuable historic document and it had some signatures of thirty or forty historical persons.

He said the Consul was interested in obtaining this for a museum and that copies were given to the Consulate and they verified with Ankara that it was an item that the Turkish people desired and that they would make some arrangement to obtain it from him.

On this visit to the Consulate at Los Angeles, he said that he believed that he talked to the Consul General there but he did not know his name. He said he had no intention of selling this item or giving this item to the Turkish Government but rather this was a pretext used in his plan to destroy them. He also said he offered the Turks an Italian painting.

The Consulate people invited him to come to Los Angeles and he told them that he could not make the trip, and they agreed that they would send the vice-consul to Santa Barbara to complete this arrangement. Then he said that he asked that the Consul General himself come to meet him at the Biltmore Hotel to complete the arrangement.

He said about 11:30 a.m. the two persons arrived at his hotel room and identified themselves as the Consul general and the Vice Consul. He said he did not know them personally and had nothing against them individually, but they represented symbols of a cause that he was fighting. When the officials arrived in the cottage, he said that he talked for ten or fifteen minutes. He said that he told them what he thought about

them and an argument ensued. He said that one of them called him an Armenian son-of-a-bitch. He said, "I will kill you" and that one of them picked up a chair and hit him across the shoulder with it. He believed that this person was the Consul General. Then he reached for a .9 millimeter Luger pistol which he said that he had secreted inside the cut-out pages of a book which was resting on a piece of furniture. He said he fired the pistols at both persons, did not remember which one that he had hit first. When both of them were down, he said he obtained a second pistol which was a 25 caliber automatic, and thereupon he shot each person at least twice in the head, as he said that he intended to destroy these persons but would not make them suffer. Thereafter, he said he called the hotel switchboard and he asked the operator to call the Sheriff's Office, and he said that he told them he killed two persons in his room and he wanted to report this. Then he went outside the door of his room, waited for the officers to arrive, and also prevented any other persons from entering the room until the officers did arrive. He said that the Luger pistol was purchased by him from a private party 26 years ago in Beverly Hills, California. He had fired the pistol only one or two previous occasions. The second pistol, he said, was a .25 caliber Browning automatic, which he had purchased two or three years ago, he believed at the All American Sporting Goods in Santa Barbara. He said he decided to keep this pistol close by and to use it if necessary if the larger pistol was not operable. He said in order to explain his motives in the shooting, that he prepared a letter of 120 pages in the Armenian language and that he had mailed eight copies of this letter within the past several days addressed to the President of the United States, the Justice Department, Time Magazine, Los Angeles Times, New York Times and others. He said he held off mailing this letter so that it would not be published until he had finished the act that he had planned. He said his motive for the shooting was to avenge the injustice done to his people. He said that he loved America and said he did this to alert the American conscience. He said his intention was to let the Armenian people know what could be done to avenge their injustice. He said his act would let the People around the world know of the Armenian problem. He said in December 1972, he made a visit to Erevan, E-r- e- v- a- n in Russian Armenia in order to present a painting to the local Government and to the People of Armenia. He flew to Paris and on to Russia and his travel was handled by the Heron H-e-r-o-n Travel Agency, Beverly Hills. He denied this trip had anything to do with his plan to assassinate Turkish officials, and when asked if he had discussed his plans with anyone while on this trip, he said "You think I am crazy?" He said the plan he developed was his own plan and he carefully maintained its secret from anyone. And he carried it out alone, had no assistance from any accomplice, any organization, political or religious, and had received no financial aid from anyone. He denied that he is a member of or participates in any type of political activity or organization.

Mr. MINIER: Thank you, Mr. Rapp. I have no further questions, your Honor.

Mr. LINDSEY. May I ask a few questions your Honor?

CROSS - EXAMINATION

BY Mr. LINDSEY:

Q. Mr. Rapp, on this visit to the jail that was -- that was late in the afternoon on Saturday, January 27?

A. Yes, sir.

- Q. And was there another agent with you also?
- A. Yes, sir.
- Q. The purpose of that visit was to seek to interview Mr. Yanikian to gain as much information as you could with regard to the Federal statute that possibly might apply in the case?
- A. Yes, sir.
- Q. Now, after you obtained a clearance from the authorities at the County jail, you did have occasion, then to have an interview with Mr. Yanikian?
- A. Yes, sir.
- Q. And to make certain that there would be no question on his freely and voluntarily discussing this case with you, that's the reason why he was read the Miranda Rights at that time; is that correct?
- A. First, the printed form advising him of his rights was given to him, and he was asked to read it, and he did read it. And thereafter Agent Ryan summarized each paragraph of the form to him, and then receiving his consent that he had understood it and was willing to talk to us, then he signed it,
- Q. And now, at that time, as you observed him, as you talked to him, is it correct that it was your belief, based upon all the experience you have had in the FBI, that he was freely and voluntarily discussing his case with you?
- Q. Yes, sir.
- Q. And insofar as you could determine at that time and based on your experience, he was well aware that he was then in custody at the County jail?
- A. Yes, sir.
- Q. And he was well aware of the nature of the charges that were either lodged or about to be lodged against him; that is, homicide matters?
- A. I believe so.
- Q. And, when, in the preliminary discussion that you had with him, he appeared to you to certainly be completely aware of who you were and of the fact that this case was going to be discussed with you, isn't this correct?
- A. Yes, sir.
- Q. Now, you then proceeded to have a discussion, which includes, in part, what you have just related to the jury, isn't that correct?
- A. Yes, sir.
- Q. Now, is it true that to your knowledge there was no tape recording made of the interview that you had with Mr. Yanikian that afternoon?
- A. There was no recording to my knowledge.
- Q. Now, is it also true that what you did, which was the normal practice, was to make a series of handwritten notes and a couple days later on Monday when you had the next occasion, you dictated from those notes a form of report which you brought here to Court with you?
- A. Yes, sir.
- Q. Then after you dictated the report in the way that you felt would be appropriate, you then destroyed your handwritten notes?
- A. Yes, sir.
- Q. So that there need be no reference back to them that could be made?
- A. Yes, sir.

- Q. Now, at the present time, then, as you are relating your recollections, is it essentially then from the dictated report that you made on Monday concerning your recollections of his discussion with you?
- A. Yes, sir.
- Q. Now, if I may ask you just in a few places about that in your report on the first page of it in the second paragraph, and if you could refer to it so perhaps it will help you refresh your recollection, when he was discussing with you the Armenian grievance against the Turks, what you have related here, and also appears in your report, what do you recall that he discussed with you in that conversation about the Armenian grievance against the Turks?
- A. He referred to the Armenian massacre in terms in which he stated that two million of his countrymen had been murdered by the Turks, six members of his family which included his brother, and that property confiscated from the Armenian people to the total of six billion dollars.
- Q. Is that six billion?
- A. Billion dollars.
- Q. Six billion dollars?
- A. Right.
- Q. Now, in reference to the third paragraph on that first page, this has to do with as you were questioning him to find out if this was a homicide matter that occurred on the spur of the moment or within a matter of hours or a few days; is it correct that during that discussion you learned from him that there was perhaps four months of time involved in actual matters connected with the homicides that are the subject of this case?
- A. Yes, sir.
- Q. Once that fact was imparted to you, that there was, at least at that point, a statement to you of about four months involved in the planning, was that one of the reasons why you inquired further into some of the circumstances that apparently he was in some way connected with these homicides, or his activities connected with the homicides?
- A. Yes sir.
- Q. In other words, one of your tasks there, was to find out how deep or how broad the scope was that went into the planning or the circumstances connected with these homicides?
- A. Yes, sir.
- Q. And again, that's a normal function and certainly a practice that's followed by agents of the FBI that are assigned the duty of investigation in a case, isn't this correct?
- A. Yes, sir.
- Q. Now, on page two of your report, that there would appear to be part of a paragraph at the top, and then there are two other paragraphs on page, the one in the middle, please is the discussion that you had with Mr. Yanikian, is it correct that he had indicated that he had offered the painting to the Turkish representatives?
- A. Yes, sir.
- Q. And that in return, the consulate -- apparently the Turkish consulate had sent him a letter offering him a government decoration; is that correct?
- A. Yes, it did.

- Q. Was there also money that the Turkish representatives had offered?
- A. He did say that they had made an offer of \$5,000.00 to him, and that they wanted insurance from him that he would discontinue his antigovernment writings, but this statement he later retracted.
- Q. When he made the statement there about the anti-government writings, did you inquire of him what government he was referring to?
- A. Well, it was assumed by me that it was the anti-Turkish writings.
- Q. Now, later on, you say that he retracted that statement
- A. Yes, he did.
- Q. Did he retract that at some point later on in the conversation as you have related them in your report?
- A. No. It was at a later date.
- Q. At a subsequent interview or discussions that you had on another day?
- A. Yes.
- Q. Now, in the third paragraph on that page of your report, if you refer to it, this was the point of conversation where he was discussing with you, or responding to your questions about what happened at the Biltmore Hotel is that correct?
- A. Yes, it is.
- Q. And is it true that he indicated to you that apparently a discussion had been going on between the two Turkish representatives and Mr. Yanikian in that cottage, during which time he had told them what he thought about them, meaning the Turks?
- A. Yes.
- Q. And then there was an argument that took place between or among the three men, is that correct?
- A. Yes, sir.
- Q. Did he relate to you that it was at that point that one of the Turkish representatives called him, I believe, you have it in quotes, an Armenian son-of-a-bitch?
- A. Yes, sir. That is what he reported to us.
- Q. And then was it after that when he related that one of them picked up a chair and had struck, him with the chair?
- A. He said at that time that he repeated, or he said, "I will kill you," than one of them picked up a chair and hit him across the shoulder with it.
- Q. Did he believe that was the Consul General who did that?
- A. Yes, sir.
- Q. And then thereafter, is when the firing occurred in the room?
- A. Yes sir.
- Q. BY Mr. LINDSEY: Now will you turn your attention to page 3 of your report, please. In the discussion of the history of the guns that were used, did he relate to you that the Luger had been purchased apparently here in California some number of years ago?
- A. Yes, sir.
- Q. Once that information was imparted to you, did you attempt to ascertain from him the name of the person from whom he had purchased the gun?
- A. Yes, we did.
- Q. Did you determine that?
- A. Not at the time of this interview.

- Q. Did you at some later time determine that?
- A. Yes, we did.
- Q. Now, were you able to confirm that the approximately 26 years was approximately correct?
- A. It could not be verified as the person of the identity given to us could not be located.
- Q. Was there any other effort made to your knowledge to – well, let me withdraw that and ask this.
- Did you determine from the conversation you were having with him that that Luger pistol had been fired by him only on one or two previous occasions since he had acquired it?
- A. That was his statement.
- Q. Did you inquire of him as to when the one or two occasions had been?
- A. Yes, he related it was a period of maybe fifteen or twenty years ago that he had occasion while fishing on a lake that he had fired this pistol.
- Q. Was it just a target-type of shooting or some other type?
- A. He made no statement other than that.
- Q. Did you make any further inquiry of him in that regard?
- A. Not in that regard.
- Q. Now, the smaller firearm, the Browning, did he indicate whether he had fired that at any previous time after acquiring it?
- A. There was no indication or information given that he had fired that pistol.
- Q. The next thing that occurred had to do with the 120-page letter that he had prepared, is that approximately correct?
- A. Yes, sir.
- Q. Did he state to you at that time that that 120-page letter was prepared by him in order to explain his motives connected with the homicides?
- A. Yes, sir.
- Q. Did you have occasion to ask him at that time if he had available a copy among any of his papers of that 120-page letter?
- A. He said that he had a copy with him at the Biltmore Hotel at the time this incident occurred.
- Q. Did you subsequently determine and obtain a copy of that letter?
- A. The Santa Barbara County Sheriff's Office did obtain possession of that.
- Q. Is it correct that it was in the Armenian language the 120-page letter?
- A. I assume that it was, yes.
- Q. Are you acquainted with a Mr. Saroyan who is sitting here?
- A. I have met him, yes.
- Q. Did he also indicate that the motive that he had-- first of all, the letter explained the motives and the motive he had also was to avenge the injustice done to his people?
- A. That is true.
- Q. When he was discussing with you his people, was he referring only to his immediate family members that had been killed by the Turks or was he referring to the Armenian people generally?
- A. I believe he referred to the Armenian countrymen.
- Q. Would this then include as you can recall from the conversation this two million other countrymen that had been killed by the Turks?

- A. Yes, sir.
- Q. Did he indicate during the conversation, the period of time approximately when the Turks had killed two million of his countrymen?
- A. He referred several times to the year of 1915 as the time of the so-called Turkish massacre.
- Q. At the time that you were having this discussion with him, did you have any particular knowledge of any kind as to massacres of Armenian people by the Turks around the year 1915?
- A. I am not a student of history, sir, so I was not very conversant with that.
- Q. In other words as he would relate whatever it was, you were simply taking notes and later on to reduce it down into a written form?
- A. Yes, sir.
- Q. Now, did he also indicate at that time when he was discussing with you the reasons for the homicides, that in fact he had a love for America?
- A. He did.
- Q. And that one of the reasons that the homicides were involved was to alert what he referred to as the American conscience?
- A. Yes, sir.
- Q. Did you ask him at that time or was there any discussion with him as to what he meant when he used the term "American conscience"?
- A. I don't believe I questioned him about that.
- Q. In other words, as he used that particular phraseology, you simply took that down without making any further inquiry into it then?
- A. Yes.
- Q. Now, did he also at that time indicate to you that his intention was to let the Armenian people know what could be done to avenge the injustice that had been committed?
- A. Yes, he did.
- Q. And the injustice again, did that refer to the two million people that had been killed by the Turks, as well as the several billion dollars worth of property of the Armenians apparently taken by the Turks?
- A. Yes, sir.
- Q. Now, you mentioned that in the conversation about this point, that he indicated that last December he had made a trip to Yerevan?
- A. Yes, sir.
- Q. And have you since recognized Yerevan as a city in that part of the world, I guess in the Middle Eastern area, generally that had the connotation of being related to the Armenian people?
- A. I believe that is true.
- Q. Did he indicate to you in the discussion you were having that he had made a trip that took him into Russia itself this last December?
- A. He did make the trip into Russian-Armenia, right.
- Q. Would that be a part of Armenia that is within what we might call the country of Russia?
- A. Yes, it is Soviet Armenia is the understanding that he gave us.

- Q. Having in mind that the FBI often is concerned with perhaps any foreign intrigue or foreign aspects in a case, did you inquire during this conversation you had with him as to how this trip was financed?
- A. At this time I do not believe he was questioned about finances for his trip.
- Q. Having in mind that in past years at least, the FBI has been concerned with communists and Russia, when you learned that he had made this trip last December into Russia, did you make any inquiry as to whether there was any communist connection or Russian connection with his trip, other than the fact that he was within Russia?
- A. We did ask him who he was visiting there. He mentioned that he visited his aged sister and he gave us her name, and this was the extent of our conversation on that occasion.
- Q. Did he request that you not disclose the name of his sister?
- A. I don't recall that.
- Q. Did he at any time indicate any concern for what might happen to his sister in Russia if she became identified?
- A. I don't recall that he did.
- Q. Did you determine why or the purpose for which he had gone to that part of the world last December?
- A. Yes, he stated primarily he wanted to visit his aged sister in view of his plan concerning the assassination, and also that he wanted to take an art object there to Soviet-Armenia, that he would make a gift to a museum there.
- Q. Mr. Rapp, did he indicate to you in that conversation that in fact he was able or did make a gift of the painting to someone in Russia, Russian-Armenia?
- A. He said that he did.
- Q. And then did that generally pretty much encompass the general nature of the discussion you had with him late that afternoon?
- A. I believe so, except for asking him of his background data and where he had lived and other matters involving his personal background.
- Q. About how long did the discussion take?
- A. I recall that it was terminated at 7:40 p.m.
- Q. And it started about when?
- A. At 6:21 p.m.
- Q. Throughout the whole discussion, was he completely cooperative and so far as you knew responding willingly and freely to any questions you desired of him?
- A. Yes, sir, he was.
- Q. Was he gentlemanly towards you at all times?
- A. He was.
- Mr. LINDSEY: I have no further questions. Thank you very much.

REDIRECT EXAMINATION

BY Mr. MINIER:

Q. Just one question, Mr. Rapp. Did you have later occasions to re-interview the defendant?

A. We did.

Mr. MINIER: Thank you, I have no further questions.

Mr. LINDSEY: No further questions your Honor.

THE COURT: That is all, Mr, Rapp. You are excused and free to leave if you wish.
Mr. MINIER: William Baker, please.

WILLIAM A. BAKER,

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

DIRECT EXAMINATION

BY Mr. MINIER:

Q. Would you please state your full name for the record.

A. William A. Baker.

Q. Where are you employed Mr. Baker?

A. Santa Barbara County Sheriff's Department.

Q. Were you so employed on January 27th of this year?

A. Yes, sir, I was.

Q. And on that date did you have occasion to have a conversation with the defendant Gourgen Yanikian in the Detective Bureau of the Santa Barbara County Sheriff's Office?

A. Yes, sir, I did.

Q. Could you tell us about what time it was and who was present?

A. This was approximately 2:45 p.m. Present was myself, Detective Crook, and the defendant Mr. Yanikian.

Q. Prior to any conversation, did you advise Mr. Yanikian of what are called his Miranda Rights?

A. Yes, sir, I did.

Q. Did that consist of advising him of his right to remain silent and that anything he might say could be used against him in court, and of his right to have an attorney before any questions were asked?

A. That's correct.

Q. Did he indicate to you that he was aware of those rights and he was willing to waive them and talk to you?

A. Yes, he did.

Q. Did he sign any kind of a form indicating that willingness?

A. Prior to any conversation that you had with him, did either you or Detective Crook make any kind of promises or offers to Mr. Yanikian of any leniency or immunity from prosecution or reduced charges or any kind of reward if he would talk to you?

A. No, sir.

Q. Did you in any way threaten or attempt to threaten him or coerce him or use any kind of duress in order to get him to talk to you?

A. No, sir.

Q. Did he appear to be freely and voluntarily talking to you in the ensuing conversation?

A. Yes.

Q. At any time during your conversation with him on that day, did he complain of any injuries to his head?

A. No.

Q. Did you see any injuries of any nature on the defendants body, such as cuts or scratches or bruises?

A. I did not.

Q. Was the conversation that you had with the defendant tape-recorded?

Q. Yes, sir, it was.

A. And was then a written transcription of that made from that tape recording?

A. Yes, sir.

Q. Could you tell us how the transcription was made.

A. I sat by myself in the interview room of the Detective Bureau and listened to the tape and took handwritten notes as to my understanding of what was on the tape. I then reduced the handwritten notes to rough typewritten notes, and these I submitted to a Detective Bureau secretary and had them typed again. I read the typed copy, compared this to the tape as I listened to it, made the necessary corrections, had it finalized, and presented it.

Q. Was the tape recording that you used for the purpose of making the transcription a true and exact recording of the conversation you had with the defendant?

A. Yes, sir, it was.

Q. You say you then reviewed the written transcription to assure that that transcription accurately indicated what was on the tape recording, with the exception of any unintelligible portions?

A. Yes, sir, that's correct.

Q. Mr. Baker, do you know whether the first part of the tape-recorded conversation appears on the tape that we have already admitted into evidence, that also has a portion or that also has all of the tape recorded conversation with Detective Norton?

A. That's correct,

Q. Do you have the other tape that contains the rest of that conversation with you?

A. Yes, I do.

Q. Do you have it with you at the witness stand?

A. No, it is at the rear of the courtroom.

Q. We will get that, but for a moment let me show you People's Exhibit No. 51 for identification and ask you if you can identify this as the transcription of the tape recording about which you just testified?

A. Yes.

Mr. MINIER: Your Honor, we would offer People's Exhibit No. 51 into evidence.

Mr. LINDSEY: Your Honor, may I just for my record pose the same objection that I did to the transcript of Mr. Norton which would be People's Exhibit No. 48, on the grounds that the written transcript is not complete in that there are several pages that are unintelligible and a clarification would make it more clear and more adequate than what is presently there.

THE COURT: Overruled. People's Exhibit -- what is that, please? -- 51 is received in evidence.

(Whereupon, Exhibit No. 51 for identification, transcription of the tape recording, was marked and received in evidence.)

Mr. MINIER: Thank you, your Honor. May the witness step to the back of the room to get the tape recording,

THE COURT: Yes.

Mr. MINIER: When we have it, I wonder if we might have it marked as 51-A for identification, your Honor.

THE COURT: Yes.

(Whereupon, the tape recording was marked as exhibit no. 51-A for identification.)

Mr. MINIER: Your Honor, as soon as that is marked, I would request permission to read the transcript to the jury, having Detective Baker take the part of the defendant Mr. Yanikian and having me take the part of Detective Baker and also the three or four occasions -- I guess there are more -- when Detective Crook asked questions at which time I could refer to the fact that it is Crook's voice asking the question.

THE COURT: That is acceptable.

Mr. MINIER: Your honor in this transcript, the unintelligible portions I believe are marked in parenthesis as "Could not understand", so if we could merely make that reference instead of unintelligible.

THE COURT: All right.

Mr. MINIER: While you are getting the tape, Mr. Baker, we indicated that you would be taking the part of the defendant and I would read the question to you and Detective Crook.

(Reading)

"Hello, I'm detective Baker with the Sheriff's Department. This is my partner, Detective Crook. Would you like me to take those off (handcuffs)."

"Defendant: Please.—who sit down fifteen minutes call. Can I call direct to Sheriff office. Then Sheriff came and he take me away, fifteen minutes after they started to look. Man who called, I did calmly sit wait with my suitcase, ready, everything, while you come. Thank you very much."

"Crook: Okay. Why don't you just sit down back there and relax a minute, sir. I'm Detective Crook with the Sheriff's Department, also. That's correct, we are both Sheriff's Officers."

"D": Okay.

"C": All right? we're going to talk with you a little bit and find out just exactly what happened today.

"D": What happened. I killed two people.

"C": Okay.

"D": They came my place.

"B": Sir, is your last name Yanikian?

"D": Gourgen Yanikian.

"B": Sir, before we talk to you in any depth, I want to advise you of a few things first, okay? Can you read English all right?

"D": Oh, sure.

"B": Okay. Why don't you read that to yourself while I read it out loud to you. All right? Under specific warning. See where it's numbered 1, 2, 3, 4?

"D": You have the right to remain silent. Anything you say can be used against you in a court of law. You have the right to talk to a lawyer. If you cannot afford to hire a lawyer...

"B": Okay. Why don't you read it to yourself, sir, and I'll read it out loud to you. Okay? You have the right to remain silent. Anything you say can and will be used against you in a court of law.

"D": Yes.

“B”: You have the right to talk to a lawyer and have him present while you are being questioned. If you cannot afford to hire a lawyer, one will be appointed to represent you, before any questioning, if you wish one. Now do you understand each of these rights I have explained to you? Do you understand them? Do you have any questions at all about them?

“D”: Only a little, because I have one ear, my other ear is dead, twenty-five year. Please, if sometimes I ask....”

“B”: Okay. I'll be glad to repeat it. Do you understand what I just advised you though?

“D”: I understand.

“B”: Okay. Having these rights in mind, the rights I explained to you, do you wish to talk to us now about it? Do you wish to talk to us about it, keeping these rights in mind? The rights I've just explained to you?

“D”: Yes.

“B”: Now, keeping these rights in mind . . .

“D”: Yes.

“B”: Do you wish to talk to us about it?

“D”: Write this out?

“B”: No, I say, keeping these rights in mind, that I just explained to you, do you want to talk to us about it? Do you want to talk to us about what happened today?

“D”: If you ask questions, I can answer.

“B”: Do you want to talk to us about what happened today, then?

“D”: I killed. I called Sheriff Office. Ask superior officer. I no have answer. Then I call switchboard and I told my name and my room, I kill two people. Call Sheriff Office, that I am waiting, they came and he take me.

“B”: Who did you call in your room?

“D”: Board, Biltmore, because I don't have telephone direct. My room no telephone. Telephone, but is your room number. Communication. I get theme they said, what. I am calling to report, Yanikian, I killed two people. I want you call now emergency Sheriff. Some other people came, and I am waiting. I went out and wait. Ten minutes, fifteen minutes, nobody came. Other men came. Can you call or let me call, no telephone, and he went next room and called again, and I wait. In fact, those gentlemen came and give me this handkerchief.

“B”: So. when you called, you called the switchboard?

“D”: Switchboard. Then I wait out, you know, and these people came after ten minutes, they want walk in. I stop, my room, I want anybody go in except Sheriff Department and put them out. And what one is, I don't know, guard or something. I don't care. Without Sheriff, nobody can go in my room. He go for walk again he went and call again, then after this, ten minutes.

“B”: So you called twice then. Did you call anyone else besides the switchboard?

“D”: Yes, I called switchboard, and I told name, and this guy called from other room. He want go my room use telephone, nobody can go in this room, until Sheriff people come here, and he went next room. I don't know if he called from there. After ten, fifteen minutes people came. You no leave here, I no go look in the room. Only I ask. . . because I no have anybody on this earth except my wife, who is sick in the hospital, fifteen years now. She cannot talk, she cannot speak, she said, who's that there, lose memory, she don't recognize me. I prepare, I know

that, what I am doing, I know I am going long away, and I prepare my suitcase because nobody will bring me undershirts, toothpaste so and so, so I prepare all this, you know pack it, so and so, and my brief case with some papers, documents, you know, and I told, may I take this please, no. Even I ask my kerchief because I am cold. They know this, they knew that they promise. Other I told to men, other my scarf, these suits, everything, you can pack, you can pack in the box. Keep it. I need only those two; my black briefcase and you bill you can send to jail. Then be paid. I cannot tell you exact names, I know who they are. They will promise come three days ago, come here yesterday, finally today and in my briefcase have exact names. I know who they are. One is Consul General, other is Consul also. I not meet them in Los Angeles, because intention do this in Los Angeles not in Santa Barbara. I went there, I saw lots of people, secretary jobs. I thought innocent people can be try become some hero. I changed my mind because I am against killing, I m against force, I'm gentle all my life, I thought I'm only democratic way. But If I went there and somebody tried to become hero, I have no choice. For this I organize the bait then, in Santa Barbara. Now, you ask why I did.

“B”: Can you explain to us why?

“D”: For your children, leave more better America that we have. We will clean dust on our diamond. First. And second, that my people, I belong Armenian, to lose two million people they killed. Six people my family. I saw how they cut throat my brother, and I promised my brother. I am no sorry. I know what I am doing. And, I want conscience people awaken. I sent already all my book, hundred twenty page about what I am doing, to President Nixon, he know me, he has my books I have written; to Speaker of the House, to Justice Department, Times Magazine, Los Angeles News, New York News, Santa Barbara News. I sent all around the world, all Armenian newspapers, and more private letters. I prepare this, you doubt. I am sorry very much. I am American. I come twenty- six years here. I save lots of American lives when I was not yet American. I am engineer. I built highest railroad in the world, I built railroad by which American supplies to, to Russia, and the Persian government. Before they was sending to England, German pass there, they blow. All I think Yanikian have way without (could not understand) and I was building, you know, more important part, Tehran, and they came, you know, your American generals, Hungary generals (could not understand). They ask can we get finished quick as possible. I finish three and a half months before. How many American lives saved, I don't know. (Could not understand.) I seek special permission from America. It said (could not understand) very important shot, very important guy.

“B”: Where Is your wife now?

“D”: My wife, she's invalid, fifteen years sick, Beverly Manor.

“DETECTIVE CROOK”: Beverly Manor?

“D”: She cannot speak.

“DETECTIVE CROOK”: Do you have any children?

“D”: She cannot talk.

“DETECTIVE CROOK”: Gourgen, do you know the name...

“D”: She don't remember a thing. Yesterday I took sixty piece of chocolate. . .

“DETECTIVE CROOK”: Did you tell anyone what you were going to do?

“D”: Nobody.

“DETECTIVE CROOK”: Do you know the names of either of the men that you . . .

“D”: Three years ago I have this idea.

“DETECTIVE CROOK”: Three years ago?

“D”: Yes. I wait, wait, wait, even maybe conscience mind of mankind cannot act. I write two million words. I wrote maybe two million in speeches, and I think Americans have noise, for dedication. I am against killing. My writings, you read my books. you can see I am all for Democratic way, no killing. I put it together. First, (could not understand)

Second, Armenian People. Two million people killed, six billion property, even President of United States, Wilson, told and wrote protect, care of this small nation, is not question of justice, this will prove that mankind have conscience.

“DETECTIVE CROOK”: How about these men today? What happened today? Did you know these men personally, did you know these people?

“D”: No, only I know they represent their government.

“DETECTIVE CROOK”: I see, but did you know them personally? Had you been with them?

“D”: I meet them, but never I have been, never friendship, nothing. Only I know that they represent the Turkish government, and I think with this I can do two, make noise that American people are watching it start cleaning our diamond. Our country's diamond, but covered by dust; and second, my people will see that it's not possible, nobody take care that two million died, take them! And then people live like this.

“DETECTIVE CROOK”: Why were these men killed today?

“D”: Masaka. Masaka. You don't know name Masaka, killed fifty year not only Armenians, they killed Greeks. Our president, guiding the Greeks, drink champagne they drink for advancing people, and forgot how many Greek young girl they killed, so and so. Ottoman empire, too they start 1895, when I was born. Then all day they kill, kill, kill our people up til 1915, 1916, when I was twenty years old. I saw them cut my brother's throat. And my brother ask, I go. Don't worry, I take care. I wait.

“B”: Why did you wait so long?

“D”: Because I think mankind can take care. I think American President wants, is cause something. I think that now. . . I wrote one hundred twenty page that I sent that President read.

“B”: Do you have any of that hundred and twenty pages here?

“D”: They take my briefcase, I have surely copy.

“B”: In your briefcase is the copy of it?

“D”: Surely.

“B”: Where is the briefcase now?

“D”: In the room. My briefcase and black suitcase and briefcase. They asking me name, I know, maybe doubt, so and so, you know, why have I this, you know, well I told him, look, they're all documents. I have copies, sure, to whom I sent I have copies. I mailed not only America, I mail around the world.

“DETECTIVE CROOK”: When did you mail these, all of these?

“D”: I mailed them they'll receive after. I no mail before.

“B”: When did you mail them, yesterday?

“D”: No, I mail three days ago.

“B”: Three days ago. From Santa Barbara?

“D”: Not all Santa Barbara, different. Santa Barbara, Goleta, because they're large, I not put in one box.

“B”: When did you first meet these two men that you killed?

“D”: Five months ago.

“B”: Five months ago?

“D”: In their office.

“B”: Where is their office?

“D”: Los Angeles. Stars Avenue, and they bring me letter, give my briefcase, there all papers, so and so

“DETECTIVE CROOK”: Do you have some letters in your briefcase from these people?

“D”: Surely yes, not only in the briefcase. They bring second letter to me. Because I have some of their money with signatures different very important people. They want this for their museum. Also I have picture I told I can give, and even they offer me money that, you know, stop, because I'm writing poetry too, not write against our nation, or God, Masaka, so and so. They offer me five thousand dollars even, and, I told you I went there because I see what I can do. When I saw situation, lots of people . . .

“DETECTIVE CROOK”: Gourgen, I'd like you to tell me about this morning. What happened this morning, just exactly what you did. How long you had been at the hotel, what you did, and what happened.

“D”: What I did? I kill, simple. When I told you know, we talk, you can receive picture, receive this, so and so, but you forgot two million Armenians you killed, you nation. Six billion dollars property, why did you. Then start to walk in and take, you know, chair, in the room, you know hit me.

“DETECTIVE CROOK”: Okay, well this is what we want to find out about. Okay, can we go very slowly, and, just tell us how things happened.

“D”: How, I take gun and shot, when finished, then I saw that small gun, I fire, I no want they suffer, I shot their head too.

“DETECTIVE CROOK”: Okay. I understand this, but what I'm trying to do is see what happened before and during, so why don't I ask you a few questions and you answer them if you're able to.

“D”: Before, I told you, I was (could not understand), I don't know what you want to know.

“B”: Did you invite them to your room?

“D”: They told that they wanted meet me anywhere even the Biltmore, okay then I rent Biltmore room and moved there.

“B”: So they wanted to meet you.

“D”: Yes, in the Biltmore.

“B”: And you rented the room at the Biltmore, when?

“D”: Monday.

“B”: Did they call you to tell you they were in town?

“D”: No, they no know my address because I leave apartment. I quit apartment and the Biltmore I have telephone, I make conversation by my telephone. And they told me, you know I'm big shots, we cannot go to apartment, so and so, in the Biltmore. Okay, because were ask if they not approve this, then I went Monday, make

reservation before, reservation made before Monday, I move, you know, also my telephone, you know, I no call from hotel, I call from street collect telephone. They promised Friday. Friday no came, they came today.

“B”: They came today.

“D”: Yes.

“B”: What time today?

“D”: Eleven thirty.

“B”: Did they come to your room?

“D”: Oh yeah.

“B”: Did you invite them in?

“D”: Yeah. We meet, and we talked and we talked.

“B”: How long did you talk before you shot?

“D”: Ten, fifteen minutes.

“B”: Did you tell them why you were going to shoot them?

“D”: No, I ask, they asking me, what they will do, what they did.

“B”: Did you have the gun out at that time?

“D”: No.

“B”: When did you bring the gun out?

“D”: When they take, you know this chair, and hit me. I prepare gun in Who’s Who book.

“DETECTIVE CROOK”: Who took a chair and hit you? Do you know which one hit you with the chair?

“D”: Which one first? I don’t know, first, right side, other side, I shot a parabellum eight shot, after I finish I have small....this parabellum I have twenty six years; I bought in Beverly Hills. I have never used. And I was worried that this can be not work, you know, may be twenty-six years, and this small Browning I bought here, about two or three years ago when I have in my possession never I use.

“B”: Before these men came to your room today, did you know that you were going to shoot them?

“D”: Shoot, yes, oh, yes.

“B”: Did you know you were going to shoot them?

“D”: Sure I sent already to our President. I think we cannot clean this dust without noise. Two million my word which I wrote not work. The people need, you know, noise. What kind of noise. I can, you know, choose something else, but I’m against killing, but then I put together that my nation, and I decided help out my nation, government, my country.

“B”: If the man had not picked up the chair were you going to shoot him anyway?

“D”: Oh yes, yes. I made up my mind.

“B”: Do you know which one picked up the chair, whether it was the Consul General or the other man?

“D”: I don't know which. I looked at the chair, you know, and hit me.

“B”: Why did they want to hit you with the chair?

“D”: Because when they offer, you know, money, so and so, all your life, your nation, you was dirt, you know. How you take everybody's money. You take hundred billion from America, you take this, somehow you think you can buy, huh. But

already I make up my mind that I going to shoot. For this I act, is not a personal thing, you know, emotion, no.

“DETECTIVE CROOK”: Where did you have your guns at?

“D”: Guns?

“DETECTIVE CROOK”: Pistols.

“D”: Have in the book, Who is Who in America. I cut this out in Who is Who. I am in the Who is Who too, Gourgen Yanikian, that’s my name.

“DETECTIVE CROOK”: So the gun was inside of a cut-out Who’s Who book.

“D”: Yes, I cut myself.

“B”: Where was the other gun?

“D”: Other what? The small is under....

“B”: Little case?

“D”: Yes, in the, no briefcase, on the table. It's not by emotion, my friend.

“DETECTIVE CROOK”: I see.

“D”: I know what I am doing.

“DETECTIVE CROOK”: Which weapon was in the Who's Who books was that the Browning or the....

“D”: No, Who is Who, the parabellum, which I have twenty-five years in Beverly Hills. Never I use, and why I take this small, two reason: First, I think maybe this no shot, maybe, I don't know. Never I use, and second, I don't wound, if something go wrong, I will need that too, and I did, the small one.

“B”: Sir, one thing, I don't understand, maybe you can explain it to me. You were talking to these men, and one of them picked up the chair. Did he actually hit you with it? Where did he hit you?

“D”: Yes. (Gesturing towards left shoulder)
Then I went, you know, and then look, you came yourself, now you know.

“B”: Where were you standing when he went to hit you hit you with the chair?

“D”: I just sit down there. I will sit down, down on bed, (could not understand) Then and there was then I called their nation, dirt nation, who take old people, cheat, kill, so and so. (Could not understand.)

“B”: Okay, where was the Who's Who book then?

“D”: Next, in front, front of mirror, on the table.

“B”: When you were hit with the chair . . .

“D”: When I take Who is Who? Yes, I take Who is Who, I turn and say now you know who I am. I put on the bed, automatic.

“B”: This was after you were hit with the chair?

“D”: No difference.

“B”: You are sitting on the bed. He comes over and hits you with the chair, did you reach over and pick up the gun?

“D”: No, no. I jumped. It's about three or four steps. But I tell you, its not different. We have all this, I want to tell why they will die. Why, why the will die is fixed. Its not they hate, you know, no. I prepare, you know, and I went back and Who is Who I put on the bed. Open and took . . .

“DETECTIVE CROOK”: Where were they standing when you picked up the book?

“D”: Sitting.

“DETECTIVE CROOK”: They were sitting?

“D”: Sitting, and they jumped.

“DETECTIVE CROOK”: They were sitting in a couch or a chair or. . .

“D”: Two chairs there.

“B”: At the table? Sitting at the chairs next to the table?

“D”: Yeah. And they have letter. They looking at this money which I have, you know, different signatures, very important people around the world, which like museum pieces, given for their museum. And they bring me letter from their. . . That they will send picture and this to government, and government will send me decoration. Decoration. You will send me, Armenian, decoration. You killed my two million people, six people my family. Decoration. They give money too.

“DETECTIVE CROOK”: When you opened up the Who's Who, and you had the weapon, did you shoot all of the bullets into one man or into both of them?

“D”: No, no, both.

“B”: How many times did you shoot each one, do you recall?

“D”: I think eight bullets gone, I have two reserve; I have two reserve, you know, I no take these. I have two reserve, I have three . . .

“B”: Magazines?

“D”: Three magazines. There are two magazines there. Those are mine from Beverly Hills.

“B”: But you only shot the one magazine, eight shots.

“D”: One magazine.

“B”: One magazine, eight shots.

“D”: Eight shots. And also I shot the Browning.

“B”: How many times did you shoot the Browning?

“D”: I think two times each head, I think. I cannot count. But when I saw that already helpless . . .

“B”: When you're shooting them with the parabellum, were you shooting them in the body, or in the head, or.....

“D”: Maybe I hit in the heart, I try for heart, I don't know. I not know, because you know in a second you no have time (could not understand.)

“DETECTIVE CROOK”: Did either man try to run? Did they try to run once you had. . .

“D”: Yes, they try to grab me.

“DETECTIVE CROOK”: They tried to run at you?

“D”: Yes, then I shoot Consul General, I don't know, two, three, after other, you know, (could not understand) after no more cartridge, I no take from the drawer. I take small Browning.

“DETECTIVE CROOK”: Were they both down at this time? Were both men down when you took the small Browning and shot them in the head?

“D”: Yes.

“DETECTIVE CROOK”: They were both down. I mean, they had been shot with the parabellum, right?

“D”: Yes.

“DETECTIVE CROOK”: Okay, you had shot.....

“D”: They call them French, this shot which I give by hand, my Browning, mercy shots.

“DETECTIVE CROOK”: I see, you were administering mercy shots.

“D”: I no want, you know, to suffer.

“DETECTIVE CROOK: Did you, when you administered the mercy shots, did you make contact with the body, or did you just aim. . .

“B”: How far away do you think you were from them when you fired the last few shots?

“D”: Five, six feet.

“B”: Are you sure you hit them?

“D”: Sure.

“B: How do you know? Well, tell me.

“D”: When I shot (could not understand.)

“DETECTIVE CROOK: Can you tell me where any of the bullets struck on either one of the men?

“D”: Maybe some of them not hit, because you know, If they are through, maybe some of them go out, you know, maybe.

“DETECTIVE CROOK”: Did you see directly where any of the bullets hit, I mean, could you see the. . .

“D”: Of course (could not understand) shot like this go out, you know, I don't know.

“DETECTIVE CROOK”: What I'm asking is, did you see any spot where you had shot once it was all over?

“D”: I saw when I shot, you know, they fall down, they fell down.

“DETECTIVE CROOK”: Did you see any place where they hit, though, after everything was over, all the shots are fired?

“D”: I notice nothing.

“DETECTIVE CROOK: Do you go right outside?

“D”: I notice some of the people, you know, I was not right, you know.

“DETECTIVE CROOK: could I ask you if I've got this straight? What you say is you fired one magazine of eight bullets.

“D”: Both, in both people.

“DETECTIVE CROOK: In both people, so maybe four apiece, something like that.

“D”: I don't know.

“DETECTIVE CROOK: Okay, after that you had two reserve clips.

“D”: They lay down and then I mercy kill.

“DETECTIVE CROOK: You didn't use the other two clips?

“D”: No. The other two stayed there.

“DETECTIVE CROOK: How many mercy shots did you fire?

“D”: Eight or nine.

“DETECTIVE CROOK: And you fired all of those as mercy shots?

“D”: No, no more.

“B”: From the Browning, how many shots did you fire with the Browning?

“D”: I don't know.

“B”: You said about four?

“D”: Four, maybe, four, five, maybe I don't know.

“B”: Were they moving when you shot them with the Browning?

“D”: Yes.

“B”: Were they still alive?

“D”: For this I give mercy shots.

“B”: Which one was moving?

“D”: Both.

“B”: Both of them were moving. Were they trying to get up?

“D”: No. I shot at them lying.

“B”: Were they laying an their on their stomachs or on their backs? Their stomachs.

“D”: Then I shot them.

“B”: Okay, when you were shooting the parabellum, did you shoot them in the back at all, or was it all in the ...

“D”: All in front.

“D”: Never I shoot back. On the front, on the front.

“B”: As they were running to you, they see you have the gun, they’re running to you, you shot one then the other, back and forth?

“D”: No, maybe two three here, after there, two, they fall down, I shot no more, I take, went back, the Browning was there, went back and came and . . .

“B”: Were you standing up when you shot the parabellum?

“D”: Oh yes.

“B”: You had gotten up from the bed, you went the get the book. . .

“D”: Yes .

“B”: You opened the book, took the gun out....

“D”: Yes.

“B”: They started coming toward you...

“D”: Yes.

“B”: Did you say anything to them that I'm going to kill you, or I'm going to shoot you?

“D”: No, I told before.

“DETECTIVE CROOK: What did they say to you when they saw the gun?

“D”: Why. We've given you everything to you.

“B”: Did you tell them you were going to kill them?

“D”: Yes.

“B”: Before they hit you with the chair?

“D”: Yes.

“B”: Is that why they hit you with the chair?

“D”: No, after hit chair, I told, now you know, you are going too far. They call me by name, you know, so and so.

“B”: What did they call you!

“D”: They called, you Armenian son-of-a-bitch.

“B”: Was this after you said you were going to kill them? Did you say how you were going to kill them?

“D”: No.

“B”: Did you say that you were going to shoot them

“D”: No. After this I went open Who is Who, take it out.

“DETECTIVE CROOK”: Was it after the remark, then, that you opened up Who's Who and shot them?

“D”: Pardon me?

“DETECTIVECROOK: It was after they called you names?

“D”: Yes. Armenian son-of-a-bitch.

“DETECTIVE CROOK”: And then you . . . Did this make you angry when he called you that?

“D”: Sure it make me angry, I told, you killed two million people. You know what one told? Too bad we no cut all. I told, okay now you know who I am. Now I will kill you.

“DETECTIVE CROOK”: And what did they say at that point when you said I will kill you?

“D”: They think I am joking.
 (“D” and “Detective Crook” both talking at the same time, could not understand)

“D”: I make decision, and I let know even President, I will prove noise then, Justice Department, News Press. I make my decision before. Its not that all this what happened, only make me more angry.

“DETECTIVE CROOK”: What kind of noise are you trying to make? What do you want to be known?

“D”: Two million words I wrote.

“DETECTIVE CROOK”: I understand. I remember what you told me.

“D”: And, no action.

“DETECTIVE CROOK”: So, you figured that actions are louder than words?

“D”: It's time for we start clean our diamond. American country is diamond, covered by dust. But what, no American human, now dollar make fat me, make fat you, make fat everybody. Is time now, we cannot, I cannot accept, nobody can accept that that matter the more important that getting criminal, what we have. When old people kill himself, because no have money for wife's medicine, when these old people create America, give our President half million dollars, for buy his car. This is justice? This is not dust? Then four hundred sixty men with sick sickness, Government will not pay, give them food, so and so, never use medicine for see what results sickness, is not dust?

“C”: Do you recall what either one of the men were wearing today, their clothes, what they might have been wearing?

“D”: What?

“C” Do you remember what kind of clothes the men were wearing, the representatives, I mean was it.....

“D”: How, suits. What are you asking these questions, because you don't want I talk other. Okay, I stop, I no talking. I wrote everything, newspaper, Los Angeles Times have, New York Times have, Time Magazine have, Justice Department and President have, Speaker of House have, Santa Barbara News have, hundred twenty. Let them sit down translate. Get Armenian, translate English and then you tell me. I know what you tell me.

“C”: How would you like to write one more thing for us?

“D”: (Could not understand) If you read my one writing, America Crossroad, there I tell that we will give more power to our Police Department. Maybe you read. If not in my briefcase. More power. Twelve years ago, in Voice of America book I sent Europe two hundred copies, all sent out to President, so and so, even Johnson even sent letter agree, Judge told, it's too bad we cannot offer everybody, then I put, we will pick situation. The dope people who push dope they will declare outlaw. Nothing done, twelve years now the torture of our, call this criminal or we lose our young generation.

“C”: Mr. Yanikian can I ask you one thing? We’ve asked you quite a few questions and we've got your reasoning why you did these things, and what have you.

“D”: You ask me questions which is connected, you know.

“C”: What I would like to do, would you just give us a written statement in your own hand as to, your own handwriting, as to what occurred today. Just however you want to phrase it. It can be brief or whatever else.

“D”: Because any President tell, think not what this country can give to you, think what you can do for country. Our President tell is time now we can take citizen, each citizen, you know, think about what he can do for his country.

“B”: Mr. Yanikian , would you do me a favor? See this form, that I read to you before?

“D”: Yes.

“B”: Okay, under 5, do you understand each of these rights I have explained to you?

“D”: Yes.

“B”: I circled yes.

“D”: Yes, yes.

“B”: Okay, and having these rights in mind, do you wish to talk to us now?

“D”: Is true.

“B” Yes. Okay. Would you sign it right there? Thank you.

“D”: Thank you. Only what I ask, maybe you can help, because I no have anybody can bring me undershirt, toothpaste, so and so, I prepare my case, you know.

“B”: Is there someone you can call, somebody you can tell...

“D”: I no have anybody. When I asked the gentleman, he promised met what I want, this, because I no want, you know, my shirt I want change, you know, so and so, my undershirt, my tooth brush, my medicine. Also this medicine. This, I have high blood pressure. If I no take this medicine, you know, maybe you will not finish your investigation, I will die. I want to know this, my suitcase and brief, and which document what you asking question. This and my shawl other what I want there, suits, so and so, let Biltmore put in the carton box and put in storage.

“B”: Will it be all right for us to look in your briefcase.?

“D”: Oh, sure.

“C”: Is it locked, Gourgen, your briefcase?

“D”: No. In black suitcase is found, never lock. Because I know that when they go they will be, what is this, I have no lock, I left them open. And briefcase I bring, I put there, all what I told you, those hundred twenty pages Armenian, also have some documents there, photostat copies, because I prepare this, I no have anybody. No friends. I have lots of people know me, but I don't want mix people, write it myself, I know some people who know me but, and I want have this.

THE COURT: Excuse me, gentlemen. I think we will take the afternoon recess. Ladies and gentlemen of the jury, it is your duty not to converse among yourselves or with anyone else on any subject connected with the trial or to form or express any opinion thereon until the cause is finally submitted to you. We will take the afternoon recess.

RECESS

THE COURT: All right, gentlemen, the members of the jury and the alternate jurors are present, the defendant is present,
Mr. MINIER: (Reading)

“C”: Okay, we will try to manage what we can for you, whatever you're able to have, all right?

“D”: Black suitcase, small one my briefcase, and my kerchief, that's all, other I don't care. I know I'm long time here.

“B”: Is there someone you can call, a son maybe, or a relative or someone?

“D”: I have no relative.

“B”: No relatives.

“D”: Nobody. Me and my wife, my wife she sick fifteen years in the hospital. She cannot talk, she is living body. Call Doctor Hartzman. What I did, I'm giving, you know, taking every day, chocolate. I got forty, fifty bag of chocolate, take it there, give them nurse, please put them on dresser, give my wife sometime. I have nobody. For why I prepare this, that have myself, you know, a couple shirts, underwear, you know, handkerchiefs, so and so, until in the court we will see what then.

“C”: All right. Mr. Yanikian, if you would, what I'd like you to do, as I've explained, just give us in your handwriting, what happened this morning. It doesn't have to be in great length, we need it...

“D”: I cannot write English, my English be very ... I told you. You type and I sign. That's all. I no want you know present mistake, but I speak six languages. That's right, but my English...

“C”: But you don't write English too well.

“D”: No. I write, but my book is English by collaboration, so and so, but write it over, I told you type, I sign.

“B”: The hundred and twenty pages that you sent to the President and everyone, how was this written?

“D”: Armenian.

“B”: In armenian?

“D”: Yes.

“B”: Well, I don't speak or read Armenian.

“D”: I put first line to addressee if you are worried about our nation and country, you will read this which is in Armenian. Twenty million and million or more not get hurt. My act create situation about conscience many people can be start cleaning our diamond. First page. And he know me, because he have my other books, I have letter from him. In the briefcase you can see copy, photostat copy his letter, photostat copy Johnson letter, photostat copy Justice Department, they call me idealistic Don Quixote, I am not Don Quixote, I love my country. I love it. But I don't know. I cannot take more high blood pressure, or I can die. I want do something for my country.

(TAPE CHANCE)

“D”: Yes, I have personal nothing.

“C”: There was no personal...

“D”: I detest Turkish people, but I am nothing do with then who live around the world. I have do with people who represent government. Officials. And I tell to give somebody, if somebody want go my way, also, please, Turkish people, we did this, but nothing.

“C”: So it was not an individual, personal thing.

“D”: No, no.

“C”: It was because they were a symbol...

“D”: I meet these people once. Nice people. Very nice people.

“C”: It was because they were a symbol of the Turkish Government.

“D”: That's right.

“C”: For what they stood for, this position.

“D”: That's right. What they did. What they did. What they did to us. They find. Now if I start talk we will change all over.

“B”: The only reason they came up here was to get that money from you?

“D”: No, They want receive this picture, because they asking me, I thought well, maybe I will think, I will give if Turkish Government do something for me.

“C”: What did you want the Turkish government to do for you?

“D”: Nothing, nothing.

“C”: That's what I thought.

“D”: You know, but yes, I used this, you know....

“C”: You used this as something to bring the people up to you?

“D”: That's right. You are perfectly right. And they bring letter, they show me letter, signed by him, our Government will send you big (could not understand) and two decoration and five thousand dollars cash. Condition never you write against Turkish Government, never write, you know, because my Armenian poetry I am very strong.

“C”: This is what I, just about the only point I don't understand it what they wanted from you. Were they here to physically take...

“D”: The picture and Turkish money with Attaturk, when I was Beirut forty years ago. There lots of their revolutionary, Persian, Turkish revolutionary, so and so, I know lots of them and on this they signed, I take this two and half dollar pound and I sign, forty, fifty people, their revolutionary Shah of Persia, even my signature have, you know, and you can't do all yourself, so I give all this for museum, they sending my letter, how we receive our department tell that our museum be happy have this, and today they bring letter. They accepted and they receive picture, you know, and this, you know.

"DETECTIVE CROOK: What picture is this?

“D”: Oh, the picture.

“B”: Is it the big one that's sitting in the corner of your room, is that the picture?

“D”: Yeah.

“B”: The big one of you?

“D” Umm. Ueah.

“DETECTIVE CROOK”: And this is what they wanted for the museum?

“D”: No, the want . . . This own picture, and this make situation, that creates situation that I can have place where I can finish with these two, I no want officials in the office, for some people be hurt. I use this, you know, like bait.

“DETECTIVE CROOK”: I see. This was the bait to draw the people in.

“D”: And they bring letter, you will find letter there, addressed to me, Consul, that we will send, and they already told that you will receive diploma, two decoration, and they give five thousand dollars.”

Mr. MINIER: Your Honor, I should have indicated that the last two questions were by Detective Crook.

THE COURT: Yes.

Mr. MINIER:

“DETECTIVE CROOK”: But you weren't interested in that at all, that was just....

“D”: If they offered me half million dollar I don't like money. I don't request money.

Then, you know. I told what you are buying, so and so, is just dirt people, so and so, they called Armenian son-of-a-bitch. (Could not understand) but okay, that's all I will kill you.

“DETECTIVE CROOK”: Gourgen, have you ever been in the hospital yourself, you say your wife has been sick for. . .

“D” That ask already, mental department. I was in the hospital, I have operation gall bladder taken out, (could not understand taken out.) Never I am mentally, physically.

“DETECTIVE CROOK”: How do you think you feel? Do you feel anything at all?

“D”: You know, if you are drunk, people, he's drunk. You try to prove no. If you ask crazy people, is crazy or drunk, if now I cry, you know prove you think I am, this is your opinion. Never drunk people tell he's drunk. But in my opinion I am, my brain is work normal, how I know. What, I have sickness, I have two or three operations. My doctor is doctor is twenty year, fifteen years, is my doctor, my wife doctor, seen all my sickness.

“DETECTIVE CROOK”: Do you have an automobile? Do you have a vehicle?

“D”: No.

“DETECTIVE CROOK”: No vehicle.

“D”: I sold.

“B”: Right. You'll have your medicine, I am sorry, your Honor, I have got a page missing. It is inverted, pardon me. That should be Detective Crook:

THE COURT: I see, all right

“B”: Are all your belongings in your room?

“D”: Yes.

“B”: That's all you have?

“D”: That's it. I'm not interested any if what I have my belonging. Two suits, one tuxedo, one tail, because, you know, all this I don't need. I don't need, need. What I need, you know, is my briefcase and maybe some coat, sport coat, when I be, I know I be long time in the jail. Because that's all what I want, all what I have is there.

“DETECTIVE CROOK”: I see. Okay.

“B”: You keep that. (Sheriff's business card.)

“D”: Oh, sure.

“B”: That's me.

“D”: You're there too.

“DETECTIVE CROOK: Yes.

“D”: Can I have your signatures

“DETECTIVE CROOK”: Surely.

“D”: Despite the fact you try to change my mind.

“B” and “DETECTIVE CROOK”: We wouldn't do that.

“D”: No, you know, I am not trying make me crazy, no. I organized this, I prepared this, you know, in last September, I start in September.

“B”: Did you know how you were going to kill them?

“D”: No.

“B”: Had you made up your mind?

“D”: No. Only my idea was, do that no innocent people.

“B”: Had you thought before that you were going to shoot them?

“D”: Oh shoot, how I can kill but shoot, my gun.

“B”: That was how you had planned to do it?

“D”: Yes, but not because I have gun, never use, despite the fact. . .

“B”: When the men came into your room, today.

“D”: Oh, yeah.

“B”: You knew that they would not be leaving that room alive?

“D”: That's right.

“B”: Okay.

“D”: That's right. I am not trying to. . . and now if you want me to continue this, you will give me this medicine.

“B”: Right. You'll have your medicine.

“D”: If no, my blood pressure will . . .

“B”: Okay. I'll take care of it.

“D”: And also, tell people, men who call, fifteen minutes wait, they gave me arrest, prepare suitcase, open, so and so, he no need put them in steel, is hurt, look, and I told, look. . .

“DETECTIVE CROOK”: The thing is he has to, he was aware. . .

“D”: I will going to court. In the court. . .

“C”: Well, there are procedures, it was to protect. . .

“D”: I know what I am doing. Thank you very much, and what I wrote, you can type, I talk same, I will sign. No problem.

“DETECTIVE CROCK”: Okay. We understand.

“D”: Now, can I have some food?

“B”: Okay. Can you hold on just a minute. I'll be right with you. Would you like to come with me, please.

“D”: I'm sorry?

“B”: You want to come with me?

“D”: Oh, yeah.

Mr. MINIER:

Q. Detective Baker, I show you People's Exhibit 51-A, is this a tape cassette which has the latter part of the conversation between you and Mr. Yantkian at the jail?

A. That is correct.

Q. And was it that other tape that's already been introduced into evidence that has part of – or that has all of the Norton conversation, does that tape have the beginning of your conversation with Mr. Yanikian?

A. Yes, sir, it does.

Mr. MINIER: Your Honor, we offer 51-A, that is the tape recording into evidence.

THE COURT: Received.

(Whereupon the above described exhibit previously marked for identification thereupon received as People's Exhibit No. 51-A into evidence.)

Mr. MINIER: Thank you, we have no further questions, your Honor.

Mr. LINDSEY: If I may ask a few, your Honor, please.

THE COURT: Yes.

CROSS-EXAMINATION:

BY Mr. LINDSEY:

Q. Mr. Baker, the transcription that you have just read, or participated in reading of that, was the result of a discussion that you had with Mr. Yanikian that started about a quarter to three on that Saturday, January 27 wasn't it?

A. Yes, sir, that is correct.

Q. Now, were you aware that about one o'clock in the afternoon of that same day there had already been an interview with Mr. Yanikian, by Mr. Norton?

A. I know that Detective Norton had talked to him. I didn't know that an interview, as such, had been conducted.

Q. Were you in charge of the investigation at that time?

A. Yes, sir.

Q. Was your interview sort of a follow-up portion of the investigation for further discussion with him?

A. Yes, sir, in part.

Q. Now, having in mind everything that was said by Mr. Yanikian, and the manner, and what he was talking about as he was relating or responding to you, did you really have the feeling that his judgment at that time was completely normal?

A. He gave me no reason to question his judgement.

Q. When he was giving the reasons to you, and as you were sitting there able to observe and watch him merely across, maybe a table, or something, having in mind your experience in homicide cases did you feel that the nature of these answers, taken in the context with his appearance, were normal and rational?

Mr. MINIER: Objection, your Honor, I really think this calls for an opinion, and the question seems to be compound and also rather unintelligible.

THE COURT: Sustained on the ground that I don't know what normal means.

Q. BY Mr. LINDSEY: Perhaps I can ask you in this light. Mr. Minier took you through some questions on that Miranda Rights portion of the interview. Do you recall that?

A. Yes, sir, I do.

Q. Isn't it true that when you are giving the Miranda Rights to a person, it is of importance to you as an officer to form an opinion from what you see and hear and observe as to whether or not the person is intelligently and knowingly understanding what it is that you are reading to him as to those rights?

A. Most definitely.

Q. And the voluntariness, the normalcy, you might say -- well, I better withdraw that because I am getting into that normal word again - isn't it correct that during the time of any interview that then takes place, an additional task that you have as an interviewing officer is to try to observe the person, listen carefully to how he is responding to the answers, so that as that conversation is going on, you remain

satisfied that you are getting a free and voluntary response from the person; isn't that correct?

A. Yes, sir.

Q. Did you listen to the sound of his voice as he was responding to the different questions that you put to him?

A. Yes, sir.

Q. From what you could determine at that time, he was completely cooperative with you, wasn't he?

A. Yes, he was.

Q. And acted in a gentlemanly manner at all times, did he?

A. Yes, sir.

Q. Never at any time resisted either you or Mr. Crook in any way whatsoever?

A. No, he did not.

Q. There was a tape made of that discussion, however, wasn't there?

A. Yes, sir, there was.

Q. And that is the one that has just been introduced as Exhibit 51-A.

A. In part.

Q. Yes, and is there another part of that conversation?

A. Yes, I believe it is on the opposite side of 48-C.

Q. That's right, part of it is on one tape and the other part is an 51-A that just came in.

A. That's correct.

Q. You have had a chance to listen to that tape, have you not, that is both segments of it?

A. Yes, I have.

Q. And that tape as closely as possible is an exact reproduction of the conversation and the sounds and the rate of speech of both Mr. Crook and you as you posed your questions, as well as the manner in which he was responding to you isn't that correct, sir?

A. Yes, sir.

Q. Both of those tapes are present here in the courtroom now, aren't they?

A. Yes, sir, they are.

Mr. MINIER: Your Honor, I would like at this time to be able to have those played.

THE COURT: All right. Are you able to play them Mr. Baker, or does that require someone else? You were running it this morning, weren't you?

THE WITNESS: I can play them if you wish.

THE COURT: Mrs. Reporter, unless this tape is more legible than -- I shouldn't say legible -- more understandable from listening to it than the other one that I have heard and I have also heard a portion of this, I think you will find it next to impossible to take down anything but hit or miss words. If you find that is the situation, I would suggest that you don't report -- try to report it as far as you can, but I am afraid that hearing it for the first time, it would be almost impossible.

Mr. LINDSEY: Your Honor, to be of help on behalf of the defense, I would offer to stipulate that the reporter need not take down the tape, and I would stipulate that the tape itself may be introduced for this portion of any of the record of these proceedings.

THE COURT: Fine.

Mr. MINIER: We will so stipulate, your Honor.

(Whereupon the tape recording, People's Exhibit No. 51-A was played aloud to the jury to that point appearing on page 15 of the transcript, People's Exhibit No. 51, where the following words appear thereon: "Try to manage.")

THE COURT: Ladies and gentlemen of the jury, we will recess the case now until 10:00 o'clock tomorrow morning. It is your duty not to converse among yourselves or with anyone else on any subject connected with the trial or to form or express any opinion thereon until the case is finally submitted to you. 10:00 o'clock tomorrow morning, please.

Mr. MINIER: May we take up a brief matter after the jury is excused?

(Whereupon the jury and alternates left the courtroom, and the following proceedings were had in their absence.)

THE COURT: Let the record show that the jury and alternates are absent.

Mr. MINIER: I have two brief matters to take up with the Court. First I would like to advise the Court that it is our intention to rest our case immediately after the cross examination of Detective Baker. I wanted the Court and counsel to be aware so that they could make their preparations.

Secondly, I would like to call the Court's attention to something by way of a confession -- I think it is a rather embarrassing subject -- but it is something that I think all of us involved with the Court, other than the Judge, have been guilty of, myself included. That is, very frankly, that there has been a great deal of joking and good-natured jesting going on at the recess periods and in the morning before the Court came in and at the luncheon breaks and so on.

THE COURT: On the part of whom?

Mr. MINIER: I think all of us, your Honor. As I say, I am not excluding myself. I know everybody, attorneys, interpreters, bailiffs, everybody has been involved, and a great deal of this has been in the presence of the jury. Today it directly involved the jury with comments being made to the jury and comments being made back by the jury, and although I think that it is good to have a certain amount of humor, even in the most serious of trials, I still am concerned that this is a murder trial. I might point out that the one person who is steadfastly not engaged in the joking has been the defendant himself. Frankly, I don't think it is fair either to the defendant who is on trial and his liberty is at stake or fair to the jury who is going to have to judge him to directly involve the jury in this conduct which I am sure is totally innocent.

THE COURT: I haven't seen any of that. I have noticed a certain amount of jocularity during the trial on the part of counsel on both sides which I thought was a little odd considering the nature of the case, but it didn't concern me that much. I haven't seen any repartee between counsel and the jury.

Mr. MINIER: Your Honor, as I indicated, I think normally this takes place without the Court being present, for the Court's guidance, and I am only bringing it up because I thought it might be a matter where I should ask for the guidance of the Court.

THE COURT: Why don't all counsel and all court personnel in the jury's presence attempt to stifle any jocularity or sense of humor. I don't know that I can make that as an order, unless it gets worse. I think it is out of place and out of keeping, myself, even though I haven't observed it.

I have had the feeling that counsel have been a little perhaps overly happy during the course of the trial, apparently, I mean even during the trial itself -- not overly so but just a touch on the light side now and again.

As I say, it didn't bother me. In the presence of the jury, why don't you cut it out. Any objection to it on the part of anybody?

Mr. LINDSEY: No, your Honor, I certainly concur.

THE COURT: I am not criticizing anybody.

Mr. LINDSEY: I would certainly concur with Mr. Minier's thoughts. I think it should be said, however, for the record, and having in mind that your Honor has many, many years of trial experience yourself, there is a fundamental atmosphere and philosophy in a murder case that is crucial, and it is the prosecution's duty to keep the prosecution serious. The defense is aware of the seriousness of it and I quite agree with the Court. I am sure if there is any further impingement in any area, I am sure that all parties and all sides and the courtroom personnel would have in mind--

THE COURT: Especially during recesses when I have no occasion to observe what is going on -- frankly I haven't seen any interchanges by anybody with the jurors.-- but let's cut it out, just cut it out to be safe. That does not mean that you have to try the case like a ghost with a long face, I don't mean that. But I would just assume during the recesses when I am not here that nothing be said or done by anybody that would give anyone any cause for concern. There is nothing on the record about it so let's just leave it.

Mr. LINDSEY: Your Honor, may I address myself to the matter of the fact that the prosecution likely will be resting sometime tomorrow morning because as soon as they are through with the tape and any questioning of Mr. Baker, the prosecution will be resting and I have in mind now the schedule for the defense. I had indicated to the Court originally that because of preparation problems that were thrust on us just prior to the commencement of the case, we had immense problems that we have been trying to overcome as we have been working on the case.

THE COURT: Well, you have had notice since the end of last week that the prosecution expected, as of the end of last week, to rest their case Monday of this week. You should be certainly ready to go ahead by tomorrow, which is Thursday.

Mr. LINDSEY: What I have in mind, your Honor, is, the Court may be getting to perhaps the sensing in the case. There in some very unusual aspect of the motivations, the background, the history that's going to go way, way back in time. What this has to do with it is that our opening statement is going to run far beyond any kind of an opening statement I have ever been connected with, and necessarily so.

THE COURT: All right, fine. If we run into any trouble with it I will rule upon the trouble as it arises.

Mr. LINDSEY: What I have in mind, your Honor, was not the problem in the opening statement, but the fact that my opening statement is going to be more extensive in time, and I am wondering what problems we are going to run into if I have to break my opening statement either by--- the Court is going to recess tomorrow at 3:30, my opening statement may well go beyond two or three hours.

THE COURT: You will have to break it then.

Mr. LINDSEY: That would mean, what I anticipate, part would be put on tomorrow, and if we do not conclude, then, the opening statement would be broken?

THE COURT: Yes. There is something to be said that that's an advantage. I know it is arguable, but I don't see any great disadvantage to you in having to break it, especially if it is going to be that lengthy. The jury might enjoy a little break, and you too.

Mr. LINDSEY: I would ask, your Honor, in view of the nature of the case and the importance of the case if there is any possibility, so long as the prosecution will be finishing sometime tomorrow, if I may leave my opening statement on Friday,

THE COURT: No. I can't afford to take that kind of time.

Mr. LINDSEY: Even having in mind the seriousness and the importance of the case?

THE COURT: No, no. You have got to be prepared to start tomorrow. Make a statement as far as you can go. If you can't complete it, break it. It isn't that prejudicial. As I say, it may be a benefit to you.

Mr. LINDSEY: Well, I have in mind, your Honor, that again, as the Court, I am sure as we get into the case, we will be able to observe even more pertinently our preparation in the background matter, even the preparation of the opening statement is literally massive in this case. Mr. Minier in his opening statement, has touched on that past history of many of these things that are coming into the case. We can't escape it. I am trying to ask the Court if I may have the reasonable time to make certain, at least, that we are reasonably prepared, as I think the case ought to be, I would ask to present my opening statement on Friday.

THE COURT: No. That motion is denied. I think you have had ample time to get it ready. As I say, you were told last Friday that the People expected to finish Monday this week, here it is Thursday. I see no reason why you shouldn't be ready to make your opening statement. No, we have got to move forward, gentlemen. There have been enough interruptions in the case already. You have got to use the time we have, and particularly from the jury's standpoint. There have been interruptions, they were gone all day yesterday for the most part. No, be prepared to move tomorrow.

Mr. LINDSEY: Very well, your Honor,

THE COURT: All right,

Mr. MINIER: Thank you.

(Whereupon at 4:35 p.m. an adjournment was taken to Thursday, June 14, 1973,
10:00 a.m.)

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**15. SANTA BARBARA, CALIFORNIA, THURSDAY, JUNE 14, 1973, 10:00 A.M.**  
**MORNING SESSION**

THE COURT: All members of the jury and the alternate jurors are present, and the defendant is present.

All right gentlemen.

(Tape recording continued to be played in its entirety)

THE COURT: All right. Further cross examination, Mr. Lindsey?

Mr. LINDSEY: No, your Honor, no further cross-examination. Thank you very much.

Mr. MINIER: The people rest, your Honor.

THE COURT: All right.

Mr. LINDSEY: Your Honor, may I request the Court for a very brief recess prior to commencing the opening statement, please?

THE COURT: Yes. All right.

Ladies and gentlemen of the jury, it is your duty not to converse among yourselves or with anyone else on any subject connected with the trial, or to form or express any opinion thereon until the cause is finally submitted to you.

We will take a brief recess, then we will have the opening statement on behalf of the defendant.

**(RECESS)**

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**16. SANTA BARBARA CALIFORNIA THURSDAY, JUNE 14, 1973, 10:30 A.M.
MORNING SESSION**

THE COURT: All members of the jury and the alternate jurors and the defendant are presents gentlemen.

I understand Mr. Lindsey, that it will be agreeable with you if, instead of a daily transcript in the usual sense that we have been having, the reporter types up the opening statement and gets it to you over the weekend by Monday.

MR. LINDSEY: That is agreeable

THE COURT: Fine. Thank you.

MR. LINDSEY: Thank you very much.

OPENING STATEMENT

Mr. Minier, ladies and gentlemen of the jury as Mr. Minier indicated to you at the beginning of the case, the attorneys on both sides are provided with an opportunity to sort of give you what we call a road map, or an outline, sort of a preview to perhaps help in the following of the evidence in the case. As you may recall, we have reserved the hours to this point, and for the next little brief while I would like, if I could, to outline to you what I believe the evidence will show during the course of this case.

You should keep in mind, of course, that opening statements by lawyers are not evidence in the case. They are intended, and I do intend it only to perhaps be of some help, because often in a case, the evidence comes in bits and pieces through different witnesses, and we try to see if we can help with the preview to make it easier for the jury to follow the case as is being presented

Now, this case, of course, being a murder case, the evidence, necessarily, evolves itself around the circumstances that are inherently a part of the case. In order for a better understanding to be had, I would like to take a few moments to go over some geography with you, some geography, that you have already heard about a little bit, but which is going to be certainly a part of the defense case, and I have prepared -- it is not by scale, and it is not considered accurate at all, but at least a map showing part of the Middle East area so that you may be able to visualize from this map,-- and I should tell you this map is not evidence in the case, it will not be evidence in your case, but I am using it only to illustrate to you many of the things that I am going to mention in this opening statement, since much of it will swirl around the middle-East area location of towns, location of areas that will come into testimony during the course of the defense presentation. So may we put the map, please, on the board.

Now, in order to perhaps get a feel for the geography that will be presented in the evidence in the case, perhaps to help myself, because a lot of that area often is sort of a vague area over there, I have marked very, very dimly in pencil, the general outlines of some of the areas, and I thought it would help. It would only take me a second, as we are going through it, as I point out the different locations of these areas. Of course, you recognize Italy. Now, Greece is in that area, Turkey in its relationship to Greece, Russia, as it comes down approximately in this area (writing on schematic) Lebanon, Israel, Syria, Jordan, Iraq, and this area, Iran. This is what commonly has been known as Persia. Now, --and over here, of course, Egypt. Now, you would of course recognize the Mediterranean Sea area. This is the Black Sea, this is the Caspian Sea, and the Azov Sea. Now, there are a few towns that are in locations that will be touched on in evidence Rostov, Kars, Erzerum, Van, Tabriz, and there will be testimony in the case, of course, of Tehran, being primarily known for the Teheran Conference among the Allied Powers immediately after World War II, and as it may come into play in this case; Istanbul for those of us perhaps older than we like to think of, formerly known as Constantinople, until they changed it to Istanbul, and Cairo.

Now, as I say, I think it would be of some help, as I go through portions of this opening statement as we identify and refer to certain of the areas involved, I should perhaps indicate one other matter. There is, of course, constant reference to Armenia, or the area of Armenia, and generally speaking we are talking of this area here (indicating). If you notice, I am somewhat vague in exact boundary because it is more of an area -- an area of location of Armenian nationality -- Armenian people, generally in this portion of this area through and including Erzerum, and in that general locality. There will be testimony, and there will be additional maps actually, brought into evidence to be more specific as to those locations and the area. Now, the evidence will show that -- this is probably by way of more brief background, but it necessarily is involved in some of the specific issues in the case before you now -- this has reference now to the Armenian background. The evidence is going to show that that Armenian area that I have indicated on the map; probably for a practical purpose in this trial, about 1500 B.C., and that's when the Hittites established what we might call a Kingdom area in there, and gradually later, that area involved and came to be recognized or known as Armenia.

I think Mr. Minier referred also to Mt. Ararat where Noah's Ark made its landing, and that being also down in that general Armenian area. The evidence will also show, as part of the events that are involved in this case -- it is one of the reasons for the use of a map - - the Armenian area -- the Armenian general area here was located in a position where it was literally at the crossroads of east and west. The east going on towards China, the Mongolian area, and so on, the west being more of the European, the Mediterranean areas. And this part known as Armenia, with the Armenian people in that area, was right at the crossroads. It was also, as testimony will show, right at the point of difference between two very fundamental basic religious concepts; Christianity on one hand and a religion, of course, that will come into play on the part of Turkey, on the other; so that this area was caught, not only in the crossroads in that part of the world, but caught right at a critical point in religious differences. Those will become material as we present the evidence on the reason for some of the events and the happenings, say, in the last hundred years or two in that area, and an additional amount of evidence that will come in that's going to be necessarily involved in the case and because of this position of

Armenia in that part of the world, and the religions. Of course, we are all familiar with the birth of Christ, the gradual development of what we now recognize as Christianity. And in that area known as Armenia, Armenian people were the first nationality, or what you might call a nation, so to speak, in about the year 300, 301, 303, through there to embrace Christianity as a religion -- a basic, what you might call, almost a state religion, even ahead of Rome. Because of this, the Armenian peoples, having embraced Christianity then, since and through the centuries being the first country to do so, and being caught at the crossroads, has had a very significant effect, as the evidence will show, on the Armenian people in that area.

Now, having embraced, officially, concepts of Christianity, then shortly after 200 A.D., the next thing of any consequence that would be related to this case was somewhere around the 14th Century, give or take a couple of hundred years or so one way or another when we, what we now know as the Turks, gained control of that area. Then the next thing of any consequence was the determination by -- as will come into the case here -- evidence at approximately around 1850 and up until about 1922, official Turkish government decrees were made, and official government -- Turkish government policies of extermination of the Armenian peoples by way of massacres --

Mr. MINIER: Pardon me, Mr. Lindsey. Your Honor I am very reluctant to interrupt counsel in the presentation of an opening statement but I believe there is a long line of cases which makes it very, very specifically clear that it is the duty of counsel to refrain from referring to any matters in his opening statement which cannot be proven or are not admissible at the trial. And in the absence of some kind of offer of proof, I think the matters relating now in the last statement by Mr. Lindsey, would clearly not be admissible at this murder trial for a crime allegedly committed here in Santa Barbara under any theory under present California law. So for that reason, I would move to strike the last reference by Mr. Lindsey to official decrees of the Turkish government and request that the Court give some guidance with regard to the remainder of the opening statement.

Mr. LINDSEY: May I, be heard, your Honor?

THE COURT: Yes.

Mr. LINDSEY: Your Honor, in this case, the state of mind of Mr. Yanikian is in issue, because the prosecution has elected to base this case on specific intent. We not only have the issue of state of mind -- condition of mind, we also have involved the issues of motivation, premeditation, deliberation, malice aforethought. We also have the matter of impact or theft on judgment. And all of these matters, necessarily, will involve what the thinking was on the part of Mr. Yanikian at the time of the homicides, during the time that they were being planned, during the time that they were being organized, all of these matters that went directly into these things dealing with the state of mind, his condition of mind going to intent, going to purpose, going to motive, and also going to this matter to the extent that they affected his judgment in this zone of thought that pertained to these homicides. I submit, your Honor, that the law in the State of California clearly is that evidence on these matters is admissible.

Now, as I understand Mr. Minier's objection is whether or not we have to prove, that the Turkish government did that.

THE COURT: Whether you can prove it.

Mr. LINDSEY: Or whether we can prove it. We believe that we can. We will seek to introduce some written materials in the case, along with testimony of Mr. Yanikian, who is somewhat of a knowledgeable person on those matters. We also seek to introduce historians into this case, if that's a point about whether or not we can prove that the Turkish government in fact officially authorized and directed the massacres of the Armenian people over those years.

Now, my position is we are not interested merely because the Turkish government did that we are interested in the effect it had on the state of mind, the thinking, the judgmentabilities of Mr. Yanikian as he related specifically to these matters involved in this case, and I submit that the Supreme Court has held on many occasions that that is admissible evidence.

Mr. MINIER: Could I ask.....

THE COURT: Well, if anybody has a Supreme Court decision holding that something as far back as 1850 is admissible evidence on the subject of the defendant's state of mind in a murder case, I will welcome the opportunity to read it. You don't have any case--

MR. LINDSEY: Well, your Honor, the thing that troubles me here -- I submit is not necessary on this area of the mental concept or the mental status for things to have occurred only in the lifetime of Mr. Yanikian, and we will contend to prove evidence that he was considering that, he knew these matters, that they were part of his thought processes of what had happened to his people, and his family, and those around him, that was a part of the intent that occurred here in Santa Barbara, and to show what the state of his mind was as it was influenced and affected by those statutes, including the factor of what the Turkish government did, it is necessary that we present evidence on that. I would submit that if we are prevented from doing it, then we are prevented from showing one of the basic areas that prompted him to act as he did.

THE COURT: Well, you won't be prevented from doing that, of course.

If he had a state of mind attributable to his feeling and belief that the Turkish government did such and such a thing at such and such a time, and if that can be shown, I think he could so testify.

However, what you are proposing to get into is the extent to which he was justified in believing that certain things happened, and that could lead into an endless inquiry. If you are permitted to show that the Turkish government was at fault, in whatever controversies there was between the Turks and the Armenians commencing in 1850, then the prosecution in rebuttal would be entitled to show that it was the Armenians who were at fault and not the Turks, and we would be fighting the Turkish-Armenian conflict from 1850 to date. I cannot think that that is something we should be doing.

Mr. LINDSEY: Your Honor, I would submit that the prosecution case, with what they put in of statements by Mr. Yanikian, through the officers that interviewed him, clearly show that he acted on two governmental representatives from Turkey with whom he had no personal connection, and that his entire concept, so far as those officials were concerned, was because they represented the government that did the deaths, and I think he used repeatedly the term "two million Armenians that were killed," and that these two persons that were killed, were not killed for any personal reason at all, but solely because they were representatives of that government.

Based upon his belief and knowledge over the years he was in that area, it was the Turkish government that did it. Now, I think that whether it was true or not, the fact is that was his thought. And his thought, right or wrong--

THE COURT: His thought is admissible. I will not stop any proof of his thought. What disturbs me is whether we should go beyond that and get into the question of whether his thoughts were justified. Because if you get into that, then you get into the truth of what happened between the Turks and the Armenians, and although I know nothing about the controversies, or less than what I have heard in this trial, I imagine that like many controversies, it has two sides. I don't know that, but I would be willing to bet that the Turks would say it was the Armenians fault, just as much as the Armenians say it is the Turks fault. And I don't propose to take evidence on that.

Mr. LINDSEY: I am satisfied--

THE COURT: Therefore, I question your right to proceed, assuming you could prove it—it would present a nice point of evidence to say the least—that the Turkish government in 1850 promulgated any decree or policy looking towards the massacre of the Armenians.

Mr. LINDSEY: The record, your Honor over the last several decades, are replete with the written documents of the Turkish government in that regard

THE COURT: I would perhaps let you have some small bit of evidence to the effect that certain massacres took place, I don't know that. Certainly what the defendant saw in that regard would be clearly admissible, I think--

Mr. LINDSEY: Perhaps, your Honor--

THE COURT: Now, whether you can go beyond what he himself witnessed is the problem that has been bothering me ever since I became connected with the case.

Mr. LINDSEY: I believe, your Honor, that we would have the right to show what he believed.

THE COURT: You can show in a murder case that because of certain history books that a defendant read, that his mind was affected or his capacity diminished.

Mr. LINDSEY: If, your Honor, Mr. Yanikian formed and held the belief --

THE COURT: If you show that he had the belief, no argument about that. I mean--

Mr. LINDSEY: Your Honor--

THE COURT: He can testify to his belief. Others, no doubt also can. That's not the problem. That's, not the problem.

Mr. LINDSEY: Maybe I can --

THE COURT: The problem is whether or not we are going to fight the Turkish-Armenian war from 1850 down.

Mr. LINDSEY: No. Perhaps I can put it this way, your Honor, for the purpose of the opening statement. Maybe I can skirt around that issue for the moment and simply put it in this way: that during the course of this case there be evidence presenting the showing the belief of Mr. Yanikian that the Turkish government--

THE COURT: That's no problem as far as I am concerned.

Mr. LINDSEY: Evidence will be shown, during the course of the case, of the belief of Mr. Yanikian that the Turkish government --

THE COURT: Why don't you make your opening statement that way, and that will obviate the objection.

MR. LINDSEY: I am willing to do that, your Honor.

THE COURT: At least I think it will obviate it.

Mr. LINDSEY: Evidence will be shown, during the course of the case, of the belief of Mr. Yanikian of, starting about 1850, the Turkish government itself issued official orders for the killing of the Armenian people in that area, and that from 1850 up until at least 1922, that sporadically, and from time to time as the evidence will show, Mr. Yanikian believed, and with good reason to believe --

Mr. MINIER: Your Honor, pardon me. I would like to move to strike that your Honor. If I could merely state to the Court the fundamental objection I have. I agree completely with the Court, anything to which Mr. Yanikian is going to testify anything to which a psychiatrist is going to testify I have no objection to any reference to that in opening statement; however, in the most recent edition of a Los Angeles-Armenian newspaper, there is a sketch of what the – allegedly what the prosecution attorneys have told this newspaper they are going to produce, including the testimony of famous historians, survivors of alleged massacres, and former American governmental officials. Now, when Mr. Lindsey makes statements “with good reason” he indicates to me he is now going to go into matters with this jury that he expects to prove by way of just such people as I have mentioned, and I think clearly there is no way that such testimony could be admitted, and for that reason I move to strike his statement regarding “with good reason,” I won't make any objections to anything he indicates Mr. Yanikian or a psychiatrist is going to testify to.

MR. LINDSEY: When I use the term “with good reason,” I submit, your Honor, this is my opening statement. If Mr. Minier wishes to assume what I mean by that, that's his prerogative.

THE COURT: I thought we had an understanding that you would make your opening statement on the basis of what Mr. Yanikian himself believed.

MR. LINDSEY: That's what I just said.

THE COURT: When you add to that that he believed it with good reason, you are getting right back into the field that gave rise to the objection, because whether there is good reason for it or not, is, I assume, a debatable thing. At least the Turks would debate it, I am sure. I don't propose to have a debate on the subject of who was right and who was wrong in connection with the Turkish-Armenian conflict. That seems to me, just irrelevant.

MR. LINDSEY: Perhaps, your Honor, the cause that is trouble here is “and with good reason” to believe it. I would again, to avoid controversy, dodge around that, too, and simply say that the evidence will show the belief of Mr. Yanikian.

THE COURT: All right.

Mr. LINDSEY: As to what occurred.

THE COURT: All right. Leave out the reason. Leave out the justification or good reasons for it.

Mr. LINDSEY: Now, the evidence will show, that in the belief of Mr. Yanikian of the vast numbers of Armenians slain by the Turks in that area during that period of time – and this factor will be material in relating to the impact that that belief of his had in the area of his judgment as it is involved in this particular case, and on these elements and issues that I mentioned a few moments ago.

Now, to begin to tie that, perhaps, a little bit more closely together, it might be helpful if we review, perhaps chronologically, a little bit more of the personal aspects of Mr. Yanikian. The evidence will show, without any doubt, that he was born in 1895, and he

was born in the town of Erzurum and that's one of the areas marked on the map. This is the birth place in 1895. Now, the evidence will show, that at this time of his birth, his father was a well-to-do businessman and extensive property owner at Erzurum and in other areas. The evidence will show the impact of the circumstances at the time of his birth on Mr. Yanikian, and the impact had, even up to the present day. The evidence will show that the year 1895 was, at the time, one of the most widespread -- as Mr. Yanikian believed, one of the most widespread massacring of the Armenian people at that time. The evidence will show, as Mr. Yanikian believed, the hundreds of thousands that were killed at that time. And that 1895 is a year of particular massacre activity. The evidence will show that because 1895, the time of his birth, was of the nature of activity it was, that at that time, Mr. Yanikian's family was of Christian nature, and the custom at that time was to baptize and name the baby in a church in church ceremonies. The evidence will show that at that time, as believed by Mr. Yanikian, that the Turks had determined to destroy churches, as well, and particularly when groups of Armenians seeking sanctuary as a haven, as a refuge of safety, could be caught in the church. And at that time, the church was the most dangerous place for an Armenian to be found. By reason of that, there could be no baptism, and no ceremonial name given to Mr. Yanikian at the time of his birth. Therefore, for a period of time after his birth, he carried the name in his family of "Massacre Baby," as related to the offense of that time.

Now, there is a second evidentiary area that will come into the case in his personal history and with the effect it had on him, particularly in the area of the state of mind and as it still affects him today, and as it affected him down at the Biltmore Hotel.

The evidence will show that when he was about six months old -- this would be in 1896 -- the massacres, as he believed, were still under way -- were still ongoing, that massacres were swirling around his place of birth, Erzurum, and that the family sought to flee from the area, escaping massacres themselves. The evidence will show that before fleeing from that area, that a nearby neighbor of the family was the Persian Consul official at Erzurum from Persia, and that he was a close friend of the Yanikian family; that family members of the Yanikian family, neighbors numbering about thirty, took refuge in the basement of the Persian Consular's home to escape the massacres that were ongoing out in the streets of the town. The evidence will show, as part of Mr. Yanikian's belief, that at one point there was great fear among that group, that one sound or outcry could possibly lead to their detection by the Turks, and the slaughter of the entire group in the basement. Therefore, a decision was made to either sacrifice the group or to sacrifice the baby. The evidence will show, at that time, and as will be related later on to the time of the Biltmore, that the mother was ordered by the group to insure that there was no sound from the baby, and the evidence will show that to accomplish that she stuffed cloth into the baby's mouth and this did stifle all outcry; and the evidence will show, that as the baby would commence to turn blue, she would remove it. That after about the third times the evidence will show, that the mother could no longer endure this; so she took the baby and she left the basement, and fortunately was able to hide outside on the grounds. And that that story, as the evidence will show from Mr. Yanikian from his testimony, that the family often told him about that as he was growing up.

Now, As a result, the evidence will show that the family then sought to escape from that area, and that the Erzurum area is in a part that has high elevation in which the snows go

into the very late spring. The family commenced the journey away from Erzerum during the night, and that somewhere along the line the baby, who is now about six months old, was discovered missing. The problem at that point, was whether to go back and search for the baby and risk detection by the Turk and be caught and massacred, or whether to continue without the baby. The evidence will show that no one wanted to go back except his mother and one of his brothers and his brother Hagop, which we might also say Jacob -- the evidence will show as believed by Mr. Yanikian, as you will hear from him on the stand the mother and his brother Hagop went back to search and it was his brother Hagop who found him half frozen. His brother Hagop did what he could to bring warmth back to the baby. The evidence will show how that related in this case to his wearing of a coat and long woolen underwear, how it relates to his being cold, and how it relates to his concern on January 27th of the scarf and the things to keep warm even today. The evidence will show that they caught up again with the others and they arrived in Kars where he remained until he was about 8 years of age with his family, and his father commenced business matters at Kars, and at that time Kars was under Russian control and therefore, was a safety area for Armenian peoples.

And by escaping from Erzurum, which was under Turkish control to Kars, which was at that time under Russian control the family lived in relative safety, then, until he was about this age of 8 years old.

Now, the evidence will show that while he was there, until about 1902, or 1903, it will show his belief that in that general Armenian area, that they had come from, massacres were still ongoing of the Armenian peoples. About 1902 or 1903, the evidence will show -- or perhaps I should go back one second before this, because it is material in the evidence that will be presented -- while they were in Kars and at some point after they arrived there, the family had concern, as believed by Mr. Yanikian, of having him baptized and named. Because of the family acquaintance with the Iranian or the Persian Consul, arrangements were made for an Armenian priest to come to the Persian Consular's office in Kars to be baptized in accordance with the religious concepts of the family and that at that time, because Kars was under Russian control, Russia, as believed by Mr. Yanikian, would not allow foreigners to own land or property within a certain area of the Russian border. The family, being in Kars in Russia and the family being Armenian this presented a problem. The evidence will show, as believed by Mr. Yanikian that arrangements were made at the Persian Consular's office, and with the help of the Persian Consular official, to have Mr. Yanikian listed as being born in Tabriz, Iran, which thereby allowed an official birth certificate to be issued under the authority of the consular's office showing him to be a citizen, then, by birth, of Persia or Iran, and by reason of that, having certain protections that would not have been available to him or the family had his birth properly been listed as being back in Erzurum.

Now, the evidence will show that cloaked, then with that birthright, so far as a record shows, of being an Iranian-born person, that when he was about 8 years of age, the father and the family felt that some steps should be taken to return in some way back to Erzerum, their original family home, to recover the family papers, the family property records, and certain monies and valuables that they had left behind as they were fleeing. The evidence will show Mr. Yanikian's belief that they left them behind for fear that there was great risk as they were escaping from Erzerum of being stopped on the road and not only losing their lives, but everything else; so they had traveled only with

immediate belongings. Now, the evidence will show, that his father, Mr. Yanikian, the family determined that because of the condition still existing in Erzerum, that it would be manifestly unsafe for the father to return. The family decided that three would go back; the mother would go back because she knew where the family papers and records and so on were hidden -- they were buried inside, of a barn or stable area -- they determined that young Yanikian, about 8 years of age, would go back, because he was a recognized, on documents Persian citizen with that birth record that he had, and that his brother Hagop, that we mentioned, would go back, and he, being now about 20 years of age, because he could help in the work and help in whatever the effort was in making the trip. The evidence will show that the father traveled with them to the border, and then waited there. The evidence will show that they did reach the stable area or barn area, that the mother did indicate the location of where the box or container had been buried, and that the brother Hagop did set about digging, and that he did get down and did locate the container. The evidence will show that what next followed, still to this day, which will be shown in part, on the tapes already introduced into evidence, that what happened in the next few moments is perhaps one of the most far-reaching impacts on his thought processes and in certain zones of his thinking that he experienced in his entire life, and to this day has that same effect on the zone of thinking about Turks, particularly about Turks. The evidence will show -- I believe Mr. Minier referred in part, to this in his opening statement -- but the evidence will show, at this point, the mother heard footsteps coming, and because of the dangers of the massacre activity in the area, she pulled young Gourgen back, and pulled him back with her to hide several feet away, in a shadow area to try to escape detection. The evidence will show that as they did that some Turks seized the brother Hagop, and the evidence will show, at that point that young Gourgen, standing there with his mother staring right at his brother--and in order to prevent their discovery and the likely lose of their own lives, that the mother placed her hand over his mouth to insure no sound. The evidence will show that at this same moment, Turkish persons had pinned Hagop's arms behind his back, took his head, pulled it all the way back and slit his throat from one side to the other, and in that moment the brother, staring at his mother and at Gourgen--but any indication would have made them discovered also -- and at that same moment, young Gourgen, looking right into the eyes of his brother, in those remaining moments, unable to make any outcry, the evidence will show, that as that family stood there in those moments seeing what was being done by the Turks, that young Gourgen bit into his mother's hand so deeply that her hand commenced bleeding. And the evidence will show that it remained there for years, She had a permanent disability, because the biting had been so strong. The evidence will show that as young Gourgen watched the blood flow from his brother's throat, and at the same moment could feel and taste in his own mouth his mother's blood, that those moments had one of the most profound effects on young Gourgen that was to remain with him right into the planning and the deaths of the two Turkish government representatives here in Santa Barbara. That he never recovered from the effect of that scene, and that even today, during the course of his case, from January 27, he has yet to be able to face any recollection of that scene without its effect on him. The evidence will show that the mother did maintain his silence. The brother was dead. The Turks that did the deed departed, and the evidence will show, the mother went over to the body, kissed it, and young Gourgen could not. Their danger was so

great, that the mother took young Gourgen and departed without caring for the body, and trusting it to the neighbors and other people to take care. The evidence will show from the transcript that's been presented into evidence here, that one of those Turkish government officials at the Biltmore called him an Armenian son-of-a-bitch when the reference was made in that transcript, in that conversation, to two million being massacred by the Turks, of the reaction or the effects upon Mr. Yanikian. And also in the evidence will be shown -- it has already come in -- "Perhaps they should have cut them all.' That evidence, in another way, will be presented going back and recalling to Mr. Yanikian's mind all over again the vision of what had happened. The evidence will show that this vision that his eyes had of that act at the hands of the Turks as it affected his zone of thought as to Turks, carried with him so that when he reached his father and related what had occurred when they got back to Kars, that the trauma was so great and time nightmares so great on the 8-year old boy, that after consultation with the medical people, the doctor recommended that part of the family, and particularly young Yanikian, try a different area.

And as a result, young Yanikian, with part of his family, because of the medical recommendation, was sent to Geneva, Switzerland, where he remained for two years. And by this time, he had some slight knowledge of the Persian language; at Geneva, he picked up a speaking knowledge of French, he was already fluent in Armenian because of living in Kars and Russian areas, he was fluent in Russian, and he knew the Turkish language. He remained in Geneva for approximately two years with his family, trying to recover from the trauma that had occurred to him. Then about two years later, the family had a concept of showing their gratitude to God for having been spared, as much as they had, in the massacres. The evidence in the case will show the belief of Mr. Yanikian, by the time the massacres were over, it was his belief that in that area generally known as Armenia, eighty-five percent of the Armenians had been killed or slaughtered, and out of the Armenians over, the world, the slaughters amounted to sixty percent of the Armenian population world-wide. The evidence will show that at Geneva, he commenced his schooling, spent about two years there, and then after about two years, his family entered him in a school that again was to change the destiny of his life.

That's the Armenian College where the family determined that he would be schooled and trained, and educated for service to God in the priesthood. That school was to be training for it. The evidence will show that that did not work out for young Yanikian, and so it was that subsequently he entered a school in the State of Georgia, which is in that area at the capital, Tiflis, where he remained until he was 18, graduated with sufficiently high grades to qualify him for entry into the University of Moscow.

He entered there, commenced his work for his degree in civil engineering at the University of Moscow. And the evidence will then show that in about the year of 1915, when he was about 20 years of age, and attending the University of Moscow, that then commenced an era in his life of personally experiencing, seeing, and observing the massacre and slaughtering and the killing and the dismembering of his people.

The evidence will show it came about in this way: At the University of Moskow, Mr. Yanikian, coming from a prominent family from his own area, was involved in different contacts with a number of other sons and members of other prominent families from different parts of Russia, including at one time, a relative or member of the Tolstoy family. That the year of 1915, as the evidence will show Mr. Yanikian believed, was

another great year for massacre of Armenians at the hands of the Turks. The evidence will show, in this year alone, of 1915, Mr. Yanikian believed that somewhere between one million and a half and two million Armenians were slain by the Turks. The evidence will show that a cadre of about sixty students at the University of Moscow, commenced to think in terms of protesting --none of the great powers were doing anything to stop these acts going on. They formed themselves into a unit, put a huge page ad in the newspaper in Moscow protesting. One of the families provided the money for uniforms, they formed themselves into a unit -- a volunteer unit, and they joined an Armenian General -- General Dro -- down at Igdar, who was conducting some type of raging, holding-off campaigns on the Turks, who were engaged in widespread massacres through that Armenian area. The evidence will show that for about six months -- approximately six months, 20-year-old Yanikian was in the group in this area where the slaughtering was going on, and as General Dro took that cadre along with other persons that had volunteered, and with a part of his group, as they were marching toward Van, and the evidence will show, that during that period of roughly six months, right in the midst of the area of the massacres, Mr. Yanikian will relate to you what he saw, what he observed day after day as he was in that area; roadsides littered with bodies, the evidence will show, canals, water passageways filled with floating bodies, heads dismembered and stuck on poles in the ground by the hundreds along the roadsides

Often little shooting done by the Turks, but of preference to rely on the axe and the sword. The axe to chop off the arms and the legs and to split the head wide open and the body wide open, and the sword to do its job. Most of the slaughtering was by the axe and the sword, not merely death, but of the most horrible type that Mr. Yanikian observed and saw. That those personal experiences that he lived through at the age of 20, and what he saw the Turks do, he carried with him up to the recent time into the planning, into his thoughts, and his zone of thought having to do with the events in Santa Barbara on January 27. Whole villages slaughtered, women raped, stolen, mutilated, babies -- Mr. Yanikian will relate to you the events at that time.

As their forces tried to do what they could-- protect or hold off -- tried to save some of the villages from what was occurring, and the evidence will show that at one point, having in mind what he had experienced and what he had seen during this time in the midst of the massacre area, that he was at some point between Igdar where he had joined up with General Dro and Van -- that's indicated on the map -- and perhaps more by accident rather than purpose, he did something that resulted, unbeknownst to him, as he was doing it, but resulted in the blowing up of an ammunition storage dump, and the force of the explosion threw him backward over the edge of a slope of some kind, and he received a back injury that put him in the military hospital for about six months trying to recover from it.

The evidence will show that as a result of the recognition, by accident or otherwise, that the ammunition dump-- and apparently whatever the significance of that was--that while he was in the Military Hospital at Tiflis, that he was decorated with the Russian Cross, one of the highest honors of that country, by a member of one of the Russian Royal families at the time, the Russian Royalties still being in evidence in the country.

The evidence will then show on his eventual recovery, went back to Moscow, got his Engineering Degree, then decided to go back to Kars, the old family home, because Russia had come back into Kars-- Kars had shifted back between the Turks and the

Russians, and as the Russians went in at one point, the evidence will show Mr. Yanikian followed in immediately afterwards that there was now another scene that he was to observe, which was to have an effect upon his judgement, upon his thinking, upon his thought processes in this zone of thought as to Turkish people, to Turkish activities of what he discovered in the town of Kars where he had gone to seek out some of his relatives and some of his old friends and neighbors in the area where he had grown up. The evidence will show, now, the scene played the part that is played in his thinking and thought processes, his mental consent as related to the two Turkish government officials in this case.

The evidence will show that when he arrived at Kars, and commenced to search around for the different ones that he was looking for, that in a churchyard came across two hundred bodies of towns-people. One of his relatives, he found the head, but could not locate the body. It was suggested that perhaps just picking up any body, because that will give you at least a body to the head that you recognize, and that the fourteen year old relative had had his head split down the middle with an axe.

The evidence will show that no one was inclined to do anything, and therefore, young Yanikian personally paid the soldiers to excavate a massive grave at the cemetery and to have a conveyance to haul the two hundred bodies out there, such as they were, and to conduct a mass burial. After they discovered the bodies, up along came a truck filled with the arms and legs and fingers and hands that somehow escaped over on the side which they had been in the process of rounding up, and they uncovered a part of the mass grave, simply put, all the arms, legs, fingers, hands, so on in that part of it. They also discovered at this time that everything the family had at Kars had been confiscated and taken by the Turks; so not only did he experience, at that point, by actually observation, vision of what the Turks were doing among his people, but also wiping out everything that the family had

Now, the evidence will show, that because of his accomplishments at the University of Moscow and his degree, he was given a position of authority of what we would probably call the Port Authority at Rostov which was under Russian control. And that that Port Authority so to speak, controlled the transportation for the Southern Russian Area, all transportation, all shipping, generally under authority of Mr. Yanikian. This brings about a stage that also plays a part in his life, because in 1914 he married his wife at Rostov. When you have heard the testimony in the case here, she is presently in Beverly Manor Convalescent Home. She was a graduate, she was with a gynecologist practicing in medicine at Rostov.

Now, the evidence will show that as he engaged in his work at Rostov, and in that transportation control area, that it was right around about 1925 when the Russian Revolution was trying to settle down, but there were problems in transportation in Russia.

The evidence will show that at that point, there was about a million tons of grain from the grain areas of Russia that could not move on transportation to the area of Caucasus where there were roughly forty million people, and that famine was a very likely matter. The evidence will show, under his authority, even if necessary total mobilization of various villages, he ordered constructed all the necessary bridges, roads and railroads, and moved that grain into the potential famine area. As a result, he received a government honor as a result of the skill and ingenious that he used in moving that

through that transportation bottleneck that had existed in that area. As a result of honors, and recognition that he had, the Russian Congress itself passed a special act at his request, as a return favor, allowing his wife to change her nationality to that shown on his birth record of Persia, and allowing him and his wife, then, to depart from Russia.

This is how, in 1930, he arrived in Tabriz, shown on the map, traveling from the Rostov area to Tabriz by reason and part of the act of Congress as Russia that permitted the change of nationality of his wife. At Tabriz, he commenced his work as a civil engineer in Persia. The evidence will show, in about two years later, he moved to Teheran and took up further his engineering practice there, and soon became one of the outstanding engineering construction firms in Persia.

In 1935, to increase his credentials, he went to Geneva and obtained an additional engineering diploma. In 1939, he was decorated by the Shah of Iran for outstanding engineering accomplishments. And this leads to the matter I mentioned of the Teheran conference and the recognition. The evidence will show that during the early stages of World War II, as has been indicated in the transcripts that have come in into evidence, Russia had teamed up with the Allies in trying to hold off Germany. Russia needed supplies, and the main way was the Murmansk one up around the north end.

The German submarines, and the dive bombers were literally blocking most of that shipment. Supplies had to get through to Russia, and there was no way to do it.

There was a railroad that had been commenced on this bay, -- this ocean area here. It had already been commenced in going up towards Teheran. The problem was how to get the connection from Teheran to Russia to move allied supplies in this area to give Russia the supplies that it needed to hold off Germany, to keep Germany on the eastern front, and to lend the assistance to the Allies.

The problem was, who was going to build the railroad over some of the roughest terrain in the world. The evidence will show, Mr. Yanikian was asked by his government and with the assistance and guidance of the Allied powers, including Great Britain and the United States, and because of his accomplishments, if he would undertake that project as a crash priority basis with whatever manpower necessary, and of the experiences that he had. But he completed the project three and a half months before schedule, and as a result of that completion of that railroad, supplies moved for the first time in heavy quantity into Russia to get the help onto that eastern front that Russia needed. By reason of that, he was personally recognized by the Shah of Iran for his accomplishments in helping his country. And by reason of that, when the Teheran conference met in Teheran with President Roosevelt, Churchill, and Stalin, the conference came out and recognized that the transportation facilities that were constructed so materially aided the war effort that thereafter, the Allies would give special recognition and assistance to Persia as a direct result of his accomplishments.

Now, the evidence will show, that at this time, Mr. Yanikian was involved in many matters throughout the Middle East, that will come into evidence. I am now going to touch on that, except for one other aspect. During this time, Mr. Yanikian had an area of land, and the Allied forces desired the land for a strategic military base. And Mr. Yanikian entered into a lease -- a written lease, which will be part of the evidence offered in this case, where he gave the allied powers the free use of that land for four years without charge. The evidence will show that he did so because he had the belief for a free country like America that had sacrificed its sons all over the world for the defense

of other people, that his act was little enough that he could do to express his respect and admiration for the United States. And as a result of that, high government officials of the United States granted the special permission to Mrs. Yanikian and to Mr. Yanikian with top certificate for transportation immediately after the war when transportation was generally not available; but on a high priority basis, for them to come from that part of the world to the United States, and to become, in some manner, a part of this country.

Now, the evidence will show that in this case, there is a bank note that has been referred to -- it is in evidence. The evidence will show that it was about 1935 when he acquired -- first came into possession of, I think, the two and half lira banknote; and the evidence will show, that at that time Mr. Yanikian's -- the nature of his work caused him to be, from time to time, in London, in Paris, in Cairo, in Geneva. He maintained business accounts and business connections there. He traveled extensively through the Mediterranean area. The evidence will also show, he is on a first-name basis with a number of rulers of the Middle Eastern countries and at one point he asked one of the revolutionary leaders who had escaped from Turkey if he would sign the banknote, and he did. From time to time during the additional years that followed as he would be in different parts of the Middle Eastern area, and he would hear about one of those revolutionary leaders being in that part of the area, he would try to locate him and ask, if he too would care to sign that banknote. The evidence will show that today, that banknote -- there is no other note like it in existence because of the importance historically of the persons who have signed the note. Three of them who signed were Prime Minister of their countries, all three assassinated -- the Shah of Iran, and of people of prominence, so far as the history of that area is concerned. And the note, as the evidence will, come in, so far as value is concerned, that two and a half lira is like nothing. The historical museum value of the note is literally -- there is no way to ever duplicate what Mr. Yanikian acquired during the time of those years in the Middle East; and that it was that bank note that was of interest to the Turkish consular officials, as you have had in the evidence, and it was that bank note that the Turkish government itself approved in Istanbul or in Ankara approved in this case of acceptance of it by consular officials in Los Angeles, they, having recognized the significance of it.

The evidence will show that Mr. Yanikian provided them with a photocopy of the note, where the Turkish authorities could examine it, could examine the signatures and determine whether or not they felt it was of significance to Turkish history to be of interest to them.

After their examination of the photocopy of both sides of the bank note, they did desire to be a recipient of the note. The evidence will show that note played an important part in the interest of the Turkish government, in turn the direction to the two Turkish government officials to be in Santa Barbara on January 27 of this year at the Biltmore Hotel.

Now, the painting that has been referred to, with the photographs that have come into evidence, the evidence will show that as to the painting that Mr. Yanikian likewise acquired it during the early years in the Middle East. That the painting is reputed to have been done by a recognized painter, that it was at one point in one of the palaces, you heard mentioned, in Turkey.

That the value of the painting was in the area of \$50,000.00, and that because of the significance of the painting, the Turkish, cultural people as such, or whatever their

department is that reviews those matters, determined that that too was a very valuable cultural item, and something that they would desire to receive and to have in their museums and in their country. It is that concept of that painting coupled with the banknote, and the evidence will show, that became a part of the circumstances that led to the two consular officials being here in Santa Barbara. Now, the evidence will show---

THE COURT: Excuse me, Mr. Lindsey, is this a convenient breaking point in your statement?

Mr. LINDSEY: It is your Honor.

THE COURT: We will take the noon recess

Ladies and gentlemen of the jury, it is your duty not to converse among yourselves or with anyone else on any subject connected with the trial or to form or express any opinion thereon until the cause is finally submitted to you.

(At twelve noon a recess was taken until 1:30 of the same day)

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**17. SANTA BARBARA, CALIFORNIA, THURSDAY, JUNE 14, 1973 1:30 P.M.**

THE COURT: All members of the jury and the alternate jurors are present and the defendant is present.

All right Mr. Lindsey

Mr. LINDSEY: Thank you, your Honor.

Ladies and gentlemen, one other area, or one other thing we should do on the map, and that is the general area of Armenia should be recognized generally in that area.

Now, the evidence in the case that has also the rather direct bearing on the thoughts in these areas of mental significance of Mr. Yanikian, will be evidenced in part by some of the transcripts that are now in evidence and the references to President Wilson. The evidence will show, in furthering that aspect or that factor, that in about 1918, from about 1918 to 1920, during the period of time when Mr. Yanikian was in the general area, that the portion of the area that we generally are indicating on the map as Armenia, in fact became the Republic of Armenia and a government of the Republic of Armenia. In 1921, the League of Nations, of which will be references to the beliefs, thoughts of Mr. Yanikian--The League of Nations took a very active interest in that nation of Armenia to the point where, in 1920, President Wilson, the president of the United States, was instrumental and had major part in the establishment of boundaries of Armenia and came to be known as the Wilsonian boundaries. As a result of the president of this country playing the part he did, and the work of the League of Nations, a treaty called the Treaty of Sevres was signed between Turkey on the one hand, and the government of Armenia on the other, and recognized by all the major powers.

A part of the provision of that treaty was that Turkey would turn over to that little nation of Armenia, now being recognized, some additional territory, roughly 40,000 square miles, to be added in to become a part of the area within the Wilsonian boundaries. And that there was roughly Armenia asked Turkey to complete the removal of their officials or forces out of the area that Armenia would be granted and have that territory that had been agreed upon.

The evidence will show, as Mr. Yanikian believed, that in the latter part of 1921, about six months after the treaty, Turkey refused to turn over that property or land --that area and instead declared war on the republic of Armenia, and Armenia, being a slowly struggling new nation, so to speak, then took the choice it felt it had to take, and asked

and became a part, then, of Russia for protection, and is now and has been a State in Russia in that part of the world. The evidence will show that the loss of that nation that had been in essence agreed upon by the powers as Mr. Yanikian believed-

Mr. MINIER: Pardon me, Mr. Lindsey. Your Honor, maybe I will just interrupt once, I hope. I think probably we are merely talking about words, but I am concerned that it is being virtually told to the jury that that is what the evidence will show, and that Mr. Yanikian also believed it. My only request is that the jury be told either that Mr. Yanikian is going to testify to this, or evidence will show that his belief. But I feel really, Mr. Lindsey now is giving a historical lecture to the jury.

THE COURT: It is coming a little close to it, I think.

If you will make it quite clear that this is what Mr. Yanikian believed.

Mr. LINDSEY: Yes.

THE COURT: Then you will be all right.

Mr. LINDSEY: I hoped I was making that, but I will reemphasize.

THE COURT: You were saying it, but it was getting pretty close to the line.

Mr. LINDSEY - I understand some of the narrow scope we have, your Honor .

The evidence will show that Mr. Yanikian believed, and reference is made in those transcripts already in evidence by the prosecution, that the small little struggling nation that was his nation, that was to provide a new nation for his people, that somehow was lost in the early 1920's. That that situation came in a time when he himself was probably in his 20' s himself, and being in that general area, had an impact on him and his mental thinking, reflected in part by the transcripts that will be in evidence for part of our case. Also, as the evidence in this case will show, at the time of his arrest and the statements he was making to the various agents and persons that were talking to him, he is making reference to president Wilson. The references to President Wilson, as the evidence will show have regard to the work of our president of setting up the Wilsonian boundaries; the agreement of the major powers to recognize those, failure of Turkey to respect those, the declaration of war by Turkey on this small little nation, and the small little nation being lost. And that in the transcripts, as the evidence will show, when Mr. Yanikian speaks of an act to call the attention of the consciences of the world, the evidence will show that this is, in part, what was within the frame of his thinking at the time of the planning and at the time of the events here at the Biltmore that took place.

That Turkey, as Mr. Yanikian believed, breaking that treaty six months after it was signed, in effect, cost the nation of Armenia. Now, the evidence will show that he came to the United States under the high priority arrangements with some of the top officials of this country and of the allies -- came to New York. When he came to New York, he had assets in cash of about a quarter of a million dollars, and he also had a judgment which he had obtained through the Iranian Courts, and the value--exact amounts will come to you, but perhaps they are around a million dollars or so still owing to him for the contract for the construction of the railroad that had been so industrial in moving supplies to Russia during the war.

The evidence will show that after being in New York briefly, he lived then briefly in the Southern California area, Beverly Hills, lived briefly in the Fresno area, and then of course, in the Santa Barbara area, and during this time, became an author, author of many books, publications, playwright, and began what is known as the Gourgen Theatre

or Theatre Productions, the development in -the arts to show his mental abilities in the areas outside of that zone involving the Turks and his accomplishments.

His invention in this country of the Yaniscope . -- a patent on it-- that arose out of the death of Cathy Fiscus, the little girl that fell in the abandoned well at Southern California. As a result of that, his invention of a device that could be lowered in there to save and pull out a child which since, he has offered free of cost to local agencies around the United States without any profit or benefit to himself.

The evidence will show, that his wife, in her present condition, had its effect also on his thinking processes, and particularly whenever he got into this limited zone of Turks. Then the evidence will show, in dealing with this matter of why, with the Turks, what was his motives with the Turks, and his thinking with the Turks, and his state of mind, with the Turks, the evidence will show that Mr. Yanikian believed that first of all, the Turks -- that the Turkish government had destroyed large numbers of his people with the axe and the sword. That was the time of his generation, and that in the time of the new generation in this country, that Turkey -- Mr. Yanikian believed Turkey is still on the same path with a different method, and that is drugs. That Mr. Yanikian believed that Turkey has been recently, and still is today, the source of the destruction of the youth of America, and that prayed upon his mind at the time that he gets into this narrow zone of Turks, Turkish government on the Turkish aspect or the Turkish government, and what the country has done, not only to his people, but is seeing it repeated, but in a different manner to the children of America. And his belief that somewhere between 80 and 85 percent of heroin comes out of Turkey, and it is a destructive factor among the youth of America today, and his belief that the conscience of the world and the conscience of all Americans everywhere, the voice of America, must, in some way be brought to this thinking that has troubled him for so many years, and in his remaining years, his determination that surely, surely after waiting 58 years -- and you recall that there is in evidence a publication called a 'Time for Reparation,' and I think a couple of paragraphs were read to you.

Before this trial is over, on the defense side it is only about seven pages long, a lot of it is sort of bland material, but the Time for Reparation, that after all these years of Turkey never having been brought to account, this thinking in his mind, that the evidence will show, a Turkey that in his belief has ever been made to account for the massacre of millions of Armenian people, a Turkey who confiscated millions of dollars of their property has never been brought to account, and a Turkey, today, that's the source of heroin production and the damage it is doing to the youth in this country, Mr. Yanikian has his pamphlet, a Time for Reparation, and in his belief, in this limited zone of thinking, where he is thinking about what occurred on January the 27th here, what is there that he could do in his life to turn the conscience of America to turn the conscience of the peoples of the world, and to turn the conscience of his own people to this centuries-long problem that they have faced.

This is in the area of the thought processes, the judgmental aspects of it that will be included as part of the issues in this case.

Then, two or three last remaining aspects that are part of his mental thinking, his mental processes, his judgmental abilities in this narrow zone involving Turks, the evidence will show, that although in that part of the world that is a seat and a central place for

Armenians, that substantial migrations have occurred and today, that California is, one of the largest Armenian centers, outside of the Middle East.

Tens of thousands of Armenians, many who lived through, as Mr. Yanikian will testify, and he believes lived through the massacres, and that those Armenian peoples particularly in Southern California, as he will testify, in 1969 completed the building of a memorial in commemoration of the events of the massacres.

The evidence will show some events connected with those memorials that have had an effect on the thinking of Mr. Yanikian in his judgmental abilities, that the Turkish-- the Turkish people, Turkish persons have threatened to blow the memorial up in Southern California, coupled with that, that although the memorial was completed in 1969, and the Armenian peoples in Southern California have, each year, met in memorialization to the massacres in April, that Mr. Yanikian will testify that his belief is that the Turkish Embassy in Washington took steps that resulted in the blocking and preventing of any further use of United States Military Bands at the commemoration services, although for some two or three years it was permitted, and the effect of those acts in the belief of Mr. Yanikian by the Turkish government interfering, even in the Armenian affairs in the Los Angeles area.

Then lastly, that the commemoration of the massacre in Southern California, when they had the 50<sup>th</sup> Anniversary recognition of what happened in 1915, that in the year 1965, a Turkish individual in New York sent a letter that resulted in being widely spread, as Mr. Yanikian believed, and as he himself read a letter from the Turkish individual and that letter will be offered into evidence during the course of this trial because of the effect it had again on the thinking and the judgment in this narrow zone of the subject of Turks. In part, that letter will indicate a couple of comments, among many others, but a couple of them to the effect of this Turkish individual saying to all Armenians, and particularly the Armenians in this country, and particularly including those on the West Coast, and among those, Mr. Yanikian, who was one of the recipients or readers of that letter, and saying, in essence, from a Turk to the Armenian people, "Now, of all the races in the world, the Turk, possessor of noble reputation, relying on the power of the gun, is waiting in line to slay a few million goddamn Armenians. Armenians, we are once and for all going to wipe you from the face of the earth. This is a legacy left to us by our Holy Prophets."

And the effect of this letter, as the evidence will show, as its impact again on the thinking and the judgment and the reasoning of Mr. Yanikian when he dealt in this power of the Turkish aspect, and was a part of the thinking that went in to awaken the conscience of all the persons I have mentioned and throughout the world to the Turkish problem, and led them to the events that have occurred here in Santa Barbara.

Now, there will be other additional matters brought into evidence that I have not mentioned in the interests of time, and I do thank you for your patience, because this has been a rather lengthy opening statement.

We believe that when all of the evidence is in, it will help you more reasonably understand the issues and be able to more rationally understand, ably, not only follow the evidence in the case, but to relate them to the rules that will apply in this particular case.

Thank you very much, your Honor.

(At the conclusion of Mr. Lindsey's opening statement, the following proceedings

ensued:)

THE COURT: All right, we are ready for the first witness.

Mr. LINDSEY: May I have just one second?

Your Honor, may I ask if Mr. Jonsson is here?

Mr, Jonsson -- Your Honor, may we ask as our first witness if Mr. Jonsson would take the stand, please.

**DEFENSE**

**GUNNAR EMIL JONSSON**

called as a witness on behalf of the defendant, having been first duly sworn, testified as follows:

**DIRECT EXAMINATION**

BY Mr. LINDSEY:

Q. Mr. Jonsson, for the record would you state your full name, please.

A. Gunnar Emil Jonsson, J-o-n-s-s-o-n.

Q. Mr. Jonsson, could you tell us please your present occupation?

A. My occupation at the Biltmore Hotel is Chief of Security.

Q. Are you the Chief Security Officer of the Biltmore Hotel here in Santa Barbara?

A. Yes, I am.

Q. Were you in that position on January 27 of 1973?

A. Yes, I was.

Q. Were you present at the Biltmore Hotel around noontime on that date?

A. Yes I was on duty.

Q. Could you tell us what you recall doing or what you were doing at noontime?

A. I was patrolling through the hotel itself, the main building, and I came towards the main entrance and I was approached by the timekeeper.

Q. Who was the timekeeper?

A. His name is -- Mr. Parrish.

Q. Would that be Bruce Parrish?

A. Yes, Bruce is his first name.

Q. And the spelling of the last name is P-a-r-r-i-s-h?

A. Yes.

Q. He is the timekeeper for the Biltmore Hotel, is that correct?

A. Yes he was. He is not now.

Q. As a result of meeting Mr. Parrish, did you then, have occasion or reason to go to Cottage No. 3?

A. Yes.

Q. About what time did you arrive at Cottage No. 3?

A. I would say a few minutes past 12 noon.

Q. Did you go to the cottage alone or with someone?

A. I went there alone.

Q. What did you first observe when you arrived at Cottage No. 3?

A. I observed a man sitting on the chair on the porch of the Cottage 3.

Q. Is this a patio area that is connected with the Cottage No, 3?

A. Yes, it is.

Q. Was that person sitting in the patio area?

A. Yes, on the patio itself.

- Q. Was any other person sitting there with him?
- A. No.
- Q. Was any other person in the immediate area of the man?
- A. Yes, not -- not what you -- excuse me, what do you mean by immediate area? In the rooms I know we had guests.
- Q. Out in the patio itself.
- A. No.
- Q. Or just outside of the patio?
- A. No
- Q. On the lawn?
- A. No.
- Q. Did you approach the man then?
- A. Yes, I did.
- Q. Did you enter in and upon the patio area?
- A. Yes, I stepped up and I asked him, "Have you heard any shooting around Here?" -- because he was the only one I saw at that moment.
- Q. Did you at that point identify yourself or did you merely ask the question?
- A. I did not identify myself because I was dressed in uniform. I was wearing the badge.
- Q. At the time that you asked that question, how close were you to the man sitting there?
- A. Well, about as far as to this lady (indicating reporter) -- or maybe a little bit further.
- Q. Say ten feet maybe?
- A. Yes .
- Q. Maybe a little bit less or more?
- A. Ten feet.
- Q. Could you describe any of the facial appearance or anything that you noticed about the man as you first talked to him? What impression did you gain from looking at him?
- A. First of all, he was dressed in a coat, wide coat. In my country we call it English Raglan coat.
- Q. From the sound of your voice I suspect your country, but could you tell us please.
- A. It is a wide coat
- Q. No, your country, what country?
- A. Pardon me?
- Q. What country
- A. Sweden, I am sorry.
- Q. Let me ask you this. Was this a cold day for the wearing of such a coat?
- A. I don't recall it actually if it was cold or a warm day. It was normal day for Santa Barbara.
- Q. Did you notice anything else?
- A. Yes, he had a cap on the top of his head, a tight cap covering his skull, I would say.
- Q. Sort of like a beret?
- A. No. A beret is another thing to me. It was much tighter, so to say. It was nothing hanging down.
- Q. Did he appear to be angry?

A. Me or him?

Q. He.

A. No, certainly not. He was very calm.

Q. He was very calm at that moment?

A. Yes, he was.

Q. Now, was this only just a few minutes after you had met Mr. Parrish?

A. Yes.

Q. In other words, once you met him, you came right over to cottage three, then as you looked at the man, he appeared very calm to you at that time?

A. Yes.

Q. Now, when you asked him the question, did he say anything in response to you?

A. Yes. He said, "I have killed two men in my room."

Q. Now, as you listened to his voice, was there any anger in the voice?

A. I certainly can't tell. I was more interested in what did -- what had happened, so that was my duty to think about, so to say.

Q. Did he at that point say anything else to you

A. Well, I took a few steps toward the entrance to the room, or the hallway, then he said, "Don't go in there," he said.

Q. Now, did you know which room was his room at that point?

A. No, I did not.

Q. When you started to go in--

A. Yes.

Q. -- was there any reason why you went in that particular direction?

A. Yes. Because he pointed to the hallways

Q. I see. He pointed the direction to you when he was mentioning where the two men had been killed?

A. Yes.

Q. Now, did you take some steps to go into that direction toward that room at that point

A. Yes. And as you--

Q. And as you started to walk in that direction, what happened?

A. Well, something like that, "Don't go in there," he pointed pretty sharp, so I did not at that moment.

Q. In what manner was his voice as he told you that?

A. Well, it was very strict, positive, I would say.

Q. Now, once you heard him make that direction to you did that cause you to stop?

A. Yes.

Q. Now, why did you stop?

A. Well, I thought maybe -- My thinking was maybe that he was armed or something like that, so I thought of my own protection at the same time, so I stepped behind the concrete post on the porch carrying the roof; that is what I did.

Q. Now, during this time, was he still seated?

A. Yes, he was.

Q. And as you stopped behind the pillar there near the patio, what is the next thing that happened?

A. Mr. Saul-the manager of the Biltmore Hotel arrived at the scene.

- Q. And you were --
- A. And the manager of Coral Casino, Mr. Clapp.
- Q. You knew both of those gentlemen, didn't you?
- A. Yes, sure.
- Q. Where did you meet them at Cottage number three?
- A. Well, on the patio, or close to the steps or something, very close. I can't remember it exactly.
- Q. Now, when Mr. Clapp and Mr. Saul arrived, what is it that you did then?
- A. I pointed at Mr. Clapp to keep that gentleman busy by talking to him.
- Q. You are referring to the gentleman---
- A. Yes, I am referring to Mr.-- sitting there—Yanikian.
- Q. Incidentally, Mr. Jonsson, you recognize now here in the courtroom Mr. Yanikian?
- A. Certainly I do. I hope he recognize me too. Even I am not dressed in the uniform.
- Q. All right. You recognize him, then, as being the same gentleman that was seated in the patio?
- A. Yes, I do.
- Q. What is the next thing that happened?
- A. And Mr. Clapp sat down to talk to him, and in the meantime, I knocked at the door number 33, a screen door was closed, but not locked, and in there was a lady, a guest, sitting, so I asked her, "Could I please step in this way," because I was safer that way, because I -- the entrance to that room is just behind the concrete post, and I went into her room, turned to the left through the hall, and came to room 34.
- Q. Now, to save you having to draw a diagram, there is already a diagram of Cottage number three in evidence, and I wonder if you would point the path that you were taking that you are now describing.
- Now, Mr. Jonsson, as People's Exhibit No. 16, and that is a diagram prepared being used here in the case of cottage number three?
- A. Yes.
- Q. And to orient you, this is the patio area.
- A. Yes.
- Q. And the table. And this is room 33.
- A. Yes.
- Q. Room 34.
- A. Yes.
- Q. And room 30.
- A. Yes. I am familiar with all the rooms.
- Q. And the hallway comes down this area.
- A. Yes, right.
- Q. Now, so the jury may be able to follow your path, where did you enter into room 33?
- A. Here is the screen door. The lady was sitting here at her desk, and she permitted me to walk through her room; so I went this way, and this way, and in there.
- Q. Did you come in through her door, Mr. Jonsson--through this door?
- A. Yes.
- Q. And then how did you get over to here? Was it through this door?

A. Through that door.

Q. I see.

A. Because that's the door for that hall to 34 and 33.

Q. Then you came down the hallway, entered into 34?

A. Yes.

Q. Now, up to this point, Mr. Jonnson, was Mr. Yanikian still seated out there in the patio?

A. Yes, he was,

Q. When you entered into the room No. 34, did you see two men on the floor?

A. Yes, I did.

Q. Did they appear to be motionless at that time?

A. Yes,

Q. Did you also observe some evidence of firing, gun firing?

A. Yes, and I saw two weapons to the right on the dresser and holes on the wall, in the walls, bullet holes.

Q. With your training and the work that you do, you did not disturb, anything in that room?

A. I didn't touch anything.

Q. Could you tell the jury how long were you in the room at that point?

A. Well, it didn't last long. I just discovered it immediately that something has gone on there so I just stepped out -- maybe a fraction of a minute, fifteen, twenty seconds or something like that.

Q. Then tell us where did you go?

A. I went out back to the patio.

Q. Did you see Mr. Yanikian still sitting in the patio?

A. Still sitting there.

Q. Was he talking with Mr. Clapp?

A. Yes.

Q. Was Mr. Saul there?

A. Yes, he was there.

Q. What did you do then as you came back to the patio area?

A. I think I mentioned like, that two men are dead (demonstrating with fingers) on the floor to Mr. Saul.

Q. You hold up two fingers as an indication that there were two men?

A. Yes.

Q. Whom did you do that to?

A. Mr. Saul.

Q. Then what is the next thing that happened?

A. In the first place, I stood by. I do believe that Mr. Saul called the ambulance. A little bit later on, quite a bit of commotion started around there with the police officers and the detectives and the ambulance came.

Q. When you returned here to the patio at this time, did you sit down at the table with him or did you remain standing?

A. No, I sat down for a moment.

Q. At that point, was there only Mr. Yanikian and you seated at the table?

A. I do believe it was.

- Q. At that point, did you carry on any conversation with Mr. Yanikian?
- A. No, I personally did not start any conversation. But he talked a little bit to me, he didn't point it at me, he just talked freely out, so to say.
- Q. Did he seem to be relaxed at that point?
- A. I would say very relaxed, very calm.
- Q. Was he calm to the point where you took note of it, having in mind what you had seen?
- A. Yes, I was really stunned by it, but at the same time he was pale that I remember, and he asked me, "Could I have a glass of water?"  
So of course I said so, and I walked to the same door to No. 33, the screen door and knocked at the door and asked the lady in there if I could pick up a glass and bring out to him. And she admitted me to do so, so I went to the bathroom and filled a glass and brought it out to him.
- Q. Was his calmness at that moment as you observed it part of what caused you to be stunned?
- A. He was still very calm.
- Q. But was that part of what caused you to be stunned by the circumstances at that place you mentioned that you were stunned.
- A. Well, because of what I have seen and he admitted that he had killed two persons in there, in his room, as he said; that stunned me that a person could be so calm. You understand what I mean, I hope.
- Q. Yes. Was it surprising to you having seen what you saw in the room that he could be sitting in the patio at that moment as calmly as you observed him?
- A. Would you please repeat the question?
- Q. Were you surprised at that moment that he could be as calm as he was?
- A. I would say yes.
- Q. Was it at this moment that he asked for a glass of water?
- A. Yes.
- Q. Was his voice at this point calm?
- A. Yes it was, still the same.
- Q. Was he trembling, his hands trembling in any way?
- A. No.
- Q. Did you then go back into Room 33 with the lady who was the occupant and obtain a glass of water for him?
- A. Yes, I did.
- Q. Did you return back and hand it to him?
- A. Yes, I did.
- Q. Was he still seated at the table?
- A. Yes, he was.
- Q. Now, Mr. Jonsson, as you walked up to him with a glass of water and handed it over in his direction, did he reach out then to receive it from you?
- A. I don't recall, maybe I put it in front of him on the table or maybe I handed it straight to him, I don't recall.
- Q. Did he then proceed to take a drink from the glass?
- A. Yes, he did.
- Q. Was his hand steady as he drank the water?

- A. Yes.
- Q. Did he seem to be very calm as he did then?
- A. Yes.
- Q. Was there any show of emotion on his face at that point?
- A. No, I wouldn't say so.
- Q. Did he say anything at this time to you?
- A. Well, he said that "they have killed my family and I saw them, I saw when they killed my brother," he said, "I saw the blood." And I think he made a motion with his hand like that (demonstrating) towards his throat.
- Q. Isn't it correct, then, that at this point when you were talking to that man, he made comments concerning their killing part of his family, and he also used a gesture at his throat?
- A. Yes.
- Q. And he made the comment about the cutting of his brother's throat, and did he give any other explanation at that time to give any further meaning to what he was saying-- that is, "They killed my family and they cut my brother's throat"?
- A. No.
- Q. Of course you did not know what he meant by that, did you?
- A. No, I didn't.
- Q. Did he have an accent?
- A. Certainly he had.
- Q. Did he make any additional comment?
- A. Yes, he said, "Send the bill to the jail for the damage I have caused in the room." That I recall he said. And then he mentioned that "I am an old man", something like that.
- Q. Was this reference of sending the bill to the jail, does that have reference to the damage in the room?
- A. Yes, "because of the damage I have done," he said, "to the room."
- Q. When he made this comment to you to send the bill for the damage to the jail, up to that point had you said anything to him that would have caused him to make that comment to you?
- A. No, I do believe I didn't say one word. I was just sitting there waiting, so to say, because I knew what had happened and I was waiting for the Sheriff's Department to come and the ambulance to arrive.
- Q. Did that comment of his, that is, "Send bill to the jail for the damage"---
- A. Yes.
- Q. Did that appear somewhat surprising to you also for him to make that comment at that time?
- Mr. MINIER: Objection, your Honor, calls for an opinion of the witness.
- THE WITNESS: No.
- Mr. LINDSEY: I will withdraw the question to avoid problems.
- Q. Mr. Jonsson, when he made the remark about saying, "Send the bill to the jail for the damage," did he indicate what damage he was talking about?
- A. No. But I had already seen what happened, so I understood what he meant.

- Q. When he made that statement about the bill for the damage, was he still appearing and talking, in the same type of voice that he had been all this while when you had been seeing him?
- A. Yes.
- Q. Did you make any comment to him when he remarked about sending the bill?
- A. No, I did not.
- Q. Now, was it about this time, then, that the officers arrived?
- A. Yes. And the ambulance arrived, too.
- Q. And did you, about that time, assist the ambulance people in room 34?
- A. Yes. I think it was a Deputy Sheriff, or whoever approached the suspect, then I stepped up and walked back to the hall and into room 34, and there was an ambulance man on the floor, and he asked me to get hold of another ambulance man for to get some equipment.
- So I ran out and around the cottage out to the back along Channel Drive where the ambulance was parked, and I asked him to hurry up, to get in there and help him. And when we came back, a Deputy Sheriff was helping the ambulance person that was already in there to get some kind of a board under one of the persons on the floor.
- Q. Did you, during this time, have any occasion to have any further conversation with Mr. Yanikian?
- A. No.
- Q. Did you have any occasion, during this time, to see him still there on the patio?
- A. Still on the patio.
- Q. During this time, was he still seated, or was he standing if you can recall?
- A. Well, I do believe he was standing at once, anyhow, because they searched him. The Deputy Sheriff, or if it was a detective, I don't recall, there were two or three men around him, and they searched his pockets and so forth. I was not involved in that. On the other hand, one of the detectives asked me to stand by the door into the hallway and don't let anybody in, he mentioned to me, so I stood by, for the time being, anyhow.
- Q. Now, during this period of time that you have just referred to, and during what you may have had any observation of Mr. Yanikian, was he in any way resisting any person?
- A. No, not what I could see.
- Q. Was he, from all of your observations up to this point, well, in a very calm gentlemanly manner?
- A. Certainly, he was.
- Q. In his conversations with you, though it was in a very calm manner that he spoke with you was he gentlemanly?
- A. Was he what, please?
- Q. Was he gentlemanly with you?
- A. Yes, he was. No doubt about that.
- Q. And then did you remain there at the cottage in accordance with the requests of the officers to make certain no unauthorized persons entered into the room?
- A. Yes, I did.
- Q. And about that point then did Mr. Yanikian depart with the officers?

A. Yes. And then I left too of course, because at the same time, the bodies were taken out.

Q. And then is it correct that that's about the main part or the essence of the connection you had that day at the Biltmore?

A. Yes, it is.

Mr. LINDSEY: Mr. Jonsson, thank you very much. No further questions

THE COURT: Just a moment, Mr. Jonsson, there may be some questions from the other side.

### **CROSS-EXAMINATION**

BY Mr. MINIER:

Q. Just one or two questions, Mr. Jonsson.

You were originally going to appear here as a prosecution witness, weren't you? There was a matter of a conflict with a physical examination in Los Angeles?

A. Yes, I had an appointment at the medical center.

Q. Let me ask you just one or two more questions about things that Mr. Yanikian said. While you were sitting there with him, didn't he also say to you, "This is a matter of political revenge"?

A. Yes, I recall that. I think I have stated that in my statement, too.

Q. And did he also say, "It was all planned because they killed my family"?

A. It is family revenge, or something like that. I have to say there was some kind of a language barrier, because it was quite hard to understand sometimes what he said, but that was clear anyhow.

Q. Do you recall his saying that he was ready to go to jail?

A. Yes.

Q. And,--

A. That's the same time he said, "Send the bill to the jail."

Q. Finally, do you recall him saying, "I have promised my family to pay off"?

A. Yes.

Mr. MINIER: Thank you, Mr. Jonsson, nothing further, your Honor.

Mr. LINDSEY: May I ask just another question or two. Your Honor, this may go a little bit beyond the scope of what I previously asked.

### **REDIRECT EXAMINATION**

BY Mr. LINDSEY:

Q. Mr. Jonsson, have you ever had occasion to see Mr. Yanikian there at the Biltmore before January 27?

A. I have never seen this gentleman before.

Q. Have you ever seen him at the Coral Casino before?

A. No, I have not.

Q. Could you tell us in what year you commenced work with the Biltmore?

A. Pardon me?

Q. What year did you start working at the Biltmore?

A. When?

Q. Yeah, in what year?

A. I have been there eight and a half years, now, so it was --

Q. Mr. LINDSEY: Your Honor, I have no further questions.

Mr. MINIER: Nothing further.

THE COURT: Thank you, Mr. Jonsson, you are excused and free to leave.

(Whereupon the witness was excused and withdrew from the stand.)

Mr. LINDSEY: Your Honor, as our next witness, may we call Mr. Saul, please.

**CHARLES WESLEY SAUL,**

called as a witness on behalf of the defendant having been duly sworn and testified as follows:

**DIRECT EXAMINATION**

BY Mr. LINDSEY:

Q. Mr. Saul, for our written record and for the Court, Please, could you state your full name and would you kindly spell your last name?

A. Charles Wesley Saul, S-a-u-l.

Q. Mr. Saul, could you tell us, please, Your present position?

A. General Manager, Santa Barbara Biltmore Hotel.

Q. As General Manager, does that encompass the Coral Casino Club, or are you strictly on the hotel itself?

A. Coral Casino Club is included.

Q. How long have you been with the Biltmore Hotel, please.

A. Ten years this past May.

Q. Now, may I direct my attention, please, to Saturday, January 27 of this year, and ask you if you were at the general premises of the Biltmore Property somewhere around the noon hour?

A. I was on duty that day.

Q. And did you have occasion to receive or require some kind of notice or knowledge of something unusual that had happened?

A. Yes, sir.

Q. Where were you when you received that notice?

A. In the manager's office of the Coral Casino.

Q. And the manager's name, please?

A. Barton Clapp.

Q. As a result of that information, what did you then do; what did you do when you heard that there was something unusual that had happened?

A. I was seated at the secretary's desk, and I was advised by the telephone operator, that the guest registered in room 34 had called and said he had shot two people.

I told the operator to notify security, she said, "I have already done that," and I said, "I am going to Cottage 34."

Q. Did you thereupon depart and go to Cottage 3 where 34 was located?

A. I asked Mr. Clapp if he would walk outside with me, and we walked to Cottage 3.

Q. Now, we have a diagram that has been prepared to assist us in the proceedings. This is Exhibit 16. You recognize that as being a diagram of the Cottage number three?

A. That is correct.

Q. To help orient you, do you recognize the patio with the table area?

A. Yes.

Q. And room 34?

A. Of course.

Q. And 33? And of course number 30?

- A. Yes, sir.
- Q. And the general entrance way alongside the patio, as well as the hallway that leads down to 34?
- A. Yes, sir.
- Q. Now, would you be kind enough to take the pointer, please, and could you indicate to the jury the route or direction that you took as you approached Cottage number three at that time?
- A. Surely. A path that comes along here—the Casino would be in this direction—and I came along this path around and entered the patio at this point.
- Q. Now, at that point, did you observe a gentleman sitting on the patio?
- A. Yes, sir.
- Q. What did you do when you observed the man in the patio?
- A. All rights Mr. Jonsson was in front of me, the Security Officer and he started for the door that leads into the foyer that goes into 34, which I assume you have marked here -- I don't understand just what this drawing is here -- are you including this in 33? Is this the screen door? I don't understand 1, 2, 3 here. Is this all patio?
- Q. Let me help you just a moment. This would be the general patio area where the table was located.
- A. Right, sir.
- Q. These three rectangle dark squares adjacent to the patio I believe are pillars.
- A. All right.
- Q. And there is a walkway here. Does that help?
- A. I am oriented, sure. So we entered here, Mr. Yanikian was seated about there. I would say that Mr. Jonsson came to about this point (indicating) and said something to the effect, "Have you heard any shots?" What the rest of the conversation was, I don't know. But he started towards this entrance into this foyer.
- Q. That is Mr. Jonsson?
- A. Mr. Jonsson, right.  
At that point, Mr. Yanikian said, "call the Sheriff. Don't go in there. I shot them both."
- Q. Will you sit down for a moment. I want to ask you now about that conversation and how you observed it or what you noticed about it, that was the first that you had heard from Mr. Yanikian?
- A. Right, sir.
- Q. You recognize Mr. Yanikian here in the courtroom?
- A. Surely.
- Q. You recognize him as being the same man that was sitting there in the patio?
- A. Yes, sir.
- Q. As Mr. Yanikian was making those comments that you heard, did he appear to be sitting calmly at the table there in the patio?
- A. I would say he was composed.
- Q. As he made those statements, how would you describe the sound of his voice, please?
- A. He spoke with authority. He said, "Call the Sheriff. Don't go in there."

- Q. With that thought of authority and the manner in which he said that when he voiced those comments in that way, did Mr. Jonsson stop?
- A. It intimidated both of us, yes, sir.
- Q. What then did you observe Mr. Jonsson do?
- A. Mr. Jonsson went to the screen door of Room 33.
- Q. Could you use a pointer, please.
- A. Right here (indicating) and I was behind him. A lady was seated here at a writing desk.
- Q. Did you enter into Room 33 with Mr. Jonsson?
- A. Not at that point Mr. Jonsson went in the room first.
- Q. How far from where your position was out in that walkway near the patio could you observe into 33 and at the lady occupant?
- A. I was about here.
- Q. What is the next thing you recall happening?
- A. Mr. Jonsson and I both turned around from this point and looked out, and he gave a few motions to Mr. Clapp who was seated here to keep Mr. Yanikian engaged in conversation, because his intent was to go through the connecting door through the foyer into Room 34.
- Q. Now let's see if I can follow what you have indicated to us. At that point to your knowledge, Mr. Jonsson had not yet gone to 34, had he?
- A. He had not, definitely not.
- Q. And the manner in which he was signaling to Mr. Clapp as you understood it and saw it was for Mr. Clapp in effect to keep Mr. Yanikian occupied?
- A. Right.
- Q. And that Mr. Jonsson in effect was going to go down and go into Room 34?
- A. Right, sir.
- Q. What is the next thing you recall happening?
- A. Mr. Jonsson came back in a matter of seconds into 33 and just lifted up two fingers and said, "Yes both of them" with his lips, not vocally.
- Q. Where was he when you observed him do that, please?
- A. Here is the connecting door into the foyer and he came just inside the room.
- Q. Into Room 33?
- A. Right, or he might have even -- I could have seen--this door was swung all the way open and I could have seen him while he was still standing in the foyer, but I felt that he came just inside Room 33.
- Q. What is the next thing that happened then?
- A. I left and I went to the Hotel.
- Q. Could you indicate the route that you took to go?
- A. Then I went out this door off the patio around here (indicating) and this leads to the hotel.
- Q. When you left at that point, was Mr. Yanikian still sitting at the table?
- A. Yes, he was.
- Q. Was he still of a calm appearance?
- A. Yes, but in all honesty, I did not look at the table where Mr. Yanikian was when I left the porch.
- Q. Your attention was directed to other matters.

- A. My mind was directed on something else, right.
- Q. Was there at any time an emotion of any kind displayed by Mr. Yanikian other than when he with authority told Mr. Jonsson not to go in?
- A. No, sir.
- Q. Did you have any further contact with Cottage No. 3 while Mr. Yanikian was still there, that is did you come back again?
- A. Yes.
- Q. How long were you gone before you came back?
- A. I would say four minutes.
- Q. Where did you go during that period?
- A. I went to the telephone operator which is the first office inside the hotel, the first available phone, and asked her to please call an ambulance and then call the Sheriff.
- Q. Then did you return to Cottage 3?
- A. Only to the patio.
- Q. To the patio?
- A. Right
- Q. When you came back to the patio, was Mr. Yanikian still there?
- A. Yes.
- Q. Was he seated at the table?
- A. He was seated at the table.
- Q. Had the officers arrived as yet?
- A. Oh, no.
- Q. In other words, then these times you are telling us about were even before any officers had arrived?
- A. Yes, sir.
- Q. When you came back to the patio this time that you are now relating to us, was there any other person in the patio with Mr. Yanikian?
- A. The Security officer was still there, and Mr. Clapp.
- Q. Were they both seated at the table with him, or were any of them standing?
- A. It is an assumption that neither of them were seated at that point at the table.
- Q. Was Mr. Yanikian wearing a coat at that time?
- A. Yes, the same coat that Mr. Jonsson described, as he called, with raglan sleeves of heavy sort of brown tweed coat, long raglan sleeve.
- Q. Was any other person there that you observed wearing any coat that day at noontime?
- A. No, and I know the temperature was very comfortable, it was not a cold day.
- Q. Of your own recollection, it was not a cold day, it was a normal temperature?
- A. Average Santa Barbara day.
- Q. Was it unusual to you, having in mind it was at noontime, that that person on the patio was wearing a thick kind of coat?
- A. No, because I have known Mr. Yanikian by sight for several years and he was at the hotel several days before that and he was wearing the coat. It was not unusual for me to see either his beret or his coat.
- Q. You had seen and observed Mr. Yanikian, then, for the few days before January 27th at the Biltmore?
- A. Right, sir.

- Q. During those few days before January 27th, when would you see him with those, at times when he would be either walking through the hotel lobby or around the hotel grounds?
- A. I don't know that I had seen him other than during his stay walk around the hotel grounds. He would come in for meals. I had seen him in the past, maybe not this year but in years past I had seen Mr. Yanikian as a guest in the hotel.
- Q. Was he generally wearing that coat during those times?
- A. Now, that I don't identify honestly no, but during this visit, I certainly identify him with the coat.
- Q. Incidentally, how long -- I hate to use the word "know" -- when in the first time you can recall being in any way acquainted with Mr. Yanikian, business or otherwise?
- A. In my early years here, I remember seeing him at the Casino. Certainly two or three years ago I have seen him at some of the restaurants along our strip there in Montecito.
- Q. So that on this particular day of J January 27th as you observed and an you saw and listened to him and formed and recognized whatever observations you made, this in part would be based also on your experience in having known him over the past earlier years then?
- A. Right, sir.
- Q. Did his appearance or the sound of his voice or the expressions on his face on January 27th appear to you to be in any way different from his appearance or expressions or the sound of his voice in any of those prior times that you had known him in earlier years?
- A. In honesty I would say he was less animated than usual, calmer.
- Q. More calm on this day?
- A. Than the occasions I had seen him, but it was a calmer occasion.
- Q. When you returned to the patio, what happened there?
- A. Mr. Clapp and I moved off the patio and we walked around 31 and 32 out to Channel Drive so that I could direct the ambulance or the Sheriff's car when they came. And I waited there.
- Q. Did you after waiting there in fact meet the ambulance as it arrived in that area?
- A. Right.
- Q. Did you help direct them back to Cottage 3?
- A. I told them I didn't think they should go further until the Sheriff came.
- Q. Did they wait until the Sheriff's officers arrived?
- A. They did.
- Q. Was there an interval of time?
- A. I would say conservatively ten to fifteen minutes.
- Q. Then were you there when the Sheriff's officers vehicle arrived?
- A. I was.
- Q. Once they arrived, then did the ambulance crew and the Sheriff's officers then proceed, you might say, sort of together?
- A. Well, it was a plain clothes man who first arrived, yes, and he went right to the patio, and the ambulance drivers followed him.
- Q. What did you do? Did you return back to Cottage 3?
- A. Yes I stood just at the entrance to the patio.

Q. Were you then again in the proximity of Mr. Yanikian?

A. Well, the distance of where you have X-1 here as opposed to where the table is, right, sir.

Q. Were you near enough where you could again observe him?

A. I could observe, but I couldn't hear.

Q. From your observation, did he appear to be still in the same kind of appearance as when you had left him maybe ten or fifteen minutes earlier?

A. Yes. There seemed to be some controversy about the handcuffs and I don't know whether it was a matter of removing part of the coat or what -- I don't know the detail -- but Mr. Yanikian was very polite about it. I observed that.

Q. Whatever that discussion was, it was on-going about handcuffs?

A. Right.

Q. From what you could detect or from what little would drift your way, he appeared to be very polite in that conversation with the officer.

A. Right, sir.

Q. Then what do you recall next hearing or observing?

A. At that point, the occupants of several Sheriff's cars arrived and I spoke to Gunnar, our Security officer, I said "I am going back to the hotel."

Q. What happened next so far as you were concerned then?

A. Well, other than trying to watch that the people from the news media weren't photographing and weren't using microfilm it was a publicity I didn't exactly encourage, I didn't do anything. I just stayed pretty much with the news media down off the patio.

Q. Is it correct that the Biltmore has the reputation, in fact around the world, as a very sophisticated hotel, and any publicity of this kind would perhaps be adverse to that reputation and the character of the hotel desired to be preserved?

A. Well, we are very conservative, right, sir.

Q. When you referred to the reporter, was that the Santa Barbara News Press reporter or could you tell?

A. I really couldn't identify him, no, sir.

Q. Did you see someone with a camera there?

A. Yes, sir.

Q. What is the next thing that you did so far as those matters are concerned?

A. I had nothing more to do with that.

Q. Did you enter into Room 34?

A. I did not. At any time, you mean?

Q. Yes.

A. Yes.

Q. When was that, please?

A. I followed the officer, as I described, the plain clothes man and the two men with the ambulance, feeling it was my responsibility if I were called upon to identify the circumstances.

Q. What did you observe in Room 34, please?

A. I noticed a chair on a bed and I noticed two bodies on the floor at the foot of the bed.

Q. Were you in the room only very briefly?

A. I would say ten seconds at the most.

Q. Did you simply stay in there those few seconds and then depart from the room?  
A. Exactly.  
Q. You did not see Mr. Yanikian then?  
A. No, sir.  
Q. Is it correct that you have told us in essence your very best recollection of the events as you recall then on that day?  
A. Right, sir.  
Mr. LINDSEY: Thank you very much.  
Mr. MINIER: No questions, your Honor.  
THE COURT: Thank you, Mr. Saul, you are excused.  
Mr. LINDSEY: May we have a recess at this point? I have in mind that the Court desires to adjourn at 3:30. Perhaps I can call my next witness.  
THE COURT: Well, if you can, I would prefer it.  
Mr. LINDSEY: May we call as our next witness Mr. Franssen, please.

**PAUL FRANSSSEN**

called as a witness on behalf of the defendant, having been first duly sworn, testified as follows:

**DIRECT EXAMINATION**

BY Mr. LINDSEY:

Q. Mr. Franssen, for our record and for the Court would you tell us your full name and spell the last name, please.  
A. Paul Franssen, F-r-a-n-s-s-e-n.  
Q. Mr. Franssen, could you tell us your present position?  
A. Position is Bell Captain, Superintendent of Services.  
Q. You are the Bell Captain and Superintendent of Services?  
A. That's right.  
Q. And that is at the Biltmore Hotel here in Santa Barbara?  
A. Yes, sir.  
Q. Did you hold that position or positions on January 27 of this year?  
A. I did, Sir.  
Q. Directing your attention to Saturday, January 27 of this year, did you have occasion to be present at the Biltmore Hotel about noontime?  
A. Yes, Sir.  
Q. Could you tell us if somewhere around noontime you received some kind of a notice or information of an unusual event at the Biltmore property?  
A. Yes.  
Q. Where were you when you received that information?  
A. In the lobby.  
Q. Is that the main lobby of the hotel?  
A. That is right.  
Q. From whom did you receive that information?  
A. From the telephone operator,  
Q. Upon receiving the information, what did you do?  
A. I went straight to the cottage.  
Q. Did you go with any person?  
A. No, all alone.

- Q. And Mr. Franssen, you have been here in the courtroom, and do you understand the general layout on this diagram we have been, referring to -- this is People's Exhibit No. 16?
- A. I arrived this way here.
- Q. This is coming up—
- A. From the hotel to the cottage three.
- Q. Three?
- A. Went around here and toward the patio. Oh, I am sorry, I stopped here because I met Mr. Clapp there.
- Q. Now, you are indicating near unit number 31, and that's about the point where you met Mr. Clapp?
- A. Yes. All excited, I asked, "What happened." "Well something very bad," you see, "a shooting".
- Q. What did you do then?
- A. I tell him, "If somebody still alive?" He said, "I don't know." So first thing I did, I went around here because I knew it was Mr. Yanikian who was in room 34. When the operator say they had been shooting from, room 34 I knew right away Mr. Yanikian was there. In this way, I could see anything in the window
- Q. You went to the window of room 34?
- A. Try to look through the window.
- Q. Mr. Franssen, you mentioned that you knew that that was the room of Mr. Yanikian?
- A. Yes.
- Q. The information that you had received at the moment before at the hotel lobby, did you know it was Mr. Yanikian's room at that point?
- A. Yes. I knew.
- Q. And being the Bell captain and the Superintendent of services, did you automatically then knew it was Mr. Yanikian—you knew he was in room 34?
- A. I had a good feeling that the whole thing was that Mr. Yanikian was involved in that shooting, yes.
- Q. What caused you to have that feeling?
- A. Because they told me the call came from 34 because room 30, we had two gentlemen in 30, told they are shooting in next room, and I knew 34 was Mr. Yanikian, and I knew right away it was him, that's all.  
I went straight, because I knew it was Mr. Yanikian's room.
- Q. Did you look into room 34?
- A. Yes. Couldn't see nothing through the window. I had Mr. Clapp right behind me.
- Q. Was that because of the curtains?
- A. Well, yes, and the darkness inside the room.
- Q. Then what did you do?
- A. I went around the cottage again, came back, and went to the patio, and that's the first I then see Mr. Yanikian sitting in the patio.
- Q. Now, was he sitting there at the table?
- A. Yes, he was.
- Q. Then what did you do?
- A. I didn't do anything. Mr. Yanikian looks at me, he said, "Go and tell the officer send me the bill at the count jail."

Q. He told you that as you were standing—

A. Yes. Because he probably knows—I don't know what the reason why he told me directly when I arrived there, but that's what he said.

Q. Now, I would like to ask you about that comment he made to you. Up to that moment, had you said anything to him?

A. No, not at that moment.

Q. Did you then -- as you came up within hearing distance of him, he just suddenly directed this comment to you about, "Send the bill to the county jail"?

A. That's right. I was not on the patio then I was outside of the patio.

Q. Were you surprised about that statement he made to you?

A. Well, I was inspecting--I knew there was something happening -- I knew there were shooting and -- no, I wasn't surprised frankly.

Q. What was his tone of voice when he said that?

A. Well, like a person who is disinterested.

Q. Like a person--

A. A person who really care less.

Q. Sort of in a disinterested tone of voice?

A. That is right, exactly.

Q. Did this seem to be unusual--this sort of disinterested sound in his voice at that point?

Mr. MINIER: I object to that as calling for a conclusion, your Honor.

THE COURT: Sustained.

Mr. LINDSEY: I withdraw it.

Q. What else did you notice about his voice at that time?

A. Nothing, because we didn't have any conversation until I ask him -- because the answer, when he told me send the bill, I say, "Well, I am not too much interested in that.

I told him I say, "What did you do" and he answered me, "I shot two person." So I say, "Is still somebody alive," I say, "Can I go into the room?" - I ask him, I didn't go to the room without ask him. I say, "Can I go and look to see if somebody is still alive?"

And with the same tone, he told me, "Just go ahead." he said, "You will find only two dead bodies."

Q. Now, when he said that, that is, "Go ahead"---

A. Yes.

Q. Was he still speaking in a sort of disinterested tone?

A. No. The same tone.

Q. Disinterested?

A. Sure. "Just go ahead," showed his hand, "Just go ahead," he say. Mr. Clapp was following me. The door was open of room 34. I push the door, went into the roo maybe three or four feet. The first body was laying was white, and the other body was still breathing in his blood. I turned around, I told Mr. Clapp, I say, "'Gosh, there is still one man alive." We concluded -- I don't know if it was the suggestion of Mr. Clapp or if I had the suggestion to, "Don't say anything, let's go out of here, don't say that there is still a man breathing" We were afraid Mr. Yanikian, knowing somebody was breathing, that he would go back, and do something, because we were not protected by the Sheriff or nothing.

Q. The officers had yet arrived?

A. No, no one. I went out to the patio. I didn't speak anymore with Mr. Yanikian. Saw Mr. Charles Saul outside, Mr. Gunnar, everybody was outside. I say, "Okay, I will go on the street right behind the cottage to stop the ambulance and the sheriff." I was afraid the sheriff and the ambulance would come on the front of the hotel, so I went straight behind the cottage on the street, in between the Coral Casino and the cottage, and I waited there oh, for about four minutes, three minutes maybe, the ambulance came. I explained to the chauffeur of the ambulance what happened. He ran toward the cottage. I explained him how to get to the cottage, came back a few minutes after, he say, "I can do nothing." He had an expression like say, "Well, it is murder case," or "I can't touch anything in the room. I can do nothing." I told him, "Can you do anything with the man is still living, still alive?" And he say, "No, I can't touch nothing."

About three or four minutes after, the sheriff came. From there on, I thought my duty was finished. I went back to the cottage, stay maybe couple minutes there, then went back to my duty.

Q. Now, during all this time, was Mr. Yanikian still of the same appearance as he was when you originally--

A. Yes, he was.

Q. Was the sound of his voice, on any more comments that he made, still of the same general type as you described so far?

A. No, exactly the same.

Q. His voice was still exactly the same?

A. I didn't speak with him any more after. Those moments, well, everybody is a little disturbed, and you know, I don't say I pay too much attention about the tone of his voice or not, but I think he was reacting the same.

Q. That was the end. then, of your connection with Cottage three?

A. Yes , entirely.

Q. Is it fair to say that you have related to the jury here, to the best of your recollection, all of the events that, you were connected with that day?

A. Yes.

Mr. LINDSEY: Thank you very much, I appreciate it.

Mr. MINIER: No questions, your Honor.

THE COURT: Thank you, Mr. Franssen, You are excused and free to leave if you wish.

(Whereupon the witness was excused and withdrew from the stand.)

Mr. LINDSEY: May we approach the bench a moment, your Honor.

#### **SIDE BAR CONFERENCE**

(Whereupon the following proceedings had at a side bar conference outside the hearing of the jurors, as follows:)

Mr. LINDSEY: Your Honor, we have moved more rapidly than what I anticipated. I anticipated these three witnesses would take up most of our time to 3:30. We have no additional witnesses to put on the stand at this point, so I do not know how the Court might handle it from this point on. I had anticipated there would be more cross-examination than what occurred.

THE COURT: Well, don't let it happen again. Yesterday, you said you were going to take all day and end tomorrow on your opening statement.

Mr. LINDSEY: I did. In view of some of the objections made, I pulled back a portion of it that I had planned to give, your Honor, to avoid problems on it.

THE COURT: Well, it you haven't got anybody you can call and get here within ten minutes -- have you got anybody like that?

Mr. LINDSEY: No, your Honor.

THE COURT: Well, we will have to quit , then. But for goodness sakes, don't let it happen again. I am trying to avoid delays in this case as much as possible. It is taking a long time.

Mr. LINDSEY: I will make every effort, your Honor, to avoid the problem as much as possible.

THE COURT: Okay.

Mr. LINDSEY: Thank you.

(Whereupon the side bar conference was completed.)

THE COURT: We are out of witnesses, ladies and gentlemen. The case has moved a little more rapidly than Mr. Lindsey had anticipated, and he has no more witnesses on hand, so there is nothing to do but recess at this time until ten O'clock tomorrow morning.

It is your duty not to converse among yourselves or with anyone else on any subject connected with the trial or to form or express any opinion thereon until the cause is submitted to you. You are excused until ten o'clock tomorrow morning.

(At three o'clock an adjournment was taken until Friday, June 15, 1973, 10:00 A.M.)

(Whereupon the noon adjournment was taken over to 1:30 o'clock p.m. of the same day)

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18. SANTA BARBARA, CALIFORNIA, FRIDAY, JUNE 15, 1973; 10:00 A.M.
MORNING SESSION

THE COURT: All members of the jury and the alternate jurors and the defendant are present, gentlemen. All right, Mr. Lindsey?

MR. LINDSEY: Thank you, your Honor. Your Honor, may we call Mr. Heaton to the stand, please.

GREGORY RAYMOND HEATON,

Produced as a witness on behalf of the defendant, having been first duly sworn, testified as follows:

DIRECT EXAMINATION

BY. Mr. LINDSEY:

Q. Mr. Heaton, for our court record and also for the jury, would you please state your full name and spell the last name.

A. My name is Gregory Raymond Heaton, H-e-a-t-o-n.

Q. Mr. Heaton, can you tell us, please, your present position or occupation.

A. Yes. I am a police officer for the City of Santa Barbara.

Q. How long have you been a police officer?

A. Approximately four years, sir.

- Q. I would like to direct your attention to Saturday, January 27, 1973 and ask you if around noontime of that day you had occasion to be in the general area of the Biltmore Hotel here in Santa Barbara.
- A. Yes, sir, that's correct.
- Q. Were you responding by reason of a call?
- A. Yes, sir, I was.
- Q. Had you received a call on your vehicle radio?
- A. Yes, sir.
- Q. Were you alone or with another officer?
- A. I was alone.
- Q. Did you by reason of that call travel then to the area of the Biltmore?
- A. Yes, sir, I did.
- Q. Where did you stop your vehicle?
- A. I stopped my vehicle at the, it would be the southeast corner of the Biltmore Hotel, it would be next to the Coral Casino.
- Q. Did you meet any other persons at that time?
- A. Yes, sir, I did. I met Deputy Kolbert and the ambulance attendants.
- Q. Did the group then walk towards what you later learned to be Cottage No. 3?
- A. Yes, sir, shortly after my arrival.
- Q. You were in uniform, were you not?
- A. Yes, sir.
- Q. We have on the blackboard prepared for you in the trial a diagram that is People's Exhibit No. 16. I am going to ask you to make use of the diagram in a moment. To orient you, this is the patio area of that Cottage No. 3 with the table that was out in the patio. It was in Room 34 in which the events occurred. The walkway comes in from the outside, it is an open walkway through here, and these apparently are pillars of some type. Does that help orient you to the property?
- A. Yes, sir.
- Q. Now, can you tell me, as you walked towards what we know as cottage number three, what is the first thing that you observed?
- A. Cottage number three?
- Q. Yes. The entire -- I should indicate that the --
- A. I see.
- Q. The building is known as cottage number three, then there are different--
- A. May I stand?
- Q. Yes, please, would you like to use the pointer?
- A. I approached from this direction along with Deputy Kolbert and Deputy Norton. We came over in this direction, we observed the defendant sitting at the table here. We observed over this wall.
- Q. Now, Mr. Heaton, could -- would it be easier to resume?
- A. Sure.
- Q. It would make it more comfortable for you.
- Mr. Heaton, could you tell us, please, what he was doing at that time; was he simply sitting at the table?
- A. Yes, sir, he was.
- He was drinking something, some sort of refreshment. I don't know what it was.

- Q. Now, were there any other persons there with him that you observed?
- A. At that time, I recall seeing somebody sitting there with him. I believe it was a hotel employee.
- Q. Now, did you have reason to believe at that time that he was connected with the possible homicides or deaths?
- A. Yes, sir.
- Q. Now, when you first observed him, about how far away were you from him would you estimate?
- A. Perhaps 50 feet.
- Q. Were you able, at that point to observe his appearance?
- A. Yes, sir.
- Q. Will you describe it as you observed it, please?
- A. Well, to the best of my recollection, I believe he had on a beige suit -- it was close to that -- he was wearing a beret. He was very nicely dressed. I remember he had a suit on, and he also had the long sleeves and cuff links, and he was very well dressed.
- Q. Then, can you recall, then, what you next did?
- A. We walked up onto the patio, and Deputy Kolbert and I went inside. Deputy Norton talked with the defendant.
- Q. Now, when you came -- did you come around, then, around that little wall in the patio, then enter into the patio where the table is located?
- A. Yes, sir.
- Q. And did you have occasion, at that time to hear any of the conversation of Mr. Yanikian?
- A. Not at that time.
- Q. Incidentally, do you recognize Mr. Yanikian here in the courtroom as being the same gentleman that was sitting there at the table?
- A. Yes, sir, I do.
- Q. And when you were in the patio, did you have occasion to further observe his appearance?
- A. Yes, sir.
- Q. Can you describe, as you can best presently recall, what his appearance was at this time as you were standing in the patio?
- A. He seemed to be very calm, very deliberate about his actions. He didn't seem to be particularly upset at all.
- Q. Now, as the -- after a few moments, then you went with some of the other persons there into what we now know as room 34?
- A. Yes, sir.
- Q. How long were you in room 34 approximately?
- A. Well, I was in and out, and back in. The first time I was in, I was in approximately three or four minutes, probably.
- Q. When you came out that time, did you return to the patio area?
- A. Yes, sir.
- Q. And did you have occasion to again observe Mr. Yanikian?
- A. Yes, I did.
- Q. Was he still seated, or was he standing?
- A. He was still seated.

- Q. Was he still of the same appearance as you have mentioned when you first saw him on the patio?
- A. Yes, sir. He was, however, a little bit irate because we had taken so long to get there, or the hotel employees had taken so long to call the police, or something of that sort.
- Q. And then, did you return back into room 34, then?
- A. I went and got some chalk for marking the evidence and then I returned back to the room.
- Q. Did you go to your vehicle, then, for the chalk?
- A. Yes, sir.
- Q. And then when you came back to room 34, was Mr. Yanikian, still in the patio?
- A. Yes, sir.
- Q. Did you have occasion to observe him at that time again, then?
- A. Yes.
- Q. Did he appear, so far as you can now recall, to be -- perhaps I should ask you, did you pay any particular note on this occasion to his appearance?
- A. No, sir.
- Q. Did you go into room 34 again?
- A. Yes, sir, I did.
- Q. How long were you there this time?
- A. Approximately two or three minutes.
- Q. Then did you, go back out to the patio area?
- A. Yes, sir.
- Q. Was Mr. Yanikian still there?
- A. To the best of my remembrance, Mr. Yanikian was there all the time until I left the scene.
- Q. Were you on the patio at any time from this point on when Mr. Yanikian was saying anything?
- A. Yes, sir. I had occasion to ask him a question myself.
- Q. Would you relate to the jury, please, what question you put to him?
- A. I asked him what happened.
- Q. At that time was he seated at the table?
- A. Yes, sir.
- Q. What did he respond to you?
- A. He stated, "I just killed two men."
- Q. Did he say anything else?
- A. I asked him, "Was there any particular reason?"
- Q. Did he make any statement?
- A. Stated, "Yes, political."
- Q. Do you recall him saying anything else?
- A. Yes, sir, I do.
- Q. What was that?
- A. He stated that many years ago -- he may have stated a number of years, thirty, thirty-five, I don't recall that the Turks had killed several members of his family.
- Q. Did he make any reference that you can now recall to his brother?
- A. I don't recall.

Q. Can you recall when he was relating these matters to you now what was the sound of his voice?

A. He seemed to be very calm.

Q. How about so far as facial expression is concerned as he was making these responses to you?

A. He was very serious.

Q. Now, was that in essence the conversation you had with him at that time?

A. Yes, sir.

Q. And then what is the next thing that happened?

A. At that time, Mr. Demir was transported to St. Francis Hospital -- as a matter of fact, both of them were.

Q. When the conversations you have just mentioned, when those came to an end, did you remain in the area of this cottage or did you depart?

A. I left shortly thereafter.

Q. Did you remain generally in that patio area until you left, or were you back at 34?

A. I was mostly in the room, most of the time.

Q. Let me ask this question. Based upon the best recollection you have at the present time, have you related to us the essence of the conversations that you can recall or any matters that you heard Mr. Yanikian say that day there at the Biltmore?

A. The only other thing I recall him saying was in regards to his complaint about taking so long. He said he had called twice to report the incident to the hotel employees who in turn were supposed to contact the police, and I believe he made mention of the fact that it was perhaps an hour or an hour and a half, maybe, before we had actually gotten there after he had done what he did.

Q. Did he seem to be expressing concern for any delay in the officers getting there?

A. Yes, sir.

Q. Then, does that in essence relate then essentially your recollection of the events of that day as you were connected to them?

A. Yes, sir, it does.

Mr. LINDSEY: Thank you very much, officer. No further questions, your Honor,

Mr. MINIER: No questions, your Honor.

THE COURT: Thank you, officer. You are excused.

Mr. LINDSEY: Your Honor, may we next call Humberto Valenzuela.

HUMBERTO VALENZUELA

produced as a witness on behalf of the defendant, having been first duly sworn testified as follows:

DIRECT EXAMINATION

BY Mr. LINDSEY:

Q. Mr. Valenzuela, could you for the record and for the jury state your full name and spell your last name, please.

A. Humberto Valenzuela, V-a-l-e-n-z-u-e-l-a.

Q. Perhaps it would be better to spell your first name.

A. Humberto, H-u-m-b-e-r-t-o.

Q. Mr. Valenzuela, could you tell us please what your present occupation is?

A. I am a waiter at the Biltmore Hotel.

Q. How long have you been with the Biltmore?

- A. Seven years.
- Q. I would like to direct your attention to Saturday, January 27th of this year and ask you if you had occasion around noontime to be at the Biltmore Hotel?
- A. Around noon, yes, I was.
- Q. Were you at that time working in your usual work activities there?
- A. Right.
- Q. I would like to direct your attention to somewhere between 11:30 and 12 in the morning and ask you if you had occasion to go what we call Cottage No. 3?
- A. I did.
- Q. Mr. Valenzuela, there is an exhibit on the board which is a diagram of that cottage No. 3. Do you recognize that diagram as being approximately or the outline of that cottage?
- A. Yes.
- Q. Are you familiar with that cottage building?
- A. I am.
- Q. Did you have occasion somewhere between 11:30 and 12 to go to the cottage building?
- A. Yes, I did.
- Q. Do you recall about what time that was?
- A. About a quarter to 12.
- Q. What was your purpose in going there?
- A. I was serving a convention, some liquor to some rooms, to the cottage, No. 30 in part of 3.
- Q. Would that not be the unit or Room No. 30?
- A. Yes, it was.
- Q. Do you notice on the diagram the room that is marked No. 30? Would that be the room where you had to go to?
- A. That is the room.
- Q. In order to get to Room 30, did you go along this outside hallway, so to speak, to the door, the main door into Room 30?
- A. Yes.
- Q. When you were there at that door, did you have occasion to look in the direction of Room No. 34, the door to Room 34?
- A. I did.
- Q. Was that door open or closed?
- A. It was open that much (indicating) about that much open.
- Q. Were you in a position at that time where you could see inside that room?
- A. Just the entrance, that's all.
- Q. Did you see anything or any person inside the room at that time?
- A. No, I didn't.
- Q. Did you after a few moments in Room 30 leave in the same way that you had come in and return back over to the main Biltmore Hotel building?
- A. Right.
- Q. Before you left Cottage No. 3, did you have occasion to see any person, any other person?
- A. Yanikian, I did see him.

Q. Do you recognize the gentleman sitting here in the court, Mr. Yanikian, as being the same person that you saw there at Cottage 3?

A. Yes, sir.

Q. Where was Mr. Yanikian at the time that you saw him prior to noon on that day?

A. He was in the patio, waiting outside.

Q. How was he dressed at that time?

A. Well, normal clothes, kind of gray clothes with kind of like a hat on, and normal, real nice.

Q. Was it sort of like a beret?

A. It was,

Q. A cap?

A. Yes.

Q. Was he wearing a suit?

A. A coat.

Q. A coat?

A. Yes.

Q. What color coat, do you remember?

A. It was kind of gray, I thought it was gray.

Q. What was he doing on the patio at that time?

A. Sat there -- standing out there waiting like he was waiting for something.

Q. Was he sitting or standing?

A. He was standing.

Q. Near the table?

A. By the table, yes.

Q. Was he there both when you went to Room 30 as well as when you came back from Room 30?

A. Yes, he was.

Q. Did he say anything to you on either occasion, anything at all?

A. No, he, didn't.

Q. Now, did you observe anything about his appearance that is, his face, at that time?

A. Very calm, very normal.

Q. Now, did you have any occasion, later on that day, to see him, or is that the only time that you saw him?

A. That's the only time I saw him.

Q. Now, have you told us now, then, this morning, all that you can presently recall of what you observed or saw about Mr. Yanikian prior to twelve o'clock that day, to the best of your recollection?

A. Around 12 o'clock, you say?

Q. Just before twelve.

A. Just before twelve, yes.

Mr. LINDSEY: Thank you very much.

I have no further questions, your Honor.

Mr. MINIER: No questions, your Honor.

THE COURT: Thank you Mr. Valenzuela, you are excused.

(Whereupon the witness was excused and withdrew from the stand.)

Mr. LINDSEY: May I have one moment, your Honor.

Your Honor, may I have a moment with Mr. Minier, please?

THE COURT: Yes.

Mr. LINDSEY: Your Honor, we would desire, if it please the Court, to read certain portions from the Time for Reparation exhibit that is now in evidence before the Court, and we would ask permission if Mr. Minasian may be able to read certain portions from that out loud to the jury.

THE COURT: No objection to Mr. Minasian--

Mr. MINIER: No, your Honor.

THE COURT: All right.

Mr. LINDSEY: Your Honor, may I for our record-- what is the exhibit number?

THE CLERK: Thirteen.

Mr. LINDSEY : People's Exhibit No.13, your Honor.

Mr. Minasian:

“Whenever there is a discourse in society or the press on the topic of Armenia and its people it usually begins and ends with the observation that Armenia was the first country to adopt Christianity (303 A.D) as a national religion and thereafter Armenians sacrificed their children in an effort to protect and spread this religion throughout their known world. Somewhere along in the middle of the discourse comes the remark (as it if concerned an important and creditable act) that it was our Armenian forefathers who introduced to the rest of the world shish kebab and pilaf. Unfortunately, most young people of Armenian descent know little more then this about the noble deed of their ancestors and the grandeur of Armenia as a highly cultured nation at a time when most of what is today's Europe was overrun by the barbarians, Transalpine and Cisalpine Gauls.”

“As it is not my purpose in writing this article to discuss the origin of shish kebab and pilaf, I mention only, without attempting to prove, that this culinary achievement rightly belongs to the Persians and Georgians rather than to our ancestors, though Armenians as well as many other people have long shared in the enjoyment of eating this good food.”

“Shortage of space here does not permit my offering proof, other than a brief statement of historical facts, that Christianity, brought suffering to the Armenian nation and among its people-- suffering such as they had never before experienced but have never since endured. Largely responsible for this unhappy situation was Gregor Partev, called Lousaverich which means "Illuminator' or "Enlightened One." It is a paradox in history that this man, apostle of Christianity and founder of the Armenian Church, placed himself at the head of an armed force of ignorant fanatics who killed without conscience, the intelligentsia, the non believers in any religion, and those who, would, not be converted from their own faith to Christianity. With their frenzy still unappeased, these murderers proceeded to destroy all evidence of the culture left behind by their victims; libraries, palaces, theaters, places of worship, monuments, and other architectural forms of art were leveled to the ground; and worst of all for posterity was their burning in the public square of the vast collection of books removed from the libraries - a collection comprising hundreds of thousands of books in different languages, which in all the Roman Empire was second to none other than the great library in Rome. If all these had survived what a heritage we would have concerning mankind and civilization! Reason and logic tell us that Gregor Partev deserved to be called “Mtnavorich," meaning

“Benighted One.” In tragic course of events resulting from this man’s dark deeds the creative spirit of our people was dimmed, but not extinguished; eventually it was rekindled and made to shine brightly again.”

“Rather than antagonize the religious fathers and fanatical believers, I restrain myself from writing here a detailed account of how Christianity not only destroyed our ancient culture and nation, but also caused our forefathers to push their sons out from home and country in an effort to proselytize the rest of the world. This does not mean, however, that I am not ready and willing to accept the challenge of proving by historical facts that I know whereof I speak.”

“The California Courier, in a recently published series of articles, inform its readers that several groups have been or are being organized into an alliance for the purpose of fostering Armenism. This, as I understand it, they propose to accomplish by various far-reaching methods, but specifically by imparting more knowledge (even creating a chair for the purpose at UCLA) of Armenian culture and history to the young generations of Armenian descent along with their American-born contemporaries. It is to be expected that most Armenians will not only welcome, but also give their moral and financial support to this project, just as they have done and still do whenever it comes to building churches here, there, and everywhere.

“Although this educational project is a little late in getting started, its success is almost assured under the direction of the many enthusiastic and energetic men, such as Dr. Aram Tolegeian and Professor Levon Surmelian who head different groups.

“From these knowledgeable men our young students and others in the community have much to learn of the part our ancestors had in the evolution of mankind.”

“According to Francois August Choisy and Dubois de Montreux, renowned archeologists and historians of the French Academy, as well as many other world-famous historians (I omit mentioning those of Armenian birth, lest I be accused of partiality), the cultural extent attained by any nation with a very ancient history may best be determined through archeological research and, particularly, the study of whatever architectural works of that time remain. In their rating of some of the older civilizations, these historians say that Egypt may well be proud of its Pyramids, Assyria of its palaces, Greece of its Acropolis, Constantinople of its Hagia Sophia, Rome of its Pantheon, and Armenia of its widely scattered ruins which even from the ground proclaim the greatest cultural achievement of its people. And if all the other ruins in Armenia are ignored and only those of the Church of Zvardnoc regarded, we have enough to prove that this nation, far from being behind, surpassed all other nations in its cultural development.”

“Armenia also has the right to be proud of that supreme masterpiece of Byzantine architecture, Hagia Sophia, by reason of the fact that many Armenians had a vital part almost a thousand years ago in the last reconstruction of its main dome (more than 102 feet in diameter and 164 feet in height), which is the most awe-inspiring of all its splendid features.”

“However Constantinople has consistently tried throughout many centuries to ignore this fact. Its policy of not giving credit where credit is due apparently continues even now. Only last year a professor of history from Turkey traveled all around the United States lecturing with a vain glorious air about the grandeur of Hagia Sophia and its historical significance in his talks - at least in the one given at UCLA in Santa Barbara - he avoided even mentioning Armenian participation in the reconstruction, which had

been done about five hundred years before the Turkish conquest of Constantinople. The Turks' participation (if, indeed, it deserves to be so called) consisted solely of their putting up the crescent in place of the cross and changing the name of the edifice to Aya Sophia.”

“In the first half of the 6th century, the Byzantine emperor, Justinian, built Hagia Sophia (derived from Greek-- meaning Holy Wisdom) on design of his imperial architects, Anthenius and Isador of Asia Minor. The Emperor had, at the start, announced his determination to build an edifice that would transcend the grandeur of Solomon’s temple; and so it was that, at his first sight of the finished Hagia Sophia, he raised his eyes to the heaven and exclaimed, “I have defeated you Solomon!”

“Only twenty-five years later, a severe earthquake caused the great dome with part of its base to fall in ruins; then the Byzantines built a duplicate. And this second dome, proving to be as vulnerable to earthquakes as the original also collapsed; third similar disaster occurred in the latter part of the tenth century, no Byzantine builder willing to take on the responsibility of building a new dome could he found. As a result, the government was forced to swallow its pride and call outside for help. An Armenian named Trdat little known beyond the environs of Ani, where he occupied the post of chief builder for that city came to the rescue bringing with him a large crew of experts in his field.”

“They did a good job - a better job that had been done at either of the other times -for they built the dome on the same, sound principle of construction that had already been employed for quite some time in Armenia, but not elsewhere. Incidentally, this principle is used for big jobs all over the world today.”

“During the passage of centuries since Tradt and his men finished their job in Constantinople many earthquake have occurred in that vicinity, but Santa Sophia’s beautiful head remains as firmly fixed on her shoulders as the day it was placed there. If Tradt could have only foreseen all this, he would have been justified in crying, ‘My people and my culture defeat you, Byzantines.’”

“Armenia’s architectural culture was not to be confined within its borders. Spreading far and wide, it first went north through Georgia, Russia and Scandinavia to Ireland, then in a different direction along the Black Sea and on through other countries to France where joined by its sister coming down from the North, it formed a style of architecture called “New Roman.”

“Though it was our Armenia that had exerted such a broad influence on architectural culture and style in these countries, proof of this fact lay covered with dirt for centuries until it was finally dug out by archeologists and historians (coming from these very countries most affected by Armenian influence) and admitted in their published works as an indisputable fact.

“If we study the annals of history, we can see that in other fields our forefathers also exhibited their advanced state of civilization and made their influence felt in the international areas. For instance, before the coming of Christianity, convicted criminals were taken to a town that had been specially designed and built for the purpose of helping them to rehabilitate themselves, though not pampered there they were given human treatment and taught various crafts and trades so that after completion of their sentences they could re-enter society as self supporting citizens.”

“Also, in certain areas of history covering times both of war and peace, the government functioned under a kind of democratic system in which its leaders were elected by the populace.”

"Centuries ago in Armenia an organized corps of women nurses went out on the battlefields to care for the wounded and the dying just as the Red Cross has served humanity - but only this past hundred years.”

“Our heritage consists of far more than the few instances cited here, yet there are enough to give proof of the high level of culture attained by our forebears.”

“All this must be imparted to the world, especially to our younger generations, in a way that will make them clearly understand why an Armenian question still exists and why a good Armenian cannot and shall not forget it as long as it exists.”

“A bill for reparation, unpaid and long overdue, must be presented not only to Turkey, actual perpetrator of the massacres of our people, but also to the 'Big Powers' that were accessories to the crime both before and after the fact. If the words ‘conscience’ and ‘justice’ have any meaning for mankind, our bill will not forever remain unpaid. We will never allow this Armenian question to be covered with the dust of time as were the ruins of our once great nation; nor will we allow it to be sacrificed in the name of political expediency. We shall applaud older Armenians who, in advance of their departure from this world, are trying to provide the younger generation with the fighting arm of knowledge about our Heritage so they will carry on the battle until it is won. The guilty ones must be made to pay. The Armenian people cannot insult the memory of two million lives.”

Mr. LINDSEY: Your Honor, if it please the Court, there are some matters that we would desire to take up with the Court at this point. I would anticipate that perhaps they will consume at least a part of the remaining time until noon, and I would advise the Court of that situation.

It Is difficult to predict how much of that time. Having in mind not to unduly inconvenience the jury, I do remark on it for the guidance of the Court.

THE COURT: Have you heard from your office, Mr. Minier, in regard to your telephone call?

Mr. MINIER: I haven't, your Honor. Apparently they haven't made contact yet.

Maybe they have. Apparently, we are all set for 1:30, your Honor.

THE COURT: Ladies and gentlemen of the jury, we will take up those matters of law in your absence as required, and will resume the trial before the jury at 1:30 p.m. this afternoon to which time you are all excused.

It is your duty not to converse among yourselves or with anyone else on any subject connected with the trial, or to form or express any opinion thereon until the cause is finally submitted to you.

Counsel, why don't we take our morning recess now, before going further.

Mr. LINDSEY: Thank you, your Honor.

(RECESS)

(The following proceedings were had outside of the hearing and outside of the presence of the jury and alternates:)

THE COURT: All right gentlemen. The jury is absent and the alternate jurors.

Mr. LINDSEY: Your Honor, if it please the Court, we desire to make an offer of proof to the Court at this point concerning certain witnesses and certain areas of evidence

and testimony that we would desire as a part of the defense of this case to present on the witness stand to the jury. We ask permission to make an offer of proof because otherwise, if we were to bring these witnesses here, some of them from a great distance and if we should be met with objection for one reason or another, and should the Court then rule that the witness would not be permitted to testify, it would create frankly awkward moments and problems for us.

I thought that perhaps to be able to advise the Court of what we would desire to do and seek to make our offer of proof might be helpful.

I would state to the Court at the outset that when Mr. Yanikian takes the stand as has already been indicated in the course of the case so far, he will be dealing in his testimony of course with his beliefs, and his beliefs will include his experiences and his knowledge of the Middle Eastern area. That is going to encompass a series of chronological calendar events, events that occurred in the Middle East both before his birth as well as during his lifetime that he spent there in the Middle East.

It would also involve in his testimony extensive description of events that he personally eye-witnessed.

THE COURT: What he testifies to we can deal with at the time he testifies. There is no necessity for telling me what he is going to say because we can deal with it in the usual course.

Mr. LINDSEY: My only comment, your Honor was that, and I think that this would certainly be inferred or suggested from some of the, if I may say, objections that have been made certainly in the presence of the jury so far, one of the aspects is that when Mr. Yanikian is describing various events, they are so completely out of context with what the general public ordinarily would even conceive of, that the purpose of the testimony in part would be to lend some verification to what he is going to testify to. This is both acts of extreme violence on human beings, specifically the Armenian individuals -children and women and men -- but also that Turkey itself officially as a government official decrees and orders sent out from the Turkish Government during this time from 1850 to 1922, officially ordered massacres from time to time to be committed against the Armenian people. And in 1915 alone nearly a million and a half Armenians were slaughtered on direct orders of the Turkish Government.

For this there is more than ample evidence and it is certainly even confirmed by the United States Governments of the existence of those orders.

I have in mind by way of merely background that during this time, the American Ambassador to Turkey was Henry Morgenthau who later became Secretary-Treasurer of this country. He wrote a book about 1918 where he described as the official representative of this government in Turkey what he saw and knew and observed at the highest levels of the Turkish Government. His eye-witness accounts of what he personally observed in this area of the on-going massacres and slaying of the Armenian people appeared.

On the matter of the relevance to the case, Mr. Yanikian would, of course would be in a position to relate those matters that would pertain in some way to his state of mind or things that conditioned his state of mind.

The problem that we have and fear is that we have when he relates what his belief and knowledge is of what the Turkish Government officially did, and then the

carrying out of those, that they are so bizarre and so extreme as to raise the question of believability and credibility.

And it would be our desires as part of showing the credibility and reliability and to show that these things that he will relate in fact did occur, and that they are not creations of his imagination, though they are so extreme as to be almost unbelievable, to place on the stand certain witnesses, and I will state at the outset, I have in mind, of course, the Court, under no circumstances would ever permit an ongoing forever and ever type of presentation, and at the outset, I would indicate to the Court in our offer of proof that if we were allowed any opportunity to present such witnesses, I would be willing to stipulate at the outset that from a group that I am going to name in a moment, that we would limit ourselves to only two persons, that our direct examination would be limited to only one day in the courtroom of our normal court day, and I would specifically waive all redirect examination of those witnesses.

So that from the standpoint of presentation, there is only those hours during only one normal course of day, and we would not have any further questions of those witnesses, and they would be subject to whatever would be cross-examination by Mr. Minier.

The importance of those witnesses for verification of these extremely bizarre acts, is such that I am willing to certainly enter into that sort of a stipulation on it.

Now, the persons that we would, in our offer of proof, desire to consider -- defense counsel in this case have been presented and made known, and some of these are already known to us directly, but have been made known to us a list of twelve individuals located around the United States who are recognized as top outstanding experts in this country on the matters dealing with the Armenian incidents from roughly 1850 up until the recent times. They are all experts by way of either personal experiences they have had, by special studies that they have embarked upon, by special work that they have done in this field.

Now the twelve names that I desire to mention to the Court, and from which we would ask in our offer of proof to draw two of them for purposes of that one day of confirmation of events that Mr. Yanikian will also be referring and connected with, the first one is Abraham -- I will give the necessary names to the Reporter -- the list of them, so she may get the correct spellings. Abraham Sachar, Ph.D. He is a former president and dean at the Brandeis University. He is now Chairman of their Board of Regents, and he is a specialist, as we understand, in the Armenian genocide period; that's roughly 1850 to 1922.

The second one is Howard Sachar -- Dr. Howard Sachar, Professor at George Washington University. The third one is Arshag O. Sarkissian, he is a Historian with the Library of Congress, and he has a publication, "Armenian Question to 1885."

The next one is James Gidney, a Ph.D. at Kent State University in Ohio. He is a specialist in this same field, and he published "Mandate for Armenia."

The next one is Vartan Artinian, a doctor at Harvard University and he is connected with the Center of Middle East Studies.

The next one is Vartan Grigorian, who is a Professor of Armenian Studies.

He is a chairman in that study aspect at the University of Pennsylvania.

The next one is Richard Hovanesian, who is a Professor at UCLA here in California, and he is also a specialist in this area. He has published one matter "Armenia on the Road to Independence, 1918" and also published the "Republic of Armenia in 1918-1919."

The next one is Lindy Avakian, he is the author of the book, "The Cross and the Crescent," and is a specialist in this same field.

The next one is Vahakan Dadrian, he is with the Department of Sociology at New York State University at Genesco, New York, and a specialist in the field.

The last three are in Southern California, and that is Doctor Leon Surmelian, who is a Professor at the University of Southern California, and I believe it is at the University of Southern California USC. Yes, he is a professor at USC. He is an author of a book, "I Ask You Ladies and Gentlemen." He is one of the survivors of the massacres, in one portion of it, and he is a specialist in the massacre time that's involved in this case.

Of the last two, one is Dr. Michael Hagopian. He is a former professor at UCLA. He is presently a producer of documentary films and has produced a documentary film that has been shown on television concerned with the massacre period. He was formerly a professor in Political Science, and a specialist in this field.

The last one is Doctor Aram Tologian, who was an educator. He is a retired dean of the City College, I believe, in East Los Angeles. He is an author, and he also is a specialist in this time and of the events that are involved in this case.

Now, from those, I believe roughly twelve men who are recognized as among the top in the United States in this special time with which Mr. Yanikian is going to testify to what he believed, that if we may have permission, we would select from that two of them. If allowed to, we would advise Mr. Minier, of course, in more than sufficient or any adequate notice that he would wish, and we would have then brought here for purposes of testifying, confirming as to those matters that Mr. Yanikian is going to testify to.

The purpose of that would be - -

THE COURT: What are they going to say?

Mr. LINDSEY: They will, your Honor, trace the chronological events of the massacres.

THE COURT: From a first-hand knowledge, or from reading about it, studying it?

Mr. LINDSEY: Some of them will have first-hand personal knowledge.

THE COURT: Are any of them going to confirm, first-handwise, any of Mr. Yanikian's personal involvement?

Mr. LINDSEY: We believe your Honor --

THE COURT: They are not going to be eye-witnesses to what he testified, he observed?

Mr. LINDSEY: No, I don't believe any of these. I should advise the Court --

THE COURT: They are going to be testifying generally that there were massacres going on and that either they saw part of it or that they studied it to the point where they can vouch for the fact that indeed there were massacres going?

Mr. LINDSEY: More than that, your Honor they would vouch that the massacres were as bloody and as--

THE COURT: All right, assume they are as bloody as one can assume.

Mr. LINDSEY: Because there is that serious question in the case whether these things as bloody and as extreme as they could have occurred -- and I should advise the Court

that we are presently seeking to complete some contacts with people beyond this country who may have known and been with Mr. Yanikian at the time that he eye-witnessed some of the massacre events himself -- I cannot represent the Court that we have the availability of those persons as yet, because that is an on-going thing that we are doing in the background.

But the purpose of these fundamentally are to lend some credibility to the dates and the times and the events that Mr. Yanikian is going to testify to, and then those are what we call the experts.

Based upon their expert knowledge, they will be put on the stand to lend credibility and verification to events and times to the historical dates.

The other group of witnesses would be eye-witness specifically eye-witness individuals -who actually lived through several years of the massacres. I would advise the Court as I indicated in my opening statement there are large areas of Armenian people in Southern California and in Fresno and there are a number of those persons who experienced and lived through the massacres in full detail and are in a position to confirm the extreme nature of those massacres during the same times as Mr. Yanikian experienced and in the same areas.

So what we are seeking to do is not to lead the jury in a situation where they may disbelieve the existence of these things, but to have these experts come in and the eye-witnesses, to confirm that what he is saying that made the impression and the dent in his mind and his thinking in fact did occur, and they were so extreme that when Mr. Yanikian relates those that he is in fact telling the truth, because those things did occur in that part of the world.

It would be for confirmation of what he is going to testify to.

I would also offer to certainly attempt to limit any such testimony to the areas which Mr. Yanikian would be testifying to, and I would have in mind not putting them on the stand until after Mr. Yanikian has testified so that the scope of the verification would be present in the court record.

As I say, I would waive any redirect on the matter and we would be allowed simply the hours of one day, that is all we would ask for.

I would state to the Court that from the work Mr. Minasian and I have done, that in this particular area here we can literally be for days in court because of the tremendous events that occurred there.

My feeling is that if in any way they may be deemed to be relevant and material to the issue of what happened to Mr. Yanikian from what he saw and experienced, that just in order to be able to get that verification in to the case I would be willing to limit myself now as I am doing and limit it to two witnesses on this, because I think that with the witnesses that we may select, that will cover the period of time that Mr. Yanikian is going to cover in his own testimony.

So that would be our offer of proof, your Honor for the consideration of the Court.

THE COURT: What would your position be, Mr. Minier or can you tell?

Mr.. MINIER: Well, if such witnesses took the stand, your Honor, we would most strenuously object to any of their testimony as proposed by Mr. Lindsey for the very basic reason that this is not a war crimes trial; this is a murder trial.

In a murder trial under existing California law, the existence of massacres does not provide any kind of a defense.

In other words the fact, if it be a fact, that there were massacres 60 years ago in another part of the world can neither justify nor excuse an act of murder. Therefore they cannot form a defense.

If our law were that it could form a defense, I could go out and kill the delicatessen owner here who just happens to be a German, and I could come in and say "I did it because of the Nazi atrocities in World War II and I want to produce one hundred victims of Nazi concentration camps." and thereby attempt to excuse or justify my crime.

The only way that the alleged atrocities can even enter the case under my view of the law is to the extent that the defendant believed there were atrocities and to the extent that that belief affected his mental capacity to have the state of mind required to convict him of various crimes under the law.

In that regard, it does not make any difference at all whether the massacres did in fact exist, because if he didn't have the appropriate mental state, it does not make any difference if he dreamed the massacres up.. If he does not have the mental state to commit murder then he cannot be convicted of committing murder. But that has nothing to do with whether the massacres existed or not, and for that matter, frankly, I think the defendant would be in a better posture with regard to this diminished capacity defense particularly if we are going to have psychiatrists, if he did dream it up.

If it is all true, I should think that that would make it more likely a psychiatrist is going to say, "The man knew what he was doing,"

Obviously I think the only reason for this proposed evidence is to inflame the jury against the Turks, so perhaps on a wave of emotion the jury will say,

"We don't like what the Turks are alleged to have done 60 years ago so we will acquit the defendant."

But that is not the purpose of the trial. We are not here to have an Armenian-Nuremberg, and I would suggest that we should follow the laws of the State of California.

Under those laws, there is no way this type of evidence could properly be admitted.

THE COURT: If that objection was made to that evidence as nearly as I can understand what that evidence is, I would sustain the objection on the ground that the evidence was not relevant. I would perhaps found my ruling on two bases: first, that it is not relevant -- I am satisfied of that -- but out of an excess of caution, I might say if it has any relevance its probative value is substantially outweighed by the probability that its admission will necessitate undue consumption of time and create substantial danger of undue prejudice of confusing the issues and of misleading the jury, thereby exercising the discretion vested in me by Section 352 of the Evidence Code.

So that would be my ruling.

Mr. LINDSEY: Thank you very much, your Honor.

Your Honor I would advise the Court, then, that we would intend to call Mr.

Yanikian to the stand when we resume at 1 :30 and proceed from there.

THE COURT: All right, 1:30 then, gentlemen.

(Whereupon the noon adjournment was taken over to 1:30 o'clock p.m. of the same day)

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**19. SANTA, BARBARA, CALIFORNIA, FRIDAY, JUNE 15, 1973, 1:30 P.M.**

THE COURT- All members of the jury and the alternate jurors and the defendant are present, gentlemen.

All right, Mr. Lindsey.

Mr. LINDSEY: Your Honor, if it please the Court, at this time, we would like to call to the stand Mr. Yanikian, please.

THE COURT: All right.

THE DEFENDANT: All ready I am under oath.

THE CLERK: You have not been sworn in the presence of the jury.

**GOURGEN MKRTICH YANIKIAN,**

called as a witness on his own behalf, having been duly sworn and testified as follows:

THE WITNESS: Thank you very much, Judge Westwick, that you gave me permission that I have some paper with me--all these stories -- in my possession. I keep in my mind so and so, and you give me permission for piece of paper, thank you.

Also thank you for all people from today they put in chain until now. I never was hurt, my dignity like a man, for this thank you for all Departments, Sheriff Department, attorneys defense, everybody, include in the jail people who give me room service.

**DIRECT EXAMINATION**

BY Mr. LINDSEY:

Q. Mr. Yanikian. For our record here that is being made, would you first of all tell us your full name, please?

A. My name Gourgen Mkrkich Yanikian.

Q. Mr. Yanikian, you are acquainted of course, with Mr. Saroyan the official court interpreter and translator?

A. Yes.

Q. If at any time you have any difficulty understanding my questions, would you please interrupt me so that Mr. Saroyan can be of help?

A. I will. I know my English is very bad. When I came America I forgot the language I learned little English, but now in the jail, I forgot my English.

Q. By the same way, as you are responding or answering any questions, would you talk loudly enough so that all the way --back here to the very furthest juror will be able to hear you; could you do that?

A. Yes.

Q. If you have any difficulty now, in answering clearly whatever your thought is in the English language, would you again interrupt so that Mr. Saroyan can be of help?

A. I will.

Q. Could you do that?

A. I will.

Q. Now, Mr. Saroyan, first of all could you tell us please --

A. Saroyan is there.

Q. I am sorry. Excuse me. I have him on my mind, your Honor.

A. I be glad change his place.

Q. Mr. Yanikian, could you please tell of your present profession or occupation?

A. I am engineer retired; I am writer. That's all.

Q. Now, Mr. Yanikian, could you tell us, please where, prior to the episodes or prior to January 27th of this year, where did you reside here in Santa Barbara?

A. In Biltmore Hotel.

Q. Before that?

A. Alamar Apartment. Alamar Apartment. Apartments Alamar, 500-something.

Q. Was that on Alamar?

A. Alamar, that is right.

Q. How long did you reside at that residence on Alamar?

A. Two months.

Q. And before that, where did you reside in Santa Barbara?

A. Isla Vista.

Q. About how long did you reside in the Isla Vista area?

A. About four months.

Q. And then before that?

A. Santa Barbara

Q. Where about?

A. Valerio -- corner of Valerio and Bath Street. Valerio and Bath Street -- corner Valerio and Bath Street.

Q. Bath Street?

A. I think Valerio 303.

Q. How long did you reside there?

A. I am sorry, I mistake. Before, after Valerio, I went to Romero Canyon, Montecito, after I move Isla Vista. I stay there two years. Before this, I stay in Sola Street in Santa Barbara, two and a half years. Before this, I live in my home Chase Drive, 74 Chase Drive, Santa Barbara.

Q. That is Chase Drive here in Santa Barbara?

A. That's right, Barker Pass Road, there is Chase Drive.

Q. Barker Pass Road?

A. Yes, if you take Yanikian subdivision, it is more important.

Q. I'm sorry.

A. Yanikian Subdivision, I subdivide all this hill here in Santa Barbara.

Q. Did you have a home that you owned there?

A. Now?

Q. No, at that time.

A. Sure, I specially did have my home there.

Q. How long did you reside there?

A. I live four, five years.

Q. Before that, did you live any place else in Santa Barbara?

A. Yes.

Q. Where about?

A. I live on not far -- some street, and I wait until my house be ready, is about four, five months, six months in Santa Barbara.

Q. Could you tell us in what year you came to Santa Barbara?

A. I think 1955.

Q. 1955?

A. 1954 or 1955, I'm sorry, I no have my notes and I can't tell. I will have next time.

- Q. The places of residence that you have just mentioned, were those places you lived at from about 1954 or 1955 up to the present time?
- A. That's right.
- Q. From the time you first came to Santa Barbara until 1973, were you engaged in any particular occupation other than what you have mentioned, that is, as a writer or in connection with any of your profession?
- A. No, only I make subdivision, this hill, I told you, Yanikian Subdivision on Barker Pass, Nicholas Lane. You can see hill. Now is covered with houses it is my subdivision.  
I did this, all streets and so on, for have my place to build my house, and I did all because I like this hill.
- Q. When was the first time that you visited Santa Barbara?
- A. 1954.
- Q. Before moving to Santa Barbara, where did you reside?
- A. Year in Fresno.
- Q. In Fresno?
- A. Almost one year, year and a half.
- Q. Did you engage in any occupation or business activity in Fresno?
- A. I make speeches and writing.
- Q. Excuse me?
- A. Speeches in radio and writing and give small speeches to small groups and writings.
- Q. Did you have occasion then on the radio broadcasts to make speeches?
- A. Every week, twenty minutes every week.
- Q. Was that over one of the radio stations?
- A. Armenian language
- Q. In the Armenian language?
- A. That's right.
- Q. Were you also in Fresno engaged in writing of certain --
- A. Oh sure, when I was in Fresno, I published three books.
- Q. What three books did you publish in Fresno?
- A. Hiram's Cross, the name of the--insurrected Christ, Voice of an American which I finished there and bring here by collaboration, my top collaborator, I published here Our Messiah.
- Q. You mentioned something about a collaborator?
- A. Yes.
- Q. Was there a person who collaborated with you in the English language of that publication?
- A. Yes, because my English was not too good for writing. I used different languages. After I dictate to my collaborator, she put on the paper English. After couple days later she give to me that I read if it is correct or something wrong, because when I read I understand everything -- when I talk I cannot find too many words to tell. After she type again and this was collaboration, she collaborate on two books last book also, three, Our messiah, second Edition.
- Q. How many languages do you speak, Mr. Yanikian?
- A. Now?
- Q. Yes.

- A. Now, French, Russian, Armenian, Persian, Turkish I forgot, I forgot, and a little English.
- Q. Where did you live before going to Fresno?
- A. Biltmore.
- Q. Before going to Fresno?
- A. Beverly Hills 612 North Crescent Drive, I have my house my home.
- Q. When did you move to Beverly Hills?
- A. 1946, direct when I came to America.
- Q. Did you own a home there in Beverly Hills?
- A. Yes.
- Q. How long did you live in Beverly Hills before moving to Fresno?
- A. About three years, three and a half years.
- Q. Did you while residing in Beverly Hills engage in any occupation or professional work?
- A. Yes, I write articles, books, and I have my theatre, Gourgen Theatre.
- Q. Were you connected with a theatre in the Los Angeles area?
- A. Yes, not connected -- I created Gourgen Theatre.
- Q. You created it?
- A. Yes it is my theater. This theater I rent from May West theater, I rent her theater for production my plays and I wrote myself. I bring young generation, create new starts which now they are working around. First time I present my plays there. That I closed was because people like burlesque, I like it serious. Then a couple of plays lose money, lose money, I don't know no reason. I close and everybody paid.
- Q. How long did you have the Gourgen Theatre?
- A. About two and a half years.
- Q. Now, did you engage in any other occupational activity or profession while in the Los Angeles area?
- A. No.
- Q. Now, where had you come from before you came to Beverly Hills?
- A. New York.
- Q. How long did you live in New York?
- A. About two, three months.
- Q. Now, did you engage in any occupational or professional actively In New York?
- A. No.
- Q. You did not engage in any writing
- A. No.
- Q. Now, in what year was it that you came to New York?
- A. 1946, I think.
- Q. About 1946?
- A. I think.
- Q. Now, from where did you come when you arrived in New York?
- A. From Paris.
- Q. Had you lived in Paris?
- A. About two weeks the last time. I lived there many times. I was there, but this time before I came America, I live there two weeks.
- Q. Now, had you, prior to going to Paris, had you come from some other point?

A. Oh, yes.

Q. Where?

A. Egypt, Cairo.

Q. Cairo?

A. Beirut, Lebanon.

Q. And before that?

A. Tehran, Bagdad.

Q. When had you left Tehran --that's Tehran in Iran?

A. Iran Persia. Before it was Persia, now they call it Iran. It is 1944 – '44, six months, something like that. I am sorry my answers be maybe difficult, -- couple months be different -- because I have put on the paper exactly day by months, day by months which I have no with me.

Q. Now, did you practice your engineering profession in Iran or Persia?

A. Yes.

Q. Were you then a civil engineer in Persia?

A. Yes.

Q. Did you have any company or firm In Persia?

A. Yes. My company, Yanikian and Company. Ninety percent belong to me, ten percent belong to my wife.

Q. In what year did you move to Iran or Persia?

A. Persia, I move 1930.

Q. Where did you first live in Iran?

A. Tabriz. It is away from Russia for Tehran is from Tabriz, after Tabriz I move Tehran, stay in little Tabriz couple six months, something. I did little work there, but it was too small for me. And there was Governor Imonsur, I was invited by the Shah of Iran, came Tehran for help of government prime minister, and he sent me telegram that “ immediately you come Tehran.” I went there.

Q. To Tehran?

A. From then I start work for government. All time I work for government, never I work for private.

Q. Did you have your own engineering company?

A. Sure, yes. Yanikian and Company.

Q. But your company did government contracts for Persia?

A. Oh yes. You know, like recorded --like company you will have some group. I no want any group, for natural. He told me you can have- your wife, and we do ninety percent my name, ten percent my wife, and they call Rasas Company, company's name Rasas. Rasas is special name. Ra is road and sas is building – road-building. Rasas expression called the Rasas and Engineer Yanikian and Company

Q. How extensive was your work inTehran?

A. What is mean extensive?

THE INTERPRETER- (Interpreter explains forYanikian.)

THE WITNESS : I was biggest company in Iran.

Mr. LINDSEY:

Q. Excuse me?

A. I was in biggest company in Iran.

Q. And did you have occasion in any way to have any contact with I guess what we would call the ruler of that country of Iran?

A. Yes.

Q. Who was the ruler?

A. Shah of Roca Pavla.

THE INTERPRETER: R-o-c-a P-a-v-l-a.

MR. LINDSEY:

Q. Is that the present Shah?

A. No. His father.

Q. Father?

A. Much better than he.

Q. Had you met the present Shah?

A. Yes. He was baby when he came with his daddy on my job.

Q. How many times did you have occasion to meet his father, the Shah of Iran?

A. How many times? Many times. I can't tell how many times I have dinner with him.

Q. Were you ever decorated by him?

A. Yes.

Q. For what?

A. I will tell whole story.

This time in Iran there was thinking building factory bomb under the ground. It is factory bomb – factory under ground.

Q. That bump?

A. Bomb for drop, bomb for drop from plane. There was big foreign company Skoda connected with Czechoslovakia, connected with Germany. And they all time they have this big work for Iran because Iran was small country, all time they try take Iran in their hands like Czechoslovakia, Germany, Krupp, all this. When I heard they have these protégé I talk to Prime Minister and I ask him if I can participate on this build. I told that I will ask Shah.

Next day, he told that Shah told "You can. But if you take the job and not finish, I put you in jail." Because it is international prestige for Iran that they given some contract to some engineering, they cannot build, and second, you know, they invite crew for Skoda again, and they give me 24 hours for think.

I came home and I told my wife condition that what I received from Shah, and my wife told, "What you want?" "What I want, I will participate." Next day I went -- prepare all night I work, because was -- it is factory job, it is not machinery.

Machinery will come from Germany, you know, only we will prepare under ground foundation, prepare all foundation, factory Iran no have machinery. Because Iran no have machinery, and all plans was come from Czechoslovakia, all foundations in the ground about fifty feet, hundred feet, forty feet different, water reservoirs insulations. It is military organization was be built not far from Tehran, 12 miles Alishab, 12 miles from the Iran, Tehran.

THE INTERPRETER: It is the name of a village where they are going A-l-i-s-h-a-b.

Mr. LINDSEY:

Q. Now Mr. Yanikian, did you complete that construction?

A No. Before I complete, I tell you something more than that. I win bid. And when they open, they have three, four different company, only one Iranian company participation, is me. Minister Guerre told Minister --

THE INTERPRETER: Minister of War.

THE WITNESS: -- told that he will report to Shah of Iran, result, you know for see who will have this job, because there is Skoda, they have somebody from Krupp Company, only Iranian, I was, some other foreign country. Same evening, I have visitor from Skoda Company, and they came ask, "Why you take this job?"

"It is no business, it is my country, I am taking job."

"If you are taking for money, here," and they put before me \$50,000-check, "here is money."

"You take back." I came nervous, I told him couple very good words, gave him check, and he went. Next day we go and I declared -- I prove what I told yesterday, and I have this contract, and I build.

Q. Did you build the factory and complete the contract?

A. That is right. In time when I build almost every week, Shah was there every week, because it was very important for military aspect of all factory for bomb. One day I heard-- I work myself like laborers dressed like laborer, only difference me and laborer. I have long glove, and I work all time downstairs. One day I heard that they call, he has me agha.

Mr. MINASIAN: Agha, a-g-h-a.

THE INTERPRETER: That bomb is arsenal of bombs. The factory for an arsenal.

THE WITNESS: For entrance, we have hall about maybe ten feet diameter, and we have step fixed step. Well, I start go up, and you know, from darkness you go up with couple second before recognize what is going. I clean my eyes like this, and, I open, before me stay Shah -- Shah himself. He look at me, "Go work." Everyday when he -- everytime when he come, he ask, "Where is Mahadis," Engineer. They didn't tell where he is downstairs. Because he think they are lying, these people that are calling so and so, this time he want to find out they are lying. Maybe he think they are Yanikian friends have fun dinner together. I want see him for this. After I finish this job, I receive orders dress officer, tuxedo, and go to Minister -- War Minister, when I was there play music, and I receive decoration.

Q. Was a decoration presented to you by the Shah of Iran?

A. No, by Minister in Court, in palace, Minister of Palace, and this copy, this certificate is why it was in my brief case also.

Q. A copy of that?

A. The photostat copy was in my brief case which I have in hotel, in the hotel. I heard people all time I was worried about my brief case, because in the brief case I have photostat copy of documents of all my life and my work.

Original I sent to my nephew in Moscow because I want they have it because I no have anybody, no children, I cannot use them. Maybe some day she is married, she have children maybe some day, she go Persia or America -- even all my documents originals, diplomas of arts which I received in the United States, now they are in Moscow, I send my special package. And in the jail I receive telegram, telegram I give to you, that my sister received already, my nephew received already.

Q. Mr. Yanikian, as a result of the work that you did on that factory -- and by the way, in what year did you finish that project?

A. I cannot tell you because I no have that, it is maybe in 1932, 1933 maybe, I can tell if I have my documents, I can tell.

Q. Did you have occasion after that to be requested by the ruling power or the government in Persia or Iran to do any particular work during World War II era?

A. Yes.

Q. Would you explain, please.

A. I will tell slowly for find word which I can tell. Railroad we have--

Q. In there a map?

A. Maybe with map I can, map which you put last time there I can show.

Q. Is there a map that you would desire to use?

A. Yes, same map which you have yesterday.

THE INTERPRETER: Mr. SAROYAN: You want to see the same map?

Mr. LINDSEY: That is a map I used during opening statement and I can't use it here. But do you have a map in the back room which will be helpful?

THE WITNESS: I think some map if you bring map of Iran.

Q. BY Mr. LINDSEY: Is that one of the large maps?

A. No, small.

THE INTERPRETER: (Mr. SAROYAN) The map of Iran.

THE WITNESS: Turkey, Iran, Iraq on map there, like this, I saw today. Until they bring map I can't tell.

This time when war start Allies, America mostly, send supplies to Russia via La Manche between England and French is water, La Manche and after came Baltic Sea. This is only way America can contact with Russia via or go around the world to Archangel -- German submarines know this road and wait, wait American ships, supplies with military supplies --they have guns, tanks, everything.

BY Mr. LINDSEY: Is this the one that they call the Murmansk Run during World War II?

A. It is World war II yes.

Q. How large was that map, Mr. Yanikian?

A. Okay, I can explains it is not necessary. Maybe tomorrow here I can explain German submarine was there and American lose about 60 percent ships with people inside. Then Allies sink, we create some other way for help Russia because Russia already allied to the war against Germany, you know, Axis. For this they have special conference in Tehran with President Roosevelt was there, Stalin was there, Churchill was there.

Q. Were you In Teheran?

A. Yes.

Q. At the time that Churchill--

A. Yes.

Q. And President Roosevelt?

A. Yes.

Q. And Stalin were present there?

A. Yes, I live one block on same street, but you know American Embassy and Russian Embassy one side street is American Embassy, other side is Russian Embassy. The

cross street was special wall moving wall for connection, nobody can see, very strict you know, security was, because they know Stalin was there. But because I live two blocks far sometimes when I have time, I look, I can see them move. But I work this time on the railroad Zandgan.

There is the Persian Gulf.

Q. Mr. Yanikian maybe to help illustrate your testimony I would like to show you a map of that area and ask you if this would help as you are describing what you are talking about.

A. Oh, yes.

Q. May I put it up here on the board?

Now Mr. Yanikian, would you point out first of all where Persia or Iran is located.

A. Here is Persia, this is Persia, Iran, this is called Caucus, Russian, this is the Caspian Sea, this is Russia, this is Persian Gulf was here.

We have already railroad to Teheran.

Q. Was this a railroad already in existence there?

A. From this port, Persian port to Teheran already we have a railroad.

Q. About what distance approximately in miles was that?

A. About eighteen hundred miles. We have this and we have also railroad from Russian, Zandgan, Tabriz also.

Q. Down to Tabriz?

A. Yes

Q. Was there any railroad at that time between Tabriz and Teheran.

A. Between Tabriz and Teheran? No, I am talking about this which I built, one part.

Then this Allies in our conference make a decision that if they can quick finish this railroad to connect Tabriz with Teheran by this railroad, then they can keep supplies from Persian Gulf, discharge and directly go via Teheran, Zandgan, Tabriz, Russia. Then they no need to send around the world.

Here was no German submarine.

Q. What next happened then? Let's see, there was a conference at Teheran about that railroad link?

A. Yes, this conference in Teheran at same time, they have occupation Teheran.

Q. By whom?

A. By Allies I'm sorry. Russian occupied this north part Teheran north part of Persian, America and English occupy south, include Teheran, the three Allies they occupy.

Then this Allied occupied this, well, then, time you know when they come when Russia, everybody is scared and escaped - this part almost nobody stay on this part -- everybody go home, laborers, and nobody stay there because they scared.

And work also was stopped, also was stopped by order of Minister of Communication, Iran.

Q. By whom?

A. Minister of Railroad, Iran Government, governor of this section, the governor escaped, the police, nobody there. Only authority on Zandgan was Yanikian -- the only authority on Zandgan was Yanikian. When I saw that everybody gone, I receive order from Teheran "Come on home" and I went back to Teheran without finish railroad, this station Zandgan.

Q. What happened next?

A. When America occupied Iran, Teheran, I meet couple of American people, include man who was past Chicago Chief of Police, Timone, which President Truman sent - - was it Truman or who was president -- sent to Iran to organize Iran Gendarmarie. We meet couple of times, he was alone, we became friends, and he often was my house. Like friendly, we go out in the bar, he came have dinner with us, so and so. Also I meet couple American soldiers and General, this time Armenian people not only Armenian -- Iranian people also show very big respect to American soldiers and they invite Saturday, Sunday, soldiers be their guest, every family invite one, you know.

And soldiers came and stay all day with family and have their food, you know. I have every week two or three, they came to my home like their home and stay there, have dinner.

Then was surprised then I start know what is America, after dinner they go -- to wash dishes -- we are not dishwashing. They ask and they show me, and I show them place where they can dish wash, what they use.

Q. Is this about the time and the way in which you began to learn about America from the soldiers or whoever would visit?

A. No, I read lots of books about America.

Q. You had already read about it?

A. Yes, I was not only read, I read constitution, I read life , Lincoln's, Washington's, even before I came America, I know leader of American history, past history America, because I was interested.

I try no more because this time America world is like a paradise, went to America, everybody think paradise, which I mention in my book.

Q. What is the next thing that happened?

A. One day I receive when Timone came and heard that back home, why you are here? "What I do? Nobody there. I receive this telegram Minister, our Minister, our Government, to stop, but I cannot even work, nobody there, all laborers gone." He was mad, not on me. When he look at this order, I don't know where he go, what he talked to, who he talk, I don't know.

Next day I receive telephone call from Secretary Minister, "Immediately come to Minister."

Q. I couldn't catch that.

A. Next day I receive telephone call from Minister Secretary who demanded immediately you come to Minister's office, minister demand you, Minister, you come, Amene, Minister Amene.

Q. Did you comply with that, I guess you would call it a request?

A. Yes, this order. I am contracted, I work for government, I receive order from government, come to office, but I have no choice, I will go. Even I not think that I-- I no ask why so and so, I be there 10:00 o'clock I be there, 10:00 o'clock I was there and I was surprised. I saw one American General.

Q. Was an American General there?

A. Yes, one English General, and Timone my friend Timone.

Q. Who was he?

A. Officially he was sent by American Government for reorganize the Iranian gendarmerie. But what job he have I don't know.

Before that, he heard that I was called back by telegram and the next day he take these Generals, American, English, to Ministry, to Minister there. I feel that he is big shot. After I ask who is he—I am your friend, you are my friend, I forget who present him, I don't know.

Q. What happened at that meeting?

A. Surely I was surprised, and look, a Minister approached me to go back and start work, start work. Today is gone. Two days I have telegram, you called me back to stop job -- no laborers, how can I work? No laborers, all labor gone about 4,000 people I have.

Q. Four thousand people on the job?

A. Four thousand laborers I have on the job is gone. All my instruments equipment for work, machinery, we have something that was taken by Russian, Russian trucks came to Zandgan and open our depot and they put it on this truck and taken everything.

Q. All of the construction equipment?

A. Construction material, you know, everything what you need for construction and I told Minister, "Your Excellency, I cannot do this because I no have labor, I no have machinery everything is taken."

Then the General, he speak very well Persian, I don't know where he learn. We talked Persian. And Timone, we talk French he speak French. He told that this very important that you go and start working. Also American General insist, "Mr. Yanikian --" he also speak French -- 'is very important that you go and finish this' How can I finish without labor, without Instruments?

Minister told me, "Don't worry, we will give everything and please"— He start crying, the Minister. Why are you crying?

"Because if this road not finished, I will lose my head."

I was interested if he lose his head or not, but when Timone look on me, Gourgen, he called me "Gourgen." Many times we talked about America -- he told, "What you are feeling about America, we need this railroad. That is all -- you will do?"

I say, "Yes, I go."

Q. What happened next?

A. He told me that many time we talk with you about America about freedom, liberty, so and so, and you will finish this railroad we need now first time. He use word 'we' for this. After I find out his big name we need pop some name America, we need. Well. I told that I will do my best, and I did my best because I work long time in Iran on different sections on railroad, because I build, other part railroad, bridges. Laborer, they know me, because I'm paid -- not only because I paid more than other entrepreneurs, other people, because I live with them on the work. My office was in the Tehran, but when I have some work on the mountains, sometime in the desert, I went there and live with the laborers same way. Sometimes we live in the section with no water supply, water only five gallon 24 hours for everyday. I take same five gallons, for this they like me very much. I use this for create group laborers. I went my office and I gave order to my secretary that addresses all you have laborers all around Persia, send, you know, letter, telegram, courier, so and so, organize. Sometimes I start but I no have instrument which I needed. Take me two, three weeks for organized, and they giving me one year-six months time, one year-

six months time for finish this portion railroad with station Zanghan. Station Zanghan was very important because this was station when American supplies will come from the south, deliver to Russian commission, and America go back. Russian take this material, put on their trucks, on their railroad, and take direct to Russia. This station was about certified building construction -- certified buildings technically buildings for reparation, machinery for water reservoir, and railroad station. On railroad station, you could see lots of construction, same is there, you know. Two, three times I was almost killed. I cannot tell why, because it is not connected with the trial I am. I don't want mention. Many times I saw morning—In the morning that we build something yesterday disappeared. After we find out that somebody night came and blow. Why?

I understood this after when this allied talking by Stalin about dealing, who will take what. Stalin try have some proof on his hand his allied was not did their promise and not deliver exactly time what they need in for allied. I don't know, he want have some card for play, for this he try -- they try, we no finish this job in time, on contrary prolong that they can accuse allied. But I finish three and a half months before.

Q. Now, that contract that you were given a year and a half to complete --

A. I finish three and a half months before, and first train where came we finish. In my briefcase, I have some photos station not yet finished, roof station not yet finish, first train came with American supplies and first supplies, what Truman bring to me, box of whiskey. I told him, "I am no drinking whiskey, I am drinking vodka." He told me, "You will learn now drink whiskey." I no interested but he won't tell. Anyway, I have second declaration from Amiri Minister, Persian Minister. Then make speeches, and in my brief case, you have same pictures, you know, Amiri make speeches and he keep my decoration. Everybody happy.

Q. Now, among the papers that you had at the Biltmore--

A. Yes.

Q. --Was there included a photograph of the station at Zanghan?

A. Yes.

Q. In its final construction stages, and as the first trains arriving over the now railroads that you had constructed?

A. Yes. But not only there -- thank you very much to District Attorney give possibility to me see these papers in his office, and I look everything is there, except one, which is not connected with the railroad, and first time when I have possibility to see these documents in District Attorney's office, I saw all those pictures and all those records all is there.

Q. Mr. Minier was kind enough to allow you to examine those records?

A. Thank you. Mr. Minier told you can have photocopy, but I told my lawyer what is mean photocopy. We can have this original, it is almost there photocopy, but we can take photocopy from photocopy, but anyway, it is technicality that you will figure out.

Q. Now, were you on a contract, then, for compensation that is, was there a contract sum that was in this contract?

A. You know, our contract on general -- not only our contracts in Iran, but is all around the world. they have system contracts. If you have some big job, even in America,

- you have monthly payment, it is money. Government engineer has a temporary, say, "Well, how many job done?" He temporary he puts so and so, and they give -- advance you on account your job. It is calling situation -- monthly situation. It is mean every months, government engineer would live there on the jobs themselves. He pass what job is done with this months, and temporary send report to center to Tehran and the Comsacs. Comsacs was special big organization who take care Iranian old railroad construction -- Comsacs. Ten percent they take out, they giving you check. This payment every month they make. When I finish, it is money -- monthly payment. I have -- I no have any last payment. I no have final situation because it is temporary situation. It is temporary look. "Okay, it is five, five," you know argue because it is only temporary. Then this work finish, then in accordance map bridges all this they figure in the office, how much, and they figure how much you receive, ten dollars, job is twenty-five dollars, we own fifteen dollars. They giving you check, calling this final situation, and this provide by contract official contract signed by government, by Minister Finance, and Minister Railroad, and by me, like partner.
- Q. Incidentally, had you, in Persia, before this railroad, including the Zanghan station. had you constructed other railroad segments previously in other parts of Persia?
- A. Yes. I build railroad other part in hottest place in the--called Kavir where temperature 145.
- Q. Called what?
- A. Kavir.
- Q. How do you spell it?
- A. Hottest desert in the world.
- Q. How do you spell It?
- A. K-a-v-i-r. It is Kavir.
- Q. Was that on the desert?
- A. Yes. In the terrain, hottest in the world. And our pleasure we play there, we put eggs on the sun, cover, after couple, minutes, egg blow like bomb.
- Q. Now, Mr. Yanikian--
- A. Because we do this, yes. We play scorpion too.
- Q. The railroad segment, including that Zanghan station, when that was completed, did the government then still owe you compensation?
- A. What that mean, compensation. They still not pay according to my contract. Surely.
- Q. They did not pay you according to your contract?
- A. Not yet, not yet. Only they pay advance --advance, by monthly advance.
- Q. Among the papers that you had at the Biltmore Hotel, in your brief case --
- A. You want ask why I worry about my brief case. In this brief case, my original documents about these contracts about decision Supreme Court of Iran, Writ of Execution, Yanikian against Persian government. For this I was worried. In this brief case, all these documents was. Which is now in safe District Attorney's office.
- Q. Now, when the government did not pay, like in your contract, did you bring a law suit in Persia against the government so that a court in Persia could hear and decide?
- A. Before I bring court, I came America.
- Q. Excuse me?

- A. I came America before I bring suits against government. I came America. I went back from America by special permission, what to call permit.
- Q. From which government?
- A. America.
- Q. Did the American government give you a special permission to go back --
- A. Go back Iran for one year. I no finish my job. They help me, consular, they help me. By telegram asking permission Washington, because they told according to law maximum is one year, but one year I not yet finish. But they receive six months more for me, and I finished in the court --in the Supreme Court of Iran.
- Q. Did you file and have different hearings finally to the highest court in Iran?
- A. That Is right. Nowhere to go. Not only decision. I have receive also Writ of Execution against Iranian government by Iranian government.
- Q. Now, when It reached finally the highest court in that land--
- A. Yes.
- Q. And they gave you a judgment that said the government did owe you that money --
- A. Yes.
- Q. -- was there afterwards, then, --
- A. Sure. And I came America back.
- Q. You thought you were going to got paid?
- A. They pay one part, they told "Send to you." They pay about two-hundred-thousand-dollar-account, two hundred- two hundred fifty thousand dollar, but I spent this money for my lawyers, you know, one and a half years myself. When I came back, I bring money, they told,, "Don't worry now, we will send you directly in America."
- Q. And Is a copy of the judgment or the original judgment, as far as you know, or the documents pertaining to that judgment, a part of the files and papers, then, that were in the brief case that has been referred to?
- A. Yes. Iranian translated in American English, certified documents, American Embassy in the all documents. I told you American Embassy from the beginning help very much because I did before I came America, I receive a letter from American Embassy, for that is what I did. Also, I receive a letter from Military Allies, thank you what I did, and they try help me, and all my documents that translate themself.
- I give them, they translate in embassy, -- consular, or whatever, these certified signed and given to me, and I have all those -- original in my brief case.
- Q. Now--
- Q. Now, yes.
- Q. Now, how much is still owing, including interest, now, on that judgment?
- A. More than two million dollars.
- Q. During this period of time, -- let me back up one second.  
After you finished the railroad project, you received compensation or letters from Allied officials?
- A. Yes. I have all this also in the documents with FBI take with my other documents. But I am sorry, never I found this records in the District -- Mr. Minier's office, and I told to you, my lawyer, that send telegram, FBI where is one small records for six papers. Never I receive back, and I know what they no send back because it is connected by State Department, because Embassy, consular State Department.

- Q. How did it come about that you were able to leave Iran to come to this country?
- A. Iran, they will never officially leave, they know I am coming America.
- Q. Excuse me?
- A. If they know in Iran that I am coming America, they will never let me out. Even when I ask passport for go out, they giving me passport and ask -- the passport they put cannot be used for immigration, and this passport also is in brief case. But American Embassy and consulate they helping me very much. They sending me official letter -- Mr. Truman brings letter, they won't send by mail, bring to me letter on which he told, "You and your wife have permanent right to live America. All these documents we are sending, we know that you cannot have in Tehran is dangerous, we are sending to Cairo our Embassy, and you will receive in Cairo from our Embassy your permanent visa for permanent live in America for you and for your wife."
- Q. Why was the American Embassy helping you to be able to leave Iran with your wife to come to America?
- A. Because I don't know how many American lives I saved, they know much better than I.
- Q. Is that a result of some of the construction projects?
- A. Surely. When they start, you know, stopping, sending merchandise other way start sending his way, no somebody they have, lose, but most part about sixty, seventy percent tonnage, about one million tons go with this, for this me saw what I did. Some other reason, too. I have my property in Tehran.
- Q. Now, in the transcripts that were introduced into evidence, and in the tape recordings there was reference to, I believe by you of the savings of American lives; is what you are testifying to now is that what is referenced to in those statements you were making on January 27th as to the saving of American lives?
- A. Surely. But I no save other place American life only there, I save.
- Q. As a result of what the American people say, or American officials did to help you, what happened then?
- A. I came America.
- Q. Did you arrange to leave Teheran?
- A. Yes, I came America and I live separately, not with my wife, alone.
- Q. Where did you go from Teheran?
- A. I went to Beirut, Cairo.
- Q. To Beirut?
- A. And Cairo.
- Q. What did you do in Cairo?
- A. First I went to Embassy and ask to have if they have some visa for Yanikian. "Oh yes, yes" and they give me official documents for me, for my wife.
- Q. And then what did you do?
- A. I stay couple of months, wait until my wife came also, we went PariParis I presented my documents -- I don't know why -- "oh, yes we know Mr. Yanikian we know", and they take out, you know, some books and they look like they give Red carpet, Red carpet—"Come sit down, have some tea, how about you?"  
I was surprised that after I find out they have all report from where I don't know, from Teheran, from Washington, I don't know.

This time in the world is very difficult for transportation and I ask.

“Don’t worry.” They give me some paper which you have, I think, my lawyer.

Q. Mr. Yanikian did the representatives of the American Government arrange to give you a special priority certificate from our government to enable you to come to the United States?

A. Not only to me, but for my wife, too. The second copy is my papers, my wife's name.

Mr. LINDSEY: Your Honor, I would ask if we might have a document introduced as Defense Exhibit next in order for identification.

THE CLERK: Defendants F for identification.

(Whereupon the document referred to was marked by the Clerk as Defendant’s Exhibit No. F for identification purposes only.)

Q. BY Mr. LINDSEY: Mr. Yanikian, I hand you this exhibit and ask you if you will take a look at it, please.

A. Yes is my name.

Q. It is indicated that transportation was in the national interest of the United States.

A. I don't know what it read in there.

Q. Excuse me?

A. I don't know what it is written there.

Q. Did you receive that from--

A. The Embassy, American Embassy in Paris.

Q. As a result of that document being given to you by the American authorities, did that enable you and your wife to travel at that particular time to the United States?

A. That is right.

Q. Was that at a time when transportation for civilians was virtually a difficult problem

A. Maybe, because if know, if I buy ticket myself, they will never give this.

Q. Mr. Yanikian, at the time during this era of World War II when the Allies were occupying Iran, did you have any occasion during those war years to own any land yourself in the area of Teheran

A. Yes.

Q. About how much land did you own?

A. About fifteen acres, I think

Q. During this time did you have any particular relations with the Allies concerning that land?

A. Oh, yes, when the Allies came they needed camp for soldiers, for officers, a place for arms, for their tanks, a base, and they ask me that I rent them this.

Q. Who asked you?

A. They asked me, Allies Commander asked me that I can rent them because it is exactly in the town, exactly where Teheran finish, continuation this property. They want this and this property was around also, a wall, the wall is high about six feet high, and two big doors, but empty property and water inside. I have water too.

They asked that I will rent.

I said, “No. Why we need? You can have.”

They don’t believe what this mean, “You can have.” They don’t believe.

“I tell you, you can have.”

What does this mean? “ you can have—if you need property, you go take.”

We need contract. Will you prepare contract. They prepare contract and then sign it.

When they asked how much you want, I told, “ I don’t want any money. This is free, yes, free.”

I signed free for three years and after I think again for two years, all together five years, and I sign it and give them to Allies.

When Timone my friend heard, he came my home, “Gourgen, you keep your property free?”

“ Yes”

“ Why?”

“ If these young people no come, we die. Why I will go after money?”

That is all and I give for five years, and they use my property.

Q. Is that the reason why you allowed the Allies to have use of your property then for five years without cost?

A. That's right.

Q. Was there a written agreement entered into between you and the representatives of the Allies or the Military Authorities for that property, Mr. Yanikian?

A. I think that I keep them right for three years or four years, I don't know, I forgot, and free and fine.

Q. Was that document among the papers in your brief case that was at the Biltmore Hotel?

A. Exactly right.

Mr. LINDSEY” May the next document be marked as the next exhibit in order for identification?

THE COURT: Yes, and I think we will take the afternoon recess at this time.

(Whereupon, the document referred to was marked by the Clerk as defendant’s Exhibit No. G for identification purposes only.)

THE COURT: Ladies and gentlemen of the jury, it is your duty not to converse among yourselves or with anyone else on any subject connected with this trial or to form or express any opinion thereon until the case is finally submitted to you. We will take the afternoon recess.

### (RECESS)

THE COURT: Members of the jury and the alternate jurors are present, and the defendant is present. All right, Mr. Lindsey.

Mr. LINDSEY: Thank you your Honor

Q. Mr. Yanikian, I hand you now what we have just had marked as Defense Exhibit G for identification. First of all, what is on that side I just handed you, is that in the English language?

A. It is organization, housing officer.

Q. In what language?

A. English

Q. And the other side?

A. Persian, because with the Persians the Allied Forces they use all documents in two languages, one side English, other side Persian -- both sides--because most contracts with Persian people, they want that Persian people know what they sign, you know, so they put Persian on this side. After you turn, English, they sign it or not—no difference--but I sign it, you know, both, because I know a little English -- French I can read -- but this I signed both sides.

All the officers and military documents in Iran was like this.

Q. Do you find your signature on that document?.

A. Oh, yes, here, and on the Persian here, Engineer Gourgen Yanikian.

Q. Was this document pertaining to that land that you had at Teheran that you allowed the Allies to use?

A. Yes.

Mr. LINDSEY: May this be introduced in evidence, your Honor, please.

Mr. MINIER: No objection, your Honor.

THE COURT: It is received.

THE WITNESS: And free.

Mr. LINDSEY: Excuse me?

THE WITNESS: Free, no charge, six years.

(Whereupon, the document referred to was marked by the Clerk as defendant's Exhibit G. in evidence.)

Q. BY Mr. LINDSEY: Mr. Yanikian, I believe you indicated before the recess the size or area; what is the size of this property that you allowed the tenants or the lessee to have the use of here?

A. About twenty-five acres in the town.

Q. Was this inside Teheran?

A. No, continuation in the town.

Q. A continuation?

A. Yes, the twenty-five acres -- was a wall six-foot high wall all around.

Q. Around the twenty-five acres?

A. Yes, and two big doors and more important for them, water, which is in Iran, Persian water is like gold --but I bought this property with right of water.

Q. Did the Military Allies, did they use it then for Military purposes during the five or six years?

A. Yes, a couple of times I was there and I have a cup of coffee - they use this in their barracks.

Q. Barracks?

A. Yes, also eating place, what they call.

Q. Mess hall?

A. It is eating place, also one part, because it is twenty-five acres. The other part they use for tanks and trucks, all Military equipment.

Q. Incidentally, while I am working with the documents Mr. Yanikian, there was Defense Exhibit F for identification which was the priority certificate for transportation on U.S. controlled vessels that you testified to earlier, do you recall?

A. Yes.

Mr. LINDSEY: May I ask that this be introduced into evidence, your Honor?

Mr. MINIER: No objections

THE COURT: It is received.

(Whereupon, the document referred to was marked by the Clerk as defendant's Exhibit F in evidence.)

THE WITNESS: Did I tell you in my brief case you have second one on my wife's name also?

Q. There is another certificate for your wife?

- A. Yes my wife's name.
- Q. As a result of the railroad project that you constructed -- incidentally how many miles of railroad was this segment that you handled?
- A. It was about thirty-five miles, this section, thirty-five miles, very difficult sections. I have sixty-five bridges.
- Q. Sixty-five bridges?
- A. Yes, and the station, Zandgan, thirty-five constructions.
- Q. Thirty-five walls, buildings?
- A. Yes, thirty-five buildings, some are depots water reserve, turning around, everything what we have here on railroad stations, thirty-five buildings.
- Q. Was there a further Teheran Conference after the war?
- A. No, in time war, there was conference.
- Q. Was there at any time in the Teheran Conference a recognition by the Allied powers themselves at the conference of this construction?
- A. Conference was specially for this railroad for transportation system specially for this purpose mostly. I think in the documents I have these contract about this Allies contract -- Allies Conference, Roosevelt, Stalin and Churchill I think I give to you -- if you don't lose?
- Q. I'm sorry.
- A. If it is not, we can have copy because everybody know, is official documents signed by Allies.
- Iranian Government received for transportation fee alone, half billion dollars for this transportation by this railroad which is built.
- Q. BY Mr. LINDSEY: One-half billion?
- A. Five hundred million, I saw personally myself, because engineer who was busy with figures, this, when I was one in Minister's office, engineer friend, I saw his working on these-- I figure he putting it high -- "What are you doing?"  
"America have lots of money, let them pay."  
I'm sorry.
- Q. In the transcripts that were introduced into evidence and the tapes, there was some reference about tonnage of supplies that moved over this railroad.
- A. No, but we know that moving ten million ton supplies.
- Q. It was ten million tons?
- A. Yes, but I don't know officially. That is in the conference, they no go on detail in the conferences -- the head of the governments, President of the United States, Stalin and Churchill they will not go into detail how many ton -- they go on the principle about this railroad, they need it or not, they make decision. They let other people figure how many ton, how they organize when they send. It is too small for big people to talk thing about this.
- Q. Mr. Yanikian, during these years that you are now mentioning when you were active in Iran in construction --let me withdraw that.
- Mr. LINDSEY: Do we have that exhibit of the banknote, please?
- Q. Mr. Yanikian, I m going to ask you some questions about, I think it is People's Exhibit No.4, which is the banknote.
- A. Yes.

- Q. By the way, did you have any thought as to what the value of that banknote may be now?
- A. Historically no value, historically you find something in the ground, maybe it is five cents, but not for museum, it has value.
- Q. During these years that you were engaged in the civil engineering construction business and worked there in Iran, did you have occasion to go outside of Iran to any of the Mediterranean areas?
- A. All time because they know my work. The Shah know me personally, they respect me and I have permanent visa, I can go any time all country -- it is Iraq, Afghanistan, Syria, Lebanon, Palestine, Egypt, any time, and I did many time.  
Once even I went and traveled the Sahara Desert alone in the car, I crossed Sahara Desert alone in the car.
- Q. Did you maintain any accounts in other countries besides Iran at that time?
- A. Oh, yes, I made lots of friend, there, I know lots of people.
- Q. Where?
- A. In Egypt, I know Nakas Pasha in Egypt, the premier Minister in Farouk's time -- Nakas Pasha, he is my close friend.
- Q. What was his position in Egypt?
- A. Premier Minister.
- Q. Where you acquainted with him?
- A. Oh, yes, not only then, because I arrive Egypt, I sent see our Embassy that I am there.
- Q. The Persian Embassy?
- A. Iranian Embassy that I am there because all time they interested that nothing wrong arrive with me and they invite me for cocktail party, all diplomats. After this, you know, I was on the list of invitation and I meet Nakas Pasha there, their home in all time, I meet lots of people and see travels.
- Q. Did you maintain any account, any business account in Cairo.
- A. I no have any business.
- Q. An account?
- (Interpreter speaks to Witness)
- THE WITNESS: No, only I have checkbook in my pocket and I spend money that's all.
- Q. Check book for Tehran?
- A. No.
- Q. For what?
- A. Swiss bank, and English bank, also I have American bank, but never used.
- Q. Did you maintain an account, then, in England?
- A. Yes England, and in Switzerland also.
- Q. Did you travel, then, among -- around those different Mediterranean countries?
- A. Yes. France, Italy, I was there. For once, forever, no price characteristic my work. I am not office worker.
- Q. Office worker?
- A. No, I take big job. I organize myself, go stay on the work, lived with people there, organized, and start working. When everything is fixed, then I can see that they can use work without me. The men, when they start working suppose plant-- they start building the wall, other engineers -- I have couple other engineers, technicians, you

know -- my brother-in-law -- that carrying, and I make relaxation. It is on general average I work suppose one year, after two or three months, I make relaxation and travel around the world in my car. I have special permission license on all countries in Near East.

For this I travel. Sometimes after I leave my car in Cairo, and I go fly to Italy, France, you know, England.

Q. Did you ever have occasion to go travel from Italy to Cairo about 1939; did you?

A. Yes.

Q. Would you explain?

A. What I explain?

Q. How did you make the trip?

A. I think it is not connected to my case.

Q. All right.

I didn't expect that answer, your Honor, but I will stand by it.

A. I am sorry. I told you, anything which is not connected my case, I will refuse answer.

Not because it is something strange or contrary, something maybe in my favor, but I don't want mix, you know, my private life with this case. It is different.

Q. Now, let me show you the Exhibit No. 4 which is the banknote.

A. Yes.

Q. Is this the bank note that you acquired at one time in the Middle East?

A. Yes. On both sides they have my signature, too.

Q. Before you get to that --

A. Yes.

Q. --In what year did you first acquire the banknote?

A. '34, maybe.

Q. And where?

A. I start in Beirut. I think. No, in Cairo. I start in Cairo.

Q. What country does that note--

A.. Is Turkish money. Is Turkish lira, two and a half lira.

Q. Did you have that in your pocket at that time?

A. Yes. In my pocket. I have any kind money, Turkish money, Lebanon money, Egyptian money. any kind money, because it is high-class living in there in Egypt when you take money from your pocket different, dollar, pound, it is normal for people high class.

Q. In other words, if you had different country's money--

A. In my pocket, yes. When I was one party, I saw couple people there. I know they are from Turkey, revolutionary, we drink whiskey, and I take -- we talk. They know I am Armenian, they are very educated people by the way I meet them. I told, "Look, can you sign me?" When they saw that I am doing, they take also money and I signed on their, and we exchanged our money. From then, I think two or three people did same. Everything -- in the party, you can see--suppose, you know, on this you have three Prime Minister were assassin. You have here Chief of Police, even signature Shah of Iran you have here. His father. Also you have here Engineer Ardaloun who was head construction all transportation Iranian system. I have here Engineer Monasi who was head Abyssinia construction in their country. It is in all these people was high people. Engineer Molayi, no I can read, and also my signature is here.

- The Prime Ministers, as you-mentioned, were they from different countries?
- A. Different countries. They are from Teheran, Persia -- they have some Persian, they are from Iraq, they are from Lebanon, they have from Bagdad somewhere, Iraq, from Egypt, they have some of them from Abyssinia. I think one is from Algier.
- Q. Algier?
- A. Yes. And this Algier, I cannot exactly name, he is now, I think, head of government. I cannot be sure, but I think I cannot read because there are some Persian, some of them French, and some of them English in the different language.
- Q. Now, you mentioned some revolutionaries, were these revolutionary leaders connected with Turkey?
- A. Yes.
- Q. Were they Turkish--
- A. I meet couple them there.
- Q. How many revolutionary people's signatures appear on the banknote?
- A. Two I know. Two I know because we talk about revolution, we talk about democracy, we talk about change system government, so and so. We have political talk. We have nothing other to do on this parties on Generals make they talk about what situation, government this, what government this, how be change. But I know they escaped from Istanbul. These two escaped from Istanbul, very educated people, one is lawyer.
- Q. Now, did you acquire all those signatures about the same time?
- A. No. Depends. I think, two, three times travel. When I travel, I take with me, and I meet something important.  
I signed, after, I keep in my safe in Teheran.
- Q. Were the signatures obtained in different places?
- A. Different time, yes. Maybe between three years, four years.
- Q. Now, were you with the Shah of Iran when he signed the banknote?
- A. Yes. When he was in exile.
- Q. In exile?
- A. Yes. Because when Allies occupied Iran, they accuse that Shah is side of German, - Shah is side of German, and for this they organize, they put him in exile and his place take his son, and he die in exile—Shah Iran. His father, now Shah father, die, Reza Shah Pehlevi die in exile, time not yet war finished, I think. He die in exile.
- Q. Is that how the younger -- the one that's there now came into power, then the Allies brought him in?
- A. They put him in. They put in him in his place like formality.
- Q. Now, this bank note, did you retain this with you and bring it with you to the United States?
- A. Yes.
- Q. Did you retain it with you at all times in the United States, even up until in January of this year?
- A. Yes. Is all time in my safe with other my papers.
- Q. And how many signatures, by the way, are on that?
- A. Twenty, twenty-five, thirty.
- Q. Did you personally obtain them all?
- A. Huh?

- Q. Did you personally obtain them all?
- A. Yes. Engineer Yanikian. Surely, personally, yes. Personally. We are together in some parties, suppose some Embassy, American Embassy even, I meet peoples from South Arabia, "Hello, how are you, sign here," and they did same thing -- did same, they ask my signature too.
- Q. You mentioned that you also had occasion to travel in the area by automobile?
- A. Yes.
- Q. Now, during the course of those travels, was it at those times that you had obtained some of those signatures?
- A. Yes. All the time travel, never I try go their country specially for signatures. When I travel, I stop, you know. I stop, suppose two three day In Beirut, you know. Drive three or four day in Palestine where I meet King of five George, more intelligent man I meet in my life, King George Five Greece. More intelligent man I meet in my life was King George Five Greece, of who was in exile, and we live in same hotel -- George Five Hotel.
- Q. Where?
- A. In Jerusalem. It Is more intelligent man in my life.
- Q. That man was the most Intelligent one?
- A. Yes. Because maybe other people also more intelligent was, but because we have tea, we have lots of conversation, we live in same hotel. One day when I pass be told me "Can you sit down, we have tea?" After this, we have many time together, sit down. He live in same hotel. We talk about everything, about revolution, aboutdemocracy, about America, about Anarchism, Monarchism, everything And more democratic, intelligent man I never meet, and he was King of Five Greece in exile.
- Q. I wanted to ask you about that judgment that you had from the Iranian courts for the balance of the contract price.
- A. Yes.
- Q. You came from the United States, and after being here a short while, you got special permission to go back to Iran in order to pursue that contract, the final payments on it; is that correct?
- A. Yes.
- Q. And you spent about a year, then?
- A. Year and a half.
- Q. Year and a half in Iran; was that year and a half there for the purpose of --
- A. Specially for this purpose, because Iranian government try, you know, from one court to another court, you know, take time. This take me more than one year for finally have decision highest court. After this, I needed time for have Writ Execution for something not connected with this decision court, separately. After this, I came sick.
- I was sick about one and a half months.
- Q. In --
- A. Tehran. After I finish, I fly to Paris, and after, came United States back.
- Q. Now, when you returned to the United States, did you bring with you, then, the documents to evidence that judgement from the highest court in Iran?
- A. Not only the documents. I bring little money, too. I bring little money, too.

I told you they give me about \$250,000 account my one writ execution, and one part I spent for pay my lawyers one part I spent for my living. Other I bring with me United States, and also bring all these papers certified by American Embassy, translated also by American Embassy, and certified by American Embassy. Now, these documents --now is two, one is Persian, other is English. One is original other copies certified by American Embassy.

Q. Now, after returning to the United States, did you make efforts in this country to attempt to have collection of that judgment that you had, did you try to collect it?

A. Yes.

Q. What is the first thing that you did in this country?

A. I tried collect myself.

Q. How did you do that?

A. Sending telegram to our president, Lyndon Johnson.

Q. To Lyndon Johnson?

A. Right, send telegram to State Department.

Q. Is this the State Department of the United States Government?

A. Yes, State Department, United States Government, Mr. Lindsey I am here alone, no. State Department will stay with me here?

Q. What is the next thing that happened?

A. They try all time find excuse that international law don't permit them.

Q. Is this our State Department?

A. Yes.

Q. Declined to help you collect that judgment?

A. Yes they refuse first on basis international law don't permit, despite the fact that I know that our Embassy sent official letter to Iranian Government because I have my lawyer in Iran in government, I have all information what do in State Department there. State Department don't want hurt Shah of Iran because with them they will have oil business, billions, billion dollar for this Yanikian, sit down here.

Q. Were there to your knowledge, oil interests involved in the background?

A. Yes and then when Shah came here, I sent him telegram also, copy to our president. And I told him lots of words and especially bad words and I put especially that I m putting this that you complain to our president that somebody, an American hurt you, disgust. He never address back, he went back, give order to his government -- let Yanikian in America, let him die there, he never receive money.

After this, State Department start sending me some letters so and so. Iranian Government include Shah himself they are liar.

First time I am sorry my life, I used -- twenty years they called me liar that they owe money, and you, my lawyer -- Mr. Minasian can prove here without going out that I m not liar, they are liar. And this lie, they are sending to our State Department.

And the State Department know that it is lie, that they owe me money, they know. Sending this document here that they no owe nothing, they don't owe anything -- I address it to our senators also.

A comedy -- you address to senators, you complain that State Department what they do, and they send then your document to the State Department for answer, and you have same answer.

What is this? Justice?

Comedy?

You can prove without going out from this court who is liar -- if you ask some Honorable Judge, order to State Department, send telegram, I pay for this telegram, that the official demand from American Government to Persian Government, and send photocopy document both sides which prove that they owe money, which prove they pay me only one paper.

I think it is ten dollars, twenty dollars, photostat. Then world will know who is liar -- American citizen Yanikian or Iran who can spend two hundred million for cocktail party in the desert and invite all people there. Also will prove who is liar, State Department or Yanikian.

Comedy? Twenty years, twenty years this comedy.

Q. Mr. Yanikian -- I'm sorry, your Honor, Mr. Yanikian, is it your understanding that under the laws of the United States that you are entitled to be helped by this country in collecting that judgment from Iran based upon the judgment of the highest Court in Iran?

A. What was it?

(Interpreter speaks to the witness.)

THE WITNESS: What this mean? I know they owe me money.

What this mean? I have judgment, I have the writ of execution, Iranian Government, I have my contract which is not paid and I have documents signed by Iranian Government Representative Mr. Keyser, who is head of construction with big report addressed to Ministers, Finance Ministers, all Ministers -- we agree with Yanikian, he will accept this, so please give immediate order pay to him this check. I have copy of this in my brief case.

By the way, this last ten years, eight years, I am not asking State Department collect money for me, no. I am asking that State Department use law we have in our country. That is all what I m asking.

Q. Is it your understanding that there is some law of this country?

A. In this country we have law.

Q. What is that law as you understand it?

A. 610 I think 610-C for law passed by Congress by what is name? -- the leader, the republican leader who passed away?

(THE INTERPRETER) Dirksen?

THE WIRNESS: Yes with hair like this, he passed law.

Q. BY Mr. LINDSEY: Now, Mr, Yanikian, was that the foreign aid law of this country?

A. Yes, that's right, On this foreign aid law, three lines only -- no foreign country can have help from America if they owe something to American citizens. I was American citizen already now ten, fifteen years -- only president of the United States, he found that international demand not forced, or this foreign man, that is who asked money, no have document which prove they owe him money.

What I am asking by telegram, asked one photocopy of one document which prove that they pay me, which prove that I sign it, which prove that any time they pay by this contract. And what result now?

Yanikian is on this chair.

Q. Did you feel, Mr. Yanikian, that after all that you had done during your career, particularly during the war years--

A. Yes, my last letter I wrote to State Department what I did for America when I was not American.

(Witness starts to weep.) But what America is doing with me. From then on, I start my second-class citizen. All my documents for the last two, three years, you can see, signed second-class citizen, Yanikian, to State Department, to our Congressmen, what they doing? They need me for election for my vote, yes.

I'm sorry, your Honor,

Q. BY Mr. LINDSEY: Mr. Yanikian, these matters that you are now talking about, are these evidenced by papers that you had in your brief case at the Biltmore Hotel on January 27<sup>th</sup>, 1973?

A. All my correspondence in original with State Department, with our Congressmen, even with Drew Pearson, if you know him -- he passed away -- all in original was in my suit- case -- no original, copy. Original they take, the FBI by special order, they take three miles away when they arrest me by special order -- I don't know where -- my old papers, my old books, all my correspondence, by special suitcases, nicely closed.

After three months, after two times order from Judge here, finally they send back all mixed in salade Russe. Now District Attorney can't tell in what position they received these papers. They need three months that somebody sit down because they are English, French, Armenian, Russian, all kinds documents, They take it from Helen Rettig's garage, all these originals, papers.

Q. BY Mr. LINDSEY: That is Helen Rettig at whose home the FBI Agents testified that they obtained the suitcases?

A. Why I use -- I live alone and many times I go out, Los Angeles, San Francisco, other place -- some documents which I cannot leave in my apartment, I scared that I can lose. I put in special, I have special briefcase, suitcase, so I use her, she has carport and box -- I don't know what they call it -- she trust me she keep her number which key her open secret, and any time when I need I go by secret, and I put my briefcase, and I go Los Angeles.

After I come back, again I go, even 6:00 o'clock at night I open and take and go.

This time, you know, before 27<sup>th</sup> of January, I put what I needed same place. I open myself. I put it there, and FBI take.

THE INTERPRETER: That is a locker he is trying to describe.

THE WITNESS: I don't know FBI have order or not, I don't know.

Q. By Mr. LINDSEY: Mr. Yanikian, are you at the present time still hoping that our government -- are you still hoping to be able to collect?

A. What this mean? "Are you still hoping" -- what is it, robbery? In open robbery. What this means, that you hope? What this mean you hope?

If American Government keep writ of execution to somebody who receive, writ of execution, hope to receive money for sure receive money? Sure be receiving money, it is government, it is not private citizen. He cannot declare himself bankruptcy, he cannot declare bankruptcy, Iran.

What this mean "Hope"? I am sure one hundred percent. Only I be not here to receive this money, but I will find where to put this money.

- Q. I would like to turn your attention now if I may for a moment to another subject, Mr. Yanikian. Have you had occasion during the time that you have been an American citizen to make special study or special inquiry into the subject matter of heroin and drugs?
- A. Yes.
- Q. Did that special study involve any country outside of the United States?
- A. Yes,
- Q. What country?
- A. Turkey.
- Q. The writings, have you had occasion to write --
- A. Fifteen years ago I wrote fifteen years ago. If I know what today is about here, I will bring with me all that I can show, in my book fifteen years ago published I wrote about this and I offered to our government a way to go out.
- . Nobody can tell that don't receive.
- This book I published myself, I pay \$4,000 for 200 copies here in Santa Barbara, and I sent free to all our Congressmen, Senators, Presidents, all high people.
- About this book is something else, too, but more important is about dope. Because I know in Iran what this mean, dope, opium, I know.
- I know in all Near East what this mean, dope.
- When I saw that our young generation dying, fifteen years ago, I offer how we can stop this.
- What they did? Nothing.
- Q. What was the name of the book?
- A. "The voice of an American."
- Q. Is that one of the books that was among the papers at the Biltmore Hotel in your briefcase?
- A. That's right.
- Q. Is that the book that you wrote when you were living in Fresno?
- A. Yes, with collaboration, Mrs. Helen Rettig.
- Q. While you were living here in Santa Barbara?
- A. Published here by myself and paid by myself and sent free, two thousand copy, never I sent any books -- not sold any books -- because it is my idea that I will do something about this dope because I meet lots of young people, I like them. And I saw they are in wrong direction. It is not their fault, it is not their fault, it is not their fault.
- In my book I explain whose fault and how we can stop. For some boy who is buying I don't know, one dollar and taking cigarettes for try, no -- for this high we pay thirty-five million dollars to Turkish Government for not produce opium -- surprise? We give not to produce opium.
- May I have this paper, please? -- not for produce opium. We pay that they not produce.
- But what they did, nobody know except FBI, that the last year in November I was in Istanbul myself in Turkey myself and I have four-hour meeting with some friends because I have lots of friends and I receive more detail about opium which also I have in my jail, but I no bring. Next time I will bring.
- Q. Let me hand you this map, please.

A. Here we have Turkey and this official map presented by government they have all nations in Near East, Armenia, Turk everybody. Here we have Iranian Government, we pay thirty-five million dollars for they no produce opium -- but they taken this money and buy new machinery and I have statistics which I received from my friends last October when I was in Istanbul -- Turkish Government don't know -- FBI know because they have my passport and they see where I fly and where I meet there. I meet my friends who give me statistics what they are doing, what production they have, what they doing.

Now is ten times more than ten years ago. They sending this opium, Beirut, after Beirut they send them sometimes to or via Cairo sometimes to Marseilles, fixing cocaine and so on and send it to America.

We give them thirty-five million dollars, government officials get.

My book which I wrote fifteen years ago, "Voice of an American" next time with permission of Court I will bring and you will read what I wrote about this and what I proposed to what do. If they did, now we will not have in jail all these poor young people for their marijuana so and so.

Q. Mr. Yanikian, in the matter of this drug aspect, is one of the reasons that you went this last fall to Turkey to gain more information on that drug subject?

A. Yes, also some other reason which, I can tell not yet -- I will tell when time come.

Q. Has this matter of the American Government -- let me ask you this -- in the transcripts that are in evidence this case of statements you made on January 27th, there is reference in there to the children of America.

A. Yes.

Q. And your desire to somehow make a "better America for those children.

A. Look, I love America -- not today -- I love America before I came here and I prove all my life. When I saw what is going here with these opium business than I wrote this book, I wrote for help because I want we have best America. America is diamond, but diamond some place is covered by dust. We will clean this dust, that's all.

No other country have this diamond. Is first time in history people like your father who create this nation, took foundation what is principle -- not principle the French, German, English, Armenia, Turk or Russian stock -- the principle in human, man -- first time in history.

Now what we doing? We going back?

These young people is future America, they will continue American life. This is conception.

I am sorry, your Honor that I are too nervous because in my life --

THE COURT: Would you like a recess? Would you like to take a break?

THE WITNESS: Yes, couple of minutes if you please.

Mr. LINDSEY: Thank you, your Honor.

**DIRECT EXAMINATION (continued)**

BY Mr. LINDSEY:

Q. Mr. Yanikian. I have here -- may I have this book marked for identification, your Honor?

THE COURT: Yes.

THE CLERK: Defendant's H.

(Whereupon the book entitled "The voice of an American" was thereupon duly marked Defendant's Exhibit H for identification purposes only.)

Mr. LINDSEY:

Q. Mr. Yanikian, I would like to hand you here Defendant's Exhibit H for identification, a book entitled "The Voice of an American."

A. Yes.

Q. Now, would you take a look at it -- first, though, please, did you write that book?

A. There is my name.

Q. Is there a picture of you in the book?

A. Yes.

Q. And a picture of you back at the time of the writing of the book?

A. Yes. I can speak what I told "I would rather die having spoken after my manner, than speak in your manner and live"-- Socrates.

Q. That phrase you just read, "I would rather die having spoken after my manner, than speak in your manner and live"

A. Yes, it is not my words, It is Socrates words.

Q. The words of Socrates.

A. I repeat it, yes.

Q. Is this the book that you wrote in Fresno?

A. I start Fresno, I start, you know, when I wrote book, I write some one, two, same times, but I finish here in Santa Barbara. I publish here in 1952. I think they have published and printed here.

Q. Mr. Yanikian, is there about actually less than three pages in this book that touch directly upon these matters involving dope that you have just mentioned to the jury?

A. May I ask one question. This book going Exhibition, all books, only one part? I no want all books go. I no want all books go.

Q. You don't want --

A. Part which connected with me on this trial. I told you I no want anything which is not connected with this trial. I no want go, I no want be exhibit. You can put only part which is connected with me on this trial, not other. Yes, here, this. Here, page 98, you can.

Q. Mr. Yanikian, have you indicated in this books starting on page 98 -- and over to where?

A. Ninety-eight, ninety-nine halfway. Here. If you need for exhibition, I think District Attorney be not-- is my book, he can cut and put this page, but not book.

Q. Have you marked in this book in those couple three pages the passages that deal with the--

A. Yes.

Q. -- subject of narcotics?

A. That is right.

Q. Is this what you were referring to in your testimony just before the recess?

A. Yes. What time? Which year? When is book published, what year?  
1960, yes, thirteen years ago.

MR. LINDSEY: Your Honor, if I may, I would like to ask permission to read -- it is a little over two and short of three pages, they are fairly short -- on this exact

subject matter that Mr. Yanikian is referring to, and I am sure it would be very brief, because the length of it is very brief.

Mr. MINIER: I have no objection, your Honor.

THE COURT: All right.

Mr. LINDSEY: I would indicate to the Court I respect Mr. Yanikian's indication that he does not want the book in itself, and for that reason, I am asking merely to read these portions so that they may be part of the record here.

THE COURT: All right.

Mr. LINDSEY:

Q. Mr. Yanikian, I am reading now, starting on page 98 of this book "The voice of an American":

"Having touched upon the subject, I cannot go on without saying a few more words about dope. So widespread is its use among the young in this country that it has come to be known as public enemy Number 1 of our nation. If you think for a moment that this is a case of mistaken identity you have only to read one of factual reports issued by those who are fighting against it in the first line trenches. It will make your blood run cold. This deadly enemy attacks us at one and the same time on several fronts. Those benighted souls, long addicted to the habit, will stop at nothing in order to pacify, for the moment at hand in craving that is insatiable. In fact, the more their appetite is fed the more it demands."

"The peddlers of dope see to it that the price of dope is kept high. Few indeed are the addicts who have enough money to maintain the habit in the manner it demands that is why they are impelled to engage in a never-ending series of crimes. Any kind of crime will do, so long as it promises to provide a few dollars for the desperately needed "shot". Different narcotics vary in their effect on the brain and nervous system. When an addict uses a drug of an inflammatory nature, he may be incited by the "shot" itself to commit acts of violence."

"To be addicted to dope is with rare exception, to be addicted to crime. While the users of dope are dangerous criminals in the ranks of the enemy, it is the peddlers who are the arch criminals threatening our nation with terrible destruction. It would be bad enough if they confided the sales of their poison to those already confirmed in the dope habit. But no! With greedy eyes fixed on an expanded market, they go all out in their efforts to bring in recruits---the younger the better. By every insidious means at their command (and they have devised many) they lure our youth into taking the first few steps on the one way road---the road from which there is no turn-off---the road that leads to perdition.

"In wrecking the lives of our youth on whom the future of America depends, these deadly foes are committing the most heinous of crimes. It is a crime worse than murder, since murder of a most tortuous kind is one of its parts. We must so utterly destroy these criminals that not even their stench will remain. The only way we can do this is to mete out punishment in accordance with their crime. For too long we have been employing half measures that have no deterrent influence. Those who deal in dope have been quick to take advantage of the fact that nothing more than a light punishment will follow, even if they are unlucky enough to be caught and convicted. For them it is a calculable risk, well worth taking. If they were made to know that paddling dope was at the risk of their lives, they would think twice and twice again

before taking another chance. If examples were made of only a few among them, those remaining would probably, head the lesson. But whether few or many were made to serve as examples, we may be sure the number would be less than that of their countless victims.”

“Our Constitution was not designed to protect our enemies either outside or within our country. Those found guilty of treason forfeit any rights they may have had to protection. In betraying our present and future generations, these dealers in dope are traitors, though not recognized as such within the restricted meaning of the law. If our present society cares about the future of its descendants, it will press for an amendment of our laws whereby the dope peddler can be forced out of business -- or out of existence. Leave it up to him to make the choice.”

And that is ending on page 100.

Now, Mr. Yanikian, there appears on the very last two pages of the book on page 146, and 147, in the closing paragraphs: is there any matters on those two pages, please--

A. This go on exhibition too?

Q. Only the parts that you read, not the rest.

A. “It is even more essential that we prepare to bring forth a different kind of weapon which may become more powerful than any yet devised by man. This weapon is man himself -- the new, new American.”

“If we wish to remain in the foremost ranks of the world's peoples -- If, indeed, we wish to remain in existence -- we must get started before it is too late.”

“The interests of our country demand that the citizen be strong, responsible, truthful and pleasant.”

“This is not beyond our comprehension nor impossible of achievement. Thus, we can become such a one, and we should. “The future of America demands that the citizen shall have love, compassion, a sense of justice, and, when the need arises a willingness to sacrifice his personal “I” for the sake of his country.”

(Witness commences to weep.)

THE COURT: I think gentlemen, we will take the weekend recess at this time.

Ladies and gentlemen of the jury, it is your duty not to converse among yourselves or with anyone else on any subject connected with the trial or to form or express any opinion thereon until the cause is finally submitted to you. We will reconvene the trial at 10:00 o'clock a.m. Monday next.

Mr. MINIER: Could counsel remain just briefly.

(Whereupon the jurors and alternates left the courtroom, and the following proceedings were had in their absence.)

THE COURT: I believe the members of the jury and alternate jurors are now absent from the courtroom.

Mr. MINIER: Your Honor, I suppose my request to had a moment of the Court's attention may amount only to a fishing expedition. But I am doing it solely for the purpose of trying to avoid losing any time later.

The Court is aware that earlier I made a motion for the Court to make an order directing that the defendant be examined by a psychiatrist regarding the possible mental issues in the case. I realize that probably not until the exact moment that a defense psychiatrist takes the stand will the mental issue technically be entered into

the case by the defense. There has been various talk about defense psychiatrists off the record and as I realize that Mr. Lindsey does not have to make any indication to me whatever, I was thinking if there is any possibility of deciding whether the mental condition will be put at issue and whether diminished capacity will be offered as the defense, if there is any way that we could come to grips with this before a defense psychiatrist takes the stand, at least we could get another motion out of the -way -- bearing in mind that if I am successful in the motion, of course, it will take some time for the psychiatrist to have an interview.

Mr. LINDSEY: Your Honor, in fairness to counsel, it would be the position of the defense at this time that the issue of diminished capacity is in the case.

I have in mind that Mr. Minier would desire to of course determine that as soon as possible so that he may take appropriate evidentiary steps. So in fairness we would consider that the defense of diminished capacity is involved in the case at this point, that it need not wait until any psychiatric step be taken, and if this may provide any foundational basis for Mr. Minier to make any request of the Court I think in fairness that this does alert him to it.

THE COURT: You are stating that Mr. Minier and the Court can consider the case in the same status and position as though you had already produced psychiatric testimony tending to establish that the defendant's capacity was diminished?

Mr. LINDSEY: Yes. It would be our position that the defense of diminished capacity need not wait until testimony of an expert, say a psychiatrist --

THE COURT: You are telling me that the testimony will be produced?

Mr. LINDSEY: No. I am not saying that. I am saying that we take the position that the defense of diminished capacity has entered into this case at this point and that

Mr. Minier need not wait for any psychiatric testimony for him to take any steps.

THE COURT: I don't know, gentlemen, I haven't read that case--I have forgotten the name of it -- Danis -- D-a-n-i-s--since we argued this --

Mr. LINDSEY: It was the Danis case, I believe.

THE COURT: A copy of it is in the file, I know that. I haven't read it since the commencement of the trial. I would like to read it again.

My question is whether the holding of that case required the actual production of psychiatric testimony by the defendant on diminished capacity or whether something short of that would be available?

Mr. MINIER: I don't think it really can be determined from the case because the facts in that case simply were that the motion was not made until after the defense psychiatrist had taken the stand and the Court merely said the issue of diminished capacity was clearly at issue.

So we certainly can wait, your Honor. I was thinking only in terms of time. But we can wait until such time as the defense psychiatrist does take the stand and then we renew the motion.

THE COURT: Mr. Lindsey has not yet assured us that there will be a defense psychiatrist. I am not pressing him for any assurance one way or the other on that. I would personally, without having read that case again I would feel a little surer of my position if there was actually a psychiatrist testifying on this issue.

Mr. MINIER: We will wait, your Honor.

Mr. LINDSEY: I understand , so the record will not be misunderstood, defensively we take the position that there is now evidence in the case which necessarily involves the issue of diminished capacity and that the issue of diminished capacity is an issue and a defense being raised in the case and at this point.

THE COURT: I understand. Well, let's see what happens, gentlemen. Maybe I can re-read that case over the week end and refresh my memory on it. I don't know what your position would be—if they raise the defense of diminished responsibility without supporting it by psychiatric testimony.

The whole point of that case, as I remember, may not be the whole point but the large point of that case was that if the defendant produces a psychiatrist on that issue it would be unfair to deprive the people of having him examined by an independent psychiatrist: that was the whole rationale of the decision. What the rule would be if no expert testimony on the subject is produced, I don't know. You would be lacking that counter-balancing motive that the Court talked about in that case.

Mr. LINDSEY: Your Honor, for our records we would waive any necessity of that counter-balancing situation to be in existence.

THE COURT: That is very generous of you. But you are going to oppose this motion?

Mr. LINDSEY: I am not sure I would.

THE COURT: You are not sure you are going to oppose the People's motion for the appointment of a psychiatrist to examine your client?

Mr. LINDSEY: No. As I understand the case, once that issue is in the case -- and in that case it happened to be when the psychiatrist defensively appeared in the case -- once that issue is in the case, then and only then can the prosecution make their move. So what I am saying --

THE COURT: But when is it in the case? Is it in the case when you tell me it is in, without telling me that you are going to have any psychiatric testimony? Or is it not in the case until expert psychiatric testimony on the defense is offered?

Mr. LINDSEY: Under that instruction, I believe it is 8.77, I believe it is that when there is evidence in the case from which that defense may be raised, the issue then is in the case.

THE COURT: Oh, I have to instruct on it, of course but that is not what we are talking about. We are talking about the right of the people to have their own psychiatrist examine your client. If you want to tell me that you have no opposition to that, why that would solve everything. You opposed it when the People formally made a written action before the commencement of the trial, you opposed it vehemently, I had assumed that your opposition to it would remain.

If you have changed your mind, why, fine.

Mr. LINDSEY: Your Honor, what we may be getting to--

THE COURT: Do you want to think about it over the week end? Fine?

Mr. LINDSEY: May we, your Honor?

THE COURT: Let's be a little more sure of your ground before we make a move. I would like to be.

Mr. LINDSEY: What I want to do essentially, your Honor, at this point is to avoid perhaps creating any problem for the prosecution in being able to try to develop any counter evidence or counter position they may desire on this diminished capacity issue in fairness to them, because as I understand the law, once a defense takes the

position that that is going to be an issue, then fairly speaking the prosecution out to be allowed to prepare for it.

THE COURT: Yes, but how? Certainly if you raise the defense without psychiatric testimony which I think you are entitled to do if you want to, the People would be entitled to rebut it, but what they want to be able to do is to rebut it by psychiatric testimony. They will be asking me to appoint a psychiatrist to examine the defendant and to testify on behalf of the People.

It is one thing for me to appoint a psychiatrist in that connection after you have produced a psychiatrist on the issue, if you do, and another thing perhaps for me to appoint one if you don't have any psychiatric testimony. Underneath it all is that if you are not now going to oppose such a motion on behalf of the People, that is the end of the whole inquiry right there.

Mr. LINDSEY: I think perhaps if we may have over until Monday on the matter—

THE COURT: Let's sleep on it.

Mr. LINDSEY: Thank you, your Honor.

(Whereupon an adjournment was taken over the weekend until the following Monday,  
June 18, 1973 at 10:00 o'clock a.m.)







**20. .SANTA BARBARA, CALIFORNIA, MONDAY, JUNE 18, 1973, 10:00 A.M.**

THE COURT: All members of the jury and the alternate jurors and the defendant are present.

All right, Mr. Lindsey.

Mr. LINDSEY: May Mr. Yanikian resume the stand, your Honor.

THE COURT: Yes.

**GOURGEN MKRTICH YANIKIAN,**

resumed the stand, having been previously sworn, and testified further as follows:

Mr. LINDSEY: Your Honor, if it please the Court, there are a series of records that Mr. Yanikian will need to refer to this morning, and we -- at least I went through them this morning, and I didn't know whether Mr. Minier's office may have them available in the courtroom at this point or not as yet.

I believe Mr. Begg, your Honor, is probably on his way over with them, perhaps I can ask a few questions.

Is he bringing them over now, as far as you know?

Mr. MINIER: I think he is.

**DIRECT EXAMINATION (continued)**

BY MR. LINDSEY:

Q. Mr. Yanikian, Friday we were asking questions about the Iranian contract and the judgment that you had obtained through the Iranian courts, and your return to the United States. And after you returned to the United States, that you commenced a series of steps that dealt, in part, with the State Department of the United States Government.

Now, I would like to ask you this: when you returned to the United States from Persia, or what we now call Iran or Iran, how long were you back in the country before your first contact with the State Department of this country?

A. Before I address State Department, I have special lawyer in Washington.

Q. Was that in Washington, D. C.?

A. Yes. Very famous lawyer.

Q. Did you retain, then, a lawyer in Washington, D.C.?

A. That's right.

Q. What was his name, please?

A. Where is my records? You think I can remember all names?

Q. Had you stopped off in Washington--

A. Yes, I have contract with my lawyers. I present all papers, he work hard, even with State Departments. He present lots of facts to State Department proving that in the past State Department many times clean question like this with other government, too, and he bring case number so and so, which if I have papers I can show. After more than two years, something, -- more than two years, I think two, two and a half -- I can tell by documents -- he told that he need big money for continue because our agreement was that he will receive after.

Q. Excuse me?

A. He will receive after. Our agreement with him from the beginning was he will receive after.

Q. Afterwards?

A. Afterwards. After finish.

Anyway, then he find out that State Department catch himself behind some International law which don't exist in writing-- no printed -- and he told he cannot continue this because he told, "I cannot fight all State Department." Despite the fact that I present him cases in the past which State Department have by country -- South American Country, some time Argentina, Venezuela, so and so. "Because your case is connected by oil -- Shah of Iran, with whom State Department -- I don't know which department would have big deal to deal billion dollar deal. Surely they take special attention and try no disturb Iranian government, because Iranian government don't like. They want be friendly, and they make mind much better sacrifice one Yanikian interest than be not good friend with Iranian government This is case.

Q. Now, Mr. Begg and Mr. Minier have been kind enough to allow some of the records to be brought here. I would like to ask you this, were these records that you had at the Biltmore Hotel?

A. No.

Q. Were these records--

A. (interposing) These records was in my other stack, with, Helen Rettig's garage, because in Biltmore Hotel I don't need take original, -- all those original documents (indicating).

Q. Now, among these records are there some in here that pertain to this contract and judgment matter and the State Department of this country that you have been mentioning?

A. Oh, surely -- many.

Q. Now, could you take a look at these please. You are familiar with these would you pull out from here in just a moment the ones that pertain to this matter.

A. (Witness examining documents) By the way, here is same which yesterday you present by my name -- is my wife's name, also (presenting document to counsel). I am sorry, I saw all these papers two hours, and thank you to District Attorney because when FBI take these papers three months they keep, you know, - Washington and all papers was separately in record, -- separate in package, and separate briefcase, but when they send back, is like salad Russe mixed up, and I was not surprised because on general, we need three telegrams -- two telegrams from this Court for receive back these paper.

Q. Now, can you go through these, though, and pull out those portions that pertain --

A. (Interposing) Yes, I am doing that -- when, I ask-- when I ask, I remember this, FBI not only this they have, also they have 600 pages, their investigation alone the war about Yanikian, that until now my defense ,have only two hundred pages,--that's right.

Q. But--

A. (Interposing) No, is not. What you want?

Q. Can you pull out the ones that have to do with the State Department matter?

A. I am taking -- this (indicating) nothing to do with State Department, but is something do with my case here,-- but this (indicating) in all what I have for State Department.

Q. Now, that do not pertain to it at least.

A. Yes. This is contract in connection with State Department, this is something different (indicating) but connected by case, also.

Q. All right. Can you put those things that have part of your case but not connected with the State Department back in there so that I can bring those back?

A. Yes.

Q. Now, Mr. Yanikian, is there in those papers, is there a copy of the judgment from the Iranian Court?

A. Original.

Q. Is it in the Persian language?

A. Translated English, certified copy, by Embassy.

Q. Now--

A. Here is English, and here is Persian, too,--yes, here is contract, yes. There is one judgment.

Mr. LINDSEY: May I see this a moment, please.

A. BY WITNESS: Mr. Lindsey, I have some idea—here I have copy this original, I have copy -- you can take this copy if you need, you know, for exhibition, take copy but no original, please.

Q. Well, let me use the original here.

A. Yes, use original, but here is copy.

Q. Will you pick out that original, please, the original judgment from the Iranian Court?

A. Yes.

Q. Is this the judgment here?

A. No, -- this Writ Execution--There is judgment.

Q. Mr. Yanikian, there appear to be-- is this the translated—was this the translated copy, Mr. Yanikian, that you handed me?

A. Yes, translated by Consulate American in Teheran..

Q. How about the original one of Persian?

A. Original some place in the paper, some place--maybe there, maybe another,

Q. Do you see the original one here?

A. I cannot see original here. I no see original.

Q. But you recognize this one that you have handed me as being --

A. Yes, I recognize this official translation, certified by officials. But original someplace in the records, someplace, but I have number -- everything is --

Q. On the last page of this that appears to be in a foreign language, what is that?

A. This certified official translator consulate who certified that yes, what he did is real, exact, same, and he seal it and give it to me.

Mr. LINDSEY- Your Honor, may this be introduced into evidence as Defendant's exhibit next in order.

THE WITNESS: Mr. Lindsey, your Honor, I have photostatic copy these.

THE COURT: Do you want to introduce that or the photostatic copy?

Mr. LINDSEY: Your Honor, may we ask if this may be introduced and --

THE WITNESS: Okay, present this, I am satisfied with copy-

Mr. LINDSEY: -- if we may substitute a proper copy. I would like to be able to make sure that the copy is a clear copy of this before the substitution is made.

THE COURT: All right, the document is received.

THE CLERK, Defendant's exhibit I.

(Whereupon the above described exhibit was thereupon received as Defendant's Exhibit I in evidence.)

Mr. LINDSEY:

Q. Now, Mr. Yanikian, in this judgment, or at least for purposes of conversion from the monetary system of Persia to what you might call the American system, what was -can you give us -- is that Real -- is that pronouncing it correctly?

A. Yes. Real.

Q. What are Reals, please?

A. Is depends, sometimes seven Real was one dollar sometimes six Real, one dollar, sometimes ten Real one dollar. All these American dollars depends what situation is country. Is change all kind. When I was work, it is about three and a half Real one dollar.

Q. Was the Real sort of like a dollar in Persia, that is?

A. No. Tuman. Tuman have ten Reals. Iranian money is one Tuman. One Tuman is ten Reals. Then they call the one Real, after which is ten they call it one Tuman.

Q. Mr. Yanikian, in the judgment from the Iranian Court, what is the total judgment to you in Reals, please?

A. Judgment is -- but the judgment -- come with this judgment, I have Writ Execution. Judgment is final that fix final price, contract, which I did. Here is two different -- according to this judgment Supreme Court, I received three Writ Execution, but one I already paid. Two not paid. I have even original.

Here, they give in order, they fix account final and pay to Yanikian, and I can looking this paper order this, am looking.

Q. Was this judgment rendered first, and then the Writ of Execution is after that?

A. Surely.

Q. Did you see, in your papers there, a Writ of Execution, please?

A. Yeah, one. By one they paid, one this year which not paid, have one they steal.

Q. You are handling this document here, is this a Writ of Execution?

A. That Is right.

Q. This appears to be entirely in some other, language, what language?

A. Iranian. Persian.

Q. Are you familiar with Arabic, Mr. Yanikian?

A. No. I can speak, but I cannot read.

Mr. LINDSEY: Your Honor, may we ask --

Mr. Yanikian this Writ of Execution that you say, it is in a foreign language, was this the first Writ of Execution issued?

A. No, is second. By first I received two hundred fifty, two hundred forty thousand dollars.

Q. On the first writ of execution?

A. Yes.

Q. You don't have a copy of that, then, do you?

A. I think we have something. If I look my paper, maybe, but is already paid.

Q. Now, this second one--

A. Original they have, because when they paid, they took original.

Q. Now, this is the second--

A. Second, yes. Same times I received three.

Q. Now, was this second one recognized and paid?

A. Not yet paid. Even my lawyer in Los Angeles, I have special lawyer, he is working on this. Lawyer Levin.

Q. Levin?

A. Levin. Attorney Levin, who engage other attorney in Tehran by name Mosul. They are working for those.

Q. By the name of what in Tehran?

A. Mosul.

Q. How do you spell that so that the Reporter will know how to write it?

THE INTERPRETER: M-o-s-u-l.

THE WITNESS: But I have contract with Levin in Los Angeles about this Writ Execution.

Mr. LINDSEY: Your Honor, may we have this document introduced, please, Defendant's exhibit next in order?

THE COURT: Yes.

THE CLERK: Defendant's Exhibit J.

(Whereupon the above described exhibit thereupon received as Defendant's Exhibit J In Evidence.)

MR. LINDSEY:

Q. Now, this third document is what, Mr. Yanikian?

A. Here, this one. Accordance this decision --court -- this document is nothing do with Writ Execution. Here His Excellency Minister Finance signed by Kaiser. Kaiser was Swedish Engineer who was invited by Iranian Government for erect all construction. We have argument, they prepare their situation, my office prepare my situation, in a way we can find solution. This is French, you know, which I think I have translation. He order -- ask Minister Finance "Immediately pay to Yanikian six million five hundred forty three thousand, five hundred seven Reals, fifteen cents," because on general, the seven million would be Yanikian, he agrees so and so. This is very important. They ordered they ask Minister Finance immediately pay to Yanikian.

Mr. LINDSEY: Your Honor, may this be received in evidence?

THE COURT: It is received.

(Whereupon French translation of document thereupon duly receiver as Defendant's K in evidence.)

Q. Mr. Yanikian, the gentleman you mentioned by the name of Kaiser, was he in charge - or general overseeing of all construction?

A. Yes, he was -- he was big man. He was invited specially by Iranian Government head , all construction around the country and he was giving orders, and so, you can see, by his reports, he writes -- Minister of Finance, please give orders so and so, pay to Yanikian -- he is like dictatorial power he had there.

Q. Now, he was brought in then, was he, to listen to all sides of any dispute on that?

A. No dispute -- nothing in dispute -- we have no dispute, but this -- this is no dispute. It is technical something by my contract.

Q. Now, this document that was just introduced is in French?

A. Yes, is French, because they use French language there.

- Q. And do you understand and speak French yourself?
- A. Oh, yes.
- Q. Now, in essence, this document here is addressed to -- to whom?
- A. Addressed to Minister Finance.
- Q. And is that a direction of the Minister of Finance to pay you what the settled amount was?
- A. And he explain what this payment is, he explain what Yanikian did, -- he did a job, he save our country, he built this railroad. We can never finish, if he not build -- the same connection about which we have at Teheran Conference, he mention this. For this, he asked that immediately Yanikian agree that if you pay immediately this everything is closed, -- finish.
- Q. Now, translated in reals at that time into dollars, about how many dollars was that direction?
- A. One and a half million.
- Q. Excuse me?
- A. One and a half million.
- Q. One and a half million dollars?
- A. Yes, that is accordance -- accordance -- a Court decision, which I give to you they have paragraph, this government will pay twelve percent interest until pay to Yanikian. Now, you figure it 25 years, 12 percent is five times more -- four time more.
- Q. Now, Mr. Yanikian, what is the next document connected with this matter?
- A. Next document, because Iranian government, when I came America, I told already, Shah receive my telegram, copy of which I sent -- original I sent to our president -- you will find this telegram, and I give to you, he receive my telegram -- he mad. He went there and he give order to his ministers of government Yanikian is American, let him die American. Never he will see Iranian money. This starts now fine explanation to what they cannot pay, because they are -- State Department send couple of letters, I know, first they told that Yanikian no pay tax. Here is official document from Iranian Court government that all tax Yanikian pay, signed by Commissioner, -- five people.
- Q. Now, this document that you have here is in a foreign language?
- A. Inform that until I let Iran all taxes everything was paid by me.
- Q. Now, in what language is this document?
- A. Iranian.
- Q. Iranian. And this is a document -- is it a government document?
- A. Surely, in government -- government, Iranian government document. Iranian is tax government, what they call it there, they -- that you pay what you owe, because if you no paid you no can go out from country.
- Mr. LINDSEY: May we ask if this document may be introduced as next in order, your Honor.
- THE COURT: It is received.
- THE CLERK: Defendant's Exhibit L.  
(Whereupon the document received in evidence as Defendant's Exhibit L.)
- Q. BY Mr. LINDSEY: Now, Mr. Yanikian, is it correct that these documents that you are now discussing were important in bringing you under the Foreign Aid

legislation of this country when you were seeking to get the State Department in the country to help you enforce the collection of that judgment?

- A. For this, yes, all these document, they have copies all these documents, State Department.
- Q. Now, what is the next document on this matter that you have?
- A. This document, when I became American citizen, Embassy Iranian sent me letter, well, that we receive information --it is English, you can read.
- Q. You are handing me a document.
- A. Yes in English. Signed by Embassy Iran. They are talking about Writ Execution, but they are not talking--even American ambassador sent me a letter, but already I am American, year '57.
- Q. Now, this is a letter from the Iranian Embassy in Washington, D.C.?
- A. That's right.
- Q. Signed by the American Ambassador of Iran?
- A. Yes.
- Q. Directed to you here in Santa Barbara?
- A. Addressed to me.
- Q. And the date in January 22nd, 1957?
- A. That's right.
- Q. And it pertains to these matters that we are now discussing?
- A. That's right.

Mr. LINDSEY: May we ask that this may be introduced next in order, your Honor?

THE COURT: It is received.

THE CLERK: Defendant's M.

(Whereupon a letter from Iranian Embassy duly marked as Defendant's Exhibit M in evidence.)

Mr. LINDSEY: Your Honor, this is a very, very brief letter, and it is in English, and I might ask if I might be able to read it at this time out loud.

THE COURT: All right.

Mr. LINDSEY: It is addressed to Mr. Yanikian here in Santa Barbara, and reads (reading):

“Dear Mr. Yanikian:

“We have received a communication from the ministry of Court regarding your account with the Ministry of Roads. We are given to understand that the principal concern has already been paid by the ministry of Roads. We are further informed that a Court order having decreed a full investigation, your claim for 12 percent interest amounting--accounting for three years' delay in payment is currently being reviewed, apparently in your favor, according to the Ministry of Justice. We shall, of course, be happy to notify you as soon as we receive further information from Teheran in this regard.”

Yours sincerely.

And then it is signed “Dr. Ali Amini, Ambassador of Iran.”

- A. Yes. Half is lie there, because if they tell that the principal is paid. Last time I ask that you demand please from Court, send telegram officer Iranian government photocopy of document both sides which prove that they pay, because when government pay couple of million dollars, I think they will have some place I will

- sign -- yes? I want this sent so -- to us this, that is all I want, for show who is lying. I am lying or Shah of Iran?
- Q. Now, what is the next document that you have on this matter?
- A. Lots of documents—I don't know what you want.
- Q. Well, I want to take it in a chronological order so that we can see the documentation steps that you were taking, and then after that I want to ask you about your contacts with the State Department.
- A. Before I went contact State Department -- well, here is my lawyer's name, Beverly Colman, Shoreman Building, Washington 5. D.C. This is my lawyers when I have Washington, who work with State Department, and present to State Department all reports. After you find out that there is no question of Yanikian case here, that Iran is not paying, is question that where they have oil business they no want to hurt anybody, and they sacrifice Yanikian for this.
- Q. Let me ask you this, are there any more document in here from Persia or Iran concerning this contract or the judgment?
- A. Oh, I have lots of letters, documents -- now, originally I keep this in court -- Supreme Court, I give Kaiser's document, Writ Execution, and there is some report on this.
- Q. You mentioned that there was a telegram that you have sent.
- A. Yes, I think I push that telegram there (indicating) -- may I see that.
- Q. To whom did you send that telegram?
- A. I sent it to president Johnson.
- Q. Is that Lyndon Johnson?
- A. Yes, our president, and to Shah of Iran when he was guest of American government.
- Q. Is that when the Shah was visiting here in the United States?
- A. Yes, he was here in the United States, official visit. He came here in Los Angeles for receive doctor --Honorary Doctor -- diploma for doctor. I don't know why receive, but is not my business -- no, is not here. Maybe I look in other papers, but here is some other document, very important (indicating).
- Q. In any event, somewhere down in there--well maybe we will look at it during the recess.
- A. I know I have copy of this telegram. All they mixed up from document from this part here (indicating), to here, here they go there -- it's mixed -- it -- if you give me time, when recess, I will find it, because I no want to take time now, because you know, I three, four records. Now, I can see document which belong this (indicating) go here document from here go there. And when I have five minutes time, now I no have time, I will find these telegram, copy of these telegram.
- Q. When you commenced your contacts with the State Department who was it, or what division of the State Department were you working with?
- A. I no did -- my contact with State Department my lawyer did, and he sent statement of facts, this (indicating).
- Q. Now, is there a copy of the statement of fact there that was sent to the State Department?

- A. Oh, yes, here.
- Q. Can you hand that to me, please?
- A. Here. And signed by my lawyer, and under this contract statement he put, you know, six, seven, eight cases with Argentina, Brasilia, something, and State Department pay, because they no want unrecognized.
- Q. May I see that please.
- A. And you fix this, please (indicating document).
- Q. Mr. Yanikian, this appears to be the claim itself.
- A. Yes.
- Q. That was being presented to the State Department.
- A. The result, they told, Mr. Colman, he have many conference, and I'm sorry, yesterday I told about State Department, to be sit down next to me -- I'm sorry, because type State Department document, but they have special table that they call -- Iranian table, something, but they use name State Department.
- Q. Now, have you reviewed this claim, this set of papers that you have just handed me?
- A. Yes. Is my copy sent to me.
- Q. Does this reasonably set forth the claim as it was presented to our State Department on this matter?
- A. That is right.
- Mr.. LINDSEY: May we ask, your Honor, if this may be introduced as next in evidence?
- THE COURT: It is received.
- THE CLERK: Defendant's N.  
(Whereupon the above described exhibit was thereupon received as Defendant's N in Evidence.)
- Mr. LINDSEY:
- Q. Mr. Yanikian, what was the claim for?  
You were asking the State Department to assist you as an American Citizen in collecting what the Iranian Court had decided that the government owed you, is that it?
- A. First my lawyer ask it officially they demand that Iranian government paid. In my knowledge, State Department send letter to our Embassy in Tehran, which confirmation I have from my lawyer, and from the Tehran. Our Embassy in Tehran keep memorandum to Iranian government. Iranian government after explain that International law so and so, "Why you mix on this business." And this protect State Department. They can use this International law. Never I saw this law, and don't exist, law. When couple years--
- Q. Let me ask you this: did the Persian government contend there was some kind of International law on which Persia was relying?
- A. Yes. International law. And State Department sent to me letter that accordance International law Iran declare, and we are doing same, and my letter them answer "What kind law we live in America, international or American law?" When I saw with this International law, they offer me go Hague.
- Q. Hague?
- A. They send me go Hague.
- Q. The Hague, was this an international port?

- A. International port.
- Q. To settle disputes that had international character to them?
- A. Yes. But I told Hague, "I am not Government, I am private citizen, what I do?"
- Q. Who suggested that you should take your case to the Hague, to the international port?
- A. Suggestion to Tehran -- the Tehran Government, and I write letters. I have some letters -- private letters.
- Q. Did the American State Department make --
- A. No. American State Department said, "You know, we no have International Iranian law, International law, it is custom you respect other people's feeling."
- Q. Now, what was the next things that happened?
- A. When I saw this, I no not do anything, with State Department. State Department cannot help me. In these past couple years, I work with my lawyers, Levin -- I have other lawyers. After I found some other law, and I started demanding something else for State Department.
- Q. What was that?
- A. I no demand they collect money. I demand that use American law. That's all accordance law. No foreign country can have help from America if they own money to American citizen. And this law is passed by congress amendment. And they have, if this man present document decision court, or something prove that they owe, or by order president of the United States be stopped because is International interest. And I insist from then ten years that they use this law.
- Q. Now, was it your understanding, then, that congress had passed a law by reason of which this government would be obligated to assist in the collection of what the Iranian Court said was owed to you?
- A. No. This law tell no foreign country can have help from America if they own money to American citizen. My idea was that they start helping Iran, Iran will come and pay me. That's all, it is simple.
- Q. You believe, because you were an American citizen---
- A. Surely, a long time. Yes, it is ten years. Ten years continue our fight with State Department with this question. Never I ask to go collect money for me. No, I ask use our law which approved by Congress and law is here. After I saw they are not doing, I make my complaint to Senator.
- Q. Now. among the papers that you had, are there records of the communications with the State Department to have them recognized as Congressional law?
- A. They never answer. They never answer yes or not.  
All time they told "International law, we cannot collect your money."  
I told "I am no asking you collect money, I am asking use this law." And they continue again "We cannot collect." And I send letter, but I no asking. They insist one, two years same. They write, I write. After I saw not, I asked to Congressman I present all facts. "What is this Congress pass law. Here is law. I am asking the State Department use this law," and I send the letter to State Department "If you found this law is wrong, why you no ask Senate change this law. If this law need correction, why you no ask then? Why?" They never answered me. They tell only, "We cannot help collect your money." I am no asking collection money. When I send letter to Senators, Senators send to State Department, State Department give

same answer, Senate send me their letter. Senator came like man who receive my letter, sent to State Department, State Department answer him, he sent same letter. After, I explained to Senator, I told him, I am no asking, "I am asking why you no ask State Department why they are not using this law. This law, or not. They exist this law or not?" I never receive answer. No, from State Department, no from Senator.

Q. Now, in other words, then, when the State Department did not appear to be helping, you directed a series of communications to Congressional people – to Senators; is that correct?

A. Yes. Our California Senators.

Q. Then, it appeared as though you were getting answers back -- the same answers the State Department had given you earlier?

A. Yes. And I received a letter from Congress—Senate, simple. "Enclosed is self-explanatory reply"-- so and so.

Q. Who is that from, that letter?

A. Senator.

Q. Which senator?

A. Teague.

Q. This is from Mr. Teague, the Congressman from this area?

A. That is right. I addressed it to him.

Q. This letter is from Congressman Teague dated April 27, 1972, and addressed to you here in Santa Barbara, and he has attached to it what appears to be the original of a letter dated April 25, 1972, from the Department of the State addressed to Congressman Teague on this matter.

A. Yes.

Q. Did you receive these two letters, that is Mr. Teague's letter and the attachment from the Department of State?

A. Yes.

Q. On this--

A. Yes. I told you it is like received letter, sent me a letter--

Mr. LINDSEY: May we ask this be introduced, your Honor as next in evidence?

THE COURT: It is received. But I think we have reached the point where we have spent about as much time on this particular subject as time warrants.

Mr. MINIER: Your Honor, in the interest of time, in that regard. I would be more than willing to stipulate, for the purposes of the trial, that the Iranian government, at this stage, owes at least a million and a half dollars to Mr. Yanikian, and that the State Department has not been able to, in any way, encourage the Iranian government to pay; that the State Department has also not- refused to cut off aid, if this would help move things along.

THE WITNESS: May I answer, your Honor.

THE COURT: Well, no, there is no question before us now. I am just saying, gentlemen, there has got to be a cutoff time on this particular topic of the case, and I think the general drift of the situation is clear to everybody. I think it is clear to me, and undoubtedly clear to the jury. But to spend further time in documenting in detail what we are only interested in the general result of, particularly in view of Mr.

Minier's offer to stipulate the general result, I think probably we have spent as much time on this as we should on this topic.

Mr. LINDSEY: What we are doing here is showing through the documentation, documentation we feel that's material in there --

THE COURT: It is not in dispute. The People don't dispute it.

Mr. LINDSEY: That is a part of what we are presenting. The other part is that from this, the total frustration that developed to Mr. Yanikian when all of these different avenues that are shown by this documentation were literally shutting him off from an absolute right that he had in Persia, and under the law of this country, and the effect it has had upon his that the total frustration as he is trying, even up until last year, to get our own congressman to help out in this matter on a very critical matter, because this will also show that the importance of these funds necessarily related to his own living in the last year or two have had a fundamental impact on the circumstances down there at the Biltmore. However, I would suggest this, your Honor; so far as documentation, I am nearly completed on that phase of it. I don't think I will be much more than just a few moments on it.

THE WITNESS: May I one minute, your Honor

THE COURT: There is no question before us, Mr. Yanikian.

THE WITNESS: It is not question. It is not question.

THE COURT: Just answer the questions.

THE WITNESS: Yes.

(Whereupon Teague's letter with attachment from State Department thereupon received in Evidence as Defendant's Exhibit O in evidence.)

Mr. LINDSEY:

Mr. Yanikian, have we now most of the relevant documents now into evidence related to the contract and the judgement and the steps that you were trying to follow to get our government to be of some kind of assistance, including not only the State Department, but our own congressmen and our governmental officials back in Washington?

A. Couple more documents. When State Department tell me "American citizen shut up."

Q. Now, is there a document pertaining to that where in effect that was done?

A. Yes.

Q. You have handed me a letter from the Department of State dated April 21, 1972, addressed to you here in Santa Barbara, and it is signed by a person who is listed as the Assistant Legal Adviser for the State Department. Did you receive this letter?

A. Yes.

Q. Did you interpret the essence of this to be that you should stop bothering the State Department?

A. Yes. They finish like this.

Q. Did you interpret this letter as meaning the State Department would no longer take any further steps to assist you in your rights as an American citizen?

A. Yes. But not only these, but this State Department told, "Let us alone." Last two line. And I answer last letter. I send last letter them.

Mr. LINDSEY: Your Honor, may this be Introduced as exhibit next in order, please?

THE COURT: It is received.

THE CLERK: The prior exhibit was Defendant's 0, and this is Defendant's P.

(Whereupon the above described Exhibit was thereupon received in evidence as Defendant's Exhibit P in evidence.)

MR. LINDSEY:

Q. Mr. Yanikian. in essence, the last two lines of this letter you interpreted as meaning the State Department-- let me read the last two lines.

A. Yes.

Q. The last two lines say -- which is the last sentence, "The Department does not perceive how any useful purpose can be served by further communications in the matter."

A. That is right. After this, I start signing second-class citizen.

Q. You referred to that, I believe, prior in your testimony?

A. Yes.

Q. Was it this letter from our State Department that caused you to react by calling yourself, and with your signature there after the "Second Class American Citizen"?

A. Yes -- what date in this?

Q. This is on April 21, 1972.

A. Yes. And I have one more, that is all.

Q. Is this the last one you have then? What is this document that you have here?

A. This document is my answer them that I let you talk and explain to American people what is, we have law, or law you create law.

Q. Now, is this your reply?

A. On their letter is my last answer there. Here I sign telegram to president, you see, is telegram -- I place in there (indicating) and how come here, I don't know.

Q. And I am trying to reach an end of the documentation here if we can. You have mentioned that telegram that you sent did you find a copy of that in the file there?

A. I'm sorry?

Q. The telegram?

A. Is telegram which I sent to our president, and I sign-- I have no lobby in Washington, but I have our president, and I am sure that justice and equality will prevail.

Very sincerely, Gourgen Yanikian.

Q. Now, is this a telegram that you sent to the president and with a copy to the Shah when he was visiting here?

A. No, Shah -- I have something more, I think -- I don't remember. I will look and see.

Q. Now,--

A. (interposing) I think, yes, I sent this copy, yes.

Q. I'm trying to see if we can bring to an end here the documentation.

A. Yes. But documentation, this paper was here --what arrived here, I don't know.

Mr. LINDSEY: Your Honor, may we have these last two matters--

A. BY WTNESS (Interposing)-. No, Shah no have this telegram -- Shah have other telegram.

Mr. LINDSEY: The first one, it appears to be a copy of a directive to congressman Teague, and attached to it is what appears to be a communication to the Department

of State in Washington, both of these appear to be in the month of March, I should advise the Court, of 1972, and if these may be marked and introduced in evidence.

THE COURT: All right, they are received.

Mr. LINDSEY: And then a copy of the telegram that was sent June 4, 1964 to the President of the United States, on the matter.

THE CLERK: The telegram is Defendant's Exhibit R; a copy of the letter to Congressman Teague is Defendant's Exhibit Q.

(Whereupon a document, telegram was duly marked Defendant's Exhibit R in evidence; whereupon a letter to Congressman Teague thereupon duly marked as defendant's Exhibit Q in evidence.)

Q. BY Mr. LINDSEY: Mr. Yanikian, was it then sometime in the latter part of spring, well, as indicated, in April, latter part of April of last year when you received that notification from the Assistant Legal Adviser of the State Department that you believed then that the State Department not only had closed its doors to you, but was telling you in effect "Don't even communicate" with them any more?

A. Not I am thinking, the letter himself tell, from now on, we think nothing to correspond and stop, that's all, yes.

Q. Now, last year, if you had been able to receive that money did you have a purpose that you were going to use it for?

A. Yes.

Q. What was that purpose that you had planned to use that money, for?

A. For struggle war -- same, like I am doing here.

Q. And would you explain?

A. I cannot, you know, in two minutes answer something that is--if you keep me a couple of minutes, it in time pass then I explain.

Q. Maybe I can slide into some other area. It will take longer than the time remains for that?

A. Yes.

Q. I think that you are looking at the clock and guessing that at 11:00 o'clock we may take a recess.

A. Yes, I organize Secret International Organization and this money for this organization.

Q. Now, the purpose that you had in mind for the money had you been able to receive it had these been matters that you had been planning on for some time in the past?

A. Twenty-six years.

Q. And had some of the steps already been taken?

A. Oh, yes. Spend lots of money.

Q. Had the money arrived it could have been put to that particular plan or purpose?

A. That's rights continuation, because -- I was organize -- I was center, this was my idea, and this take from 1950 -- 1950, if you have my book, "Triumph from Judas—" in 1950 you can read, and all these 23 years -- 22 years, we prepare, not only I, but many, idealistic men believe, that I -- not only American, in different country, too, we have some idea, and for this idea I needed this money. It is my obligation was.

Q. Did you have some feelings or thoughts or belief about the civilization at mankind that you would be able to further and advance the certain plans if this money was paid and made available?

A. I am sorry, repeat what did you say?

THE INTERPRETER: (Speaking to Witness)

A. Yes, for help my country, and civilization.

Q. Now, did you at any time make any of these plans did you make our State Department at any time aware of these plans that you had?

A. Nobody know, even -- only I -- even FBI despite all its try to find around the world, not find nothing, because everything I burn. What is important is in safe place now, nobody can reach, nobody know, only I know because I was head this organization. Is my idea, I start in 1950, and continue, and we work all around, is not only United States.

Q. Were you going to personally benefit yourself from any of that money?

A. No benefit, on contrary, I spent all my money on this case, not only this old money which I have, I spent on this case, not only me, but lots of people, they spent lots of money, they put their last dollar.

Mr. LINDSEY: Your Honor, I wonder if we might ask for our morning recess, please.

THE COURT: All right. Ladies and gentlemen of the Jury, it is your duty not to converse among yourselves or with anyone else on any subject connected with the trial, or to form or express any opinion thereon until the cause is finally submitted to you.

We will take the morning recess.

(Whereupon a short recess.)

THE COURT: All members of the jury and the alternate jurors are present, gentlemen. All right.

MR. LINDSEY:

Now, Mr. Yanikian, you were mentioning just before the recess, I believe, I had asked you about the purpose of the funds, and you indicated that there had been, in your mind, a plan for a number of years.

Now, how far back in time did you indicate that that plan had gone?

A. From 1950.

Q. And what happened in 1950 that is significant, so far as that plan is concerned?

A. 1950, I met, in Beverly Hills, wife of author who wrote "Forty Days of Musa Dagh."

Q. Is this a book called -- what?

A. Musa Dagh.

Q. "Forty Days of Musa Dagh."

Could our interpreter give the spelling, your Honor

THE INTERPRETER: M-u-s-a D-a-g-h.

THE WITNESS: France Werfel nobel prize winner.

Mr. MINASIAN: France Werfel, W-e-r-f-e-l.

THE WITNESS: Nobel prize winner.

Mr. LINDSEY:

Q. Did you meet the author of that book?

A. No. I meet his wife in Beverly Hills.

I was invited for dinner, we meet there, and this book explain Armenian massacres, only one part--only one part. Musa Dagh is name of hill of group of Armenian fight -- very famous book. This time MGM I think bought for \$30,000.00 this book for produce movie.

Q. The book the "Forty Days of Musa Dagh" is a book of one portion of the massacres of Armenian people by the Turks?

A. One portion. One portion. One section – only one part, you know, only one hill. Musa Dagh is name of hill. Dagh, D-a-g-h is Turkish is hill -- Musa Hill. If you have map, you can see on the map Musa Hill.

Q. It was the movie studios, MGM, that had purchased the movie rights to that book?

A. That is right.

Q. Which would have led to a movie in this country showing the Turkish massacres of the Armenian peoples as they were dealt with in that book?

A. Yes. Only one section, only one hill. She told me, despite the fact that MGM bought this, they are not producing, because --

Q. Let me ask you this question: Has MGM ever produced a movie of the Turkish massacres of the Armenian peoples under that Musa Dagh right that they have?

A. Never.

Q. Go on and tell us what you recall next?

A. She told me that State Department called to head MGM -- I don't know who, I don't know what they talk – but she told me that they told, “if you produce this book we will ruin you.” Surely they paid \$30,000 and put this book and save this book until lately -- I don't know, couple years -- and somebody bought and never produced this. When I heard this, I thought what this mean? It is mean they no let they produce this book because State Department is dictating, and I make my mind, I am Yanikian, free man, nobody can dictate. I will produce not one Musa Dagh, I will produce all history massacres, not only Armenian people, by all who live on Ottoman Empires, and I start organize and start working on this direction.

Q. Now, was that about 1950 then when you commenced the forming of the thought that you had to produce a movie production of some type to show the massacres that you just referred to?

A. You know, is too bad, you know, you no have my book Triumph for Judas which publish in 1950.

Q. Now, is there a reference in the last page of that book, a paragraph or so, that you wrote into the book that has to do with what you are presently telling us on the stand?

A. Yes. The last couple of lines have that in the desert, because I travel most time in the desert, I found solution and answer how we can clean all these, and I did get it now, I call myself not “poor man”-- I have couple of dollars and I have more to come, that I will dedicate my life for create situation, no more massacre.

Q. Were you traveling in the desert at that time when you got the idea -- or the original thought?

A. Yes.

Q. To do something that maybe would halt or stop massacres from happening again?

A. Yes. I have all books with me, what it did, all maps, and I make my mind that all my life I dedicate it for this.

- Q. Did you have any belief the halting of any production of the “40 Days at Musa Dagh” was in any way related to the Turkish government?
- A. No related. Direct order from Turkish government to Washington.
- Q. And was it your belief that that is the reason the State Department --
- A. (Interposing) Yes, it was Turkish government have Bosphorus.
- Q. Bosphorus?
- A. To connect Mediterranean with Black Sea, they own these water pass--Bosphorus -- is three mile wide, thirty miles long, and this Bosphorus, this is reason what Ottoman Empire exist now, is only because they have Bosphorus. They make massacre, that is million and million of dollars, and I make my mind that not only Armenian question, some other people too they make massacre Greek, they make massacre Kurd, they make massacre Syrian, they make massacre -- and I organize secret organization, by film on this part who lived on Ottoman Empires, and this film was about six hours, and more important, we have program show these around the world free, no charge.
- Q. Now, did you as a result of the thought and belief that you got in 1950, about producing a film yourself?
- A. That's right.
- Q. Commencing---
- A. (Interposing) Not producing myself. I start working for first -- first organize this organization, because on generally I am against any massacres, not only Armenian, want to produce this film that world know what is going around, and why, and this, why, why, -- I will repeat many times on this court, ask why -- I am asking now too, why, and I have answer why, sometime, some day give you answer too.
- Q. Was the purpose and part of the movie to show the world what the Turks had done in these massacres that had taken place?
- A. Yes, not only that, show that various justice on this earth.
- Q. Now, as a part of the thinking that you were doing in this program, or this goal that you had, was some of this reflected in a few of the passages of your book “Voice of an American?”
- A. Yes, Voice of American, which I wrote 15 years ago, it show -- please, I cannot read, you read, is in there, and more, -- how I look American, what is American for me, and why, what I do for America.
- Q. Now, as a part of what you wanted to do, at least show the world, or tell the world what the Turks had done in these massacres, did you also have this related to your feelings as an American and for what you wanted to do for the future of the peoples of this country?
- A. Not only that. I have also, what you call and talk, also that I want correct history, what kind American they put in history. I am American now. In history American-- and American people like big nation who destroy small nation, take their money for private interest, I want to correct this, because is lie. It is not right. American people they don't know, and I want to show this by fact, by documents, and I will try on this trial, sure. This is all my idea production.
- Q. Now, Mr. Yanikian, at my request did you mark out certain of the paragraphs in the Voice of an American to relate to these matters that you are now testifying to?
- A. I will try.

Mr. LINDSEY: Your Honor, I would advise the Court that there are a very few pages involved here, but Mr. Yanikian has marked out certain sections and to avoid going into the whole book I would ask if I might be able and allowed to read some of those passages to the jury at this point. I would estimate there is probably, this would be approximately five or six pages I think all together, out of the whole book, and they are taken from different pages that he has marked out, and they have reference to the background and some of the evolvement of this plan that he now talks about. I would be more than pleased to show Mr. Minier in advance, if he wishes, the marked out pages that I would ask permission to read.

Mr. MINIER: Your Honor, I note that the book has been identified but it is not in evidence. We would be willing to stipulate the entire book can go into evidence and that Mr. Lindsey could read any portion of it that he would like to.

THE COURT: You want to offer it?

Mr. LINDSEY: I think I should, your Honor. I know my client feels that certain parts may not be directly related but I think the book is of enough significance in the trial that I would ask that permission then, your Honor.

THE COURT: All right. It is received in evidence as defendant's exhibit next in order you may read the parts of it that you wish.

THE CLERK: That has already been received in evidence as exhibit H, has it not?

THE COURT: I don't recall.

THE CLERK: I mean, it is in for identification as Exhibit H.

THE COURT: I see. It has not been received in evidence.

All right. It is received as Defendant's Exhibit H.

(Whereupon the book "The Voice of an American" was received in evidence as Defendant's Exhibit H.

BY Mr. LINDEY: Mr. Yanikian, I have here the copy that you marked out, and I wonder if you would just simply follow this. I have a copy that I have marked the same passages on, and I am going to read, and if at any time I don't read the correct ones that you marked out, would you stop me please.

A. Okay.

Mr. LINDSEY: Your Honor, the first reference is on what would be -- there is a page nine that starts chapter one, and it is on the page just ahead of that, which is the blank, but I would assume would be -- if it was marked, it would be page 8. and there is one quotation on that page, if I may start at that point. It is a quotation from Abraham Lincoln: it reads as follows:

"The dogmas of the past are inadequate to the stormy present. The occasion is piled high with difficulty, and we must rise with the occasion."

"As our case is new, so we must think anew and act anew."

"We must disenthral ourselves."

"Abraham Lincoln"

Then on page nine, it reads as follows:

"Like you, my dear reader, I am now an American. This identity we hold in common, even though you came into its possession by accident of birth; and I, by an act of my own will."

“My choice of a new country was not forced upon me nor brought about by mere chance; I made it with open eyes after I had passed my fiftieth year, when my opinions were firmly established and my ego fully developed.”

“Let me stress the fact that in making my decision to come here I did not plan on taking advantage of the opportunity, presented equally to all Americans, of gaining riches. If my ambition had been to acquire wealth, I should certainly have remained on the other side of the Atlantic where opportunity and luck seemed always with me.”

“I stepped forth upon these shores at New York's port as a somebody who though not wealthy was far from being poor; a somebody who all his adult life had been well able to support his family -- and keep his car supplied with gasoline.”

And then on page ten, the top two paragraphs which read as follows:

“Born of a wealthy family I learned in my early youth to spend money without given a thought as to how it happened to be in such good supply. But this situation was suddenly reversed while I was still in my teens, by the turmoil into which most of the world plunged. Overnight we became poor, money-wise. From then on I could depend only upon my own inner resources.”

“Whatever may be regarded as success in my life has been attained through the effort of my own brain and hands -- and without compromise of my principles. I am proud to this day that I have never bowed my head before the idol of gold. To me, money has always been a necessary convenience of life; not in itself, a goal.”

Then on page eleven starting at the middle of the page:

“Early in my youth I learned about America through whatever literature I could get my hands on. An avid reader, I devoured stories about her as eagerly as youngsters today read about traveling through outer space to other planets. And all the stories I read were so exaggerated—though of course I didn't realize it then—that the picture they gave me of life in America was only a little less fantastic than the one our younger generation now gets about life in Mars.”

“Was it my fault that all those glowing accounts of the delights of American life conveyed to me a very unreal picture? I think not; for there were many, many others who had this same misconception. We came to believe that America, if not actually a heavenly paradise, was at least an earthly one.”

“Every day must see like Christmas to Americans”

Then your Honor, only the first paragraph on page twelve:

“Happiness and joy, a pair of little Santas, skipping gaily from roof-top to roof-top, toss their bounty into chimneys of your homes. If you are not asleep, you will pick up these brightly colored gifts and enjoy them. At midnight a shower of money falls into the streets from the skies. If you are not lazy, you will get up at dawn to gather it up in sacks; it is only the stupid and lazy folk who do not become millionaires.”

Then on page sixteen:

“Perhaps at this point the reader protests at my failure to draw the other side of the picture. What about the help that America has rendered to other Nations in their time of stress? No one can deny that the help was most generous – truly

magnificent, because it was given for reasons purely humanitarian. No one can deny either that the feeling of gratitude in those nations was not commensurate with the help received. A gift to more deeply appreciated when the recipient knows it was made at some sacrifice on the part of the giver.”

“The idea that everyone here has at least a million or, more likely a billion, existed in all those nations to which America extended helping hand. Thus their gratitude to her was limited.”

“It was only after living in America that I understood and appreciated her generosity. In the world you could not find another nation where the people work so hard and so well. The results of this hard work, as drops of the people's sweat, were poured into the federal tax reservoir for the needs of our country. Those beads of sweat became rivers of nourishment which irrigated the dried-up fields in many other nations, fed the stomachs swollen from hunger of different peoples and gave opportunities to those countries to get up on their feet.”

“Never before in history has man, without self-interest aided man on such a grand scale and over such a wide range. The river continues to flow, and I hope, will continue as long as it is needed, even though it imposes more sacrifice on our part.”

“Having lived twelve years in America, if I were to choose again a new country, believe me I would make the same choice. This is not to say that I consider my beloved America as perfect in any way but it is still one of the best -- and for me the best, of all nations.”

“If you, dear reader, had been born in another land, if you had seen as much of the negative side of human existence as I have, you too, would surely have made the same choice.”

“I rejoice that your ancestors in starting to build the edifice, which has developed into our great nation, laid its foundation on indestructible principles and set up the flag of freedom on which gradually have assembled the glistening fifty stars.”

“I rejoice that our flag has kept this land free from the ravages of war, which, time and time again have despoiled other lands across the sea.”

“I loved America when she yet was not mine. I loved her ideals which were her foundation. I loved your country, my dear reader, not having as yet seen or lived in her. Is there any need to reiterate that I love her even more, now that I am part of her?”

“At the outbreak of the Korean War, when the nation started sending her sons to the battlefields I was not yet an American citizen. But here I was, sharing in the blessings of democracy while your brothers and fathers were already coloring the wild fields and mountains of Korea with their blood for the cause of freedom and equality -- a cause that I too, had cherished for so long a time that it had become an unseparated part of my soul. This intolerable situation created within me a turmoil which gave me no peace. Making every effort to participate actively in the effort of good against evil, I pled my case before the proper authorities. They turned me down. principally because of my status of non-citizenship.”

“I had to try to content myself with rendering whatever help I could from the sidelines.”

“I say this only so you may know that my feelings for America were expressed by more than words. The meaning of freedom and equality is absolute.”

“Every little while throughout the ages some individuals ambitious of power, riches, or glory, has attempted to twist the sense of these words around, in order to make it accord with his own malfeasance; and, through his apparently successful efforts, surrounded himself with others of similar greediness but less initiative.”

“Let us remember that Achilles, Alexander of Macedonia, Ghenghis Khan, Napoleon, and many others like them sooner or later disappeared, taking with them into oblivion their distorted explanations; but the meaning of freedom and equality remains immutable.”

Then in the middle of page 20, one sentence.

“To appreciate the light, one must have known darkness.”

And the next to the last paragraph on twenty and twenty-one, paragraph quote:

When a man is granted the license to drive a car, there is imposed upon him a corresponding responsibility. If he drives home late some night, after having taken one drink too many, and crashes into his own garage door, his act is not considered especially reprehensible--except, perhaps, by his wife. But if, under-like circumstances, he demolishes the door of his neighbor's garage, he has abused the privilege represented by his driver's license.”

Then the last paragraph on page 26:

“For love of my country and love for mankind, I am willing to give up the quiet enjoyment of my life and devote myself to their interests, regardless of what my detractors may say. I shall at least have a clear conscience in the knowledge that I have done my best to inspire those agreeing with me to do their best in behalf of our beloved country.”

Then, your Honor, starting with the last sentence on page 125:

“When a man is elected to the Presidency, the dignity and prestige of that office are bestowed upon him. It makes no difference whether he rode into the White House on a mule or an elephant, he become for all of us the President of the United States of America. From the time of his arrival there until departure, he should have all that respect which the highest position in our nation commands. When gentlemen of the press and artists in the field of entertainment make the President a target of their jokes and criticism, it proves that they are abusing rather than correctly using their rights of freedom. To criticize is our right and this right we should defend. But between criticism and mockery exists a vast difference.”

“In a city where I was visiting some time ago, an organization serving tourists, took my friend and me on a tour which the city sponsored as a means of showing off its night life. Near the end of the evening when we entered one of several night clubs included, the tour-manager mentioned that he had saved the best for the last. His remark hardly prepared us for the featured act of the show. In the darkened, smoke-filled club, two miserable entertainers vied with each other in a rapid-fire exchange of jokes pointed at the private life of our President. How this kind of a performance can be tolerated, I do not understand. The more or less intoxicated state of those present may have accounted for the applause that followed the act.”

Then a short paragraph in the middle of 127:

“Is it not high time to inform these gentlemen of the press that they shall pay some measure of respect to the one chosen by the nation for its president if they themselves want to be respected?”

- Q. Now, Mr. Yanikian, you mentioned that the idea that you had formed started in 1950 to produce a film – to make a film that there is an organization or group that you mentioned to form; were these persons that had in some way left Turkey, or were they from various parts of the world?
- A. Turkey.
- Q. Turkey. Were they people who had escaped from Turkey?
- A. I am sorry. Not only -- even some live there now.
- Q. They are still living in Turkey?
- A. That is right.
- Q. The organization or group that you were forming, did it have a name?
- A. Yes .
- Q. What was the name?
- A. Paradise.
- Q. Excuse me?
- A. Paradise.
- Q. Paradise?
- A. Yes.
- Q. About how many persons eventually were connected with that, please?
- A. I cannot tell you.
- Q. Were there several people connected with it?
- A. Surely, several, but nobody know each other, only I know who.
- Q. What was the purpose of that group; was that to produce the film?
- A. Yes. Different countries mixed, five, six country. Five, six different country.
- Q. Were these people from five or six different countries?
- A. Yes. If you give me map, I can show you which country.
- Q. Now, were the massacres that the movie were going to portray where they only the Armenian massacres or did they include other massacres as well?
- A. You know, almost all others already they are free, they have their nation. Only one, Armenia, not yet receive what belong to him. And center we was have Armenian massacre, center,--but parallel with this we have also for show that is not exception that they start from the beginning, even we have, is from Greece, even we have Byron, Lord Byron, who went there, Greece for fight with Greek soldiers against Turk. And we have some of him, part -- Byron, you know, this time, we have some Kurds, we have some Lebanese, we have some Druze, even we have Istanbul in Turkey, some Turks. All these is done accordance scenario which I wrote.
- Q. Now, did you write-- you call it a scenario?
- A. All, for every nation because I told you, it is my organization, -- I organize. I was center. These people suppose from Turkey to Greece, they don't know each other, they know only Yanikian.
- Q. Now, was it your plan that if the money had somehow, some way been paid over that the Iranian government owed to you, that that money would be devoted --
- A. (interposing) All gone.

- Q. To the production of that film?
- A. Because already people started spending in accordance scenario, which I sent for each nation, because this – we put together but separately, you know, the Greece, something different way,-- in Lebanon, different way, in Egypt, different way. These money which I needed I received, was for send to desert for start American -  
- Armenian massacres
- Q. What do you mean by that?
- A. Armenian nation massacres, for start producing in the desert, near to -- between Mosul and Baghdad, and I have this money for buy truck with movie camera, employ -- I have least twenty people for me, technician, because I am not cameraman. Even I have one director who will direct, only I will give scenario and this money was go, all this, there.
- Q. Now, did you do some of the planning steps for this when you resided in the Beverly Hills area?
- A. Sure, I start --organization I start. I start there first, you know, when--it was in New York. I – '51, I meet people, and Greek -- I organize Greek section there, and the Greek section is lady, young lady, who's mother was terrible killed by Turk. And more Greece -- I have these centers after Byron come, because Byron was-- send sample, when Turk come, you know, take about a hundred some young girls, take in different place, and ten young girls you know, twenty, thirty people attack these girl, and each try use their body -- surely, body cannot take too many time. And after one girl, when tired, other two Turks came and cut her breasts, was angry, and this girl, this daughter of this mother, and we have picture her, you know, she is pass away, but her daughter living, and this Byron came, you know, things like this different, you know, put together, but Greece receive their freedom. Syria received its freedom. Everybody receive this freedom, except Armenia, our country, despite International contract which signed by all government, includes America.
- Q. Now, as you were working on this plan at the same time you were trying to see what could be done with our State Department then to get them to help, is that right?
- A. Yes, when I start working, I have already little money, I spend -- I have about quarter of a million dollars, you know, cash, even in the bank. I spend in same time, I work for receive other, and I hope that it came, slow, slow, and I figure that my part, because I was center organize, my part about two or three million dollars, all, I give this idea and this -- our Paradise Program.
- Q. Now, in April of 1972 when you received that letter that is signed by the Assistant Legal Adviser in the State Department that in essence said to stop bothering the State Department any more, did that make a change in this plan that you had to be able to somehow convey to peoples around the world what the Turks had done in the massacres to the peoples of that part of the world?
- A. Those letters finally let me know that all my work 23 years, all my program, all my idea, not only my, but all other people have these, -- dead.
- Q. Now, Mr. Yanikian --
- A. (Continuing) Three day I stay home think what I can do.
- Q. You mentioned that, I think it was in 1950 that there was a book that you were the author of, 'The Triumph of Judas Iscariot.' was that book completed in 1950?

- A. Yes. First is book came out in Paris, French, because some of my books is translated and published in Europe too, -- in French, some in -- I think one in Germany, too.
- Q. And did the completion of that book and its publication lead to you being invited and eventually becoming a member of a particular group?
- A. Where, in the United States or Europe?
- Q. Europe -- or the United States, either one?
- A. Yes.
- Q. What is that, please?
- A. International Art -- Institute Art and Letter, in Switzerland, member only eighteen hundred around the world.
- Q. Is there a permanent maximum number of eighteen hundred?
- A. Eighteen hundred. They cannot have more. They elect new one if somebody die.
- Q. Were you elected as a Fellow to the Institute of Arts and Letters as a result of the publication of your book, "The Triumph of Judas Iscariot?"
- A. Not only publication of my book, also my life philosophy -- philosophy of life.
- Q. Are there any other Armenian persons here part of that?
- A. We have -- Armenia -- We have 460 American, only two Armenian, one William Saroyan, other one Gourgen Yanikian, and you can see this emblem (indicating) they call this permanence.
- Q. Is that the emblem you are wearing now at your lapel?
- A. That's right.
- Q. Is that connected with that?
- A. Yes, I receive from Switzerland this.
- Q. Are you now a lifetime Fellow in that Institute of Arts and Letters?"
- A. Yes, a part this I am Fellow, you know, other organization in the United States, too
- Q. Now, Mr. Yanikian, was it then after you had spent about three days, after you received that communication from the State Department in April of last year you commenced to wonder how or in what manner you could somehow alert the peoples around the world to what had happened?
- A. I don't know,--I—I was thinking what I do. My responsible before these people who trust me, my work, spend their money already, because our organization "paradise" was—each group spend his money in same country,--suppose Greece, this woman, mother left her letter that you never forget, you do something and she spend her money for this.

Same is Lebanon, same as Egypt. They no have money from me. They produce money only they have from my direction and scenario. They spend money, only I will spend for Armenian massacres myself, even then I have lots of help, people that I needed, like I have a hundred Kurds in my possession free, village which will burn, -- free, also Kurds old man, oldest as I me he promises--I met him, two, three times, first time I met him in 1922 --'23, and we came close friends. He was idealistic, too. All these people never expect any interest or contrary. They spend their last cents for this idea, and because we wanted to work like something unbelievable and free, you know, my idea was within two years, 50 million American will see these pictures.

- Q. Then as a part of this plan you had was showing throughout this country as well as around the world?
- A. Yes.
- A. And without charge?
- A. Around the world - around the world -- London, Paris, Berlin, and America -- around the world.
- Q. Well, then as a part of the feeling you had in the latter part of April of last year, was this feeling of responsibility for some of these other people of your own group who had believed or relied on the plans that you were making for the production--
- A. (interposing) Sorry?  
(Whereupon Interpreter interpreting.)
- Q. Did you also have in your mind then at the end of April and after April of last year any responsibility --
- A. (interposing) When I receive letter.
- Q. After you received the State letter?
- A. Surely, I came crazy because these people trust me, and all good -- finished, dead.
- Q. Now in those three days that you talk about right after you got that letter, where did you go in those three days?
- A. Stay home.
- Q. Where?
- A. Oh Valerio, in my apartment,
- Q. Did you leave the apartment during those three days?
- A.. Yes.
- Q. Where did you go?
- A. No place.
- Q. Did you stay in the apartment the full --
- A. (Interposing) Yes.
- Q. What were you doing for those three days?
- A. Just thinking about this matter, thinking --thinking, what can I do for save the situation, because I never -- I cannot accept that all 23 years' work will go down, because money which I cannot received, and not my fault. And also, I feel my responsibility for these people who already spend money.
- THE COURT: Ladies and gentlemen of the jury, as you will recall, it is necessary that we recess the trial of the case for the balance of the day until tomorrow morning at 10:00 o'clock, when we resume.  
In the interim, of course it is your duty not to converse among yourselves or with anyone else on any subject connected with the trial, or to form or express any opinion thereon until the cause is finally submitted to you.  
You are all excused until 10:00 o'clock tomorrow morning.  
(Whereupon at 12 o'clock noon this date, the proceedings were adjourned until the hour of 10:00 o'clock a.m., Tuesday, June 19, 1973.)

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21. SANTA BARBARA, CALIFORNIA, TUESDAY, JUNE 19, 1973;10:00 A.M.
MORNING SESSION

THE COURT: All members of the jury and the alternate jurors are present, gentlemen, and the defendant is present.

Mr. LINDSEY: Your Honor, if it please the Court, may Mr. Yanikian resume the stand?

THE COURT: Yes.

GOURGEN MKRTICH YANIKIAN, (Resuming)

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

BY Mr. LINDSEY:

Q. Mr. Yanikian, yesterday about the time that we were recessing you were mentioning that in essence that as a result of the communication that you had received from a representative of the State Department that there was approximately three days -- or there were three days that then occurred of significance.

Now, was that in your apartment here in Santa Barbara that you indicated?

A. Yes.

Q. Now, did you have any particular thoughts during that three days that you presently recall?

What occurred during these three days?

A. I think is three days is most important three days in my life, because I saw -- I saw that -- what I created all my life is going down. And my memory went, when I was young went to--

Q. (Interposing) Did your mind go back to the time earlier?

A. Yes, when I was in the Moscow, about 22 years old -- when we heard that starts massacre, from around the world, to start to organize groups, sending to help these poor people was killed, even from America, many groups. Then the Russian youngster students for protest against their government, Czarist government, that Czarist government doing nothing. They organized group, volunteer group. I remember a couple of groups, by my groups that I was there, two Armenians, we was sixty people.

Q. Let me ask you this, did you have for three days thoughts then while you remained in your apartment during that three days that I have just asked you about?

A. Yes. I want find out what I am wrong, or what -- I try find out something wrong that always falls down my idea. I was trying find out maybe, -- for justify, -- I don't know why, and I start thinking from the beginning, this all my life project which I have when I was a student, for help--

Q. (Interposing) Well, let me ask about now, you are relating now about Moscow?

A. Yes, Moscow.

Q. About what year did you first go to Moscow?

A. It was about fourteen between "14 and "15.

Q. 1914?

A. 1914 and 1915. This, after I went again,--but this time when they organized this volunteer group from Moscow students, young people, 20, 21—sixty people, and not people average like Yanikian,-- no. If I tell you who was there, you super—maybe you know who kill Rasputin,-- his son was there.

- Q. Where had you come from before you first arrived there at Moscow; from where?
- A. I went there from my education from Tiflis.
- Q. From Tiflis?
- A. Yes.
- Q. Were you going to school at Tiflis?
- A. Tiflis, I finish high school. After I went to Moscow for receive my engineering diploma.
- Q. Now, were you sent, then, by your family from Tiflis?
- A. No. Tiflis my family, but in Moscow I live alone. My family -- father -- all their business were in the Caucasus, Tiflis, Kars, all this. But I was alone in the Moscow.
- Q. Now, did you go to Moscow to attend the University of Moscow?
- A. Yes.
- Q. And were you studying for any particular purpose or goal?
- A. Yes.
- Q. For what?
- A. Engineering.
- Q. Is that to be a civil engineer?
- A. Yes.
- Q. Now, how long did you remain at the University of Moscow pursuing these studies to become a civil engineer?
- A. Minimum four years.
- Q. Now, during that four-year period, did you have occasion to become involved in any student activities concerning what was happening to the Armenian people at the hands of the Turks?
- A. Yes. They make demonstration.
- Q. What caused the demonstration to come about?
- A. Protests against Russian Monarchy, Czar --Nicholai. Why they no help Christian nation because Russians also Christian. But something -- big policy, I don't know not yet they start war, but we are demanding that Russians start, not only fighting, but force Turk that they give back all that belong to Armenia, and was this protest from students.
- Q. What did the protest for the demonstration by the students at the University of Moscow consist of?
- A. Well, all protest we have plaque, we have flag, many speeches, demands, you know, like all protest around the world what students then here in America -- here in America what protest what they doing? The same as there. Young generation, they fight for justice. They was not interested in system that this belong to Russia or Turkey, they was humanitarian. They think about human. Human is dying, and they was mad that government doing nothing.
- Q. Were there any publications made at that time?
- A. Yes. Manifest -- Magnificent manifest because people who was in this group -- I was ones youngest there, there were solid people who live. There was foundation Russia of family which was there on this group
- Q. I couldn't understand that.

- A. Family which was head of this manifestation organization for biggest family in Russia.
- Q. You mean some of the students.
- A. Family, yes. Tolstoy.
- Q. Tolstoy? Was there a member of his family--
- A. Grandchildren was. You remember Usouppoff, all the world know, who killed Rasputin.
- Q. Usouppoff?
- A. Yes.
- Q. Who is Rasputin?
- A. He is dictator who, dictate Russian--I think he is from German organization or German, I don't know. He was some priest came from Siberia, and by his power, he take controls Queen of Russia and-son of Russian Czar was sick. He was some sickness, I don't know what medical called. They used medicine, but they no help. But arrive something with this Rasputin talk, maybe medicine start working, I don't know. And they start look on him like Saint, like Jesus. He came either for Czar's family and he -- about two three years, he did everything. He dictate who be Premier Prime Minister, dictate who be Saint, who be start when. And he organize orgies. He like good life. Even queen of Russia give him shirt special figures, specially for him, herself she did this. He has been very big spiritual dictator.
- Q. The group of students, then, at the University of 'Moscow--what year was that, by the way, when these demonstrations or protests were taking place at the University?
- A. Almost same time as the revolution. Mixed, this time, all mixed.
- Q. Were there any newspaper ads?
- A. Yes.
Newspaper articles, notes. We have student newspaper also but all time this time, you know, all this mixed, you know, students protest, protest against war, revolutions, and all. All this community all mixed in Moscow.
- Q. Now, in what year were you in your studies at the University of Moscow when these demonstrations or protests were taking place?
- A. Just '14, war start, '14, '15, -- between '14 and '15.
- Q. What year in school were you?
- A. What year? 1914-1915
- Q. But I mean --
- A. (Interposing) Which school?
- Q. No, freshman, sophomore, junior, senior?
- A. No, students -- I was student.
- Q. What student were you then?
- A. I was students, yes, engineer students, and we have a special uniform, because the University Moscow--
- THE INTERPRETER (Interpreting to witness).
- A. BY WITNESS: No, I middle.
- Q. BY Mr. LINDSEY: What?
- A. In middle -- is no first year, -- is not first year, no, that is not either last.

- Q. Now, Mr. Yanikian, as a result of the students' activities, what happened?
- A. For protest not only by paper, by writing, they went sacrifice their life for the cause, and the first group, which it was about sixty people, we went -- we dress -- take care Brotsky -- Brotsky factory -- sugar factory, sugar monopoly, is like here- Morgan, Brotsky in Russia like American Morgan, is the richest man.
- Q. Let me ask you now, was there a student from a family by the name of Brotsky?
- A. Yes, he is nephew.
- Q. All right. Now, did the Brotsky family make any provision for the group of students?
- A. Despite the fact that all students was rich, from rich family, maybe poor as I was -- but Brotsky keep, give order that nobody can buy, everything be paid by his Brotsky family, and is Brotsky family keep for over sixty people, arm, dress, everything, and special train, send to Caucas.
- Q. And is the Caucas area an area in Russian?
- A. Yes, Caucas is Russian
- Q. As a result of what the Brotsky family did then, were the students in that original group outfitted? With a uniform and a special train paid for?
- A. Yes.
- Q. To transport them to the Caucas area?
- A. Yes, and our uniform was special, simple soldier uniform only we have, you know, three color, red, blue, like that everybody can see this is volunteers.
- Q. Now, why did the train take -- well, were you a member of the group, by the way, you were part of this group?
- A. Oh, surely, yes. Two Armenians, one--another by name Gagig, -- two Armenian was.
- Q. Two Armenians?
- A. Two Armenians, one Jew.
- A. A Jewish person?
- A. Yes, one Jew. One Polish --one Polish. --it's international, any kind.
- Q. Now, why did the train take the volunteer group to the Caucas area?
- A. Because this time is almost war between Russian and Turk, and we have news from newspaper that Turks start massacres Armenian people behind line, in Turkey, and this group went specially for cross this, and go help these dying people, -- not help army, because, army they have tank, everything, but especially go and pass line, and help.
- Q. Then was the group, this volunteer group that you were part of, you were not going to help the Russian Army then?
- A. No. Was special -- we have special general, special Commander, they are Armenian all. I can't tell name-- Dro, Khiri, Hamasasp.
- Q. Who was the General in charge of the student group or the volunteer group?
- A. No General in charge. When we arrive Tiflis, they sent to us Igdir.
- Q. Let me take it slow, now. Did you go to Tiflis first then?
- A. That is a railroad, we are at Tiflis and Georgian, and from then they change, change train for go Alexandropol.

- Q. Mr. Yanikian, would it help if you had a map so that the jury could follow?
Do you have a map available here, please?
- A. Is too small, this map here, I can't see.
- Q. Was Tiflis at that time under Russian control?
- A. Oh, yes, Tiflis was belong to Russian, they call North Caucas -- North Caucas they call it, and they have governor was uncle Czar -- the Czar's uncle was governor.
- Q. Now, Mr. Yanikian, does Tiflis show on that map, please?
- A. Yes, here is Tiflis (indicating). Now, Tiflis was at that time. Tiflis is below to Caucas. Here below Caucas is, this side, Caucas -- they call it North Caucas.
- Q. Was that part of Russia at that time?
- A. Oh, yes, this all Russian. North Caucas and governor there in Czar's uncle.
- Q. All right. Now, the Head of the government at that time at Tiflis--
- A. Is governor -- is no government there, -- is Russian, all Russian -- everything was Russian there. Only here represent, you know, Russian government there -- he have palace and everything.
- Q. He had a palace there?
- A. Yes, had a small palace.
- Q. Was that part of Russia, or under Russian, what you call a ruling-type -- or a ruler-type of government?
- A. Yes, monarchist.
- Q. The Czar and members of his family?
- A. That's right. His family was Nicholai--
- Q. (Interposing) Czar Nicholai?
- A. No -- no Czar Nicholai--Nicholai II.
- Q. How long were you in Tiflis with the volunteer group?
- A. I was before Tiflis, because I receive my education in Tiflis.
- Q. You had gone to what we call high school?
- A. High school, I finish in Tiflis, because I know town, my family live in it.
- Q. Your family had been in Kars?
- A. Yes, but they don't know that I am going.
- Q. Now, let me take this slowly. How long were you in Tiflis with the volunteer group?
- A. Twelve hours.
- Q. Twelve hours?
- A. Yes.
- Q. Then what happened?
- A. Then from Tiflis we went, they sent us to Leninikan.
- Q. How long were you there?
- A. Couple of Hours, by train.
- Q. Mr. Yanikian, I can't quite hear you.
- A. Couple of hours, only for train, stop station, we can't--we don't go out, because the group have everything, even we have red Cross--we have student girl with us too, from -- we have students girl, woman, girl students with us too, and they was our 'Red Cross -- from then come Igdir.

- Q. The last town that you mentioned, to Igdir?
- A. Igdir.
- Q. Was Igdir at that time under Russian control?
- A. Oh, yes. It was Army center. Also is center for Armenians, some of them group -- Armenian which was this--others was from different parts, also. There was Hamasasp's group -- Armenian, General Hamasasp.
- Q. How do you spell that?
- A. I think he will spell it.
- THE INTERPRETER: H-a-m-a-s-a-s-p, D-r-o.
- A. (Continuing) Khiri, -- that is for uncle--they have called the name Khiri, and Armenian volunteers, most.
- Q. How, how long were you at Igdir?
- A. Oh, we stay about maybe ten days.
- Q. What did you do generally during those ten days there at Igdir?
- A. We prepare for function because our group, which group go and they figure who can do what, and they put engineers one group. We have medical students -- we have, you know, lawyers students, they know which group with which group.
- Q. Now, how many were in the volunteer group at this time at Igdir?
- A. Oh I cannot tell, -- but many.
- Q. Approximately how many?
- A. Thousands, I think.
- Q. Excuse me?
- A. More than thousand, I think.
- Q. Now, your group had been about-- about sixty students?
- A. Sixty, yes,
- Q. And you joined up with other volunteer forces at Igdir?
- A. Yes. Our group they fixing by Dro.
- Q. Excuse me?
- A. By General Dro, our group fixing on this position General Dro.
- Q. Now, who was General Dro?
- A. Is Armenian hero, who fight for freedom in Armenia. Like all others, all these names I told, Khiri, Hamasasp, Antranik, Dro, all these Armenian hero who fight for freedom their nation, when not yet I born, years, years before, when I am telling they are not young people, some thirty-five, Khiri, is almost fifty, fifty-five.
- Q. Now during that ten days in Igdir, then, the different assignments, were they determined as to where the different --
- A. Yes. For no have they can use us best, because for keep gun or so, go fight, is no reason. They find us, because -- well, I cannot tell. Anyway, students was more intelligent people. They want no have much better -- how better they can be used on this movement.
- Q. Were these all volunteers at Igdir that were under General Dro?
- A. All volunteers. Sometimes after they even have regular Russian -- couple hundred Russian soldier General Dro?

A. All volunteers. Sometimes, after they even have regular Russian -- couple hundred Russian soldiers or Cossack on this position because they work together, because they receive ammunition all from Russia.

Q. Now, after about ten days, when the assignments were determined, what's the next, thing that happened?

A. Well, from here, we went -- they told we are going direction Van.

Q. Direction what?

A. Van.

Q. What is Van? Is that a town.

A. Van is here, town, and Van close Golu.

Mr. MINASTAN: Lake.

THE WITNESS: Lake Van.

Mr. LINDSEY: Q: There is an area on the map.

A. Yes, here, Van.

Q. And Van is a city near Lake Van?

A. Yes. It is exactly on lake himself.

Q. Now, at that time was Van under Russian control?

A. No.

Q. Or under whose control?

A. No.

Q. No, either way?

A. No.

Some Armenian hero before us they start some kind of revolution, and governor this section was Amir Bey. This time Turk triumvirate -- three people -- they give Abdul Hamid and by name Young Turk, they take control all government, in this triumvirate Talaat--

THE INTERPRETER: J-e-m-a-l, Talaat, T-a-l-a-a-t.

Mr. LINDSEY:

Q: Mr. Yanikian, let me take you back over this now. At this time, was the ruling power of Turkey under three men?

A. Yes.

Q. You called that a triumvirate?

A. Young Turk.

They called themselves Young Turk.

Q. A group of three young Turks?

A. They death Sultan Hamid.

Q. Let me take it slow. At this time, Turkey was controlled by what was called the three Young Turks?

A. Yes.

Q. And the names of each of those Turks at that time controlling the Turkish government was who?

A. Yes. There was dictator power.

Q. Who were the three Turks?

A. May I have my book? Name Talaat, Jemal

THE INTERPRETER: J-e-m-a-l.

THE WITNESS: Talaat Bey.

Mr. LINDSEY:

Q: Mr. Yanikian, take it just one at a time so the Reporter gets the correct spelling.

Who was the first one?

A. Talaat Bey.

Q. Who do you spell the name Talaat?

THE INTERPRETER: Talaat, T-a-l-a-a-t. Bey, B-e-y.

Mr. LINDSEY:

Q. Talaat Bey was one of the three men controlling. Who was the second one?

A. Second Enver Pasha.

THE INTERPRETER: Enver, E--n-v-e--r Pasha, P-a-s-h-a.

THE WITNESS: Third, Jemal Pasha.

THE INTERPRETER: Jemal J-e-m-a-I Pasha P-a-s-h-a.

THE WITNESS: They called -- that was already 1909, end of 1909. They take power, this young Turk, because this young generation-- I will go little back for explain who was these people, be more clear where they came.

When Ottoman Empire organized already they start sending their children -- young generation to Europe -- France, Germany, England, and some in America. Like now doing from Near East, send different country. These people not receive education. Also, they take this time different kind ideology which existed. Teftonian ideology. Teftonian is German. Tefton. Existed communistic tendency and also capitalistic tendency, and these young people not receive their education in Military school for came generals or doctors or lawyers, but also have connection friendship with young, people in this country. French, Germany, Italy, England, and some even America. When they came back, they came back not only what they have in their brain by education, -- doctor or engineers -- but they have something in their heart. Already they can see that England sit down there and dictate all the world, they see France sit down -- small France all half Africa, small Belgium dictate all Belgium Congo, Germany Teftonian desire-- and Teftonian desire was create Teftonian in part from Europe until Persian Gulf. Surely they came and they saw their country, they don't like it because this was primitive country, primitive people, they did not like. In their system, they organize this group.

Young Turk, Young Turk organization. Organization in young Turk they call them. Like elected -- these three people elected triumvirate -- these three people -- who dictate. These people take possession Minister Interior, Minister Guerre, War Minister -- all other Minister, Shah -- they throw away Sultan Hamid and put in new Shah. No Shah, I am sorry, new Sultan. He was like nothing, like empty.

Mr. MINIER: Pardon me, Mr. Lindsey. I think the time has come when I am going to have to make a motion to strike the answer on the grounds that it is nonresponsive to the question; upon the second grounds that it is not relevant. With regard to this entire inquiry, I fail to see any relevance. It is a very interesting historical lecture, but unless Mr. Lindsey can make a representation to the Court that Mr. Yanikian is giving the reasons why he

killed two people in the Biltmore Hotel in January, it is totally irrelevant to the trial, and upon those grounds I would move to strike the last answer as being not relevant, and also as being nonresponsive to the question, which I can't even remember.

Mr. LINDSEY: Your Honor at the time of the three days in the apartment here in Santa Barbara in April of last year, Mr. Yanikian had many things that passed through his mind, one of which was what he experienced in the massacres that he is about to relate this morning, and the reason for those massacres and his participation was because the Turkish government officially had ordered the slaughter of the Armenian people, and it is that official ordering, under this triumvirate, that he is now describing that's one of the matters that caused him to be concerned about two official government representatives here in Santa Barbara.

So what he is now doing is relating these matters that were on his mind and formed the basis in a very substantial part for the events here in Santa Barbara.

Now, I realize this goes back in history and time, but there is no way to escape it because he had no personal connection with these two men, and the incidents in Santa Barbara are born in part out of what this man saw and experienced in those massacres he is about to relate.

THE COURT: It is very difficult for me to draw a line in this field, and having in mind the defendant's language handicap also, I think I will permit it. I would ask you, Mr. Lindsey, to the extent possible to get to the massacres as soon as you can. I realize that it is difficult for the defendant to start without any point of beginning, I suppose. I am going to permit it.

Mr. LINDSEY: Thank you, your Honor.

Q. Now, Mr. Yanikian, at the time, then, that you were down there in Igdirdir in that ten day period --

A. Just a minute. May I have two minutes. I explain what the foundation massacre exact I am coining for show what purpose these three people have.

Q. Let me ask you this: at the time that you were in Igdirdir during those ten days, was the Turkish government under the control of these three men?

A. Yes.

Q. Did they, to your belief, have a power -- a control in Turkey and the Turkish government at that time?

A. I give you only one example for show their power. Twelve people was arrested in Istanbul, Turk between one is twelve was son-in-law of Sultan himself, Sultan son- in-law, and this accordance their law Sultan will sign death penalty because they condemn to death -- this triumvirate condemn twelve people be killed, but they bring to Sultan for signed order. He look and he came knees, Sultan, before these three men, ask, "I sign, take out my son-in-law." They was mad, they went back, they kill, include Sultan's son-in-law, after bring him now already down, "You sign," and he signed. Now, you can imagine what power they have.

Q. Now, after the ten days at Igdirdir, where did you next go?

- A. Next after Igdir we start working direction to Van, because this time in Van was already they are fighting some Armenian by name Aram Minasian -- something. For protect city, he organize group, and this governor this town left town, escaped, and governor is nephew, and take position himself. They control this Armenian town, and group Armenian they know this and they go direction to help. But between them and Igdir, is all Turkish army here, and we start crossing there for go help them.
- Q. Now, on the first day that you left Igdir to go in the direction of Van, when is the first time that you observed any killings that had taken place of Armenian people?
- A. We saw lots of body by the river here -- river (indicating). There is a river go directly to one lake and float in body, head, arm, legs, arm, -- parts of body. First we know this is Armenian, would start taking out would put in the ground, bury, but after we saw is impossible, and also we receive order that you have special order you cannot come here for bury body. Already they dead. They dead already.
- Q. Now, how big was that river at that point where you saw that?
- A. How deep?
- Q. How wide?
- A. Oh, no, this small -- maybe like this room, no large.
- Q. About as wide as this courtroom?
- A. Yes. On general there is small river -- or small mountain -- small mountainous town, mountainous section, there is small rivers go, you know, one here, then others, and went on the side of mountains, This man they kill, they cut hand, and threw in the waters and water is taking Lake van.
- Q. Now, on the first day you were at this river, do you have any estimate of how many bodies, or portions of bodies that you saw floating down the river?
- A. We no count -- I no count, but only I can tell that all day, I think is all day, because of water, we do not have water so we drink river water from same water, and when was -- we forced to find time, was about 3:00 o'clock, 4:00 o'clock night, when less body, then we can put, later on our reservoir.
- Q. Would you have any estimate of how many bodies that you saw?
- A. Hundred -- maybe hundred-- we no count, but too much -- too many.
- Q. Were these bodies and different parts of bodies?
- A. Oh, yes -- Hand, leg, you know -- legs. Sometimes you know, body without head, sometimes head without body -- some woman, children, girl-- sometimes we find, you know, body, and children is all drown but floating -- we cannot help-- I told we try, but we saw it is impossible, but we have special group -- my group which is about nine people, we have specially ordered, because I was in engineering part, too they think I know more about engineering than other people, we will go on the front for find how we can transport, you know, transport our military arm -- by what road.
- Q. Now, were you on this river just that one day, or more than one day?
- A. No, we pass one river here (indicating on map)-- we can see we pass one river, after we came second river, is cross, you know, like here after ten miles, other river small, and then we pass all this river (indicating).

- Q. A second river?
- A. Second, also, we pass three -- one, two, three.
- Q. Mr. Yanikian, the second river--
- A. (Interposing) Same.
- Q. How long after you left Igdir did you come to the second river?
- A. Third day -- third day.
- Q. Anything about the second river?
- A. Three days -- is take me three days, because we cannot move daytime, we have special, you know, orders, move in the nighttime, and we no have, you know, with us, arms, we have only small Browning -- everybody have Browning and couple of piece of dynamite, and we have special books, you know, Military books with paper, and we fix them up, you know.
- Q. Now, in the second river when you got to it, did you see anything in that river?
- A. Yes.
- Q. What?
- A. Same bodies, head, legs, arms, we no count.
- Q. How many would you estimate?
- A. It depend how long I would stay there. If I stay five minutes maybe I can count ten, fifteen if I spend two hours, maybe I count hundred.
- Q. Were these bodies floating down the river?
- A. Yes, floating in this direction, from mountain down direction.
- Q. These were bodies of what people?
- A. You can see Armenian people, we know that they are Armenian, because, you know, Turk have special fix on their physical body when child born. They fix something on their body and these people Armenian.
- Q. I see.
- A. How you tell?
- THE INTERPRETER: Circumsize.
- THE WITNESS: Circumsize.
- Q. BY Mr. LINDSEY: Now, in the three days between the time that you were at the first river and the time that you arrived at the second river, did you observe or see anything when you were going over the land between the two rivers?
- A. Not I told you then we try that nobody see us.
- Q. Nighttime?
- A. Yes, because is our proposal is not shooting, our proposal is bring back some information that they can move, you know, we have small cannon, you know, that can move cannon, for this we try, you know, move, we no be recognized.
- Q. Now, did you engage in any fighting between the time that you left Igdir and the time of that second river?
- A. No, after second river I came hero.
- Q. Now, you had left Igdir and you arrived at the second river within a week?
- A. Yes, about -- maybe week, eight days, maybe.
- Q. Now, how long were you down in that area all together?
- A. All together I was six months. This special direction was about ten days.

- Q. Now, how long were you at the second river?
- A. Second river we receive -- after two or three days later, two or three days later, we came second river and they have small village, they call it Murad -- Murad village, and we found no bodies there in Murad.
- Q. How big was the village?
- A. Ten, twelve houses.
- Q. Pardon?
- A. Ten, twelve houses.
- Q. What happened to the people?
- A. We don't know -- nobody there, and we stayed there ten days.
- Q. At this village?
- A. Yes.
- Q. What were you doing there during the ten days?
- A. We were preparing, you know, what we saw, fixing, you know, talking each other, preparing.
- Q. Did you see any evidence during those ten days that you were there at that village?
- A. Oh, some houses blow up, some of them burn, destroyed -- destroyed village.
- Q. Now, after you were there at that village for the days that you have mentioned, where did you go next?
- A. We go now direction to Van.
- Q. All right. Did you come to any other village on your way then once you left the village that you mentioned?
- A. No, we came Kars River, on their Kars River we meet already some people, soldiers, -- some soldiers, not only Armenian, and some Russian soldiers, too, and we stayed there with them, we tell them what, who we are, and we stay them and what we prepared to sending back to our Commander, and we stayed there with them.
- Q. How long were you with them?
- A. Oh, two months, two and half months.
- Q. Now, during that two or two and half months did you travel around the countryside there at all?
- A. No, we don't travel.
- Q. You didn't?
- A. They fighting.
- Q. Did you stay right in the camp?
- A. They are fighting. What travel? We cannot travel, they are fighting.
- Q. Was there fighting?
- A. They have fight, not -- they fight in here, fight in there, fight all place -- every place, behind any stone, somebody wait for kill each other.
- Q. Who was doing the fighting?
- A. Turk, soldier, and Turks, civilians, they are fighting Russian soldier, Armenian volunteers.
- Q. Now, during that two and a half months then did you simply remain there at that place with the Russian soldiers?
- A. Yes.

- Q. Then where did you go?
- A. Then I think that I can help them.
- Q. I can't hear you, Mr. Yanikian.
- A. I can help them for prepare something map, they have big mountains, I can give them on details, how they can cross these mountains, but there is guns -- there is guns, and went with another. We went there for prepare map in the night.
- A. Did you and another volunteer then go on what you call a mission?
- A. That's right, yes.
- Q. To indicate a way?
- A. Yes.
- Q. Were these big guns that they had? You mentioned guns?
- A. Yes, is gun, which for any gun you will have some road to go on the mountains, they have stone -- no road. What we are doing we are looking where is possible they to pass, -- no built railroad, no. No pass road. There was some stone, its mean for him to pass, -- that is our reasons, we fix some place, -- couple of stone here, and that we know where we was, and put on our map, you know, and explanation, so--
- Q. How many days were you and the other man on this task to find a way for the guns to go? How many days?
- A. Three, four days.
- Q. Did you see anything during those three or four days?
- A. No, this time I no see.
- Q. And then what happened next?
- A. Almost we finish our job, our work, and we take topography -- they call topographic situation, these mountains,-- and big gorge, deep gorge, yes, and when we finish, we will go down -- is already night, dark, you know, and I saw something there, you know, and I have dynamite -- I finish, anyway, I can go down quick, nobody can see me, and I put one dynamite.
- Q. Go ahead.
- A. I put some dynamite, and is blow -- I don't know after what, I open my eyes, I was in the hospital Tiflis. Find out after that I am hero. I blow big -- the biggest ammunition station -- ammunition on this -- I don't know what I am doing.
- Q. Now, when you were down in that area did you become aware of any other massacre activities going on?
- A. Oh, before we start?
- Q. Yes.
- A. Before we go, we saw from Igdir, there we saw oh, before we -- yes, it was in the Kars.
- Q. In the Kars?
- A. Kars, yes.
- Q. Now, when was that at Kars that you saw massacres?
- A. In the Kars was Russian town, but the time was, you know, they take town, hand-by-hand, today Russian, after three days Turk, you know, they fighting. And my father's business was -- office was in Tiflis, but in the Kars he had

big business, oil business, banker, houses, -- and then they escape from Kars to Tiflis. Our brother-in-law -- my brother- in-law stay with his son in the Kars, because he work for my father.

Q. All right. Your brother-in-law and his son remained at Kars?

A. Yes -- Kars. And they stayed there after I was in Tiflis already.

Q. Would you like to resume the stand, please. It may be a little more comfortable.

Now, how did you happen on this occasion to be going to Kars?

A. Because already Russian take back Kars and my father won't know what is going there, because all -- one, his office there, our property, business, everything was there.

Q. Was your father at this point in Tiflis?

A. In Tiflis, and find out that because I speak very well Russian, you know, and he think I will go, and I went there, that I went in to Kars for see what going there without property, so and I was almost by Russian Army-- I went into Kars with.

Q. Did you go into Kars almost right behind the Russian Army?

A. No almost behind, -- with them, was already, you know, I speak Russian -- I have my uniform, so and I went there with them.

Q. Now, when you mentioned Kars at that time--what year was this, by the way?

A. After '15.

Q. Excuse me?

A. After '15.

Q. And what did you see in Kars?

A. Exactly time, most I cannot tell, but is not winter because I was without coat-- it mean it is not winter, another reason was not winter because ground not yet frozen. When we went Kars, first I went our office, is burn. Our house burn. After already the Russian organize chief, town, and they told lots of--

Q. Pardon me, they did what?

A. Russian already organized, commandant, they call it -- commandant, attache.

THE INTERPRETER: Commander for the town.

(Continuing) And I went, he told me that, you know, lots of body Armenian Church.

Q. Who told you that?

A. Is commandant.

Q. There was a military Commander?

A. Yes, is Captain—already Military, everything is military.

Q. Was there a Military Commander in charge of the town area then?

A. When they came Kars, already, you know, before they fix who be Commander so and so, he take position, it was Army front, and he told me when I talk, that I want find some people who live here, they have lots of people, he told, in the church. There are Armenian church there.

Q. Was there an Armenian church in Kars?

A. Yes, Armenian church, and they have Kars River next to -- next to Kars River, they have old Armenian church,--very, very old.

Q. Did you go to that church?

- A. Yes.
- Q. What did you see?
- A. Thousands body.
- Q. Where?
- A. In the ground,
- Q. Men?
- A. Men, children, woman.
- Q. Would you describe what you saw there in that yard?
- A. Describe? -- if you ask, I describe what I won't see, it is easier. But to describe what I saw, -- you can see body, no head, -- you can see body with open stomachs, you can see woman, you know, all inside out. You can see children like cut in half, like watermelon -- like I found my brother-in-law's son, Kachik, -- 12 years old.
- Q. Did you find the son of your brother-in-law in the courtyard?
- A. Yes. I find by--
- Q. Excuse me?
- A. I find because he had big mole on his face, only by this I found that he is ours, his head was open like water-melon, you know, like cut -- it is mean cut by something, hatchet or something like this.
- Q. Did you find your brother-in-law?
- A. Yes, I find his head.
- Q. In the courtyard?
- A. Yes.

THE COURT: We will take the morning recess at this time.

Ladies and gentlemen of the jury, it is your duty not to converse among yourselves or with anyone else on any subject connected with the trial, or to form or express any opinion thereon until the cause is finally submitted to you.

(Whereupon a short recess.)

THE COURT: The members of the jury and the alternate jurors are present, gentlemen.

Mr. LINDSEY: Thank you, Your Honor.

- Q. Mr. Yanikian, we were asking about what you observed in that churchyard in Kars, and you were mentioning about your brother-in-law?
- A. Yes.
- Q. I believe you indicated that your brother-in-law had been beheaded?
- A. Yes. I want his head, but I cannot find body.
- Q. Did you go among the bodies there?
- A. Yes.
- Q. How many bodies, approximately were there in that churchyard at that time?
- A. About thousands.
- Q. And then--
- A. After officer was there, military, they said, "What difference, everybody dead, take some body." because I told I want take him and his son, but have I found his head because he have big mustache and they call him big man, mustache man, all dead like this I found. He told, "What difference for you

anyway, take some body." Because we live long in Kars, we have in the cemetery our place for bury.

Q. The family burial?

A. Family, yes. My grandmother was there, you know, some family. I told, "I want take." And I ask, "Can you help me, give some military, some trucks, something?" He said "Surely, yes." They are very friendly, and after he told, "You know, why --" he told me, "You know, let's take all these bodies and bury them." And I told, "I will pay it." They accept. They give about twenty soldiers, twenty Russian soldiers.

Q. Twenty Russian soldiers?

A. Yes. And four trucks.

Q. Four trucks?

A. Military trucks.

And they start putting this body. First they put in like this, separate, that I can find my brother-in-law and his son's body, because I told, "I want bury them in our family.

They put in some paper between bodies. Anyway, we went there, and I found that place where my grandmother was buried, and digging, and I put these two bodies myself there, by help some soldiers.

Q. Did you, with the help of the soldiers--

A. Not too much, because you know, when I came here, you know, my back was broken a little. I have my cane, I help, you know, by directing. Not physical help, but directing, do this, put this, you know. And other soldiers they came start fixing big hole, and time when I bury these two bodies there, these two -- the four trucks came with bodies start putting on this hole.

Q. Was this a large burial hole?

A. Yes. Twenty feet by forty feet. Twenty meter by forty meter.

Q. Twenty meters by forty meters?

A. That is right. When they put in this for they told me that more body lay there.

Q. Now, where did they put the bodies that they brought?

A. Put little dirt, not too much, you know, couple maybe one, two feet, but it is dirt. Because the soldiers was also they are busy and they accept, you know, help me by other officer, because I promise I pay them. They told, "There is little more body there." I ask permission their officer, some Parouchik, he was also student, but in military. He told, "Let them go and bring," and I wait. They went back into town.

Q. Who went back?

A. These trucks. And they came back with three trucks.

Q. Three trucks came back?

A. Yes.

Q. Were you waiting at the cemetery?

A. That is right. And the second haul for them bury, they fix some cross, and when they start, you know, taking body, their trucks not like American trucks that turn, you know, over to go down, they take, and you know, body body. You can see woman's head, see woman's leg, you can see some women cut this way, any kind, you know, some without nose, without -- it just means

terrible. Sometimes when I am emotion, you know, tears came when you are happy, tears came when you have pain, but when tears came when you can remember this savagery I saw in my life, these tears from there, not from happiness. I cannot control that I remember this, see all this. It is turn everything. Even now after fifty, sixty years, it is impossible forget. After this, they bury.

Q. Did you pay the soldiers to help with the burial?

A. I pay more. I went our factory, we have their factory, oil, all is burn, you know. It is mean I cannot find anything that I can take report to my family, only that I found two body, that's all. Everything is fixed, burned, destroyed. Not only our houses, our property, all town. There is section -- Armenian section which is not far from church, you know, section. All section was black, burned, in Kars.

Q. Were there some Armenian people still at Kars?

A. No. Before they went Armenian, they kill everybody. No Armenian, only people Armenian which came with soldiers -- Russian soldiers advance, then Armenian came.

No Armenian, and no Turk, everybody gone, it is empty, dead town. Dead town.

Q. What did you next do then in Kars?

A. I'm sorry?

Q. What is the next thing that you did?

A. Next, I went back to Igdar.

Q. Can you indicate that -- first of all, Kars is where on the map?

A. There is Kars (pointing on schematic.) Here is Kars. I went to Igdar. Why I went to Igdar because I told you that I am came with this student group, but I want find out what I can do for this. I went Igdar. They told me that Center Military stop is transferred tiis other town here, not far from Igdar -- transferred to Dogu Bavard.

Q. Yr. Yanikian, I can't hear you.

A. Dogu Bavard.

Q. What is that?

A. Dogu Bavard.

Q. What is that?

A. It is small village which transferred central military operation stop. From Igdar transferred here.

Q. Now, did you stop at that military stop?

A. Yes. This military stop.

Q. What did you do there?

A. I went there for see, you know, what I will do next and find out what is our group, where is this group, what they do, where they are. They told me they are in Van and won Armenian revolution. Inside, they take in. Why? Because already they know that in Erzurum all Armenian was killed. Erzurum what I born.

(Continuing) Yes, here, Erzurum, all Armenian killed, learn that all these people that Kuzan, Kara Van, all the section around this Van.

- Q. I can't hear that.
- A. Kushkan,--Tarvan, and other around all village, about sixty-two, 63,000 population, villages, sixty-seven villages all is burned and killed, for these in Van start revolution and take the city for protection themselves until they wait -- until came help, Russian Army -- is Armenian volunteers to help them. It's about sixty, 63,000. On my way, I went to Igdir.
- Q. You went to Igdir?
- A. Igdir.
- Q. Now, from Igdir?
- A. I went to two other place, where is transfer Staff--Army Military Staff.
- Q. Is that also a Village you Mentioned
- A. Yes.
- Q. How long were you there?
- A. Half day.
- Q. And then where did you go?
- A. Then went Van,
- Q. To Van?
- How long did it take you to get to Van?
- A. When I was -- I have horse already, in Van I take him, you know, one day, I was not alone -- one, one and a half day.
- Q. Were you riding a horse?
- A. Yes,
- Q. For transportation?
- A. That's right.
- Q. Between Igdir and Van did you see any evidence of the massacres?
- A. Oh, yes.
- Q. Will you describe them?
- A. Well, you can see bodies -- this body, other body -- left, right, all cover body, you cannot see, five-- you are not counting. It is something, you know, -- something normal when you travel you can see all the way body, when you pass some villages, near to villages you can see, if you know villages, each villages they have fountain, next to fountain, you know, water is red -- fountain water is red, blood, and bodies around. Nobody take care because people come, you know, if they try protect themselves, you know -- go quick as possible to Van for have protection, come together couple of thousand people for protect themselves, because they know that Turkish Army and people coming back for kill. Already one, two, three, four town, already disappear, like Erzincan, Erzurum, -- Erzenga.
- Q. Was that an Armenian town?
- A. Oh, yes. This is Erzerum (indicating on map) this is Erzenga -- Erzerum here -- yes, Erzenga -- Erzerum.
- Q. I can't hear you.
- A. Erzerum, Erzenga -- this line is something different here, it is nothing do -- and then all this is Turkey -- this is Armenia, but is different line here (indicating on map).
- Q. Mr. Yanikian, I can't hear you.

- A. This line, which you can see, it is not frontiership separation, something is put in for some other reason -- this all this Armenia (indicating on map) here you can see Armenia, all that. All is under rule of Ottoman Empire. All this triumvirate, they make decision clean these town -- not only town, clean all this country, because they stay away for pontourism--idea which came after, for this reason clean this town, this section -- these Armenia.
- Q. Now, that second town that you mentioned Erzerum, is that where you were born?
- A. Yes.
- Q. And that other town that you mentioned?
- A. Erzenga.
- Q. What happened to the Armenians?
- A. They gone -- killing them all. They killing all people and young boys and girls, they taken and what they do these young boys, three, four, they do some operation, they change Christian to Musulman -- Mohammedan -- circumcise, boy, four, five years, and take even, they baptize them from Christian to Moslem, mid also girls, they take even, was Armenian girls, -- is not because is my nation, they are very strong, good looking, if you take with Turk, and they take them girls for they grow 15, 16, like serve like wife, object for their pleasure.
- Q. Now, you reached Van then?
- A. Yes.
- Q. Did you see anything at Van?
- A. No. Anything -- oh, yes, I see already that Van is Armenian group, you know, they organized the burial, all dead, all the funerals, day and night, you know, by ministers, different kind -- missionary, you know, you can see there, -- and nobody in the street, but they prepare themselves, building you know, building bunkers -- bunkers, you know, put in strong dirt there, rock there, organize defense line, because they know that Turk is back, soon or later they be back, Army, because had governor in Van, already I told, he was nephew of Pasha, somebody's nephew, and he is escape, and he promise, "I be back," and they say that he will be back with guns.
- Q. All right. The people of Van expected to have the Turks return then?
- A. Oh, yes, surely, and they came back, after-- after I left, they taken back, and they have big battle there.
- Q. Now, how long were you at Van?
- A. Van I stay three days.
- Q. And then after three days where did you go?
- A. I went back to Tiflis, because they told that they cannot use me more.
- Q. Did you have occasion to cross any more rivers around that area?
- A. Yes. When I came back, I came back different direction, from Van, you know, I went different direction I no go to Igdir, I go to Macu, because I was Persian subject, for this I go to Macu, and between these Van and Macu, all of the river which I pass.
- Q. All right. You may step down. Now, what did you see?

- A. Between Van and Macu, -- Macu is in the Persia, and I don't worry about this, because I was Persian, you know, and between Van and frontier, Persia, I pass couple of rivers, but same -- I pass couple of villages,--one village I saw that, nailing people -- nailed on the cross -- nailed their shoes on their legs, I saw human with shoes nailed on their legs -- surely they dead, dead body, but you can see that they lay down, and is horseshoes on his leg. Surely I cannot stop, you know, and bury all these people -- only, I look, you know, and turn, and I saw people, you know, someone on the cross burn, and you can see black -- half-burned body. And all the way until I arrive Persia frontier, then I arrive Persian frontier, Macu,, then I give away my horse -- horse belong to me, I bought, then I take, you know, position and go back to Tiflis.
- Q. How long were you in Tiflis?
- A. I stay maybe one year, something, six months, before -- eight months, something like this, for after this I went to Moscow for finish, -- receive my diploma, because they told that they cannot use me more. And after start approach revolution came to Caucis, I try go out quick as possible from Caucis, because I think that if they found me in Tiflis they will do something with me, too, this time, of course, no Turk.
- Q. Did you ever have occasion to see any large quantities of bodies in any river?
- A. Oh, yes.
- Q. Where? in which river?
- A. Not in Armenia.
- Q. Where?
- A. You know, when I work in Teheran, I have my car and permission to go out from, and a couple of times I came out from Teheran, came down and this section (indicating on map) close to -- close where is Baghdad, Mosul, because somebody told to my mother that they saw -- they know that her sister and son was in Erzerum, not killing, by taking -- and who told, I don't know, only rumor pass, and for satisfy my mother, I promise that I will go, quick as more as possible to Turkish frontier, maybe because of this time, all these Armenian people they sending this direction to desert (indicating on map) and from Baghdad, I went to, before I went to Beirut, I pass all this here (indicating on map) and in one village I make a good friend, one Kurd, old man, make friend Kurd -- is Baghdad here, and -- here from Baghdad, I travel like this (indicating).
- Q. Mr. Yanikian, I can't hear you.
- A. Here is Bagdad, here is entrance Behrut. I travel like this.
- Q. Can you turn this way?
- A. I travel this direction, because this is desert which most Armenian was sent there.
- Q. Who sent them there?
- A. Turk. And I want find out maybe somebody we know, Armenian living, more help, something.
- But what I find, as I am talking about '31--1931, I saw souvenirs, stores where they sell these skins for memory, different kind bone, so and so. When

I meet this my kurd, old man, he was oldest than I, we became friend, he was also losing something from Ottoman Empires.

When I saw in the store, they sell in this bone, you know, why I have money already, I have lots of money I told, I want buy all these bones. "Why, how you can do?"

"I don't want they sell because maybe somebody-- they are Armenian, maybe somebody is my second brother, I don't want somebody buy." On general tourists not only from Europe, from all around Europe. American tourists, when they go Beirut, travel by bus to Bagdad, on way they stop this souvenir house for buy something souvenir bring home, and want that souvenir. By the way, in Beverly Hills, some my friends have someone's skin. He told, "You cannot buy, you have no have enough money for this." "Don't worry, I have." he called his son, and told they talked Turkish, I can understand Turkey -- Turks. I cannot understand Kurd, he told, "You know, why tomorrow we will take you someplace." Is for me not different stay, because I was traveling for pleasure. They go see, and go to bagdad, to Behrut, so and so. Next day, they bring in, dressing me like Kurd, and by horse we went Mosul -- next to Mosul, he live not far from Mosul.

Q. Mr. Yanikian, we can't hear you.

A. He live not far from Mosul. Anyway, I ride, his son and me by horse, we drive, I don't know, I know only by direction south.

Q. Mr. Yanikian, I can't hear you unless you turn toward me.

A. We horse -- three people we ride direction south about five miles, six miles. After we stop, and two mountains, one side mountains, other side, and he stop and look at me,

"Well, you are buying this?"

"I no buy mountains," I told, "I want buy skin." He told is something in Turk -- after I know what he told son -- came out and start digging by shovel between these mountains. When he dig one, two feet, start came out bone. He start digging, come skull, one, two, three, four. Do you know all this is -- this is reservoir front which all those souvenir magazine come and take for sell all these body. All these body, came from Armenia. After when I start to make my mind sacrifice all my time for this question massacre, for stop massacre, not only Armenian people, all massacre around the world, and I start reading literature. Then I understand what is going there. There are about five hundred thousand body all Armenian from around the world.

Q. In that area?

A. Yes. And if you give me map number two in my package, this now I can tell why because I told through 1950, I sacrifice my life for this question, and I have more than 300 books, read all, not only Armenian, Russian, French, English, even when I don't know English, I special pay for translate for me book American Ambassador who was in Turkey. I was in Teheran. I pay the translate me in Russian when I read Russian I don't believe, I think they make a mistake, then I give translation for Armenian, then I see what is same, after I came America, I read English is same. For this map, if you permit --

Q. Did you make a reference in that book The Triumph of Judas Iscariot, the time when you were on that desert?

A. Book is there. You have my book.

Q. When you referred to the desert time--

A. Yes.

Q. --was it this time when you discovered the remains of what you believed to be the Armenian people there?

A. Yes. After this when I saw this, I went in the desert and then this one, -- my book, I think I have couple lines, if you have book, you can read. In this book is published 1950, 23 years ago in the United States.

Q. I have a copy of the book, "The Triumph of Judas Iscariot." I would like to ask you to take a look at just the last three paragraphs of the book and the references to the desert, and ask you if that has any relation to what you are now testifying to?

A. Yes. This is knowledge. After all this when I saw I was in the desert, after desert I wrote this book which published in French, after English. Please, you can read because my reading may be not understand very well.

Mr. LINDSEY: I would like to read, with the permission of the Court two of those paragraphs on the last page, your Honor.

Mr. MINIER: If the Court please, I would object. The book is not in evidence. I leave no objection to the entire book going in. I think if we are going to have part of it, we should have the whole book, but obviously Mr. Lindsey cannot read the book unless it is in evidence. So I would stipulate the entire book go into evidence, both counsel can read any portion of it.

Mr. LINDSEY: That is agreeable, your Honor.

THE COURT: All right. The book is received.

THE CLERK: Defendant's Exhibit S.

(Whereupon the book titled The Triumph of Judas Iscariot was thereupon received as Defendant's Exhibit S in evidence.)

THE WITNESS: Your Honor, may I can put this on there?

THE COURT: You better take that up with your lawyer.

Mr. LINDSEY: Q: Mr. Yanikian, I am referring now to Defendant's Exhibit S which is your book The Triumph of Judas Iscariot.

A. Yes. It is -- before it is published in Paris France, after in the United States.

Q. And this is the book for which you were nominated to a permanent fellowship in the International Institute of Arts and Letters?

A. No. For this I receive International Mark Twain Honorary Diploma. I give to you. I think you have.

Q. Now, this book--

A. This is different.

Q. This book was published by you the first time in 1950 when it was copyrighted?

A. That is right.

Q. Mr. Yanikian, referring to the last page of the book, the first paragraph and the last paragraph are as follow:

"In explaining how he came to write,
'The Triumph of Judas Iscariot' Yanikian says:
'In the desert I sought and found the answer which I understood --that for all of us there is but one father, one ruler -- God. If I can contribute, however slight, to making people accept this truth, my life and my struggles will not have been in vain. This, then, is my mission."

And the last paragraph,

"Yanikian has lost 26 members of his family at the hands of communists and Turks, and is now devoting all his time and energy towards bringing about a challenge in conditions which make massacres possible. "

THE WITNESS: Yes. From now, then, all my work, my direction to direction, human civilization, men, justice, all my writings.

THE COURT: We will take the noon recess, ladies and gentlemen.

It is your duty not to converse among yourselves nor with anyone else on any subject connected with the trial, or to form or express any opinion thereon until the cause is finally submitted to you. 1:30 p.m., please.

(At twelve noon a recess was taken until 1:30 of the same day.)

**22. SANTA BARBARA, CALIFORNIA, TUESDAY, JUNE 19, 1973; 1:30 P.M.
AFTERNOON SESSION**

THE COURT: The members of the jury, alternate jurors
and the defendant are all present, gentlemen

Mr. LINDSEY: May Mr. Yanikian resume the stand, your Honor?

THE COURT: Yes.

GOURGEN MKRTICH YANIKIAN (Resuming)

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

DIRECT EXAMINATION (Continuing)

BY Mr. LINDSEY:

Q. Mr. Yanikian, I believe just before the noon hour you were mentioning about experiences that you had on the desert?

A. Yes.

Q. Would you please continue?

A. As I told -- as I told, many times, I driving in my car out from Muran to go to Beirut, you know, this way (indicating on map) and on the way Baghdad, Mosul, and at same time stop, see some of my friends -- I have some friends Kurd, -- I stop many times his house, and I live couple of days, you, know -- and he told me lots of story--I don't believe it, one evening we sit down in his home, he told again, again, and his son also there, and he was mad -- he is Christian, he told his son something, bring Bible and put, you see Bible -- I say 'Yes.' He put his hands on the Bible, he say 'I pray on the Bible. What I tell you I saw myself.' And he start telling what he saw. He saw that these desert not far from his ranch -- it is about twelve miles -- was place for grave, thousand and thousand and thousand of people, who bring from Armenia. And some of them half dead, if not dead, they kill. Some were -- because we was sometimes forced collect ourselves, he say, the body, because they pass

in our sense, smell, night came animals, jackals very terrible story. And he told we was there in between those two -- between two hills, and he take me some other place, also hill, where he show me that here is about ten thousand Armenian was body, and these two places was, like, stock for souvenir sellers for body, for head, and they told prices, if we haul, they sell half pound, half pound, \$2.50, if good skin, sell one pound, if it is young, with three, you can see a baby skin, and he told this on general is two section not far from his ranch, which is ten, fifteen miles around -- is about forty, fifty thousand body was there -- dead. And he continue that -- then I ask, what, they bring body here? No, they die. They left and people force, you know, local people put together there, because they no want to stay near their village, -- Kurd villages, you know, and this march -- dead march, they continue marching, down, down, -- and he told me where is general place, after years, you know -- I went there, too.

Q. Mr. Yanikian, did you learn around that time as to why so many Armenian people were in that desert area? Why?

A. Yes.

Q. Why?

A. Because Turk kill people in different town from the north, and take these people to desert, they die there, or for sell -- they selling, also, and he told some friend, name even, even he told, if you want tomorrow we go see -- they have bought some girl, she is now his wife, and already she have two children, Musselman -- they move there from their villages, from the town because accordance order this triumvirate, they told that we want the town without Armenian.

Q. I can't understand what you are saying.

A. "We want Anatolia," -- Anatolia -- this section Turkey, Anatolia.

Q. How do you spell that?

THE INTERPRETER: A-n-a-t-o-l-i-a.

A. BY THE WITNESS: Anatolia is where is Ankara--where is Ankara.

Q. What did the triumvirate, or the three young Turks ruling Turkey, what did they want?

A. These triumvirate wants clear all of this section from Armenia, all -- Ankara, from Armenia -- by reason, is their politic have some country without Armenian, first, and second, same times was declared Holy war for kill Christian. It is Armenian have two cause to be killed. One is Ponturism-- Ponturism idea was Turk have secret contract agreement with Germany, that when time came they will enter into the war -- Ally they don't know this, -- same times they have agreement that when Germany is start create Empire, you know, Baghdad, from Balkan to Baghdad, this Turk, upon their idea of Ponturism, they, will go across Persia, India, down through the India ocean, and create back from where they came -- create Ponturism. It's two million population, almost half the Muselman, and they want leave here clear that no any Christian work here -- live here. This is their base, you know, because they will have receive all armament from Berlin -- railroad which built by Germany, via Constantinople, Ankara, and supply their army, and when war

start, in general, their army was part already on the frontier, the Persian frontier they are waiting for first success that start in Ponturism idea. For this they came and they find this best way sent to this desert area all these people and also sell them.

Q. Now, Mr. Yanikian, as a result of what you were-- what you just mentioned, were numbers of Armenian people sent from the area known as Armenia down into the desert area?

A. No numbers. On general, on this Armenian massacre is two million people. Two million Armenian, it is like you Texas today, one hundred seventy-five million American, because two million people is sixty percent population around the world, and eighty-five percent population on this side. Little Armenia, Istanbul, who have some friends so and so, big cities, but here no Armenian. Even after years, years after when I leave possession report American Embassy, which was in Cairo, he send his report to Washington, he mention his reports that in this section no Armenians. All killed already about two -billion. Mr. Morgenthau in his book. In same book. In his same book, he is about Van, when I was in Van. I told when I was Van about this in same book after years, years I read, what I saw there, what I read in book, same book.

Q. Now that Ambassador is Henry Morgenthau, the book you are mentioning?

A. I am sorry?

Q. Ambassador Henry Morgenthau?

A. Yes.

Officer Ambassador, and best one.

Q. Was he, during part of this time, the United State American Ambassador to Turkey?

A. That is right. That is right.

Q. Was he, to your knowledge, personally present in parts of Turkey at the time the massacres were going on?

A. He was four years there Ambassador. All this time, massacre. He was there all time. He fight with this triumvirate it, and once told -- Talaat told, What you want, Jew? If you no ask something for Jew, I can do, I helped you. You are Jew, what you talking about Armenia. And, he answer, "I am sorry, I represent hundred million American, ninety seven million is not Jew, three million Jew. I represent ninety-seven million American and three million Jew."

Q. Did Ambassador Morgenthau then write a book of his personal experiences and dealings in part with his official duties as American Ambassador of this country to Turkey?

A. His book. I think most is copy is report to Washington. Official Consulate Ambassador's report to Washington, is copy most of what he wrote.

Q. Did you have occasion to read this book prior to the Biltmore Incident here in Santa Barbara?

A. Long time before. I read this Armenian. I read this Russian. I read English.

Q. Has the book been translated into several other languages?

A. Yes. When I first I heard all the story, I cannot believe. I also -- I received this book, but I cannot read English, and I keep give to my friend, I pay to him, he make translation In Russian. When he make translation in Russian, I don't believe, what is this, not possible. Imagination -- this translator put his imagination. Then I gave to another friend for translate the Armenian, and he translate Armenian too, then I put together, same. After, when I can read English, I read, not different.

Q. Now, is there a section in his book that discusses the events at Van?

A. Yes. Oh, yes.

On this book, and was more interested that exactly it is not only Van, he talk about this Armenian people who came from Russia for help, the villages. He about his river of blood, full of body, all you can have, on this report to government.

Q. Did he also talk about the massacres, about the official orders of the Turkish government?

A. Not only official orders, not only they give orders, this triumvirate make special commission find way not only kill, but how can they torture people. They ask, even from inquisition, special report, what they can do, and they send to their governors to start first you cut his nose, after, he put his mouth, take out his lung, or children, start cutting this part body, this part body. They give order for what torture and kill. The special order, and exist documents, official signed by government triumvirate documents. They give order to governors start killing-- start killing, and some governors even protest, some governors send a letter, "What you want maybe someone have fault, we can have court for them." And you know what they did? Next day he take an hour with his governor, and I think he is disappear also. They kill all.

Mr. LINDSEY: Your Honor, I have the book entitled Ambassador Morgenthau's Story, by Henry Morgenthau. I would like permission to read a little over a page and a half on one portion of the book if I may.

Mr.. MINIER: I would object, your Honor. We might want to bring in several volumes ourselves, and read them at will to the jury.

THE COURT: I am afraid if I permit it in this instance, that every book Mr. Yanikian has read in his life on this subject, you could read excerpts from, and the District Attorney could bring in other books in which he would be permitted to read. Sustained.

Mr. LINDSEY:

Q. Mr. Yanikian, prior to the time that the events at the Biltmore Hotel, did portions of what you read and were familiar with in Ambassador Morgenthau's book?

A. Yes.

Q. -- form a part of the events that happened at the Biltmore Hotel?

A. Yes.

Q. Now, the part that you have that I have just referred to here a moment ago, the page and a half roughly, did this part cover the events being described by Ambassador Morgenthau in the area of Van at the same time that you were personally present and observed a part of the events?

A. That is right.

Q. And did you, at the time that the events were going to take place at the Biltmore Hotel, have in mind not only what you personally saw the Turks had done to your people in the Van area, but did you also have in mind what Henry Morgenthau related in his book of what he knew about in the same area of Van?

A. Yes.

Mr. LINDSEY: Your Honor, I would again renew my request to read the page and a half, then, from the book, inasmuch as it did have a direct bearing on the events at the Biltmore Hotel.

Mr. MINIER: Your Honor, I will still object on the grounds of relevance. There hasn't been the slightest indication by the defense that Mr. Yanikian will ever testify about the events of the Biltmore. We have heard all about his life, we are now asked to read from other books. Now, if Mr. Lindsey is prepared to say that Mr. Yanikian is going to testify, "I killed two men, and the reason I killed them is because of something I read in Mr. Morgenthau's book," on that offer of proof, I will withdraw my objection. Absent any indication we will ever get to the Biltmore this week or next week or ever, I would have to object on the grounds it simply is not relevant.

Mr. LINDSEY: Your Honor, it is not my problem, and certainly it is something that should not be held against my client that these homicides were born out on any personal basis. These homicides occurred against officials based upon this man's life history of what he experienced in the Middle East. It intimately involves the history of these events on the steps taken here at the Biltmore.

I don't know any other way to escape it.--

THE COURT: I am going to sustain the objection absent your assurance, which I think should be demonstrated by a proceeding immediately to the Biltmore, if you intend to get there, then maybe I can reconsider my ruling.

Mr. LINDSEY: Your Honor, I anticipate --

THE COURT: (Continuing) But I am not going to permit you to read every book written on this subject by everybody that Mr. Yanikian may have read. It is hearsay, obviously, to start with. You are offering it apparently to prove the truth of it, that is one thing I said that I had to draw the line on last week.

I am not going to go into the right or wrong of this controversy in the sense of litigating who is right or wrong in it.

Mr. LINDSEY: Your Honor, the matters that I am now offering have to do with state of mind of Mr. Yanikian, and his beliefs, which in part --

THE COURT: I will sustain it.

Mr. LINDSEY: (Continuing) Form the basis on which he acted.

THE COURT: I am sustaining it.

Mr. LINDSEY: Your Honor, I am wondering, because I am trying to do it in a chronological fashion rather than having to jump back to it later on, and I am sure that before we are through I will take Mr. Yanikian into whatever thoughts he had specifically about the two Turkish government officials. I think this is what is troubling Mr. Minier, but the very nature of this case,

which ordinarily a man would be on the stand only two or three hours, there is no way that I can escape the length of time this case is taking.

THE COURT: Well, nobody is criticizing the length of time that you have taken thus far, but I have an objection now and my ruling will stand unless you want to get right into this other part that might cause me to change my mind. I don't say it will.

Mr. LINDSEY: As I understand the condition of Mr. Minier's objection was that if we would represent that Mr. Yanikian is going to talk about the events at the Biltmore then he would not have an objection.

I would indicate to the Court I intend to take Mr. Yanikian into the events at the Biltmore, but there are many matters that I have to cover first before we can understand what happened at the Biltmore, and why, and that is what we are trying to cover in some orderly fashion here, because the event at the Biltmore originated back at the time this man was born, and the events that he suffered for years at the hands of the Turks.

THE COURT: The precise objection before me is sustained.

Q. BY Mr. LINDSEY: Now, Mr. Yanikian, did you have any further conversations there in the desert, please, that you are referring to?

A. I can't understand -- I cannot hear you. What you telling? Conversation with who?

Q. You mentioned that there were discussions that you were having there -- I assume it is in the Syrian Desert with the gentleman that was the Christian gentleman that was talking to you?

A. Yes.

Q. Did you have any additional discussions with him?

A. Yes.

Q. What were those, please?

A. He told me how he saw -- and he told me, also have his son also there, also he put him hand on Bible, because what they told me I cannot believe myself, despite the fact that I know what Turk did, despite the fact that I saw myself what they did with my brother, with my family, but what they told me, -- unbelievable. But they told -- and I take this note all, and thin note was prepared also for my movie, which I prepared to present to world, for this part our conversation, their explanation came special part, special section, -- "Life in the Deserts" because my movie was part "Life in the Desert" and I present this "Life in the Desert" about one and a half million people, "Life in the Desert"--how they not only killed -- although there is hungry,--they cut body, killed body, and giving to hungry dying people that they sat, and they no have choice -- they eat each other.

Q. Mr. Yanikian, did you learn after, as a result of the number of Armenian people being sent down to that desert area, that there were widespread deaths of those people because of starvation and dying of thirst?

A. I think in the desert, we have 1,200,000 dead, compact one section. Other is different part, burn, so and so. When I am telling 1,200,000, include children, include womans, all, about 1,200,000, accordance my knowledge, because, you know, is for working 25 years, from 1950, for one idea, create situation

about what is massacre -- I have two principal idea, find out why, why, first. What is for these people, for this I read all literature I can found, you know, on anything, different languages, Russian, French, Armenia -- now, after English, for create my idea and event now, I have more detail,-- I have map, I give map to you.

- Q. I would like to show you a map, Mr. Yanikian, if I may, is that the map that you are referring to?
- A. (Witness examining document) Yes.
- Q. Now, does that pretty well, to avoid taking up too much time, is that what you related so far in a general way describing what you have discovered and learned happened down there in the desert to your people?
- A. Yes, sir. Here-- this part desert, in between -- is between Baghdad and Mosul-- between Baghdad and -- Syria, desert, -- exactly here, you know, we have, of course, special busing from Beirut after go Baghdad and tourist go out Persia, and so and on this way they stop, and they have these souvenir houses, and this map,--the letters there.
- Q. Now, I would like to take you maybe away from the desert for a moment and back into the general Armenian area, did you ever have occasion to go from Van via Persia on any trip?
- A. What? What?
- Q. From Van, via Persia?
- A. Oh, yes.
- Q. Would you indicate on the map the route that you took?
- A. You reach Macu.
- Q. What is it?
- A. Macu, -- is Persian frontier, this is Turkish frontier (indicating on map) -- this is Van, this is Macu. This is in Persia, and by horse, I went.
- Q. Mr. Yanikian, can you face this way when you talk so that I can hear you?
- A. By horse--now, I told I was in the Van for find out what is my friends-- student so and so, I find that some of them go -- go, advancing with Army, some of them kill, some dead, anyway, they cannot use me, because I was already broken back.
- Q. Incidentally, Mr. Yanikian, before that broken back, did you receive any decoration from the Russian government?
- A. Yes, -- I told you I came hero without knowing. I broke ammunition without knowing what I am doing, and when I awakened, I was in Tiflis, in the hospital -- what is it they call it -- Palace.
- Q. Palace?
- A. Palace, yes. Is Czar's uncle, and he is -- one part they fixing special hospital, with nurses -- his wife, daughter, all these aristocrat people, with dress, clothes, taking care of, and I was--
- Q. Well, let me ask you this, on that trip from Van that you just mentioned, did you observe anything unusual?
- A. Yes.
- Q. And what was that, please?

- A. Witness this dead bodies, part of hand, hair, heads arms, so and so -- river was blocked -- blocked.
- Q. What?
- A. River was stop -- block.
- Q. A river?
- A. Yes, river was block, you know, like create like dam, you know, this body creating dam, water go around the river.
- Q. Did you see a number of bodies that had acted as a dam in the river?
- A. Yes, I show exactly about five, six miles from Persian frontier.
- Q. How many bodies were in that dam on the river?
- A. Maybe a couple of hundreds.
- Q. And was it blocking the river at that point?
- A. Yes, And when I was there, you know, is Russian soldiers working for push them down that river take, because the water broke like dam, reservoir, and they try push this body for go--some of them take out for give way to water, river go in this direction (indicating) and they did -- and I stay, I watch a couple of minutes. I was on the horse, couple of minutes, I saw babies, women with open wound -- woman taking out one part -- other part -- any kind, is -- I told, if you ask what I no see, is more easy to tell than that what I saw.
- Q. Now, let me direct your attention, if I may, back to your return to the University of Moscow. You went back to the university and completed your schooling, did you not?
- Q. Yes.
- Q. You got your degree in civil engineering?
- A. Yes.
- Q. And then after you got the degree in civil engineering, where did you go?
- A. I went to see my family, after I go Rostov and accept job for Bolshevic.
- Q. What did you do? What type of occupation did you have at Rostov?
- A. I was organization called -- it mean North Caucasian Transport Organization Government. It is mean these control all train and boat, which go Russian River, Rostov-Bon, and also railroad which connect it -- it connect -- what connect, is called Caucas, with several Caucas, which mean cross, river don't pass and railroad pass -- I was head for regulation, that everything would be okay, no accident, nothing.
- Q. Now, were you then---
- A. (Interposing) And they know that I am Iranian-- I was never in the Party. They offer me, but I turn down, and they know that I am not in the Party.
- Q. Were you then a part of the authority that controlled transportation at Rostov?
- A. Yes. No ship-- no ship, can go out from Rostov without any, wheat, without my signature, no train can pass without my order. I am big shot -- they call me big shot--I am vice president this organization -- not only one specialize.
- Q. Now, in that capacity then did you have the authority for a period of time at Rostov in directing or controlling transportation primarily in railroad and shipping?

Mr. MINIER: Objection, your Honor, again this is--

THE COURT: It has been asked and answered.

Mr. MINIER: It has been asked and answered. I think it is repetitive. I don't think it is relevant. It was sixty, years ago.

THE COURT: Sustained.

Mr. LINDSEY:

Q. Mr. Yanikian, as a result of your efforts at Rostov, did this eventually lead to the means of your being able to journey from Russia to Persia?

A. Yes.

Q. Would you explain, please?

A. I was married with Doctor Komourgeian Armenian girl, but she was Persian, she was not Armenian she was not Persian, she was Russian subject. She born in Nakhichevan, Rostov. This time, you know, they have some very big business, all.

THE COURT: Mr. Lindsey, we are going to have to stop these narrative answers at such length. Will you phrase your question so that you solicit a succinct answer to the precise question you have in mind, and proceed in that way in the interests of conserving time. I don't mean to be critical of Mr. Yanikian, but we have got to draw some line on this.

Mr. LINDSEY: I will see if I can narrow the question down a little bit more, your Honor.

Q. Mr. Yanikian, after you had been at Rostov in connection with the transportation authority that you had --

A. Yes. Result official government in Moscow.

Q. Now, so I can ask questions on it --

A. Yes.

Q. Did the government in Moscow take certain Steps--withdraw that and start over again, your Honor.

Mr. Yanikian, your wife, at the time that you married her, she was a doctor in Rostov?

A. Yes.

Q. And did your wife and you then reside at Rostov for a period of--brief period of years?

A. Yes.

Q. At Rostov?

A. Yes.

Q. How many years?

A. About four, five years.

Q. Then was it about that time, when these things occurred in Moscow that permitted your leaving the country?

A. Yes. No me, I can leave any time. I can leave anytime, I have my Iranian passport but my wife, I want leave with my wife, for this I was working, try receive permission, and I have official permission by Congress

of-- Russian Congress, special permission to permit her officially change her citizenship to Persian. Because I did something for them, too, it is not free.

Q. I might as well ask you, what is it that you did?

Mr. MINIER: Objection, your Honor. Your Honor, my objection is upon the grounds of relevance.

THE COURT: I don't see the relevance of it, unless you can tell me what it is.

Mr. LINDSEY- Your Honor, I feel this way, and I would submit --

THE COURT: What is it you are going to prove, maybe I can see the relevance of it. As I understand it, you want to get from him the reason why he finally got to Persia and what he did for the Russian government, or somebody, that persuaded them that his wife could go along with him.

Mr. LINDSEY- There is a bigger problem.

THE COURT: What is the importance of the reason why he went to Persia?

Mr. LINDSEY: I wish to show, your Honor, in this man's background, the high degree of rank and position he obtained, his ability to form judgments, make decisions, and how his life developed; first of all showing these things, his responsibility, that in his later life the one narrow zone where he had the judgment defect when the subject of Turks came up, and as eventually resulted in the Biltmore Hotel. I can't show the comparison of judgment ability until I can show the high rank and high decision ability that he had back at that time, one of them being what he did for the Russian area there that led to the fact of Russian Congress in giving him special permission to leave. And it shows the high ability that this man had in judgment and exercises intelligence, yet nonetheless later on having the area of judgment limitation when it came to the Turks as a result of his experiences in that Middle East. That's the reason for it.

Mr. MINIER: Your Honor, might I speak to the issue of the relevance?

THE COURT: Yes.

Mr. MINIER: I don't see anyway that any of the back- ground material could have any legal relevance whatever, except upon the mental issue as regards the killing. Now Mr. Lindsey apparently is unwilling to make any representation to this Court that Mr. Yanikian is ever going to testify that he killed the two victims of the alleged murder.

Unless we get to that point, none of this has any meaning. If we get to that point, and it is not done, I am going to move to strike all of the testimony. I think under Mr. Lindsey's theory, any murder case, since I suppose you can say when a man kills all of his background may have some influence, I suppose in any murder case, or any criminal case, a defendant can go on for days, or weeks, telling all about his background. That's what we are faced with here. I feel, absent some showing from Mr. Lindsey that the defendant is going to admit the killings and say this is what he did, then I simply feel it is not relevant.

Mr. LINDSEY: That position is both wrong and most presumptuous. I submit, your Honor, that in order to show state of mind, which is an issue in this case, and this is an unusual case, there is not another one like it to my knowledge where the homicides are based upon past history and not of a personal

emotional problem at the moment. The evidence is clear in this case he knew nothing of these two men personally and has nothing against them personally. These homicides are purely the result of Turkish government activity against he and his people, and we submit they are entitled to get into state of mind.

Mr. Minier wants me to fit into his pattern of proof and to take him immediately into the Biltmore killings. I submit, defensively, I am allowed to get into these at a time and point –

THE COURT: I am not telling you to take him, into the Biltmore killings immediately, I am simply trying to move this along, hitting the higher points of this background, and without going into the minutia that we have been hearing since the noon recess, and for a large part this morning.

The trial simply would be interminable.

Mr. LINDSEY: It is an interminable case, your Honor.

THE COURT: No it is not going to be that interminable. I can't permit it. I have a certain discretion to exercise. In the interests, balancing fairness to the defendant against the necessity of trying the case in a reasonable time period, and having in mind that we can't spend an interminable time trying any law suit. I am going to be as fair as I can with your evidence. I am not going to tell you to get into the Biltmore now, but I am telling you, you are going to high-spot it more. I don't see any prejudice to the defendant in asking you to do that. I am simply making a distinction between the highlights of his career and the detail that we could spend goodness knows how much time on here.

Mr. LINDSEY: And, your Honor--

THE COURT: I have got a line to draw gentlemen. I am going to try and draw it fairly, but I am going to have to be fair to both sides.

Mr. LINDSEY: I would suggest also, your Honor, that if Mr. Minier is concerned about the Biltmore events, he ought to well know that when he gets ready to cross-examine, he can take Mr. Yanikian in at all of his pleasure that he wishes on, so it is not as though he is not going to have an opportunity.

THE COURT: Not unless you got him there first. If you don't get him there, he can't take him there.

Mr. LINDSEY: Well, your Honor, to solve that obstacle we appear to be encountering today, I will represent to the Court I am going to take Mr. Yanikian eventually to the Biltmore.

THE COURT: I know, you have already said that. I believe you.

Mr. LINDSEY: I can't get it over to him, your Honor.

THE COURT: You have got it over to me. I am the one that is going to make the decision.

Mr. MINIER: Might I make one more request, if the Court please, just simply for the purpose of guiding the jury, in responding to my objections, Mr. Lindsey has just made two arguments to the jury regarding the reasons for the slayings, and I would appreciate if the Court could somehow advise the jury that the arguments Mr. Lindsey makes to them are solely that, that they are not evidence in the case.

Mr. LINDSEY: And the same thing for Mr. Minier when he says this doesn't come in, --

THE COURT: All right, I will tell the jury right now that nothing that either lawyer says on either side of the case is evidence, ladies and gentlemen. You will be formally instructed to that effect at the close of the case.

Will You proceed with getting into Persia, Mr. Lindsey, without -- I will permit you to lead the witness to some extent. You have got a language problem here that makes it difficult for everybody, for you and him. It is difficult for him to answer the way he thinks he should answer because he doesn't speak as fluently as he does in other languages, so he is under that handicap, and I recognize it, but I want you to proceed with a little more dispatch.

Mr. LINDSEY: I respect that, your Honor, and I certainly will do so.

Q. Mr. Yanikian, as a result of whatever it was that you did for the Russian area, you then got into -- is it Tabriz with your wife?

A. Tabriz.

Q. After residing at Tabriz for about a year or so, you then moved again then, to Teheran?

A. Yes. But I was not criminal then, and I am not criminal now.

Q. What do you mean?

A. When I moved from Tabriz to Teheran, I was not criminal, even I am not criminal now.

Q. What do you mean by that?

THE COURT: Well, now, this is an area that I think I am going to draw a line on, Mr. Lindsey. Let's get him into Persia. It is obvious what he means by it to everybody. It doesn't have to be explained.

Mr. LINDSEY: Well, I am not sure the prosecution understands it, your Honor.

Mr. MINIER, Your Honor, I object.

THE COURT: Now gentlemen, the case has really moved along thus far at a quite high level of excellence on the part of counsel on both sides. I hate to see it degenerate from that. You seem to be getting a little snappy here this afternoon, just cut it out. You know better, both of you.

Mr. LINDSEY: Your Honor, I apologize to the Court.

THE COURT: Let's just keep it on the high plane it has been on. You have had a difficult case, you have done a good job so far, I don't want to see you fall down.

Mr. LINDSEY: Thank you, your Honor.

Q. Mr. Yanikian, to try to connect this up, I think in your earlier testimony, either yesterday or perhaps Friday, you related to us much of the history that occurred after your wife and you had arrived in Persia and up until the time the two of you were authorized by this government to come to the United States?

A. Yes.

Q. And then on your arrival in the United States, you covered in your testimony your efforts to recover on that contract that you had with the Persian government?

- A. That is right.
- Q. You indicated that the money that you desired to have from that was to go into this project that you had in your mind?
- A. Yes.
- Q. For production of a movie?
- A. Yes.
- Q. That movie was to be shown without cost around the world connected with what you believed was in reference to either civilization or humanitarian values?
- A. I not only believe, I am sure on this movie. I put many question, why, why, why, and I will repeat in this Court and I want justice answer me why.
- Q. Now, I want to ask you about your wife.
- A. Huh?
- Q. I want to ask you some questions about your wife.
- A. Yes.
- Q. Where is your wife now?
- A. Is connected with my case?
- Q. I think so, yes.
- A. She is sick in the hospital, 15 years.
- Q. Where is she now?
- A. Santa Barbara.
- Mr. MINIER: Objection, your Honor, in the absence of a showing of relevance, this is a blatant appeal for the sympathy of the jury, I think that there should be an offer of proof made.
- Mr. LINDSEY: I will make the offer of proof right now, if counsel wishes, and that is when this man in the later part of his life finds his wife now senile, no longer recognizes him, no longer sees him, gets the impact of that State Department letter, and literally finds his whole world crashing around his ears, and he is asked to use normal judgement when it comes to two Turk officials, I submit that it is particularly relevant to diminished capacity, exactly what this man thinks, the closest person in his life, and the only one in the United States that is close to him, his wife, now no longer even knows who he is, and this does have a mental impact on an individual, certainly when he is considering two Turkish individuals representing the Turkish government down there at the Biltmore Hotel, I submit that that has a direct relevance on his state of mind.
- THE COURT: Sustained.
- Mr. MINIER: Your Honor, I will waive the objection based upon that representation.
- THE COURT: All right. I was about to sustain it.
- Q. BY Mr. LINDSEY: Mr. Yanikian, where is your wife at the Present time?
- A. She is in the hospital.
- Q. Which one?
- A. Rest Home, Beverly Manor, in Santa Barbara.
- Q. How long has she been in the Beverly Manor?

- A. Couple of years there, couple of years before on general -- she is six years in the hospitals. Before this I take care myself, in our home.
- Q. How many years has she had this condition she now has?
- A. About 15 years.
- Q. During the first eight or nine years of that how were the expenses paid for her?
- A. I paid myself
- OL How much?
- A. About eight \$900 every month.
- Q. How much all together during that period of time?
- A. Maybe \$150,000
- Q. In the last four or five years have you been able to personally pay yourself for her care?
- A. No.
- Q. How is her care now?
- A. The Blue Cross take care, I pay one part, even now for my jail.
- Q. Even while you are in jail yourself?
- A. Yes, I am paying one part for my jail, other pay Blue Cross, they have especial formula, and difference between how much they charge and how much pay Blue Cross, I am paying.
- Q. I want to take you now into the year prior to the Biltmore event, did you leave occasion to visit your wife at the Beverly Manor?
- A. Before, yes.
- Q. In the one. year before, all of 1972, last year, did you visit your wife during 1972?
- A. Sure, yes.
- Q. How often?
- A. I visit every day, doctor forbid.
- Q. Excuse me?
- A. Doctor forbid me visit every day, Dr. Hartsman, he told that you are high blood pressure, I give you medicine one week -- once see your wife, that time no can visit more.
- Q. In the last year, 1972, your wife recognize you?
- A. No.
- Q. Is she able to walk?
- A. I think is going to do with my case?
- Q. Well let me ask the questions and you answer it. Can she walk?
- A. You can ask doctor this.
- Q. Well, let me ask you--
- A. (Interposing) No, she cannot walk. She cannot walk--she cannot do anything.
- Q. Now Mr. Yanikian, did you have occasion somewhere around 1965 or 1966 to receive and read a letter from a Turkish individual in New York concerning the Armenian people?
- A. Yes. I don't know how they, find my address.
- Q. Did that letter have a bearing, and was it a factor in the events that occurred at the Biltmore Hotel?

A. Sorry, I no hear, -- what was?

Q. Was that letter one of the things that you were concerned about, or was in the back of your mind?

A. This letter is answer to all my 25 years work what I am doing, this letter is answer on this 25 years work.

Q. And were the events at the Biltmore Hotel on January 27th of this year in part connected with the effect that letter had on you?

A. All together -- after I receive, refuse from State Department, sure, all this came material and three days I stay, what, three days, what I did? I look all these documents, all these papers, all my writings -- What?

Mr. LINDSEY: May we, your Honor, have this marked for Defense Exhibit next in order, and it will be -- the letter is one part being -- it is going to be a two-part exhibit, I would advise the Court that there is one part is in a foreign language and then there is an English translation in writing of it, and this is the letter that the witness is now referring to.

THE COURT: All right. It may be marked for identification.
(Thereupon a document letter and translation were thereupon duly marked as Defendant's Exhibit T and T-1 for identification purposes, respectfully.)

Q. BY Mr. LINDSEY: Mr. Yanikian, I would like to show you first Defendant's Exhibit T, that is the letter that is marked T for identification, and ask you if that is a copy of that letter that you received in that foreign language?

A. (Witness examining exhibit) Yes.

Q. Is that in the month, of April 1965, is it?

A. 1965.

Q. And was that the month in which the 50th commemoration of the massacres of 1915 occurred?

A. Yes.

Q. And did you receive a copy of that letter?

A. Yes.

Q. Was that letter, to your knowledge, publicized widely among the Armenian people at that time?

Mr. MINIER: I will object to that as calling for hearsay, your Honor.

Mr. LINDSEY: I will withdraw the question, your Honor,

Q. Mr. Yanikian, did you at that time become aware of the translation of that letter?

A. Yes.

Q. And is there here in tile courtroom now a translation of it?

A. Yes.

Q. And is it marked now as Defendant Exhibit T--1 for identification -- you have Exhibit T.

A. Yes.

Q. And Mr. Minier is looking at T-1?

A. Yes, because I cannot read this.

THE COURT: May I see that, Mr. Yanikian.

THE WITNESS: Yes. (Presenting document to the Court.)
It is Turkish, signed by students, New York of America.

Q. BY Mr. LINDSEY: Mr. Yanikian, I hand you now Defendant Exhibit T-1 for identification and ask you if that is a translation of it?

A. (Witness examining exhibit) Yes, is translation because is signed by officer, Court appointed Consulate Saroyan.

Mr. LINDSEY: May I have permission to read it, your Honor?

Mr. MINIER: Well, your Honor, I would object to begin with, there is no offer into evidence. He can't read it unless it goes into evidence.

Mr. LINDSEY: Sorry. May I offer it, your Honor?

Mr. MINIER: I would object to that upon the ground first, that it is not established that that is a verbatim translation.

COURT: Sustained.

Mr. MINIER: Thank you.

Mr. LINDSEY: Well, we will call a witness out of order, if your Honor please, if we may. We have here a gentleman who was born in Turkey, who is familiar with the Turkish language. We are prepared to put him on the stand.

THE COURT: All right.

Will you step down, Mr. Yanikian, for a few moments, please.

(Whereupon the defendant withdrew from the stand and resumed the seat at counsel table.)

VARTAN TOZJIAN

produced as a witness for and on behalf of the defendant, was thereupon duly sworn, and testified as follows:

DIRECT EXAMINATION

For the record, could you tell us your full name, and spell the last name, please.

A. Vartan Tozjian, Vartan V-a-r-t-a-n that is first name. The second name is Tozjian, T-o-z-j-i-a-n.

Q. Where do you live, Mr. Tozjian?

A. 2120 De La Vina.

Q. How long have you lived in Santa Barbara?

A. 23 years.

Q. Do you have a business here?

A. Yes, sir.

Q. What type of business do you have?

A. Interior decorating.

Q. Now, where were you born?

A. Marasch, Turkey.

Q. And what year were you born in Turkey?

A. 1903.

Q. How long did you live in Turkey?

A. Till 1915.

Q. Did you have occasion to be familiar with the Turkish language?

A. Yes.

Q. How familiar were you with it while living in Turkey?

A. I was quite familiar with the original Arabic writing, Turkish, but since I left Turkey they change that, but being English I mean -- Latin alphabet, when I read, I understand the language.

Q. Did you speak Turkish, also?

A. Yes, I do.

Q. By reason of living there did your family and in your home also speak and understand the Turkish language?

A. Yes, sir.

Q. Now, have you been requested to review a one-page letter dated in April of 1965 -- do you have a copy of that with you?

A. Yes, I have.

Q. In what language is that?

A. This is Turkish.

Q. Are you able to read that letter by reason of your past ability or experience in the use of Turkish language?

A. Very well.

Q. Let me hand you first Defendant's Exhibit T for identification and ask you if that's a copy of a letter in the Turkish language?

A. Yes.

Q. And I now hand you defendant's Exhibit T-1 for identification which appears to be a translation. Have you compared T-1 or a copy of T-1 of the English translation with the Turkish version that appears as Exhibit T to determine if it is an accurate translation?

A. I think so. It is very close. I mean, maybe a word here, word there. It is very close translation.

Q. Does it appear to be a reasonably accurate translation from the Turkish language into the English language?

A. Yes, it is.

Mr. LINDSEY: Your Honor, I am going to ask, then, if the Exhibit may be introduced into evidence.

Mr. MINIER: Your Honor, we will waive cross-examination but we will still have an objection upon the grounds of relevance that I would like to make.

THE COURT: I haven't read the letter. I will have to do that. May I have it please?

THE WITNESS: (Handing)

THE COURT: The only objection to this now is the relevancy?

Mr. MINIER: Yes. I would like to be heard specifically on that.

THE COURT: All right.

Me. MINIER: Assuming that this document is offered for the purpose of showing the mental state of the defendant at the time he killed the two victims, rather than to inflame the jury against the republic of Turkey, then the only way it could be admissible is by showing the defendant knew what it said. He has already testified he couldn't read it, therefore, it is not admissible because there is no showing he even knew what it was. So unless Mr. Lindsey is prepared to put the defendant back and show the defendant knew what the translation to be, it has no bearing on the case.

THE COURT: That is perfectly sound.

Mr. LINDSEY: I have no objection to that.

THE COURT: Are you done with Mr. Tozjian?

Mr. LINDSEY: I understand Mr. Minier does not wish any cross-examination.

Thank you Mr. Tozjian.

May I recall Mr. Yanikian to the stand?

THE COURT: Yes.

GOURGEN MKRTICH YANIKIAN,

recalled to stand having been previously duly sworn testified further as follows.-

DIRECT EXAMINATION

BY Mr. LINDSEY:

Q. Mr. Yanikian, the letter that we are referring to, did you receive your copy somewhere around that 1965?

A. Yes.

Q. Now, you do not understand the Turkish language?

A. No.

Q. Did you at that time have available to you, however, a translation?

A. Yes.

Q. Is that translation you had at that time in essence similar to the translation here in this Exhibit before the Court?

A. Yes.

Q. What?

A. About translation?

Q. Yes.

A. Yes.

Q. Now let me turn your attention right into the Biltmore Hotel on January 27th, was there any reference, on your part, to this letter to those two Turkish government consul people on January 27, 1973.

A. Yes, I talked them 15 minutes, between my talking, I ask what is this student group by this name about this letter.

Q. Did that have reference to this letter?

A. That is right.

Q. When you made reference to it, is that when the Turkish men said something to you?

A. Something.

Q. What?

A. They told me son-of-a-bitch Armenien.

Mr. LINDSEY: Can I ask at this point, your Honor to have the letter into evidence so I can read it.

THE WITNESS: Until then, they don't know that I am Armenian.

Mr. MINIER: Well, I basically don't object, your Honor. My problem is with the word similar. If this is meant to show what was in the defendant's mind, I think he has got to say a little bit more than what is offered as similar translation. If it is virtually the same translation that he had to show what was in his mind, I have no objection, but Mr. Lindsey still has not established it.

THE COURT: Will you pin that down a little closer.

Mr. LINDSEY:

Q. Mr. Yanikian, you have read this translation that's here in Court, have you not, the one that the Judge has ?

A. Yes. Much better if you read, my English is not very well.

Q. We have to find out if that is essentially the same as the translation you recall reading of the same letter back in 1965?

A. It is exactly same, except my translation no have this "Aram Saroyan".

Mr. LINDSEY: We again ask permission, then, other than-- your Honor, other than the last part with reference to Mr. Saroyan, I would ask to read the letter at this time.

Mr. MINIER: I have no objection.

THE COURT: All right. The document is received as Defendant's Exhibit T-1, and you may read it Mr. Lindsey.

MR. LINDSEY: Your Honor, this would now be Defendant's Exhibit T-1 in evidence, please?

THE COURT: Yes.

Mr. LINDSEY: Your Honor, may we ask if Exhibit T also go into evidence as being the original version in Turkish?

Mr. MINIER: No objection, your Honor.

THE COURT: All right.

(Whereupon the above described exhibits previously marked for identification thereupon received as Defendant's Exhibit T-1 and T in evidence.)

Mr. LINDSEY: This is addressed, "To the Committee to commemorate Martyr's Day.

“Oh, you lowdown creatures, you dirty bastards of humanity, like a flock of stupid cows for the sake of your ulterior motives, you have even inoculated children with the poison of the snake. You spread poison everywhere.”

“Oh you bunch of ungrateful pigs, degenerate profit seekers, betrayers of your race, you dashnag (Armenian revolutionary federation), problem of your race. You have been driven away from seven places. For fifty years you have been in the cradle of humanity, still you could not become a human; you brainless jackasses.”

“You say the Turks massacred you. You commit errors taller than your height. Who are you competing with, what do you want and from whom? You do not know what you want and from whom?”

“With your baseless digging and having dangerous meetings, you became the laughing stock of the entire world. You brainless jackasses.”

“Now, of all the races in the world, the Turk, possessor of noble reputation, relying

on the power of the gun, is waiting in time to slay a few million goddamn Armenians.”

“Goddamn Armenians, we are once and for all going to wipe you from the face of the earth. This is a legacy left to us by our holy prophet.”

“Oh, Islamic world know this well, the world will never have peace until we have destroyed these miserable Armenian people from the face of the world.”

“For the love of Mohammed, if you kill one Armenian you will qualify for heaven.

"Oh you fake, coward, revolutionary, you loud-mouth revolutionaries. You enter a village where there is no dog and strike left and right without a cane.”

“Where are these jackass revolutionaries? What are they waiting for? If you can, why don't you take from Turkey; Van, Moush, Bitlis, Kars and Ardahan; you coward troublemakers. The Turkish power is waiting for you.”

“In the very near future, with the help of Allah (Turkish God) and the help of the Prophets, we will turn Armenia into a graveyard. This, also you shall learn, that Allah has placed the fate of the Armenian people in the palm of the Turks.”

“You should know this well, neither your swords, nor your Prophets, nor any nation is able to save you from our hands.”

“Sixty-six thousand Armenians in Istanbul are slaves in our hands; they are our sheep to be slaughtered.”

“Oh you Dashnag fox hoards, your 27 churches represent all the Armenian churches. We are going to destroy them over your head and hang your leaders by their feet.”

“As to your spiritual leaders, we will split their guts in the streets. Let the entire world be spectators and see the mighty power of Turkey which equals the power of the whole world.”

“Oh you oxens without bridle, so long as you bend your head, which is until the end of the world, you shall never become a man. Oh you poor idiots, drunk with wine, you have no idea about politics or civilization. You resemble your stupid prophets.”

“Oh you ungodly miserables, either you are going to become Mussilman(Turk) and accept the true religion, or we will eliminate you from the face of the earth.”

“Now, this is your fate, don't depend on the Russian Bear, or the United States (Uncle Sam).”

“Only we can brings, you to the true fate.”

“Only you know, very well, the sharp cutting edge of the Turkish sword.”

“When you commemorate the memory of your martyrs you can add this document as an announcement to the world:

Turkish Student Association of New York.”

by “Orhan Karagazim.”

THE COURT: Let us take the afternoon recess at this time. Will the members of the audience please remain seated until I have given the jury the admonition that the law requires me to give to the jury on the occasion of each recess..

Ladies and gentlemen of the jury, it is your duty not to converse among yourselves or with anyone else on any subject connected with the trial, or to form or express any opinion thereon until the cause is finally submitted to you.

(RECESS)

THE COURT: All members of the jury and alternate jurors are present, gentlemen.

DIRECT EXAMINATION (Continued)

BY Mr. LINDSEY:

Q. Mr. Yanikian, I would like to turn your attention starting from the beginning point that led into the Biltmore please.

You indicated in your testimony earlier that there were three days in April 1972 that caused you to spend three days in your apartment thinking.

A. Yes.

Q. Now, were those three days in April of '72 the beginning or commencement point of what eventually happened at the Biltmore Hotel?

A. Yes.

Q. Now, without going into particular detail, essentially what were the things that you considered, or that occurred in those three days as they related to the Biltmore events?

A. I check all what I did in 25 years, my papers, documents, maps, for see myself where I stand, for see in distance what is going, and what situation -- what situation I am, what is my next step. I know is easy for average person, very easy, simple, one bullet, head, that's all. I turn down, I cannot do this, because my beliefs, desire help my nation, help my country, help mankind, help this civilization, was too strong, I sacrifice 25 years my life, even before, for, you know, one letter can stop me. So I start checking from beginning all, my program, my plans, not for seek and I find something, way to go out, or find something which prove that I am wrong, and I did, on the map from the

beginning, its mean my actions at the Biltmore start on this three days, their start.

Q. Did you make any reference to maps in those three days?

A. Surely.

Q. For what reason?

A. For reason find out that I am doing right or wrong, for be sure myself for proof once more, because maybe I think, you know, I take some decision, maybe this decision be wrong--I repeat, maybe for average people long decision, short, very easy -- 78-years man, 77 -- nobody will live forever -- everybody gone, will die, what difference, that, can I sacrifice all my -- what I did on 25 years, my desire for make me relax and dead. Surely, answer was no. Then I start checking my maps, and so be once more be sure maybe I make mistake, that my nation, with massacres, by some reason, and I no find it, -- any other reason, but I find within this 25 years. And all this time I try and find out why -- why. And I find answer why. And this trial, in the court, people will know why the massacre my nation. And they will know also why all the world watch when the massacre my nation, they will know this, too. Surely my work, you know, I am engineer everything I put, on the map. In my room, despite the fact I live alone I watch apartment, room was full only papers, documents, maps and stuff, because almost every day, only one hour—two hours, I was out, possibly for have breakfast, or lunch, some friends—after I came home and work, work, work. Then I receive these letter,--last letter. It is mean they cut root some tree.

Q. Now, is that the letter from the State Department?

A. That is it. It mean they, cut root some tree --it's me was working for, like, -- Don Quixote on this world, unreal--you are human. I cannot tell about me, what is situation my feeling, my brains, so and so, because I think somebody will take care about this, then we talk about – but I cannot accept that I will sacrifice all of this for nothing.

Q. Now, do you have in mind the work that you were doing for 20, 25 years?

A. That's right.

Q. Now--

A. (Interposing) No, from 25 years I am doing for start the day I born, 1895, December, when I born in Erzerum, start from there.

Q. Is this the review that you made in those three days?

A. That's right, review from, there. I born, all passed before me on the pictures - - some I read, some look, and so forth, make decision, because I will make some final decision what I do, and after three days I make, but on these three days, what is gone, I can show what I did.

Q. Did you, on that three days make recollection to some of these areas that you have already described and talked about here on the stand, is that what the maps are for?

A. No.

Q. What were the maps for?

A. No.

Q. I am talking about in the tree days.

- A. No. I start something which is not connected-- yes, one part connected with map. Is far from other place there.
- Q. Did you then, Mr. Yanikian, in those three days, which you say was the beginning point for what happened at the Biltmore, actually review the details of your life from the time that you were born?
- A. That's right; life, my name, my born, all my work around the world, what I did -- I wrote -- after, from have this idea, start for do something for stop massacres, not only for Armenian people, for all of the world, about every small nation, and my work, 25 years on this direction.
- Q. I think that we can probably skip much of that because you have already testified to many of those items already so far.
There is one or two areas I don't think that you have mentioned.
I want to ask you about them.
In those three days when you were reviewing your past, taking the decisions that were going to lead to the Biltmore incident?
- A. Making decision continue life or die, and what is the result -- what profit will have my nation, my country, humanity, if I died. What profit they will have if I live. This was my decision, which I three days take for make.
- Q. When you say your country and your nation, to what --
- A. America. Nation, because I did this for my nation, because I am Armenian. I did this for my country, because I am American. I did this for mankind because I am human.
- Q. Now, a couple points that you haven't referred to yet, did you, during these three days of formation of the decisions, resulted in the Biltmore, did they include the circumstances at the time of your birth?
- A. Yes, sure.
- Q. What year were you born?
- A. Not only my birth, birth my nation also. Not only birth -- my birth, also birth my nation.
- Q. When you say nation, to what are you referring?
- A. Armenian nation.
- Q. Now, as to your birth, you were born in 1895?
- A. Yes. You know, Mr. Lindsey, my conception is mankind born on this section, Middle East. If you take now Egypt, Palestine, Armenia, and so and so I am talking -- no Turkey, Turkey not born there -- mankind, civilization born there. In my conception, we civilization, have his death there too. We will disappear there, too. If continue our life like this, we will disappear. Not only my nation, all mankind.
- Q. Now, you have indicated that because you have had the engineering type -- not really training, but just the daily patterns of an engineer, you were working with papers during those three days; is that correct?
- A. Yes.
- Q. Let me ask you with regard to your birth; in 1895, were you born in the midst of the massacres?
- A. Yes.

Q. Were you able to be given a name at that time?
A. No.
Q. Were you given a nickname?
A. Yes.
Q. What?
A. "Child of Massacre."
Q. Why?
A. No church, massacre.
Q. No church?
A. No. 1895 was worse massacre they start Erzerum.
Q. Is that the reason you were not given a name until later on at Kars?
A. Yes. They give me after Gourgen name. I was baptized in Persian consulate by Armenian priest in presence my father, and they give same that birth, but Tabriz will keep birth certificate because Erzerum don't exist. Already there is no church, nothing, everybody gone. And Persian consulate cannot keep certificates that only Persian, but for my family not different, they want put a cross on me, and they did. I came Persian from maybe six months five months old, only one in my family of I know.
Q. When you were forming the judgment in those three days in your apartment in April of 1972 last year --
A. Yes.
Q. -- did you also consider and think about how your family came to travel from Erzerum to Kars when you were a small baby?
Mr. MINIER: Objection, your Honor, upon two grounds; first it is patently leading -- I will start with that one.
Mr. LINDSEY: I will withdraw the question and ask it in a different way, your Honor.
Q. Mr. Yanikian, at the time in the three days in the apartment, did you have in mind any events earlier in your life that were a part, or that in some way had to do with the judgment that you formed of the events that would later take place?
A. What that mean events?
THE INTERPRETER: (Explaining).
THE WITNESS: Surely. It is connected not only my birth, it is connected birth any nation. Connected birth by Turkish nation, connected all civilization.
Q. I just want to know now about anything in your early life.
THE INTERPRETER: (Explaining.)
THE WITNESS: Yes.
Mr. LINDSEY:
Q. How old were you when your family -- when you went from Erzerum to Kars?
A. How old? Not yet old.
Q. How many months old were you?
A. I don't know, maybe five, six.

Q. Did you learn, later in your life, whether anything unusual happened on that trip to you while going from Erzerum to Kars when you were five or six months old?

A. I born second time.

Q. What happened?

A. I born second time.

Q. You were born a second time?

A. Yes. Not from my mother.

Q. What happened on that trip?

A. On the way, they lost me, baby. I was baby. Baby lose on the mountains in the snow. I am telling this accordance my mother explain with facts.

THE INTERPRETER: Louder.

THE WITNESS: I am telling this accordance my mother, because I was five, six months baby. I don't know, I cannot remember. Maybe my brain, yes, take this, but physically my person, like Yanikian, I cannot know this. For this world I born, I will go little explain what this mean born. I am no doctor, my wife is doctor. When first time, about forty, fifty years ago, some very famous French psychiatrist, Sigmund is name, put maturity about humans brain, humans heart, humans conscience, not conscience, subconscious, human ego. They start laughing on him, but after fifty, forty-five years now, he is foundational psychiatrist in the world.

Q. Let me come in there now, you say when you were about five or six months old on that trip--

A. Arriving something which connected with my brain.

Q. What happened on the trip?

A. This I am trying explain you why this arrive.

Q. Tell us first what happened?

A. What happened, they lose me on the snow. Nobody want go back to find because everybody scared they be killed.

Q. How many were in that group which were trying to escape?

A. I don't know, 25. I don't know. Including my father, other family, sister. My mother told, "I am going back for find my baby." And my brother.

Q. What is your brother's name?

A. Hagop. He told that "I am coming with you." He was about -- 10, 12 years old -- 12, 13 years old. I don't know how long they wait -- accordance my mother, they work different direction, because no road, you know -- is snow - - snow is coming, and mother go this way, brother go this way for find. I was half frozen, but my brother find me. I was half frozen, then my brother find me.

Q. Your brother Hagop?

A. Yes. And he open his chest -- and put me on his chest, warm me. After my mother came, they try, to -- and I stay alive. They warm me. My mother came, they came back I don't know what did. They arrive house, from then on I am very sensitive to cold.

Q. Did you learn why or what had happened just before that trip to cause this group to try to escape from Erzerum?

- A. Yes.
- Q. What had happened, what caused them to make this trip?
- A. Escape, they killing, massacre, all Erzerum is dying, killing, they escape.
- Q. Was it at that time, as you later learned--
- A. (Interposing) 1895, is worse massacre in Erzerum, they killing 35,000 people, -- history tell.
- Q. Is 35,000 Armenians killed in the year of your birth?
- A. Yes, Erzerum, around villages, all around is 35,000, and they escape. Everybody who stay alive—and this same town, my uncle was killed, somebody bought gun, he want to see how is gun is working -- my uncle, is as my mother explain, her brother, le walk in the street, and this Turk, Hassab -- butcher, take gun and shot. Gun is good. And every body scared. Approach this body, his body is stay until night. My father and somebody else bring his body and bury in the house.
- Q. Mr. Yanikian, in this case there has been some photographic evidence, photograph showing you with a -- or a coat, and showing also some photographs of long underwear.
- A. Yes.
- Q. Remember those photographs?
- A. Yes. Is nothing means -- everybody known me, they know even June, hot day, I put coat, and most time I wear wool, because all my life I am very sensitive to cold. Even in the jail I ask can I close ventilation -- circulation, thank you very much, they did. I cannot support cold.
- Q. Has this feeling of coldness that you have, even as shown by the evidence of the photographs
- A. (Interposing) I don't know what is "feeling." I feel cold -- I want warm. For this I am going in the desert all the time. I am going in the desert for relaxation for this because it is warm. I can lay down an the sand, warm sand. I don't know, is cold -- I know temperature is 90, everybody go out, I am going sometimes on beach, too, but I cannot stay, I put something on me. I don't know. Is physically cool or mentally cool, but is cool all time -- I feel cool.
- Q. In those three days when you were forming the judgment for the steps leading to the Biltmore, are there any other areas that you considered at that time?
- A. Yes, I consider, I told you -- I analyze about my nation, birth, so-called Turk nation, and try and find out where we are--where they are, look on the map. It is, I try and find out in my -- is manuscript which I prepare all details, I told this five or six hours, something exceptional, you know, I make any mistakes. I was trying find excuse that I postpone thinking what is going, you know, for past time for my brain can -- accept is reality which arise on me, because the same time I have obligation, I was -- I told this outside group which I have everybody spend his money except only one, a lady, who no have money, and I was sending this money, and she are spending, except I have -- I have my money gone, and I start borrowing in the bank, now, Social Security -- Security National Bank, I owe them \$2,900, now, too, before I went in the Biltmore, I went myself and told, you know, you will wait, because some

reason I cannot pay now. You will wait. You will be paid. Thank you very much. They told, don't worry -- and don't bother me. Now, so I owe them, and this money I was taking and sending, when I receive this lady, what is catastrophic only for me is catastrophe -- this is what you built with 25 years, and your castle is going down, people spend the money, despite the fact that some people many times repeat that "Don't worry." They are rich themselves, -- "Don't worry, we spend our money. We don't need any money." And they did without money.

Q. In these three days did you have--

A. (interposing) I know, this like movie pass before my eyes.

Q. Did you have any thoughts during that three days about the Turkish government's part in your past life history?

A. Surely.

Q. What was that?

A. I was thinking who they are -- who they are. And it was my movie, not present massacres only -- for this is one hour, you can see, more massacres -- my movie was different.

This presentation roots all evil, which is roots this evil.

Q. In those three days did you commence the steps, or the initial thinking for the killing of two men?

A. After three day?

Q. Yes.

A. Mr. Lindsey, you defend me--thank you very much. You are doing very good job. I am sorry--remember, I ask you never use this word "killing.' Despite the fact I did, please. But I don't want my defender use this word. I don't kill anybody. I destroy two evils for create by them light for civilization in the darkness we can see each other what is going. Massacres today are many -- yesterday, Jewish, after what is this -- this is my idea in mind, for this. I use them, like symbol evils, for put light in the darkness. This was my idea life, not present film, killing -- I present film, roots from where came, -- answer, why, and I found this why. This was I was trying to present to world, and ask, mankind, conscience, justice, why? And I hope I will have answer on this Court, why.

Q. Did you in those three days anticipate or think that if there was a trial in a courtroom that the trial would be heard far and wide?

A. I was not thinking, no. I was prepare, you know, for show different way by movie. I try -- did my best, work hard, organize all this organization for present this way, show people -- ask why, -- bad. Circumstances push me, they kill this, my way, and they put before me two questions,--resign from your idea, or you die. I cannot resign from idea. I no going die. Not because I scared dead -- death is me continuation sleep, nothing more. But I was angry that -- I cannot present which I believe, -- that not only me, me, only like me will feel, but in the usual, they cannot talk, but I take chance talk, then I talk, okay. I will put some light what I am doing this, for my nation, yes; for my country, yes; for civilization, for mankind, yes. But I am sorry, but Turk also they count for mankind. Why only American be sacrifice his

life? Why I cannot use two evils for present to world all this, and they will have profit, too, and I know they will have profit, because they don't know -- then this young generation, they don't know what is Turk -- they don't know. They burn all their books, all history change all. I was presenting all history there. History which base on the fact, on the books in the library, not in the imagination Yanikian -- this I was trying present, because I believe was not you will protect yourself by building tanks, so and so -- you will protect yourself, also, put light in the brain your enemy, because I think this young generation Turk, between them have also beautiful people, but they don't know their past. Is much better they will know and they will make profit, then why only the sacrifice be American, -- why only Yanikian American be sacrifice this. Why? I needed somebody, like these, like me, some brick for put for finish this construction, and I use-- I use them, and before I did, I told them.

- Q. Let me ask you maybe one remaining question on those three days; in those three days in the apartment, did you at any time have any recollection of your brother Hagop -- just yes or no?
- A. Can some other time ask this question?
- Q. Yes. I want you to answer yes or no at this point..
- A. Yes.
- Q. When is the time before the three days that you had had any recollection of your brother?
- A. Yes, on the three days I saw him on the wall, his picture.
- Q. Your brother Hagop?
- A. Yes.
- Q. How long before that had it been since you had any other recollection of him before?
- A. Never. I remember in memory, but vision see. No, first time.
- Q. I don't want to ask you about visions.
- A. Please no ask what first time, I cannot do this, some other time you ask.
- Q. Now Mr. Yanikian, after those three days, what is the first thing that happened; what did you do?
- A. After three days?
- Q. After three days.
- A. I make my mind that this idea -- I no have no moral right kill this idea. This will go. The people will know, world will know these, but not like in the movie, because what you can see, no hear, but I have present my movie.
- Q. What did you do then? You made a decision what to do, what was the first step?
- A. First step prepare myself, start liquidation all documents.
- Q. Now, when you say you started liquidation of all documents, what do you mean by that?
- A. Because I know that I be arrested, and I know that I will call myself. I don't want anybody be mixed in this case except me, Yanikian.
- Q. So what did you do then?

- A. I destroy all documents, all address, all telephones, except some documents which I needed for keep, you know, except my scenarium which I start working, writing book, typing book--two books. One which I send after couple days before--
- Q. Did you go through all of the papers that you had, all of whatever your history was and eliminate any papers in there that did not pertain to the events that you felt were connected to your case?
- A. That is right.
- Q. Did you also go through your papers to make sure you eliminated all records of names so that innocent people would not be connected with you?
- A. That is right.
- Q. Did you organize all your papers so that – in different brief cases or suitcases so that all of the document; records and papers that would pertain to your case would be in one place?
- A. Yes. And one part 24 pound, I sent to Moscow to my nephew. (*niece*)
- Q. Were there a number of documents, then, and papers, and records of yours that you sent?
- A. Yes. I sent all my original diplomas, because I no have any family no children and I sent to my nephew, because she no have brother, but I am her second God. She told many times, "I have one God in the sky, second God." I send original manuscript. I sent some personal family documents which connected with our family, our history. I sent also some package which be opened only after 25 years after I dead. After my death.
- Q. Where did you send that?
- A. Some document on special package that this be opened after 25 years after my dead.
- Q. Mr. Yanikian, there has been introduced, or at least identified here for identification purposes, a document that's some approximately 120 pages long. Mr. Yanikian, I am referring to People's Exhibit 14. I believe it was indicated that this was a copy that was received by the Santa Barbara News-Press?
- A. Yes.
- Q. I believe you recall Mr. Steve Sullivan being on the witness stand and testifying to it?
- A. Yes.
- Q. Did you send this copy to the News-Press?
- A. Yes.
- Q. There is a postmark on the folder indicating January 27.
- A. Day before, that is right.
- Q. When did you start preparing this -- is this a letter or document, or how would you describe it?
- A. We have title.
- Q. What do you call it?
- A. You have translator, let him read.
- Q. What I am trying to find out, is do you call this a letter?
- A. No, it is not letter.

- Q. What is it?
- A. It is my -- I don't know what I put.
- Q. Would you like to take a look at it a moment?
- A. I don't know what I use. What is this --on first page, no mention. Yes, here. "This letter work shall become the most important work at the age of 77 years which will become last my work."
- Q. Now, when did you commence the preparation of this letter?
- A. Same time after I make decision. I start, you know, preparation. Not only this letter, I start preparation other also book which I send also to my nephew same. After make decision, after three days, then I start preparation typing. I type Armenian because I don't want anybody know what is inside.
- Q. Now, this appears -- the letter appears to be typewritten in a typewriter -- is this an Armenian--
- A. Armenian, yes.
- Q -- typewriter characteristics?
- A. Yes.
- Q. Did you type the entire letter yourself?
- A. Yes.
- Q. Did you have any help or assistance in the preparation of this letter?
- A. No.
- Q. You put it into the Armenian language so that other people could not --
- A. I start typing in Armenian because I don't want anybody to read, because to whom I sent they needed translator to read. I sent this to President of United States.
- Q. Now, you started this right after the three days in your apartment?
- A. Yes. After three days, I start typing this letter. Book I start typing, other letters. I start typing correspondence with for give to nation my paintings, my rings, which I have, you know, I start preparation, take me time.
- Q. How long did it take you to prepare this 120 page letter?
- A. It depend how many hours I work.
- Q. When did you finally complete it?
- A. Maybe August, maybe July, something.
- Q. Now, after you completed this letter, did you make a decision or some judgment as to whom you were going to send it to?
- A. Sure.
- Q. When did you make that decision?
- A. Well, already within three days I make my plan what I will do. I fix my plan what I will do. First prepare this, second prepare this, this, this. Surely I make decision to whom I will send this from the beginning.
- Q. Were you going to make copies of this letter then?
- A. Yes. I make typed, and take myself copy here in Santa Barbara. They told, "We cannot today, tomorrow. You leave." "I cannot leave this, you will do this in my presence. Goodbye." I went Isla Vista. I have same typing. I stay there, because I no want anybody know what is inside. Even Armenian maybe somebody can read Armenian.

- Q. Were the copies made in Isla Vista?
- A. Isla Vista, that is right. Copy made here. Here, but first pages they don't know to whom address. I no give them.
- Q. How many copies were made up of this letter?
- A. I think eight or nine, yes -- President of the United States, Speaker of House, Justice Department, Time Magazine, New York Times, Los Angeles Times, Santa Barbara News how many is that?
- Q. Seven.
- A. Other, one copy in my briefcase, which I let Mrs. Helen's garage, and original in my briefcase, in the Biltmore Hotel.
- Q. Now, did you decide somewhere along the line when you would mail copies of that letter to those different, I guess now seven places?
- A. Yes. I figure exactly that they will receive the day after.
- Q. Now, the events at the Biltmore were on Saturday, January 27.
- A. Yes. But the 27th was Saturday, I mailed these on 26, 11:00 o'clock at night.
- Q. Friday night at 11:00 o'clock at night.
- A. 11 o'clock. It is next day, they can have, only maximum, maybe they will receive Sunday, or at least Saturday evening.
- Q. Did you also prepare letters?
- A. Yes.
- Q. When was it that you decided to prepare a letter?
- A. Same, it depend where, because I prepare letter different name, American, which I take name from telephone books.
- Mr. LINDSEY: May I have those, I think there is two exhibits of the letters.
- Mr. MINASIAN: That would be 12 and 12-A, the translation.
- Q. BY Mr. LINDSEY: I would like to hand you People's Exhibit No. 12 and ask you to take a look at that.
- A. (Witness examining exhibit) Yes, is my signature.
- Q. What is that?
- A. This original letter which I typed, about made about 300 copy.
- Q. You made up 300 copies?
- A. Yes.
- Q. Did you make up the copies by having them photocopied somewhere?
- A. Yes, in Isla Vista. These I make in Isla Vista.
- Q. Now, did you take some step to develop or decide on a mailing plan for this, to whom you were going to mail it to?
- A. Surely, is depend, because I have other list, it depend where I am mailing, in California or New York, or Paris or Egypt, or around the world.
- Q. Mr. Yanikian, I would like to show you Defendant Exhibit C, I believe an Armenian Directory.
- A. Yes.
- Q. I believe there is a young man who is a lawyer that testified.
- A. Yes.
- Q. And I believe he was the one that brought the directory with him, do you recall?
- A. Yes. I use same directory -- no this same one.

- Q. Did you use a directory similar to that?
- A. Yes. I no have directory, I send \$2 from publisher, and I receive, and I use this directory, yes.
- Q. Now, the 300 copies of the letter that you have, did you use that directory or a copy similar to that one?
- A. No, copy this letter -- I send by using this directory by different names, Los Angeles, Montebello, after I use directory for New York, another directory, some addresses I take in the library, because they have telephone book, in Chicago some of them, but most, about 150, I think, is Los Angeles area.
- Q. All right. About half of the letters went to the Los Angeles area?
- A. That's right.
- Q. And the other half went to various --?
- A. (Interposing) Different area, and out of country, too -- Europe, Paris, Egypt.
- Q. How did you determine what names to select outside of the United States to send the letter to?
- A. Oh, I know address in newspaper, I address to newspapers.
- Q. Were there various newspapers in different parts of the world?
- A. Newspapers in different towns, in Paris, in Egypt, in Lebanon, into Sudan.
- Q. Now, you did not send to those places copies of the 120-page letter, did you?
- A. No.
- Q. It was only the copy
- A. (Interposing) Only this letter, and only -- ten or fifteen newspapers, from which is two, three, four, Los Angeles, other Paris, other Egypt, other different country, newspaper. I send the last 17 or 18 pages book, but all book I send only to eight people.
- Q. Well, now, was there -- the part then, one part of the book, the last?
- A. Eighteen page.
- Q. The last 18 pages?
- A. Eighteen, or 11 pages, from 110 -- I can tell you from this, if I look -- I no have book with me.
- Q. All right. (Presenting exhibit to the witness.)
- A. Something wrong in this -- oh, from 18 to 120 is nine pages -- or ten pages.
- Q. Now, you lost me there. From page what?
- A. From 18 to 120 -- no, from 111 to 120.
- Q. Starting with page 111?
- A. 111 to 120, this was sent to 15 Armenian newspaper, around the world.
- Q. To 15 Armenian newspapers?
- A. Around the world, only this last pages, 111 to 120, but not book.
- Q. Now, Mr. Yanikian, what was the reason why you sent the 300 letters out, half of them to the Los Angeles area and the other half to places either in or beyond the United States, why?
- A. The letter themself tell what is idea.
- Q. Did that have to do with the decision that you formed during the three days in your apartment?
- A. Yes.
- Q. Did it have to do with the civilization from your concern for humanity?

- A. Yes.
- Q. Now, is there a reason why only seven copies were sent to the seven places instead of to all of the other places that you sent the letters to?
- A. Yes, I have some reason.
- Q. What were those, please?
- A. It was something that is not connected mankind is connected only with our American life, I think I did this because nobody business is our inside business, -- can't do our business in our house ourself. I no want to keep them any material.
- Q. Do I understand then that approximately the first 110 pages relate more to matters of concern to Americans?
- A. Yes.
- Q. The last approximately ten pages--
- A. About my idea. About the destruction, killing, so and so, all this.
- Q. Now, these three hundred letters --
- A. Yes.
- Q. When did you formulate the idea as to when to mail them out?
- A. Well, when I told you after three days when I make my decision, then I start working prepare my plan. How, why, and I make decision send letters for many people, know what I am doing.
- Q. When did you mail the letters?
- A. It depend where. Exactly, I figure how many days it will go to New York, how many days to Boston, how many days to San Francisco, how many days to Los Angeles, how many days in Santa Barbara, and I mailed exactly. But they came not before Sunday.
- Q. Were some of the letters mailed overseas, then, a few days before January 27?
- A. Overseas?
- Q. Paris?
- A. Maybe. If I have my documents original, I figure when which letter sent when, by date.
- Q. Did you make a record of it for the papers, of the date when you were to mail?
- A. Yes. When I prepare where how many letters there, how many letters there, and I prepare all this, already in the envelope, addressed by myself, stamped and wait day I pick this package, and send, because I know they will came not before Saturday. After I find out finally which day be Saturday. Because there something arrived change one week postponement, -- postpone the meeting.
- Q. Did you put them all in the same mail box as you had mailed them?
- A. No, different mail box.
- Q. What do you mean by that?
- A. I no put all hundred letters one box. I put 21 here, 10 on State Street, 10 I don't know where, different post office. What I did this, I don't want, you know, anybody

pay attention one mail hundred letters addressed by Yanikian, maybe curious, they can open and see. Then they will know before 27.

Q. In 1972, did you have occasion to visit the Turkish consulate office in Los Angeles?

A. Yes.

Q. In what month?

A. Maybe August--August, September, something like this. I visit one.

Q. Do you recall the young lady that testified from the Turkish Embassy office, or the Turkish consulate office at the beginning of the trial?

A. Yes.

Q. Do you remember the diagrams that we them brought at that time to illustrate their testimony?

A. Yes. Almost there are more people, they don't mention one gentleman, I don't know his name, but all time I think he is a private secretary.

Q. Let me ask you this: the diagrams that the two young ladies drew were those, very roughly though they are not in scale, do they generally outline the office there?

A. Yes, almost.

Q. Now, how did you happen to go at that time to the Consulate office in Los Angeles?

A. Why I go there?

Q. Yes.

A. I go there where I want see what is situation.

Q. Did you have an appointment?

A. Yes. I talk by telephone ask --

Q. Just a minute. Where were you when you made the telephone call?

A. I went Los Angeles and stay in -- what is hotel, new hotel, exquisite hotel. THE INTERPPETER: Beverly Hills?

THE WITNESS: No, new one. Anyway, on Wilshire Boulevard in hotel. I forgot now. I stay there overnight, and I called that I want have appointment with Consul General and give my address, hotel so and so, for they call me. They thought he is not here, and I give my room number and I wait. After, he called, I told, "I want see you, I have something talk to you."

Q. Now, at that time, did you talk on the phone with the Consular General?

A. Yes.

Q. In that conversation, did the two of you make arrangements for a time when you could come to the consulate?

A. That is right.

Q. Was that on the same day as the telephone call?

A. No.

Q. How much later?

A. They called late and told, "Tomorrow, I am too busy. But Consul himself will receive my assistance." "Okay"

Q. And the next day --

A. Next day I went there.

Q. About what time?

- A. I don't know, eleven, I don't know.
- Q. Did you walk in that room that the two secretaries mentioned, that big waiting room?
- A. That is right.
- Q. Now, when you walked in that room, were there the different persons there that the young, ladies mentioned here in their testimony -- different secretaries working?
- A. Yes. They are working, two, three, four people, also one sit down. I think his secretary consul himself, come and sit down next his room.
- Q. What happened when you walked in the room?
- A. What happened, you go in some office, I told my name and told, "Oh, yes." She went inside and came out again, "Yes, they are waiting you."
- Q. What name did you give?
- A. Courg Yaniki.
- Q. What is it?
- A. I don't want give Yanikian name, they never receive, already they will know what is Armenian came to consul. Introduce myself Persian.
- Q. As a Persian?
- A. Yes. Sometimes they call me Yanikan. Yanikian, Yanikan, no big difference.
- Q. Did you have an opportunity to see the Consul general there?
- A. No.
- Q. Did you see --
- A. Never I saw him.
- Q. Did you see the Vice Consul?
- A. Yes.
- Q. Did you go into his room and talk to him?
- A. Yes.
- Q. How long were you there?
- A. I think about half hour, because when I told why I am there, they was very interested and asking can I leave this what I have with me, is Turkish money, and photo some picture.
- Q. Had you taken something with you that day when you went to the Turkish Consulate's office?
- A. I take with me one Turkish money, two and a half lira, with lots of signatures, very high revolutionary people, also I take photo -- color photo, small, of some picture which I have.
- Q. Now, why did you take those two items with you that day?
- A. I will have some occasion see where is consul, where is vice consul, where is consulate, for see what is going there.
- Q. Now, when you were in the room with the Vice Consul, what was the first thing the two of you talked about?
- A. He offer sit down, and I put before him -- "Oh, very interesting." he told, "You want sell?"
- Q. "No, I no want sell, I want gift to Turkish government for museum." He was very interesting, "Then I can have this for sending."

"No, I not give this but you can take photo, because it is very valuable. I can give you picture."

And he called secretary, some girl, man came and he give to him, man, that "Do photocopy." And he went out. We sit down and talk about picture and what is picture, what signature they are. After ten minutes they bring back, and they have two or three copy.

- A. (Continuing) And they told, he told that, will send to Ankara, to our government, and we let you know, and I give my address where I live, in Santa Barbara, real my address.
- Q. What address did you give?
- A. Romero Canyon, that I live in Montecito.
- Q. Were you living there at that time?
- A. Yes, sir, and I give my telephone, too.
- Q. When you were at the Consulate that time--
- A. (Interposing) I'm sorry -- but he told, you know, it take time, one, two months, you no expect -- I say, I have time. He told me, is no expect any answer before one, two months, because we will send, so much time -- so it's okay with me.
- Q. When you were there in the Consulate did you have with you or on your person any firearm?
- A. No, I no go for any purpose there. I go only for see. I no have --
- Q. Now, what is it that you are looking about there?
- A. As I told you, that already I make my mind. Then I want--first I want to go see where I will act.
- Q. Now, were you going there to see about killing two men?
- A. Not yet, I make my mind -- I want to see who, where, who there.
- Q. And for what purpose? Why did you want to see who was there?
- A. Who was there? Because I want see, that I can have privacy with them.
- Q. Why would you want the privacy?
- A. Because I scared that if I start making -- realize my idea, somebody there, three, or four or five people, somebody will try play hero, so and so, and because one room is there, after you will go out, other room was there, and this time some poor people, innocent, can be hurt. And when I came out, saw all this, I give them these pictures that I told, no, not here. It's not place.
- Q. Now, the Consul General was not there during the time that you were there in the Consulate office?
- A. Yes, Consul General was there, but I be told he is busy.
- Q. He was busy?
- A. Yes.
- Q. And it was the Vice Consul that you saw?
- A. Vice Consul, that's right.
- Q. Now, you left the photograph of the pictures and the photocopy of the banknote there for them?
- A. Yes. I only see situation, place -- I no have any arm with me, and I have no intention to do this same day.

- Q. Now, were you then going to wait until you heard further from them about this gift?
- A. Yes. I give my address, telephone, and they told me, no wait answer until less than two months, and I came back Santa Barbara.
- Q. You checked out of the hotel and came on back to Santa Barbara?
- A. Came back Santa Barbara, and after a few days I fly to see my sister.
- Q. Now, after you had been back here in Santa Barbara a couple of days you made arrangements for the flight to where?
- A. To Yerevan.
- Q. To Yerevan?
- A. Yes, because already before I went to Los Angeles, I send letter to Yerevan, - in Yerevan we have organization, is called Foreign Relation with Armenian Abroad.
- Q. What is it?
- A. Foreign organization with Armenians abroad. So officer recognize organization, and their president Hamizaspian, he was here Los Angeles a couple of months before.
- Q. Did you meet him when he was here?
- A. Yes. I met him and I told him that I have some gift for Armenia. First I want sell, they told me, we don't have money for buy.
- Q. Now, where is Yerevan?
- A. Here (Indicating on map).
- Q. It is an Armenian city?
- A. Yes, Armenian. Yerevan is capital Armenia--Armenia, like separate, we no have Armenia, is U.S.S.R., like California for America, Armenia for U.S.S.R.
- Q. Armenia is--
- A. (Interposing) Armenia is twelve, fifteen republic Federation, U.S.S.R.
- Q. Now, did you go to Yerevan then to see your sister?
- A. Yes, take these pictures, and--no, I receive invitation.
- Q. From whom?
- A. From this organization official organization, be their quest, because I am taking gift, they send me letter, they are to be glad to receive me. And I fly, only they put one condition, and I ask why, they put ticket from America here you will buy, from here America we will buy because they scared that they buy two way and I will use and never take gift.
- Q. Now, when you got to Yerevan, then, you saw the people connected with that organization?
- A. Yes. Officially, I present my gift.
- Q. Now, what gift did you present at that time?
- A. I present -- we have Armenian have famous painter, Sarian, he is unique painter, which I have only -- within 1920--which I receive gift from my wife's family, her brother, director bank, he give me this picture like wedding present in 1924, and I have all of the time with me. And the people think that this picture disappear, but when they found that I had this picture, they was very interested, and they ask if they can have, -- some correspondence. So finally, I said, yes. I am bringing gift. Then I receive this telegram invitation.

- Then I -- of course, they telegram, they send me visa, official, my passport, I went Yerevan.
- Q. Where is that painting now?
- A. In the museum. I take two paintings, one is Sarian, in Sarian's museum; another painting is Italian, is Armenian gallery, art gallery in Yerevan.
- Q. Both paintings are in Yerevan, then?
- A. That's right.
- Q. Now, in Yerevan then you saw this organization, made the presentation to them of the two paintings
- A. Yes -- no, also ring.
- Q. You saw your sister?
- A. Yes.
- Q. In Yerevan?
- A. My sister was living Tiflis.
- Q. Did you go to Tiflis then?
- A. No. I send a telegram that I am coming, I meet her in railroad station.
- Q. Where?
- A. Yerevan, it is couple of hours, she and my nephew, they come.
- Q. And did you see anyone else there in Yerevan or did you come on back to the United States?
- A. What?
- Q. Did you see anyone else in Yerevan other than your sister and the group when you presented the painting?
- A. What is mean -- I see people, I went in theatre, I see people there.
- Q. I mean --
- A. Officially I refuse any official invitation, only I accept one invitation by Sarian's wife -- wife sent his son, who is head of orchestra, Armenian, and invite for dinner. I accepted this invitation, only one. And after he keep my position his car, with the chauffeur.
- Q. Did you then return back to the United States?
- A. No, I stay -- yes, I stay 15 days there in Yerevan.
- Q. Did you then return back to the United States?
- A. Yes, -- Moscow -- I send to Moscow, for Moscow to come to United States.
- Q. Did you go to Moscow?
- A. That's right.
- Q. Why did you go to Moscow?
- A. Because I have my ticket, Yerevan, Moscow, Paris, New York.
- Q. Did you see anyone particularly in Moscow on that trip?
- A. No, only my nephew -- my nephew, she came see me, unexpected.
- Q. Your nephew, she?
- A. She stay in Yerevan, when I went, but I then ask, why you came, Moscow I came.
- Q. And then you got back to the United States?
- A. Yes.

THE COURT: Ladies and gentlemen of the jury, it is your duty not to converse among yourselves or with anyone else. Will the members of the audience please remain seated until I have given this admonition.

I don't enjoy doing it at best so often, but I can't do it when everybody is getting up and leaving the court room.

It is your duty, ladies and gentlemen of the jury not to converse among yourselves or with anyone else on any subject connected with the trial, or to form or express any opinion until the cause is finally submitted to you.

10:00 o'clock tomorrow morning, please.

(Whereupon at 4:30 o'clock p.m. this date the proceedings were adjourned until the hour of 10:00 o'clock a.m., Wednesday, June 20, 1973.)

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**23. SANTA BARBARA, CALIFORNIA, WEDNESDAY, JUNE 20, 1973, 10:00A.M.**

THE COURT: All members of the jury and the alternate jurors are present, and the defendant is present.

All right, Mr. Lindsey.

Mr. LINDSEY: Your Honor, may Mr. Yanikian resume the stand, please.

THE COURT: Yes.

**GOURGEN MKRTICH YANIKIAN,**

resumed the stand having been previously duly sworn and testified further as follows:

**DIRECT EXAMINATION (Continued)**

BY Mr. LINDSEY:

Q. Mr. Yanikian, I believe about the close of yesterday, you had related to us the trip through Russia, to Armenia, and your return back to the United States and back to Santa Barbara.

Again, in what month was that that you returned back here to Santa Barbara?

A. November -- end of November, something like this, or first December, or November.

Q. Either the end of November or first part of December?

A. Yes.

I cannot tell. My passport you can see when I came.

Q. Now, after returning back here to Santa Barbara, did you have any further communication or contact with anyone connected with the consular office in Los Angeles?

A. I receive letter.

Q. And --

A. I receive letter from them by my address Romero Canyon.

Mr. LINDSEY: May I take a look at Exhibits 5 and 6 please? -- Five and Seven.

Q. Mr. Yanikian, People's Exhibit No. 7, is that the letter that you received? It indicates a date December 13, I believe, from the Consular office to you. Is that the letter?

A. (Witness examining exhibit) Yes -- Yes.

Q. Now, as a result of receiving this letter and wherein it asks that you let them know, or you let Mr. Baydar know how and when arrangements might be made for the items in question, what is the next thing that you did?

- A. I called them.
- Q. Did you call them from Santa Barbara?
- A. Santa Barbara -- long distance.
- Q. And to whom -- did you talk to them on the phone at that time?
- A. I talk to Consul General.
- Q. To Consul General?
- A. Yes.
- Q. And what was that conversation about, please?
- A. I told that that I receive letter -- well -- thank you, so and so. After he told, I wrote now, tell how we can have this. Well, I live -- and give my address. Alamar, Apartment so and no. He told me, well, Mr. Yanikian -- Yanikian, he say -- Yanikian -- we are big shot, we cannot go out this apartment section. We cannot go on this apartment section because we are represent government. What you want? -- I call you little later, where we can meet. Okay.
- Q. Now, who was going to call later, you?
- A. No.
- Q. They would call later?
- A. Yes. Telephone in my home, and I wait.
- Q. This was when you lived at Alamar in Santa Barbara?
- A. That is right.
- Q. Did you live in an apartment?
- A. Apartment No. 13, I think.
- Q. Now, was that the essence of that telephone conversation?
- A. Yes. This, and I wait because he told, "I let you know by telephone very soon." And I sit down reading and waiting telephone call.
- Q. Now, how long after that call was it when you received any further communications from him?
- A. About 20 minutes, maybe.
- Q. And did the same gentleman call you back?
- A. Oh, yes, same consul general call me, but never I saw him, only by telephone, he called me that we meet in Biltmore Hotel.
- Q. In Santa Barbara?
- A. Santa Barbara. "Okay. Then I let you know-- I told, "I let you know my address Biltmore Hotel. Then he told me that, and he look -- "Let I look my notes my engagement when I have time." He look. "How about 20?" I told him, "No, I am going San Francisco 20. Maybe we can after 20?" He says, "Okay, 27." "Okay." Then I fix, "If some changement I call you, if some changement your part, you call me." And I told, "I let you know my address in Biltmore." And I refuse 20. I no accept 20.
- Q. The 20th was not acceptable to your schedule, then?
- A. Yes. Because each country in the world, they have their coronation, King, so and so, 20 is big day for American. Twenty, how can I do this on twenty when twenty in Washington all American wait for parade so and so, for President Nixon take off, so and so. I turn down. I lie that I am going San Francisco. I no want spoil American day.
- Q. Was there anything further in that conversation?

- A. Yes. After this I went Biltmore Hotel for make reservation. But before --
- Q. Now, was that all there was in the telephone conversation?
- A. This day, yes. This day all. That's all.
- Q. Now, after you hung up, then what is the next thing that happened?
- A. The next thing I went Biltmore Hotel.
- Q. On the same day?
- A. On same evening, I went. But before make reservation, I have little long hair, and I read many articles in newspaper that they have lots of trouble in Beverly Hills about people with long hair.
- Q. In Beverly Hills?
- A. I am sorry, in Biltmore -- in Biltmore -- in Santa Barbara Biltmore, they have lots of trouble with people with long hair, and I read lots of article like some professor came, very famous, director some bank, they have some wedding party, because somebody have long hair, they no let anyway. They have very discussion this. Because I have long hair, first I told I will go bar for see how is acceptable or not. I went in bar evening, bar man know me, "Hi Mr. Yanikian." "May I have my scotch and water?"
- "You know, your hair, I don't want into trouble, you push your hair under your beret."
- "Sure."
- Q. Now, that evening then, when you went, was to see if your hair would pass inspection at the Biltmore?
- A. Yes. I went in the bar for see what will because I have little long hair.
- Q. You didn't pass, then, did you?
- A. No. I push. No, after, I have my -- I was okay, he know me long time, he work me. I take my hair, put under beret and sit down. I sit down I have my Whiskey. Well, I have also with coat most times, I was coat. I paid. It has been I cannot make reservation with this hair, they not give me reservation. I no wanting in barber shop because they will be surprise what is wrong Yanikian cut his hair. I take scissors and cut myself in my own home, look in mirror, cut, because I read of they accepted, and he told bar man that we accept until your shoulder, that's all, no more. We want see your back, your shoulder. I came same day home, morning, I cut. Then I look--
- Q. What was the next thing, then after?
- A. After next day I cut, you know, in the mirror myself by scissors, and I fix myself more acceptable for Biltmore Hotel.
- And I went there.
- Q. Now, did you go back to the Biltmore Hotel?
- A. That is right. And make reservation.
- Q. What day was that, do you remember what day that was?
- A. I don't know. My reservation there answer, I made reservation for one week, and I told, "I will move Monday," or something. After next day, I went or call -- or went, I change day exactly that's 27 be exactly for one week or six day. I make reservation.
- Q. All right.

- A. And I ask, I will pick something, money? No, Mr. Yanikian, we know you. You was member Coral Casino. You know. We don't need -- not necessary. After two days, I receive confirmation from Beverly -- from -- why Beverly? Because I live Beverly--from Biltmore Hotel that room is received for you.
- Q. They sent you a note in the mail?
- A. Oh, yes, by mail, by my address, Apartment 13, so and so, because I told I live here, I wanted to meet some people,-- I want relaxation outside.
- Q. Now, when you made the reservation did you tell them what kind of a reservation you wanted?
- A. Yes, they told, we give you on main building, I told, no, I don't like main building. I like natural -- I like natural -- natural. I want have some bungalow, cross Coral Casino, some place like this.
- Q. Across from the Coral Casino?
- A. Because it is not the first time I go there, long time ago I live there, and I ask especially, to not main building, -- I try some place with no too many people, and they told, okay, we give you own your apartment. Can I see now? When I receive, I call them, -- can I -- oh, can I went there, see? He say, no, it's very good. You will like it. Then I move.
- Q. You did not get a prior or advance inspection then, did you?
- A. No.
- Q. They assured you that it would be satisfactory?
- A. No -- that you will like it.
- Q. Now, what is the next thing that happened then?
- A. You had the reservation made and you received confirmation from the Biltmore.
- A. Yes. Then I came home and called long distance.
- Q. To where?
- A. To Los Angeles.
- Q. To whom?
- A. And talk to Consul General, and tell my new address.
- Q. Now, did you talk to the Consul General?
- A. That's right.
- Q. What all was said in that conversation?
- A. That conversation was, is from Santa Barbara--oh, Yanikian. Yes. We meet -- I meet you in Biltmore Hotel, my address is 34 -- what time. I came with my family. I say, please no. I don't like woman's mixing on this business. He wants to come with his family. I told, no. I told, -- he told, I am not driving -- I told, take somebody that drive. Oh, why you no take your Vice Consul? He is driving. It was good idea. He like it. Okay. But please, no bring any woman, with you. Then I wait.
- Q. Now, after that conversation then what is the next thing to happen?
- A. Nothing, I live couple days in the Biltmore.
- Q. Did you go to the Biltmore and register?
- A. Yes. I move Biltmore, I move something my--couple of suits, you know, something which I hope that I needed in jail, you know. I move with me one suitcase with documents, in which was important documents but photocopy—only this book

- original was there, other all photocopy, because original I put in other place, in the garage, and I start --my apartment was paid, all the month, you know I was not-worried, and I use telephone for my apartment, never I use telephone in Biltmore.
- Q. All right. Whenever you had to make any phone calls while you were at the Biltmore did you go to your apartment?
- A. That's right.
- Q. To make the calls.
- A. If I want to call long distance I went to my apartment, I called. If I wanted something I go out and call from public telephone, without using switchboard. And this, about one week -- one week something, I have house, little two places Biltmore Hotel where I live, and I have my apartment, which also empty. I give away everything what I have.
- Q. At the time that you were -- commenced the few days stay at the Biltmore, had you been in the process of giving away everything you had?
- A. I stay three, four days, I think -- no, I make very normal life. Morning, my breakfast. I order the same breakfast in my room. I have some books with me. My books, one copy each my books, five, six books. I look, I read -- I, you know, after go out, sometimes on the town, sometimes even I use a couple of days my friend's car, lying that my car is not operation, except I sold my car.
- Q. Had you sold your automobile?
- A. Yes.
- Q. How many days before checking into the Biltmore?
- A. About three, four days.
- Q. Now, your -- did you have any furniture?
- A. I give away all what I have, furniture, no. My apartment was furnished but I have my television, I ask some friend, you have television? No, you want have? Take it. I have some laundry--anyway, I start to give away everything what I have and explain this, that I am going move for some place, I don't want any furniture, anything, they have everything, I don't need any laundry, anything. And I gave away. The radio, television, and my books, give away my books, everything.
- Q. After you were in the Biltmore did you receive any communication from Los Angeles, from the Consulate office?
- A. No. I contact once them, two days before, because I was worried that maybe they change, you know, change mind, and something -- I want be sure.
- Q. Where did you make that call from?
- A. From my apartment.
- Q. And you called in Los Angeles?
- A. Los Angeles I called, again, some secretary, man answer. I said, may I talk to Consul General? He says who is talk? I told Yanikian. He say, just a minute,-- when I told Yanikian, just like magic for them, because they have gift they receive. He give communication and I talk and I ask.
- Q. Who did you talk to?
- A. I talk to Consul General.
- Q. This is about two days before Saturday?
- A. That's right.
- Q. And what was the conversation?

- A. Because I want know, start mailing these letters which I prepare, around the world. I want know, you know, this mail come, something change and people will receive, and it is nothing, and they will find out something be done before, you know, I did. When I call, -- hello -- hello -- how are you? I say, good. How are you? You have something? No, no, we will be there, 11:00 o'clock we will be there. And he ask -- just a minute, just a minute -- Bungalow 34? Yes. Your bungalow 34.
- Q. Bungalow?
- A. Yes, 34, Biltmore Hotel. I wait there. He say, okay. I ask, you know how come this? Oh, yes. I know Santa Barbara very well.  
That's all. No more conversation. Then after this I was sure they are coming, I start my mailing, Washington, Chicago, Los Angeles, San Francisco, and keep only some in Santa Barbara which I mail 11:00 o'clock evening.
- Q. On which evening, Friday evening, or Saturday evening?
- A. Friday evening.
- Q. Friday evening. All right. You had no further communication then between that Thursday and --
- A. (Interposing) No.
- Q. (Continuing) Saturday?
- A. No.
- Q. Now, Saturday morning, what is the first thing that happened Saturday morning, did you put in a call to the room service or the switchboard for someone to get the room straightened out?
- A. Saturday morning, I feel very bad, because I no sleep all night.
- Q. Were you tired?
- A. I was on the beach.
- Q. Excuse me?
- A. On the beach.
- Q. Friday night?
- A. Yes.
- Q. All night?
- A. Yes.
- Q. Were you able to sleep Friday night?
- A. I cry all night, -- not for Saturday, for what State Department doing.
- Q. You mean the results of that letter you got in April?
- A. That's right, when they put before me question, kill yourself, or accept this.
- Q. Now Saturday morning --
- A. I ordered my breakfast.
- Q. Was that brought to your room?
- A. Yes. More than average, because I was hungry. After this, I was different man.
- Q. Breakfast made you feel better?
- A. Different man. So every people tell you, how I act, very calm. No, I was not nervous, nothing.
- Q. That Saturday morning, then, you felt very calm
- A. Yes.  
When I ask two times maid that day clean my room quick as possible, I thought ten o'clock, nine-thirty, ten, nobody came, I call switchboard and make complain that I

ask that clean, what is this? And came three people. Three woman and one man, one man came take out room service, three women quick in short time they clean everything and they went. It is about eleven o'clock. Take my coat and go out and sit down on the balcony.

Q. Patio area?

A. Patio.

Q. I believe there is a witness Mr. Umberto Valenzuela who testified that somewhere between maybe 11:30 and 12:00 somewhere along there that he was bringing some, I guess, drink to one of the other rooms in that cottage and that he saw you, I believe, out there in the patio area?

A. I sit on the patio, sometimes sit down after walk a little, go swimming pool, and watch what time, because any minute after eleven, I wait any minute they come.

Q. Were they to have been here at eleven o'clock?

A. Almost eleven. Maybe five minute before, maybe.

Q. Now, after you had waited outside in the patio a little while, what did you next do?

A. Nothing. Nothing. I walk, sit down, and wait, watching. Sometimes I went my room for some reason maybe, nothing special. Only I look, I have this letter with me, which number so and so, which you show me now, I read couple times this letter.

Q. Is this, this exhibit 7, I just showed to you?

A. That is right. I read couple times this letter, and I put this letter on table someplace and go out and waiting.

Q. Now, can you recall, did the two men arrive?

A. Yes.

Q. The Consul General and the Vice Consul?

A. Yes.

Q. About what time did they arrive, do you recall?

A. They saw me fifteen, twenty feet, because Consul General never saw me before. Either me never I saw him. Only I saw his Vice Consul -- what his name I don't know.

Q. The Vice Consul?

A. Huh?

Q. You had seen the Vice Consul before?

A. Yes. But never the Consul General. When they saw me, he yell out, "Yanikan."

Q. Were you out in the patio at that time?

A. No, on the front driveway -- no driveway, sidewalk.

Q. On the sidewalk?

A. Sidewalk, yes.

Q. Is that where the three of you met, then, out there on the walkway near the bungalow?

A. Yes. Sidewalk. Who take to bungalow because around this bungalow all is sidewalk. From patio, I went on the sidewalk, walk back. They saw me about fifteen feet, so and so, and Vice Consul -- I don't know his name, -- "Here is Yanikan." And when he told Yanikan, Consul, two hands came up approach me.

Q. Was there any conversation outside there?

A. No. he told, "You have very nice place here." "Yes, I like, it is very quiet." That's all.

- Q. Did the three of you then go inside – inside the room?
- A. Inside the room.
- Q. Now, inside the room, what happened as soon as you got inside?
- A. Inside, I take out my coat, and I put on the chair in the entrance, my beret, and I ask sit down.
- Q. Where did they sit?
- A. May I have this map which I saw. I show you because--
- Q. One of the diagrams?
- A. Yes. Exhibit number--I don't know,
- Q. Mr. Yanikian, this is People's Exhibit 27, a diagram. Is that the diagram that would help?
- A. (Witness nods.)
- Q. Would you like to take the pointer, please, and indicate?
- Now, Mr. Yanikian, as you talk, could you face this way, and that way I can hear way back here?
- A. How I can talk here without looking. Anyway, we came in, I take out my coat, beret, and put some chair. I put on this chair, and I offer them sit down in these two chairs.
- Q. The two yellow chairs in the corner?
- A. Yes, in the corner.  
Consul General sit down here.
- Q. And he sat on the chair--
- A. Consul General sit down here, Vice Consul we have other chair here, he take this chair and bring and sit down there.
- Q. Now, Consul General sat in the chair that's nearest to the lower right hand corner of that diagram?
- A. Here. That's right.
- Q. The other chair, the Vice Consul brought--
- A. Vice Consul went, take chair, and bring and sit down here, and I told, "Why you sit down here, you sit down here."
- Q. He took the chair from up near the upper right hand corner of the room as shown on the diagram?
- A. Yes.
- Q. And brought it down?
- A. Yes, sir.
- Q. In approximately the position shown on the diagram?
- A. (Indicating) The chair was this position, he -- you have got picture yellow that exactly same, big arm chair here, Consul General, I offer he sit down here, I offer consul sit down on other chair, but he take chair, put here, he said, no, you sit down -- he get chair here, sit down.
- Q. Would you say that again for the reporter, please.
- A. He sit down, Consul General, sit down -- he take this arm chair, right side first, I offer Consul take this chair, he told, no. He bring this chair, put next, and sit down. I said, no, you sit down there. He said, no, no, you sit down--between us we talking. I will sit down in this corner. I can see you both, and I can talk. And he sit

down, also. And he sit down here (indicating), other here, and I sit on the corner of this bed.

- A. Mr. Yanikian, may we go back over that for the record so that it may not be confused.
- The Vice Consul offered to let you sit in that other yellow chair, as he brought down the third chair from up--
- A. (interposing) Yes.
- Q. In the area, that upper right area.
- A. Yes, this third chair was desk here -- you have photo there, -- desk, on this desk, you know, and here was telephone, and here was chair. He take this chair and bring here and sit down, and until he sit down here, -- he did not, I said, no, no, you sit down there, I sit down here and I can see you both.
- Q. You sat down on the corner of the bed near where the chairs were?
- A. Yes, I can see both, you know.
- Q. Now, what happened next?
- A. We start talk. First he, Consul General -- "may I see these banknote money which you have?"
- Q. The banknote?
- A. I said, sure, the banknote was here.
- Q. Was it sitting on what is --
- A. (Interposing) Yes, banknote was here with my papers,
- Q. Is that a dresser?
- A. On the dresser there, I have, in my black suitcase, something, and it was here.
- Q. Now, Mr. Yanikian, that is the dresser that is on the left side of the room as shown on the diagram?
- A. Yes, right here. And I walk, you know, I take, and I give to him.
- Q. You walk from the bed, went over and picked up the banknote from the dresser?
- A. Yes, and give it to him.
- Q. And walked back to the Consul general and handed it to him?
- A. Yes, hand to him.
- Q. Was there any more conversation at that point?
- A. And he take from his pocket some letter and told that, -- here what I bring to you-- for you.
- Q. Mr. Yanikian, People's exhibit No. 4 is a banknote, is this the banknote that you are talking about?
- A. Yes.
- Q. And then People's exhibit No. 8 appears to be a kind of, looks like a receipt, is that the letter that you mentioned?
- A. (Witness examining exhibit) Yes, and he is reading, looking this, -- and I sit down on the corner, and I look, but I no read.
- Q. He was looking at the banknote and you were looking at this receipt?
- A. I no read, only I look, because I not interested what is inside.
- Q. All right. You looked at it but you didn't read it.
- Now, what is the next thing that happened?
- A. Start some conversation.
- Q. About what?

- A. Conversation about their country,
- Q. About what?
- A. About their country, about Turkey. How is everything there? Oh, yes. We have now Republic-- start telling what they have. And I ask, how long you have this Republic? Because I know very well their system. Oh, he says, Atatürk, you can see this picture (indicating banknote) he is father. Oh, yes. He is great man, yes. He is great man.
- Q. He is a great man?
- A. Yes, he is great man, -- yes, he is great man. And I ask, by the way, it is he who protect Dardanelle that Ally cannot pass. He say, how you know? Well, I know, a little history, I told, because really, he was protect Dardanelle, and Allies Naval can't pass Dardanelle, for this war -- for four years, for this reason that Ally cannot have communication by Russian Army -- Russian cannot bring food to Allies.
- Q. Atatürk (*Ataturk*) had blocked the Allies?
- A. Yes. This Atatürk did this, he was General -- Commander all this section protection, with the German Generals, too, that he was head, Atatürk, for this he was elected the president after, when they First Congress, they elected him president for this.
- Q. Was that one of the reasons the railroad had to be built through Persia?
- A. Yes, that's right. When he told, -- you know, a little history -- yes, I know a little history. And why, no more? I know history all Near East, and I told that, I am surprised that young generation is now pass, -- young generation not go direction like Atatürk at all. He say, what you mean? Well, Atatürk told from foundation, organize this Republic, freedom and equality for everybody. I told him, what Atatürk told when he organize this Republic, Turkish first time in his speech that these be foundation our new nation, with freedom, equality for everybody.
- Q. The people in Turkey?
- A. Yes, Turkey -- in Ankara, his first speech when he accept. Which I told this, he is look, -- you know, whole history, -- yes, because, you know, I have lots of time. I am reading. So, but I told him -- but is too bad, your young generation not follow his word, and he was surprised. What is mean, no follow? We are doing what he ordered. I told, not only in Turkish, but outside world, your younger generation, sometimes act in different way, because, -- this letter which I receive in '65, this like knife in my heart, not only for my heart, for all mankind, is dirty letter.
- Q. Is this the letter that we read yesterday.
- A. Yes, is worse, even if we have no any documents, we have only this letter which we have, it is now for sure what is Turkey today, -- '65, students sending in America, take education, American education, maybe sometimes we are paying their money, and possibly, what they doing, they insulting America, insulting American citizen, and they show their barbarous savage face what they have, and bring them from Mongolia. Our conversation take about 15, 20 minutes -- very friendly, friendly. After, I told, you know, I am Armenian.
- Q. Now, where were you when you told them you were Armenian?
- A. All time I was sitting on the bed
- Q. Were they still in the chairs?

- A. All sit down. We talk, you know. I sit down here. Only he was sometimes, no, no,-- you know -- when I talk, he say, no, no, -- only what he told. He never told no talk more. But he talk most (indicating) right there.
- Q. Most of the conversation was by the Consul General?
- A. Consul General. I told that, you know, that I am Armenian. When I told I am Armenian, he was surprised, and even money which he let fall from his hand.
- Q. Is that the banknote?
- A. That's right, from his hand.
- Q. And did that fall on the floor?
- A. Yes, fall on the floor.
- Q. What happened next?
- A. Then is couple second we look each other, I look on him, on his Consul, -- by the way, Consul eyes exactly eyes my brother, blue, exactly. Nice looking fellow.
- Q. As you were looking, is that the Consul General?
- A. Huh?
- Q. The Consul General?
- A. Only Consul General, that's all.
- Q. And as you were looking at him at the moment --
- A. That moment, no. We look -- after this, he was surprised, money fall down on his hand, and I look on other, they look on me, after they look each other, because they surprised, Yanikan now is telling he is Armenian. Because he diplomat, you know, he start smiling, "Okay, all right, Yanikan not different. Now, you see, you are giving gift to our nation. This is very nice, this cost money. "
- "Sure, this cost money."
- "After giving this picture, and I am sure we will send you two decorations from our Government. I am sure, don't worry, you will receive. Also, we give you \$5,000.00."
- "Why?" I told this, "that I am Armenian, I am writing, I wrote many articles against your nation, against what you did in the past, not you" and I told, "Not you, maybe your father, maybe your grandfather, I don't know, but your nation. But you young generation never try find out what is going."
- And they told me, "I give you will have these orders. Now you give these gifts, we give you \$5,000.00, but you promise never again write any poetry or articles against our nation, now we are friend."
- When he told this, you know, I look on him, I look on him, I saw separation from face, this Consul separation his eyes, I saw face my brother Hagop, the same blue eyes, and I told, "You know, despite the fact you put die, despite the fact that you receive hundred, hundred millions from us, from civilized world, from American, despite the fact that you still live, you have your republic, you stay, same savage what you have hundred years ago."
- When I told this savage, this Vice Consul told, "You son-of-a-bitch Armenian," and take chair and hit me, and I jump.
- Q. Is that the chair --
- A. Yes , chair is next to him.
- Q. -- that he had moved from up in the corner?
- A. Yes.

- Q. He did what with that chair?
- A. I was here and chair, he take like this, and hit me -- hit me, I jump, then I came, "Now I will destroy you. I will kill you." I don't know what I told. I jump and take my book.
- Q. Were you still seated on the bed when you were struck with the chair?
- A. That is right.
- Q. Where did the chair strike you?
- A. This side, right side.
- Q. On the head?
- A. Yes, but same, you know, I hit, I put like this, and I jump same times. I came, "Now I will destroy you. I will kill You." I don't know what I told, maybe I used word "kill" but first that I use, "I will destroy you." I remember very well after that what I told. I jump and take my books -- exhibition book.
- Q. Now, when -- where was the book at that point; was it on the dresser over there also?
- A. What?
- Q. The book?
- A. Yes, it is on the dresser. Next to my suitcase.
- Q. Now, the Consul General -- let me put it this way: when the vice consul picked up the chair and struck you with it, --
- A. Yes.
- Q. -- what was the Consul General doing?
- A. Nothing. He said he surprised he don't know what is going. He is take couple seconds all this, couple seconds. And even the chair I push chair, I jump, I told, "Now I destroy you," jump, I take this book, and I have Who is Who, they can see book, even they surprised Vice Consul look at me and Consul say what, why. "I want destroy." I have book in my hand, they don't know what is going.
- Q. Now, during all the times up to this point, do you have any gun on your person with you carrying a gun?
- A. No .
- Q. In your pockets around the waist anywhere?
- A. No. All was on the--
- Q. Then at all times, up until you were struck with that chair,--
- A. After this, I jump, and I take book. Before this I no have anything with me. I sit down and talking like this two people sit down, I an talking like this. I am telling what they are, they promise me we give you \$5,000.00 money, so and so, forget this past so and so, surely 25 years I work for create something for show, you know mankind what is going here, why, why, why, and now they offering me -- then I told, "you same savage like you have when I told you war barbarian savage." He jumped and hit me. I push, "Now, I destroy." Maybe I use word also "I kill." I don't know. And I bring book and stay in the middle. I jump, and I stay here, and Consul General was here, and Consul stay with surprising look, what is this with a book. He take couple seconds.
- Q. Mr. Yanikian, did you kill two men in that room?
- A. I no kill anybody. I destroy two evils for have symbol with which I want put light in the darkness that we can see what is going around. Why? For me they are not

human. I take them from their nation. If I American sacrifice my life for mankind because I know if continue like this mankind will disappear same place when born. That it is wrong. Whose in the mankind, they are also in the mankind, cannot use some of them from them for put this light. I no kill anybody, and I cannot kill.

Q. Mr. Yanikian, were you the one that called on the telephone to the Sheriff's office?

A. Yes. Before I call, I did something more.

Q. What was that?

A. Shooting them. For destroy one human, I need one bullet. I don't know how many I used. When I saw that all is gone, I use parabellum, German parabellum, which you have, I saw is my parabellum, which I have 25 years. Never used, once, 25 years ago in Lake Tahoe I use for shooting for pleasure with friends, that's all, never I use. When no bullet, I saw two body on the floor, I went put back this gun, I take other gun, small Browning, and approach. They lie down, and I shoot them two bullets each head. What I did this? I don't want they suffer. I don't want they no suffer. They did their job for their nation. They did job for mankind. I no want they suffer more. I give this they call coup de grace, I did. After, I don't know how many bullet I use on small, I came back with gun. I went on this wall, one body is here, one body is here. I make my way go to telephone, and I put my hand on the wall because I saw picture, I saw picture my brother. I touch, I think I saw-- nobody there. I went around telephone.

Q. Mr. Yanikian, was that your brother Hagop that you thought you saw?

A. Yes. I take telephone, and I ask "Is Yanikian speaking." They know me, "Oh, yes, Mr. Yanikian, what you want?" "I want direct communication with Sheriff, maybe they give me direct to Carpenter himself personally."

I don't know him, but I heard his name, he is head. After I wait couple seconds, then said, "You know what, you call Sheriff office and tell that in my room I leave two body." I think I used killed, I don't know which word, but maybe I use killed because by telephone, what -- she told, "What, you?"

"Yes." I think I told, "I killed two men in my room." And called them. I waiting them that they came and take care all situation. This my exact word what I told. After I take my coat, put my beret, and went out and sitting on

Q. On the patio area?

A. On the patio.

THE COURT: Take the morning recess at this time.

Ladies and gentlemen, it is your duty not to converse among yourselves or with anyone else on any subject connected with the trial, or to form or express any opinion thereon until the cause is finally submitted to you.,

**(RECESS.)**

THE COURT: All the members of the jury and alternate jurors are present.

**DIRECT EXAMINATION (Continuing)**

BY Mr. LINDSEY:

Q. Now, Mr. Yanikian, after you placed the first call to the switchboard for the Sheriff, did you go outside and wait on the patio then?

A. Yes.

- Q. And there was testimony in the case indicating that some individuals came and wanted to go to the room, and that you told there they should not do so until the Sheriff got there; is that correct?
- A. Yes, I stop. And some of them wanting go, and I use some strong – “It is my room. I am paying. Nobody can go there.” And until the Sheriff people come, and I stop-- some of them want to go. They not go. And I sit down and waiting.
- Q. Now, why didn't you want anyone to go to that room until the Sheriff arrived?
- A. Because I think, first, will Sheriff officer, law, can see what is going. After private citizen -- they touch, move so and so, I don't want anybody touch anything.
- Q. You wanted everything in that room to stay exactly---
- A. (Interposing) Stay like there, because somebody can go, touch, move, so and so, -- first I want law, because I have nothing to keep secret.
- Q. And did you make a second call?
- A. No.
- Q. To the Sheriff?
- A. No. Somebody make second call. I wait about 15 minutes, -- between 15 and 20 minutes, until people law came, and this time, I ask, glass of water, I think, and somebody can call again. And somebody went -- I think this same gentleman who introduce himself like guard, I don't know his name. He came. He told they are on the way, -- they are coming, But I was sit down 15 minutes with myself, thinking.
- Q. On the patio. Mr. Yanikian, is that why you were sitting in the patio?
- A. Yes.
- Q. What were you thinking about in the patio during that time?
- A. I am thinking who called me son-of-a-bitch Armenian, and also pass, who was calling me son-of-a-bitch Armenian, and I was think now I no want sell myself. It is my defense can do, and I pass all my life, and I pass who I am. Who they are, and all this came slow, slow, in my mind. This 15 minutes, 20 minutes long time when you stay after all this, you know, quiet, sit down, and thinking is much one year you sit down thinking on this 15, 20 minutes, all history pass before me.
- Q. When you were in the room, and while the two man -- the Turkish Consul General and the Vice Consul were in that room--
- A. Yes.
- Q. --and before you were hit with the chair, did you have any other thoughts in that room at that time just moments before the shooting?
- A. No. I know what I am doing. My thoughts was what I am doing, I tell, “Okay, Paradise dead.”
- Q. What do you mean by that?
- A. Our secret organization for producing name is Paradise.
- Q. The movie?
- A. Movie, yes. I was thinking Paradise dead. But Yanikian not yet dead. Now is not Paradise, is Yanikian's case. Yanikian will try present in hundred person how much he can what paradise that is to State Department cannot do. I was thinking. After what I did, I sit down there and was thinking, “Here, you sit down,” American citizen, not young, in other room two bodies from some nation who call you son-of-a-bitch. Nation who all their life call us son-of-a-bitch. I was thinking all this,

and pass all history before me, history Armenian nation. In reality, you call us Armenian, we call ourself Hye.

If you translate this english, it is came high nation. But in the history, despite our life two-three thousand years, our nation, never you can find someplace with our nation show that is high than any other nation, never. But same times, our nation never accept that some other nation put that high nation is low that their nation same this.

From nation came human, same high. I no put me high to anybody not different what color, what blood. But I don't accept that anybody think that I am low, and they call me son-of-a-bitch. And who is calling? Thousand years call us son-of-a-bitch, surely. That I all was think, passing, you know, without emotion, only in my brain, and you will know who is calling me son-of-a-bitch. I be glad to tell you if I have my map, be glad to tell you who is calling us son-of-a-bitch.

Q. Is there a map that would be of any assistance

A. Yes, I have my map.

Q. Is this related to the thought that you had in that room at the Biltmore?

A. Yes. This is not only thoughts in the room, is concentration all my philosophy about nations, all about this life on general, life mankind. Here is not question, -- we are talking about blood, blood -- I am tired with blood. I do not want to talk any about blood, except what is connect personally with me. But I saw -- I saw lots of them. I know, sometimes you know, when Judge give order, ten minutes, stay, everybody relaxing. I am going other room -- relaxing? No. I have attack for my defense. Why you no tell what you saw? Why you no tell what you saw?

And I told them, I no want. How I can talk, tell when before me you put children, ten, twelve, eight years, you put womans, men before me, -- then I try explain what I saw, for insult their feelings, human feeling. Is too much.

No more blood.

And everything, what you want connected personally Yanikian, but if somebody wants know where is, thousand books, thousand pictures, -- they can read. I am tired with blood. I no want emotion. I want logic. Conscience. That we need. A reasoning. This is elephant, and we are talking about fly.

Q. Mr. Yanikian, when you were in that room at the Biltmore, and before the shootings occurred, will this map help to illustrate your thoughts at that time?

A. Yes.

Q. And were those thoughts connected with the shootings that occurred?

A. Yes. And after when I first sit down outside, I told that my nation fix foundations all these massacres,-- well not have massacres in our time, 30 years later when Hitler did, if no Armenian massacres. People don't know only historian know. -- all historian. You know, first meeting when Hitler himself put that he will finish the Jewish nation, some other guy--I don't know his name -- I know in my books, but not here—he told Fuhrer, “We cannot, against us will be all the world. World opinion. What the people tell? You see what they did? Savage peoples. Savage Turk, they did to million Armenian. You want that we did same? Hitler jump -- and after, you told, -- two million Armenian? Yes. Turk did two million Armenian. Ha -- what they did with Turk? They giving a million dollars for continue. Who can

ask us, Germany, why you kill three, four million?' And they pass law, historian -- is mean Jewish massacre based on Armenian massacre. If Hitler know that nations, mankind, never pardon, be will never do. But conscience mankind prove not only they pardon, they paid, hundred and hundred million dollars, which is foundation -- this is elephant -- no fly. And all this on this map.

Q. Take a look at this map and see if that is what you are referring to?

A. Can you help me?

Mr. LINDSEY: May we have your permission to put it on the board, your Honor?

THE COURT: Very well.

(Whereupon a map being put on blackboard.)

Q. BY My. LINDSEY: Now, Mr. Yankian, when you were in that room at the Biltmore before the shots occurred, what thoughts did you have on your mind that were related to those shootings, and in what way does this map help to illustrate that, to save time?

A. Show the world now to where I am shooting, who is this people.

Q. To do what?

A. Whom I am shooting, let world know.

Q. Were you killing two men?

A. No. I am killing two symbol evils, and I want world know what evil they represent.

Q. Will you explain that then, please?

A. I am not going too far -- first, I put here small 1, this is Armenia -- this Map, you can see Europe, world map--England, Mediterranean, Caspian-- Black sea, Caspian, Russia, Japan, Korea, Siberia, Armenia -- already they talk too much about Armenia. What I want two thing tell, world civilization turn it corner when they found wheel. Wheel, Armenia, find this wheel. Wheel is Armenian. From then start civilization march, big step, and arrive now where bicycle, automobile, everything, railroad, everything is based on the wheel -- wheel -- wheel turning. Is wheel us. Many years before Christ born.

And second, after when Stone Age pass, came bronze Age -- who first find melt bronze? We, Armenian. And then our mountains here. Is our nation is foundation—U. S. steal now. Now in Armenia, you can see the digout, and even from America, the engineers go and see. It is simple. It is not like United States, you know, machinery big,-- but simple, but conception is same.

I no go too far. I takes 750 years before Christ. This section, calling steps.

Q. Steps?

A. Step. Step is same like desert, not big difference. Same desert, but little, no tree, nothing. Is flat. This step will live different small groups, half savage, without any religion, groups call Mongol, Turk, English, et cetera. And this small group they no have town. What they did, they attack by group -- first, before the start attack, I tell they have very beautiful knife. Their knife, start from four inches and go forty-eight inches. And we admit that these groups they use very well this arm, sword. Also what they have beautiful is their horse. They have beautiful horse. No this time, no in the war they have horse like they have, and this horse and sword was success, victory.

They unexpected they attacking some nation, suppose this direction, two three days, you know, taking what they need and go back. Then start some other. They

attack Japan, they attack Korea, they attack China. But China, before China I tell if you today you go in the drug store and ask give me gamma globulin medicine, they giving you medicine bottle is animal's blood, any doctors when body is weak they give for body for strongest, give gamma globulin.

Mr. MINIER: Pardon me, Mr. Yanikian. Your Honor, I am sorry, but I think the present form of answer goes far beyond the bounds of any legitimate inquiry.

THE COURT: I have to sustain it, Mr. Lindsey.

MR. LINDSEY:

Mr. Yanikian, just answer specific questions now.

A. I want try prove--

THE COURT: Put specific questions and require specific answers to the specific question, rather than the narrative answer that we have been having.

Mr. LINDSEY:

Q. What we want you to do, Mr. Yanikian, instead of being able to talk at length, if I can just ask you questions and have you answer the question?

A. Okay.

Q. Are you in the process of showing the movement of the background of the Turkish people?

A. Yes.

Q. And that that background has a bearing on the character and makeup of the Turks, and what they did in the massacres to the Armenian people?

A. Yes. 750 years before Christ.

Q. Was there a migration, to your belief and knowledge, of that type of -- you might say people?

A. It is not my belief, Mr. Lindsay, go take historian book, history human civilization world and read.

Q. Was there a flow, then, of peoples from that area into the area of the Middle East, what is known today as Turkey?

A. Yes.

Mr. MINIER: Objection, your Honor, upon two grounds.

First, it is not relevant, and second if there is any relevance, it is cumulative.

The witness has already shown an abiding hatred of the Turkish people, of the history of the Turks, of everything related to the Turks. He has told us this for four days, and this is only cumulative.

THE COURT: Sustained.

Mr. LINDSEY:

Q. Mr. Yanikian, the Turks, as you knew them when you lived in the Middle East --

A. Yes.

Q. --during the time of the massacres--

A. Yes.

Q. -- did you personally come to know them as- of a particular type of person?

Mr. MINIER: Objection, your Honor, upon the grounds that it is not relevant, and if it is, it is cumulative. I think also it is another attempt simply to inflame the jury against an entire people of the world, obviously this is the only attempt of this line of questioning.

THE COURT: I don't know what the question means, "Did you come to know them as a particular-- was it "type" or "kind" did you say?"

Mr. LINDSEY: Maybe I can rephrase it.

THE COURT: I don't know what the question means.

Mr. LINDSEY:

Q. Mr. Yanikian, when you were in the Biltmore--

A. Yes.

Q. --and the two men were there--

A. Yes.

Q. -- the Consul, and before any shooting occurred--

A. Yes.

Q. --and when one of them called you an Armenian son-of-a-bitch--

A. Yes.

Q. --did your mind go back in time to what you had known --

A. Yes.

Q. -- the Turks to be in your lifetime?

A. Yes. This time, I think this Turk they are from Ottoman Empire which was before called Ottoman Empire, only in 1930-something they came Turkish republic. They are part Ottoman Empire, and I know when first time these people came here and here organize Ottoman Empire take in all this about one-half billion population.

Q. Now, when in the room in the Biltmore, in the room in the Biltmore, prior to the time of the shooting and while the two men were there--

A. Yes.

Q. -- and when you made reference to that letter from the student -- from the Turkish Student--

A. Yes.

Q. --where he had made references to the Armenian people--

A. Yes

Q. --and he made references to Turkish background--

A. Yes.

Q. -- and events in history

A. Yes.

Q. --did you have in mind what you were trying to describe at this time which was part of your reaction just before the shootings occurred?

A. Even I told, I told to Consul General "What this mean you don't know your history." I told him, and he surprise. "I thought you know history."

"Yes, I know."

First time this people lay down in the Biltmore Hotel when I sit down, after I thinking, came on our direction was 1071 after Christ.

Q. Mr. Yanikian, when you were sitting outside in the patio, were you still having similar thoughts to what you had inside there in the Biltmore?

A. Surely.

Q. In the room?

A. What kind other thinking, I can have?

Q. Now, do you want to resume the chair a second. Were you transported, Mr. Yanikian, then to the County Jail by the Sheriff?

A. What?

Q. Were you taken by the Sheriff's Department to the County Jail?

A. Yes.

Q. Did you resist in any way any of the instructions or request that the officers made to you?

A. No. Only my resist, they want put me -- first I resist, you don't need to put me chain. I call. I wait you. But it is accordance law, only they want me my hand back, I told, you cannot, because I cannot put back--and they put on the front. That in my only protest.

Q. Now, when you arrived at the County Jail were tests made, or little swabs taken of the back of your hands as testimony has indicated?

A. They take everything, they make me nude, and take everything from me -- they take tests from my arm, tests -- I don't know, my fingerprint, handprint. They take all my dress suits, everything.

Q. Did you cooperate fully with them?

A. Sure.

Q. Did you do whatever they wanted of you?

A. Yes. On the contrary I help them.

Q. Did they ask you for any sample of your blood for testing purposes?

A. Nobody ask me blood.

Q. Did they ask you to remove all of your clothes,also?

A. Yes, that's right.

Q. Were you wearing long underwear at that time?

A. Yes. I stay like Adam there.

Q. Like who?

A. Like Adam

THE INTERPRETER: Adam.

THE COURT: He took all his cloths off. He was like Adam.

A. BY WITNESS: I'm sorry, my English

THE COURT: That's all right. It is quite understandable.

Q. BY Mr. LINDSEY: Now, was there a conversation that took place between, I believe, a Mr. Norton in one of the rooms there about maybe 1:00 o'clock or so?

A. Yes.

Q. Where he asked you a lot of questions?

A. Yes.

Q. And do you remember hearing that tape recording here?

A. No, no--he went -- he sit down, I ask water. He give water. He told me that my boss want somebody came for ask questions, so and no.

Q. That his boss did --?

A. I don't know what is mean, his boss -- I don't know. Some room -- not in the jail, it is an office, in the room. We sit down, and first, he start names and so on, after put down, he went out and talk to some other man. I don't know what instruction he receive, and he came, he told, my boss wanted some other man came for ask questions. And we sit down -- friendly talking. Never I know that recorded. If I know that recording I never will talk -- I no know recording, but no secret, even the recording is not make any difference. But I don't know they recording this time.

- Q. Now, did you later on that day have another conversation with Mr. Baker, another long conversation?
- A. Yes.
- Q. Did you answer all of the questions that he wanted to ask you?
- A. Yes, all the question -- and even I mention, even I mention that I destroy symbol evil -- like symbol.
- Q. Did you mention that to him?
- A. I mention this for FBI, too, because they have one man alone talk to me, what his name? He told -- after this there came two detectives, they presented their badge, so and so, gently, -- like gentlemen. We sit down, we talk.
- Q. Now, did you on that day, have occasion to talk to anyone else there at the jail?
- A. Yes.
- Q. Who?
- A. Two detectives.
- Q. Did you have occasion to talk to anyone else there?
- A. Two FBI people?
- Q. And to anyone else?
- A. My knowledge, no.
- Q. Do you recognize Dr. Patterson here?
- A. Oh, yeah--after all this detective want, after half hour, I was called again, sit down, -- some -- see, I am Doctor, and so and so, and I say sorry, I have my own doctor, Dr. Hartsman -- if I need doctor, I have Dr.Hartsman. No I was sent by District Attorney to talk to you about blood? What is you mean about blood? What? Like we are cattle? No. I am doctor, I want to talk friendly. We have apparatus, recording.
- Q. Did you have a conversation then with Dr. Patterson?
- A. Yes. And two times even I stop, say, "I don't want to talk to you. What do you want?" Two times even I stop. I mad. I don't want to talk to you. If you are talking to like human, I can talk to you, but if you are talking to me like a doctor cattle, I am not talking. I told openly.
- Q. Now, as best you can now recall, were those all of the persons that you talked to then on the day of this January 27th, including any of those persons who have testified here in court?
- A. Yes, one, after two detectives, after this doctor, which came, I don't know his name -- after two FBI mans, that's all. And police. -- people in the jail, because I was hungry—I have my breakfast early morning, I no eat anything and I told I hungry, and they give, me something.
- Q. I want to ask you about one last thing.
- A. Huh?
- Q. I want to ask you about one last thing. You have indicated that in those three days in the apartment in April, and the next time in the room, at the Biltmore, just before the shootings occurred, that you saw the sight of your brother Hagop? I want to ask you, Mr. Yanikian, when you were 8 years old were you living in Kars with your family?
- A. Pardon? -- what do you ask question?

- Q. Were you living in Kars?
- A. You are talking now -- my brain is other way, what you asking?
- Q. Was there a trip that was made from Kars back to your home town or Erzurum by you and your mother and your brother Hagop when you were 8 years of age?
- A. Yes.
- Q. Why?
- A. Because after massacre, with my family, all escape from Erzurum, my father put some gold, money and old documents, papers, which prove our property so and so, in the box and they put this in the ground -- barn -- in the barn, and after couple of years, when was possibility, my father think we will have this first for money, because lots of gold there, and more important, old documents which prove our ownership, not my father's. -- ownership his grandfather who left him all this property, we will have this. And they decided that all family went, my father, mother, Hagop brother and me to Kogat is couple of miles from Frzerum. Mv father stay there.
- Q. Did your father remain there at Kogat?
- A. Yes, Kogat -- he no come Erzorom.
- Q. Now, your father remained. Who went on to Erzorom?
- A. My mother, Hagop and take me, too.
- Q. How old was Hagop at this time, about?
- A. About 20, 25—between 20 and 25.
- Q. Why was your mother on the trip?
- A. Because they want take me, because I was Persian.
- Q. You had the Persian birth registry?
- A. Yes. They wanted this, because this frontier is close to Persian Consul, and they given to me that I take to Persian Consulate, because otherwise Persian Consulate cannot help, but because I am Persian, he will take this and officially, by courier, send to Kars, to my father. This is the reason why they take me with them.
- Q. What was your brother Hagop along for?
- A. For dig.
- Q. How, did your mother
- A. (Interposing) And because I was baby, my mother told I cannot let you go alone.
- Q. Did the three of you then continue on from the border to Erzorom?
- A. Yes.
- Q. And at Erzorom did you -- did the three of you get to the barn?
- A. Yes.
- Q. What happened at the barn?
- A. My mother and me, went to corner, and the barn is not too light, you know, and Hagob start digging behind the door, dirt, for take out this -- why you need this? Why?
- Q. I just want you to answer the question, Mr. Yanikian. Would you tell me now what happened as your brother Hagop dug that hole?
- A. He find box -- box is about size of one and a half feet, something -- and he take out from the dirt. Same time door open, two Turk came in.
- Q. Two Turks came in the barn?
- A. Yes.

Q. What happened?

A. One take my brother hand back, other take his head and cut—his—cut his throat, like they cut animals. I was crying, I wanting help to him. My mother stop, put her finger in my mouth, I cannot cry. He stay couple minutes. They wait, all blood came out, and my brother, with open eyes, looking on me. That's all, I don't want tell more.

Q. Mr. Yanikian, how far away were you from your brother at that moment?

A. How far? Maybe ten, fifteen feet.

Q. Was your mother still holding your mouth at that time?

A. Yes. He take me by hand without taking hand from my mouth, approach, kiss Hagop, I try touch him, I cannot, and we jump out to doors, some friend when we stop in couple hours later, we went back to see my father in next town where my father was. This brother is not only brother, is my mother. He give life to me. He find me frozen.

Q. Is he the one that found you in the snow?

A. I am sorry?

Q. Was he the one that found you in the snow?

A. Yes. And I was almost frozen. He warmed me by his body on his chest, and after mother came start helping and I still alive. Only what left pictures of my brother in my brain, and pictures when I baby, who saved me, give me second time life, all my life. But never I saw them. In memory, yes. This is more important, because this is first case that I start thinking about massacre for try help. When I start thinking, I saw is not Armenian question, it is international question.

Q. Mr. Yanikian, the vision that you had of your brother in the three days in the apartment, was this a part of what you visioned for the first time in the apartment in those three days?

A. All my 78 years life I never saw him. I saw once in my apartment when I was three days, second time I saw when I shoot -- destroy those two in Hotel. Second time, that's all. In memory, yes, but vision never.

And last vision when I saw bloodline phantom come like this, eyes open.

Mr. LINDSEY: May we have the noon recess?

THE COURT: Ladies and gentlemen of the jury, it is your duty not to converse among yourselves or with anyone else on any subject connected with the trial or to form or express any opinion thereon until the cause is finally submitted to you.

We will reconvene at 1:30 p.m.

(At twelve noon a recess was taken until 1:30 of the same day.)

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24. SANTA BARBARA, CALIFORNIA, WEDNESDAY, JUNE 20, 1973;1:30 P.M.

THE COURT: All members of the jury and alternate jurors are present, gentlemen.

Mr. LINDSEY: May I resume, your Honor?

THE COURT: Yes.

GOURGEN MKRTICH YANIKIAN (Resuming)

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

DIRECT EXAMINATION (Continuing)

BY Mr. LINDSEY:

- Q. Mr. Yanikian, after the incident that you were relating this morning, did your mother and you find your way back to where your father was waiting at the border?
- A. What? Talk a little loud, please. -- a little loud. I do not hear what you are talking.
- Q. Did your mother and you find your way back to the border where your father was waiting?
- THE INTERPRETER: (Interpreting to the witness.)
- A. BY WITNESS: Yes -- yes, in Kogat, -- into Kogat.
- Q. Did your father then return with your mother and you back to the home in Kars?
- A. Yes, surely. He start crying, what you go--you left my right hand there and you came back. But what we can do? And we came Kars back.
- Q. Now, shortly after that, did you make a move with part of your family to Geneva?
- A. Yes,
- Q. Why?
- A. Because is start with my father, then my father was fez -- now, you know what is fez,--the Turk red,--
- THE INTERPRETER: It's a cap.
- A. BY WITNESS: Fez, now here in the United States--
- THE INTERPRETER: Masons wear them.
- A. BY WITNESS: Mason, -- my father also wear them. Those two people, they came and did with my brother, also was with fez, and I start first what is next three days, I cry--I ask my Daddy throw away this fez. And first, he cannot understand why. After my mother explain, and he throw away, put European hat. After, in the street, I cannot walk when I can see people like this -- when I can see people like this, and in general, in the Kars, lots of people who escape from Erzerum, from Turkey, they use these fez -- they call them fez--- I cannot sleep, nervous, and also I can see my mother's hand.
- Q. What happened to your mother's hand?
- A. I eat her fingers insides all meat. Her body hide (demonstrating), -- and I. first, I think is blood -- blood my imagination in my mouth, It is not my imagination. I have eat blood, because I eat the flesh -- my mother, when she try, you know, when silence there (demonstrating). And every time after this, all her life, she have these two fingers deformed (demonstrating), no inside flesh. And all this, you know, I came sick—I came sick. They call doctor—doctors,--and doctor told is best way, change climate for him.
- Q. Is that how you came to go to the family, then, or part of the family to Geneva?
- A. That is right.
- That's one day my mother make decision and with is one is employed from office that they can ask about room in French ship to Marseille after Geneva.
- Q. I think this one or more of the transcripts that were introduced into evidence, there is something about some comment about a promise you made to your brother; do you remember any of that what that was about?
- A. Promise I make to my brother?
- His eyes asking me, is not promise verbally, I make my brain make promise to him, no my mouth. Like my brain make promise to my nation.
- Q. How far away were you from your brother when that incident happened?

A. Ten, fifteen feet like this, like now you stay in the courtroom.

Mr. LINDSEY: Your Honor, I have no further questions.

CROSS-EXAMINATION

BY Mr. MINIER:

Q. Mr. Yanikian, were you closer than ten to fifteen feet at the time that you gunned down Mehmet Baydar in the Biltmore Hotel in Santa Barbara?

A. Yes.

Q. Did you look into his eyes as you killed him?

A. I told, I no kill anybody, I destroy.

Q. Well, Mr. Yanikian, you talked to many officers about this event, did you not?

A. When officer first time came, what I will explain, all philosophy, life, all massacre Armenian, talk many all what is going on around the world, why? why? why? Surely, I told "Yes, I kill." But when in the jail, I told they, "They are symbol."

Q. All right, Mr. Yanikian.

A. Yes.

Q. You told Detective Norton that you killed, did you not? You told him that you killed the two Turkish diplomats?

A. You can call any kind you want.

Mr. MINIER: Your Honor, may we have the witness instructed, please, to answer the question propounded to him?

THE COURT: Yes. Did you tell Detective Norton that you killed the two Turkish diplomats, Mr. Yanikian?

THE WITNESS: I told I killed. Why? For me they are like symbol.

Mr. MINIER:

Did you use the word "kill"?

A. Kill as symbols.

Q. Did you tell Detective Baker also that you killed the two diplomats?

A. Detective--

THE COURT: Wait 'til you hear the question before you answer.

Mr. MINIER:

Q. You recall your conversation now with the second detective Mr. Baker, do you?

A. Conversation? You recall because you have record, you can -- every day you can put and renewal your mind. It was six months ago.

Mr. MINIER: Your honor, I move to strike the answer and leave the witness instructed to answer the question propounded.

THE COURT: Motion is granted.

THE WITNESS: What will I answer?

THE COURT: Do you remember you talking with Detective Baker on the 27th of January?

THE WITNESS: Yes.

Mr. MINIER.

Q. Isn't it true that you told Detective Baker that you killed the two Turkish diplomats?

A. Yes. Every time when maybe I use this word kill, after this I put "they are symbol." Every time.

Q. Do you recall talking to the two FBI men, do you not?

- A. Yes. In FBI man himself told "it is mean"-- FBI man himself ask Mr. Yanikian, "What you mean they was like symbol?" I told, "Yes, like symbol." FBI man -- I don't know his name, big man, what his name, he ask second time, "Yes, they are symbol."
- Q. Did you use the word kill with the FBI Agents?
- A. Maybe. Maybe. Maybe. I am not denying what I did.
- Q. Now, yesterday when Mr. Lindsey used the word kill, you said to him "Don't use the word kill?"
- A. Because he defend my -- I can ask for my defender please no use this word, I am sorry District Attorney I can no ask that you no use, but I am -- I don't like this.
- Q. Did you tell Detective Norton, "Please don't use the word kill, because I destroyed them"?
- A. No. I told -- every time when I told I kill, I use they was symbol evil. Even I told two symbol evil.
- Q. Did you tell Detective Baker, "Please don't use the word kill because I did not kill them"?
- A. Maybe not.
- Q. Did you tell Mr. Rapp of the FBI, "Please don't use the word kill, because I did not kill them"?
- A. When I use word kill, I repeat, I destroy evil.
- Q. Now Mr. Yanikian, is it your testimony that you did not kill Mr. Baydar and Mr. Demir?
- A. Mr. District Attorney, why you playing this game, I do not deny what I did. I call killed, is killed, call kill.
- Mr. MINIER: Your Honor, I move to strike the answer and have the witness instructed to answer the question.
- THE COURT: Granted.
- THE WITNESS: I answer already.
- THE COURT: The motion is granted.
- THE WITNESS: Every time when I told that I kill, I repeat, I destroy symbol of evil.
- Mr. MINIER:
- Q. Mr. Yanikian, do you know what it is to kill?
Do you know what that means to end life? Do you know what it means?
- A. No. Can you explain me?
- Q. You don't know what the meaning of the word kill is, correct?
- A. If you explain me, I will tell you, I accept it or not.
- Q. Mr. Yanikian, didn't you say to Mr. Baydar and Mr. Demir down here in the Biltmore Hotel before you killed them, didn't you say, "Now I am going to kill you"?
- A. And I will first -- I told, "I will destroy you."
- Q. Did you tell them, "Now I am going to kill you"?
- A. Maybe. But I use "I will destroy you," and I explain why.
- Q. If you told them you were going to kill them, what did you mean by that little word kill when you use the word to those two diplomats?
- A. Destroy two evils. Like symbol.

Q. Now, Mr. Yanikian, didn't you testify here for many, many hours about killings that you claimed took place when the Turks killed the Armenians, did you?

A. Your Honor, can I ask one question to this?

THE COURT: No, no, you must answer.

THE WITNESS: Every time when I use killing, I use I destroy symbol of evil.

Mr. MINIER:

My question--

A. Yes. Now--

Mr. MINIER: May we have the witness instructed, please, only to answer the questions?

THE WITNESS: What is your question?

THE COURT: Yes. But it is rather difficult. It would probably be better if you simply repeat. I will attempt to have the witness confine himself to the question, but why don't you reask him.

Mr. MINIER: Thank you, your Honor.

Q. Mr. Yanikian, have any Turks ever killed any Armenians?

A. Two million.

Q. Now, if an Armenian kills a Turk, it is not killing, correct? It is destroying, right?

A. I am sorry -- they are for me not -- like human.

They are represent for me evil government. I have nothing do with Turkish people. If you have my letter, I have nothing do, because they are poor people, they don't know what their government did, and they don't know what their government doing now.

Q. Mr. Yanikian, is it possible, according to your definition, is it possible for an Armenian to kill a Turk, or is that impossible?

A. Maybe some Armenians kills -- I have nothing do.

Q. But not you?

A. I no kill.

Q. You have never killed anybody, did you?

A. I cannot kill anybody.

Q. What did you do in that war 70 years ago, did you not kill people when you were making war over in that area of the world?

A. No. I am protecting people there.

Q. Did you have to kill?

A. They are not -- we are not there for kill, we are there to protect the poor people from the villages, when they burn villages, people go out, we will try protect them. What we did there, we no went this 60 people from Moscow for kill, some people—soldiers did, they can kill much better than we,--we went for protect people, children, woman -- we want-- went for this reason, my friend.

Q. My question was, Mr. Yanikian, did you kill in 1915?

A. I don't know. You know when you send bullet, you know where it go your bullet?

Q. Now about the ammunition dump, did you kill anybody then, Mr. Yanikian?

A. No. If there somebody next ammunition, maybe I did. Even I don't know.

Ammunition is exactly in the corner mountain, big you know, river here, and big construction, and I finish, I will jump, and go, and last I know -- I don't know, what is this. I no saw anybody next ammunition.

Q. What is the word "kill" to you"?

- A. I don't know. I cannot understand this.
- Q. Well, haven't you testified to this jury now for hours that Turks have killed, killed -- you used that word, two million Armenians; can you answer that yes or no?
- A. I am using word which Ambassador America, Ambassador use on his book, Mr. District Attorney. It is not Yanikian book. There is book -- American Ambassador in Turkey, if he can use that barbarian "kill," can I, Yanikian use this word?
- Q. Mr. Yanikian, let's go on to something else. Did you intend prior to the time that you did whatever you did at the Biltmore Hotel, did you intend to end the lives of those two Turkish Diplomats?
- A. No. I want use this life to Turkish Diplomats like put light in the darkness for all the world see, what -- and answer question, why, for this.
- Q. Now, in all these writings, your manuscripts and your letters that you sent around the world--
- A. (interposing) Yes.
- Q. And calling upon every Armenian of this world to kill a Turk, what did you mean by that? What kind of killing was that, Mr. Yanikian?
- A. You know, you cannot take one word from my writing and tell -- then you will write all pages, after you can ask this question. I put there, is when world forget who we are. When world forget, conscience world, that two million was killed, destroyed.
- Q. Mr. Yanikian, did you shoot Mr. Baydar and Mr. Demir? Will you acknowledge that?
- A. What is mean "shoot"?
- Q. You shot them?
- A. I don't know this word what is mean "shoot"?
- Q. Mr. Yanikian, let me ask you, you didn't have problems with words when Mr. Lindsey, your attorney was questioning you for ten hours, did you?
- A. No. I understand you, too.
- Q. Didn't you tell Mr. Lindsey about shooting --
- A. (Interposing) I understand very well. You want to prove that white is black -- I no let you prove this, you can prove that I am the killer, I am criminal no, I am not.
- Q. Did you shoot Mr. Baydar?
- A. What is mean "shoot"?
- Q. Did you have a gun? Shall I define "gun"?
- A. Oh,-- yes.
- Q. Do you know what a gun is, Mr. Yanikian?
- A. Oh, yes, I know -- I have two.
- Q. Did you point a gun at Mr. Baydar?
- A. Yes.
- Q. Did you squeeze the trigger?
- A. Yes.
- Q. That means, shooting, doesn't it, when you squeeze the trigger?
- A. Not for me, that means this time what I did, them, I destroy two evil, for use them like light in the darkness.
- Q. Mr. Yanikian, did you put too bullets into the brain of Mr. Baydar?
- A. I don't know how many—I put, yes.

Q. You did

A. I put, yes.

Q. And did you put some more bullets into the brain of Mr. Demir?

A. Yes, because I don't want they suffer.

Q. When you did that, you knew it was against the law, did you not?

A. If doing -- destroying the two evils is against the law -- killing is two million is by law?

Q. My question, Mr. Yanikian,--

A. (Interposing) I am asking you, too.

Mr. MINIER: Your Honor, may we have the witness instructed that he does not ask the questions. He has to answer the questions.

THE COURT: Mr. Yanikian -- the questions are asked now by the District Attorney. It is not your privilege to question or to ask him questions. It is your obligation to answer his questions.

A. BY WITNESS: Thank you very much, your Honor.

Q. BY Mr. MINIER: Mr. Yanikian, showing you the picture of Mehmet Baydar--

A. That's right.

Q. Did you know it was against the law to put two bullets into the brain of this man?

A. Is depend -- you look who is he? He, who is he for you? Human? For me he is not human.

Q. This man was not human, is that correct?

A. No. For me, is symbol of evil.

Q. What about 30-year old Mr. Demir, he also is not a human, correct?

A. For me, this time, for this my program, no -- they are symbol of evil.

Q. So you felt it was not against the law to kill them, correct?

A. My program in not against the law-- if I am trying that truth came out, if I am trying help mankind conscience, see what is going, it is against the law? I think is small sacrifice that nation -- their nation give for this, what going on this court -- small.

Q. You planned to have a trial, did you not? This trial as a result of your taking a gun and firing bullets into the brains of these two men?

A. At this trial, no.

Q. Didn't you plan to leave a trial?

A. Yes.

Q. You wrote about that trial?

A. Yes.

Q. In your manuscript?

A. I call myself -- before I call in my writing I told I will never try go away--I will wait and I call myself, wait 20 minutes that they came, because I want this trial that the world know truth, because everybody try close this by darkness. I feel my obligation clear this darkness -- first I try different way, by movie, but our State Department tell no, -- you go this direction -- or put before me choice, I sacrifice all my work in my life, end my life, or I make one last bullet to my brain. I choice difficult.

Q. So your choice --

A. (Interposing) Is difficult, yes.

Q. It was two men, as opposed to you, and you chose to kill the two men?

A. I no -- I choose two men like evil for use for put light on this darkness.

Q. Mr. Yanikian, you knew that this trial that you wanted to have would involve an accusation that you had broken the law, did you not?

A. I have accusation? -- if I no broken law, you would not take me in the jail.

Q. All right. So you knew you would be charged with breaking the law, did you not?

A. I don't know what you mean "charge," I know very well when I called to Sheriff, they came, and take care of situation, what is mean -- it is mean, come and take, arrest -- and even I prepare, you know, very well, I prepare my suitcase, all my -- what I need, because I think that I will have in the jail, surely, I know. And I wrote before that I will not go anywhere and I told, if you could ask, when they try and protect me, I told, if you put now a hundred thousand cash and passport around the world, and ticket around the world, and tell Mr. Yanikian, "Here, go." I tell, "I'm sorry where is my jail room, I go there." Go ask.

Q. Now, Mr. Yanikian --

A. (Interposing) And I told this.

Q.. Mr. Yanikian, you have talked about ending your life. In this what we in English call "suicide"?

A. Yes.

Q. Now, what is suicide? What does that mean?

A. Go to sleep.

Q. Go to sleep?

A. Yes.

Q. Does it involve killing one's self?

A. No-- make sleep.

Q. Not killing?

A. What is difference, sleep.

Q. Let me ask you this, Mr. Yanikian; can you think of any other way in which the word "kill" can be used except when you talk about Turks killing Armenians?

A. Yes, you can kill animals, calves -- cut their throats, after sell their meat -- is kill animals.

Q. Can you kill an idea?

A. Idea? Is depend whose idea.

Q. Your idea? Can your idea be killed?

A. For this State Department put before me, kill myself or kill my idea.

Q. Is that the way they put it?

A. And I make choice -- kill my idea, refuse. I refuse kill -- they told kill.

Q. Isn't it true that you had been writing letter after letter to the State Department until finally they said, "Will you stop bothering us?"

A. Yes.

Q. Did they tell you to kill yourself, Mr. Yanikian?

A. What?

Q. Did the State Department write you a letter and say, "Kill yourself"?

A. Mr. District Attorney, you heard same question my lawyer put, and I gave answer. I give now to you District Attorney proof, proof here on this room without going

out, who is right, I or State Department. It is very simple. Ask order from this Court direction State Department photocopy one document two-page. It is not worse for put before the world before this court who is right, State Department or I am.

Mr. MINIER- Your Honor, I move to strike the answer as non responsive.

THE COURT: Motion is granted.

Mr. MINIER:

Q. Now, Mr. Yanikian, you testified, did you not, that you felt you had no moral right to kill your idea; is that correct?

A. Not for myself. I have no moral right for myself, I have no moral right for people who was with me on this best idea in the world, our Paradise production, I have no moral right for my people, and I have no moral right for American people, because this same people thirty-five million dollars we give them last year, and why?

Mr. MINIER: Your Honor, I move to strike-the answer as non responsive to the question.

THE COURT: Granted.

Mr. MINIER:

Q. Now, you did feel you had the moral right to kill these two people, correct?

A. I have moral right destroy them.

Q. Mr. Yanikian, do you feel that you have the moral right to destroy anybody you want?

A. Yes. If have two part, my idea, and object you are talking. Then let this court decide which is more price, this idea of kill or this. Then you can tell I was right or not.

Q. Mr. Yanikian, let's change the subject. I want to ask you about something else. Each time that you have taken the witness stand, you have brought with you two little blue notebooks, have you not?

A. Yes.

Q. What is this? Can you tell us what these are?

A. Surely. Can I read?

Q. No, not unless his Honor allows it.

A. Why not?

Q. Would you just tell us what the notebooks are?

A. Notebooks some figures.

Q. Whose figures?

A. Turkish government.

Q. Did you prepare the notebooks?

A. Yes, in the jail.

Q. In the jail?

A. Yes.

Q. With your typewriter?

A. Yes, yes surely.

Q. Both of these notebooks are prepared by you?

A. Yes, by me.

Q. Now, in the jail, have you had occasion to be reviewing the history of this particular area of the world where Turkey is located going back to 1915?

A. No. I no very well, I don't need.

Q. You haven't had occasion to read any books on the subject?

A. On what?

Q. On the subject of the differences between Turkey and the Armenians?

A. You mean massacre Armenian, no.

Q. You haven't had any people come to the jail visiting you to discuss those historical matters?

A. No.

Q. Didn't you have a book in here the other day on the counsel table about the History of Armenia?

A. I see first time in here in this room never saw this.

Q. All right. Now--

A. Even they asked if they -- they asked I need some books so and so. "I don't need any books." Even they thought, "You need this book American Ambassador?" "No, I know this book in Russian, French, and English, I don't need any book." You know what kind book I read in this jail?

Mr. MINIER: Your Honor, I move to strike the answer as non responsive.

THE COURT: Granted.

Mr. MINIER:

Q. Now Mr. Yanikian, you told us you are a playwright; is that correct?

A. Yes.

Q. How many plays have you written?

A. Without this last, two or three.

Q. And you owned a theatre, did you, called the Gourgen Theatre in Beverly Hills?

A. Yes, I have.

Q. Was that for the purpose of performing your own plays in the theatre?

A. Yes.

Q. And have you ever appeared in your plays as an actor, Mr. Yanikian?

A. No.

Q. But you have directed those plays, have you not?

A. No.

Q. Didn't you direct a play out here in Isla Vista a couple of years ago?

A. Yes.

Q. You produced and directed?

A. That is right.

Q. Was that your last play, Mr. Yanikian?

A. Yes.

Q. You have been involved in the dramatic or the preparation of drama of plays for some years, have you not?

A. Preparation?

Q. Over what period of time have you been writing plays?

A. I don't understand last question.

THE INTERPRETER: (Explaining to defendant.)

THE WITNESS: Yes.

Mr. MINIER:

Q. As a matter of fact, you are writing a book in your jail cell right now, aren't you?

A. Book?

Q. Writing a book?

A. No.

Q. You are not writing a book about what is going on here in the courtroom?

A. No.

Q. You haven't told the various Bailiffs and court personnel you are going to put them in your book?

A. I work on this, "You are writing"--
"You are writing what going on in jail, what going on in Turkey?"
"Yes.
They ask, "Yes, let me alone. Here, if somebody translate, here read what I wrote."

Q. Mr. Yanikian, you testified to a map some time ago; I have got a different map. Your Honor, may we have this map marked as People's next in order?

THE COURT: Yes.

THE CLERK: People's 52.

(Whereupon the above-described exhibit
(Whereupon the above described Exhibit thereupon duly marked People's Exhibit 52 for Identification purposes only.)

Mr. MINIER: May we put this on the board, your Honor?

Q. Mr. Yanikian, calling your attention to this map on the board, People's 52, can you identify that as an identical map to the one that you've testified about earlier, other than the markings that have been put on it?

A. That is map. Yes; little small, other little big one. That's all.

Q. In the same map that you testified to earlier, most of the section that is labeled on this map Turkey, you had labeled Armenia, did you not?

A. I am sorry.
This map is not right. Where is big map, please. Him same map. I am sorry. Where is same map, little big one.

Q. Mr. Yanikian, this isn't your map, is it?

A. I no have any maps.

Q. Mr. Yanikian?

A. I have one map there.

Q. This is the wrong map, isn't it?

A. No. Maps cannot be wrong. Yes, same, one Armenia, Erzerum, same map, but little small one.

Q. You recall the other map, don't you, the one that had Armenia written in big letters?

A. Yes.

Q. And I can't get it because it is not in evidence.

Mr. LINDSEY: We will make it available.

THE WITNESS: Much better we put this because this be clearer for you and for me.

Mr. MINIER:

Q. Would you like to be seated?

A. Same map little big.

Q. Let me just hold it up, Mr. Yanikian, does this appear to be a map of the same --

A. That is right, exactly same, that is right.

- Q. Now, the main difference is that on this map, somebody wrote Armenia across the section of Turkey?
- A. That is right. Not me, but I know who wrote, I know what is this.
- Q. All right, thank you. Now, let's go back, Mr. Yanikian--
- A. May we put this map, because you put about this line. This line don't exist on this map, we cannot talk. If we are talking about the lines, I prefer have this. I think is nothing wrong.
- Q. You think you can only talk with your own map; is that correct?
- A. No. If you give time, I put line there on this. Only because you will now ask about this line, I cannot tell where is this line here.
- Q. Let me ask you a question.
- A. All right.
- Q. Let's go back to the year of your birth, 1895.
- A. Yes.
- Q. Now, there was no such thing in 1895 as a nation of Armenia, was there?
- A. No.
- Q. That area that is labeled on your map over here as Armenia, that was an area of Turkey, or to be more specific, the Ottoman empire, was it not?
- A. I'm sorry -- I cannot show anything on this map. I can answer this question if I have this map.
- Q. Well, let's not make reference to the map.
- A. You are telling this section -- which section you are talking about? Which section, because Armenia was, between three nation, Persia, Russia and Turkey, --by which nation, which part you are talking? I don't know.
- Q. All right. There was no nation of Armenia, right? And part of the area that you think of as Armenia—
- A. (Interposing) No, they, have Armenia.
- THE COURT: Now, wait until the question is finished. Don't interrupt the question, Mr. Yanikian. Wait until the question in finished before you attempt to answer.
- A. BY WITNESS: Thank you. Thank you very much, your Honor.
- Q. BY Mr. MINIER: Now, Mr. Yanikian, in 1895 was not part of the land that you refer to as Armenia --
- A. (Interposing) Yes, we have land.
- Q. (Continuing) The western part was within the geographical boundaries of the Ottoman Empire?
- A. Yes, we have three Armenias, in the Persia, Armenia in the Turkey, Armenia in the Russia. -- before I born, even.
- Q. All right. ?Now, in the year 1895, the year of your birth, was there not an Armenia independent movement?
- A. '95, I no write book, -- I only born 1895.
- Q. My question was, in the year of your birth, 1895, wasn't there an Armenian independent movement within Turkey?
- A. Movement, yes.
- Q. Revolution, was there not a revolution?
- A. No, is not revolution -- self-protection.
- Q. All right. Whatever you call it, Mr. Yanikian.

- But in the year 1895 then there was a self-protection movement within the country of Turkey, is that correct?
- A. Yes.
- Q. By Armenians?
- A. Yes. When they came kill Armenian family, somebody take knife, protect his wife, his children, -- that's right.
- Q. Weren't the Armenian people at that time, who lived in Turkey, attempting in 1895 to achieve independence as a separate nation?
- A. In 1895 -- more before that 1995.
- Q. All right, before.
- A. Yes.
- Q. Before 1895, were there not some Armenian leaders who in effect said, "Let's make an Armenian nation within the geographical boundaries of Turkey?"
- A. Surely.
- Q. Correct. All right. And is it not true that there were two revolutionary committees formed by the Armenians, one of which was known as the Dashnag Committee?
- A. Yes; how about other?
- Q. All right. The attempts at the independence movement were suppressed by the government of the Ottoman Empire, were they not?
- A. I am sorry -- you know, I am sorry, that I will tell, that history, we have a little different than you explain, that one Dashnag organization -- or one Dashnag party, we have three, four, different group, by different name -- Dashnag, Ramkdar, Hutchaks, -other, something from Europe, someone is in America here -- yes, we have it.
- Q. All right. Now, the year when you were one year old in 1895, didn't some of these same Armenian revolutionaries seize a bank in Istanbul? Do you recall reading about that in your history?
- A. In the bank?
- Q. The Ottoman Bank?
- A. They did, yes.
- Q. These were Armenian revolutionaries within the country of Turkey, were they not? Within the Ottoman empire?
- A. I am sorry, they are Turkish subjects.
- Q. All right.
- A. Why you cannot call them, Armenian -- you will call them Turks, because these people put to rob the bank, they are not only Armenians, they have three different nation, you know, there was Greek, too.
- Q. All right. Now, with regard to the seizing of the Ottoman Bank, that was not a Turkish bank, was it?
- A. Ottoman Bank -- name is Ottoman, Ottoman empire--Ottoman Bank.
- Q. Wasn't most of the money behind the bank --
- A. (Interposing) I don't know -- I don't know from where, where came this money, -- I don't know.

Q. Wasn't the purpose of the Armenian revolutionaries seizing the Ottoman Bank to focus world attention upon their desire to create an independent nation?

A. What time? What year?

Q. 1896, seizure of the ottoman bank.

A. 1896 -- maybe. Maybe in history -- it is not only '96 -- you can take '96, '97, -- every year, that is right, because Armenian people, I told you, they don't like that they feel they are less than other, other people. When Turk try push Armenian, that they have different kind people, surely they will protect themselves and try create something for protect their family.

Mr. MINIER: Your Honor, I move to strike the answer as not being responsive to the question.

A. BY WITNESS: But I answer you -- answer your question.

THE COURT: I have forgotten the -question.

Mr. MINIER: It was whether the seizing of the bank was to focus world attention upon the desire for an independent nation by the Armenians.

THE COURT: Granted.

THE WITNESS: What time?

Q. BY Mr. MINIER: Well, let me, ask you another question, Mr. Yanikian. What is a group known as the Armenian Revolutionary Federation?

THE COURT: Excuse me -- I think that the first answer to that was "maybe" -- that part of the answer should not have been stricken. I believe that was the first word he answered, "maybe," and then went on with the other. I will strike everything except the "maybe."

Q. BY Mr. MINIER: Mr. Yanikian, do you know what a group known as the Armenian Revolutionary Federation is?

A. I know not one -- I know three, four -- why you mention only Armenian Dashnags? Why you no mention Ramkdar-- why you don't mention Hunchaks -- why not, they are, three four, all group?

Q. Then there were three or four different revolutionary committees within the physical geographic boundaries of Turkey, were there not?

A. From today -- when organize -- Ottoman Empire—18—15th Century—

Q. Pardon me?

A. Thirteen--

Mr. MINIER: Your Honor, I am doing to move to strike the answer.

A. THE WITNESS: I will answer you.

THE COURT: But that is a question that can be answered yes or no, Mr. Yanikian. It doesn't require any explanation if it can be answered yes or no. If you know the answer. If you don't know the answer, then you simply say, "I don't know"

A. THE WITNESS: Your Honor--

THE COURT: Ask it again, please, Mr. Minier.

A. BY WITNESS : Your Honor--

THE COURT: No, no, no -- now, listen to the question,

Mr. MINIER: Your Honor, I can't remember the question at this time.

THE COURT: Have the reporter read it back.

(The reporter reading.)

- “Then there were three or four different revolutionary committees within the physical geographic boundaries of Turkey, were there not?”)
- A. BY THE WITNESS: From day Ottoman Empire exist, from day, not from the date you fix, from date 11th Century, from then on, all time, you have this revolutionary organization there--but different name.
- Q. So, is it not true, that for that entire period of time since the 13th Century, there was a revolutionary movement within the Ottoman Empire on the part of the Armenians?
- A. 13th Century, yes, from 13th Century -- from date.
- Q. Now, outside of the Ottoman Empire, outside, isn't it true that for hundreds and hundreds of years the oldest, most continual enemy of Turkey has been Russia?
- A. No.
- Q. All right. Who is the oldest, would you say, among the nation,--Greece?
- A. Who, Turk? -- 22 nations—Turk--Yugoslavia, Bulgaria, Rumania, Egypt, Norway, Syria, Palestine, Mesopotamia-- all until Algeria, they have was enemy.
- Q. But over a period of hundreds of years weren't Turkey, and Russia involved continually in wars?
- A. Yes, by -- but why?
- Q. Isn't it another -- or was not another historical enemy of Turkey among the nations Greece?
- A. Sure, because Greece, like other, is 20 nations I told -- were taken by Turk and try kill them, that's all.
- Q All right, so then isn't 'it true that two of the historical enemies of the Turkish State or the Ottoman Empire for hundreds of years prior to the events we have been talking about, were Russia on the one border and Greece on the other?
- A. No.
- Q. No?
- A. No.
- Q. Didn't you just say that?
- A. No, because I know little history.
- Q. Well then, let's go on to something else.
- A. If you permit, and your Honor permit, I explain you situation before Ottoman Empire organize, then you can have more clear what is--that is right, all kind revolution group, why who was enemy.
- Q. Where are those Dardanelles?
- A. Between--
- Mr. MINIER: Your Honor, I move to strike the answer as non responsive.
- THE WITNESS: They cannot enemy.
- THE COURT: Just a moment, Mr. Yanikian, the motion is granted.
- Mr. MINIER:
- Q. Mr. Yanikian, you referred in your testimony to the Dardanelles, could you tell us where they are and what they are?
- A. Dardanelle? Dardanalle--
- Q. May be you said the Bosphorus, I am sorry.
- A. Here is connected Black Sea with Mediterranean.
- Q. Now, one of the borders of Russia is on the Black Sea, is it not?

A. Now, yes.

Q. Historically, for any shipping to get from Russian Ports on the Black Sea to the Mediterranean, those ships have to go through the Bosphorus, correct?

A. Yes. If we are talking today, but time you are talking about is revolutionary between Russian and between Turk, they have other government.

Q. Let me ask you this question, Mr. Yanikian, based upon your vast knowledge of history, isn't it true that for hundreds of years one of the primary points of Russian Foreign Policy has been to attempt to gain control of the Bosphorus so they have access from the Black Sea into the Mediterranean, whenever they wanted?

A. You want know truth?
I am asking no because maybe you don't like truth. It is not only Russian policy it is policy American, England, French.

Q. That's very important, is it not?

A. Yes.

Q. They fight all four this for Dardanelle, for this Turkey exist, without this Turkey long time be dead.

Q. So now World War I broke out in 1914?

A. Yes.

Q. Now, the Allied forces in world war I were what -- France and England, and Russia and the United States later?

A. Yes. United States later, but after they came.

Q. Now, Isn't it true, Mr. Yanikian, that it was the Allies -- the Allied Forces who declared war upon Turkey in the first World War?

A. No. Turkey have secret agreement with Germany, and they agree, and Germany build railroad direct from Berlin via Constantinople to Mesopotamia and start sending from the Krupp factory armament. They have agreement that when war start, Allied they don't know.

Mr. MINIER: Your Honor, I move to strike the answer as non responsive. I asked whether it was not true that they declared war. It can be answered yes or no.

THE WITNESS: Allies no.

THE COURT: Well, this might be in the nature of an explanation for his answer. His answer was no, and this may be an explanation. I can't tell yet, but to the extent that it may be, it would be permissible. I think your answer should be shortened.

THE WITNESS: Yes, I will try short.

They have agreement, -- Turkey have agreement with the Germany that German will start war, when time came Turk also will go in the war. For this, German will take all way Mesopotamia go out to Persian Gulf, and Turk, with their crazy idea ponturism. Ponturism we call them, don't this ponturism no transportation. Ponturism make organization, they will go until ocean, and organization, you know, one biggest empire in the world, two million people --

THE COURT: The only question is, Mr. Yanikian, did the Allies declare war on Turkey in 1914?

THE WITNESS: I don't know who sent for declaration Turkey, I don't know. But they start fighting.

THE COURT: That's the answer.

THE WITNESS: I think Turkey. I think Turkey.

Mr. MINIER:

Q. All right. Specifically with regard to Russia?

A. Yes.

Q. Isn't it true that the first declaration of war between Turkey and Russia was by Russia in World War I?

A. Between declaration war?

Q. The question was, in World War 1, did not Russia declare war on Turkey before Turkey declared war on Russia?

A. Yes.

Q. Thank you.

A. But you want ask why?

Q. No.

Now, so when we come to 1915, this is the year of the massacres by which you have testified, is that not true, 1915?

A. Massacres start before that.

Q. Did you not testify about a great many massacres in 1915?

A. Yes. General massacre is 1915.

Q. Now, you did not tell the jury, did you, that in 1915 Turkey was in the middle of World War I, did you?

A. They start massacre without wars. They are not yet in the war when they start massacre.

For this they kill massacre because they want have some country without Armenia for tell that it is our property. They tell it is our country.

Q. Mr. Yanikian, was World War I going on in 1915?

A. War for 1915 start war, yes.

Q. Started in 1915, didn't it?

A. '14, yes, '14.

Q. All right, now, in Turkey, during World War I, is it not true that Turkey was fighting as an enemy of Russia; they were enemies in World War I, were they not?

A. Not from the beginning.

Q. Well, all right, at some point, did not Russia and Turkey become declared enemies?

A. I told you that all Turk in first war, after war start, and when Germany find this time that Turk when go-- when Turk saw that Germany army advancing and taking good terrain, they think now is time, "We go in, too." Then Turkey also go in. That is right. But not same time they start.

Q. But at some point during World War I was it not the case that we had the Allied powers that we have already referred to ask, and then we had the other powers that were Germany and Turkey and various other countries?

A. Yes. I know only Germany and Turkey.

Q. Was there fighting that took place in Turkey during World War I?

A. At Dardanelle in the Balkan war.

Q. That was on the Western front up in that area you have already pointed out, was it not?

A. Yes, here.

Q. And in that area -- all right, would you like to point it out?

A. (Pointing on schematic.) Here.

Q. That was known as the western front, was it not?

A. I don't know what you call western or not, front. They call Dardanelle.

Q. All right. Around the Dardanelles, is it not true, that the Turks were fighting the French and the Greeks and the English and the Italians?

A. They fighting very well for stop Allied pass, and Ally never can take Dardanelle. They never take.

THE COURT: The question is not how well they fought, just where they fought.

THE WITNESS: I don't know. Greece.

I was not there. I don't know there was Greece there or not.

Mr. MINIER:

Q. Well, Mr. Yanikian, you testified about a lot of things that happened when you went there, have you not?

A. Surely.

Q. Based upon your knowledge of history, isn't it true that in the fighting around the Dardanelles, it was the Turks on one side against the English and the Italians and the Greeks and the French on the other side?

A. Turk, plus German. Turk was not alone. German.

Q. There were German troops down there?

A. Surely. German troop. Dardanelle, General Sanderson is name. German ship was in the Dardanelle and all this fortification they control.

Q. Did we then have the Turks and the Germans on the one hand fighting the English and the French and the Italians and the Greeks?

A. That is right.

Q. Now, at the other end of Turkey, isn't that true that during World War I the Turks were fighting the Russians?

A. Yes.

Q. Is it not true, Mr. Yanikian, that during World War I--there was a time when the Turks were fighting on the western front, the English and the Italians and the Greeks and the French, and on their eastern front at the same time were fighting the Russians?

A. Yes.

Q. Now, you testified, did you not, about a great deal of massacres you saw that occurred in the first path-- that occurred In 1915, didn't you?

A. I told you massacres start long before 1915. Massacres start before I born. They have Ottoman Massacre.

THE COURT: That's not the question, Mr. Yanikian. The question is not when the massacres started, the question is have you testified that massacres took place in 1915, not that they started then, but that they happened in 1915, whenever they started. That's the question.

THE WITNESS: Yes. Before '15.

THE COURT: All right, that's the answer also.

THE WITNESS: Before '15.

Mr. MINIER:

- Q. Didn't you also testify about a deportation order by the head of the Ottoman Empire, namely to deport Armenians to the desert, you testified about that, did you not?
- A. Yes, in '15.
- Q. And did you not testify about around a million and a half Armenians dying during this general period of time in early 1915?
- A. Yes.
- Q. Now, is there in Armenian history a thing that is known today as a Martyr's Day?
- A. Martyr's Day?
- Q. A day of commemoration known as Martyr's Day?
- A. Yes.
- Q. That falls every year on April 28, does it not?
- A. I don't know.
- Q. Well, now, Mr. Yanikian, didn't you testify that you gave up your life 25 years ago so that you could expose the terrible tragedies that have befallen the Armenian people?
- A. Not for the Armenian people, for mankind.
- Q. Would you consider yourself an active Armenian, that is to say, active in the Armenian culture in this country?
- A. No.
- Q. You never have been, have you?
- A. No.
- Q. As a matter of fact, is it not true that you generally speaking have not had much to do with Armenian people in America?
- A. No. Because I work for mankind.
- Q. Well, at any rate, is it true, is it not, that you, Gourgen Yanikian, born in Armenia, did not even know the greatest day of commemoration of the Armenian people?
- A. I know but I never practice it myself -- couple of times, I make speech by radio, same day, in the Fresno -- that's right.
- Q. There are many Armenian cultural organizations in the Southern California area, are there not?
- A. I hope many.
- Q. Some in Santa Barbara?
- A. To my knowledge, no.
- Q. Well, are there many in Southern California?
- A. I don't know.
- Q. You have never belonged to any, have you?
- A. Never -- never I believe any party, never any group, never any club, which have specific national feeling. I work, I told you, for man--for mankind, that, because Armenian first massacre on the center, foundation my palace, which I built.
- Q. Now, could you tell us where the general area of fighting in World War I was between the Russians and the Turks?
- A. Sure, I can tell --here-, this part (indicating on map).
- Q. You are indicating---
- A. Caucasian front, include Kars, Erzerum, Karakamish, also go down, Van, Bitlis, Igdir, until back from this (indicating on map) .

- Q. That was the general area of the fighting between Russians and the Turks?
- A. That's right.
- Q. Now, would you like to take your seat again?
- A. Thank you.
- Q. Isn't it true, Mr. Yanikian, that all of the massacres that you have related as having occurred in 1915, in that period of time, took place in the same area, the same general area you have just pointed out, where the fighting was going on between the Russians and the Turks?
- A. No, is not true,
- Q. Well, didn't you earlier describe in great detail massacres you said took places in Van and Erzerurm and in Kars?
- A. Because I was there, I know. But massacres was-- you want to know more detail?
- Q. I asked --
- A. (interposing) You want Kars -- I have map. You can see where Massacre was, on map.
- Q. Will you answer my question, is that correct?
- A. No, you are asking me this -- no, this is one ten percent -- nine-tenths percent was other part -- all this section, Anatolia, Istanbul -- all this -- were Greece. This, even frontier Mesopotamia, there was Massacre more.
- Q. In that area of the country isn't that where the fighting was going on?
- A. And I explain you why.
- THE COURT: No, no--wait a minute. Just a moment. You have a question now.
- A. BY THE WITNESS: What you asking, please?
- Q. BY Mr. MINIER: Now, you were talking about massacres in Istanbul. Isn't that the area where the Turks and the Germans were fighting the Allies?
- A. No.
- Q. Didn't the Allies occupy Istanbul, Mr. Yanikian?
- A. No. Ally, before Ally occupy Istanbul -- Turkish government declared Holy war -- Holy war -- first bomb Ally sent, first bomb Istanbul, next day Sultan declare Holy War because Sultan came same time head of religion, like Pope for Catholic, and they start killing Armenian now, because they are Christian, not only Armenian, all Christian.
- Mr. MINIER: Your Honor, I move to strike the answer as not responsive to the question.
- THE COURT: Granted.
- A. BY THE WITNESS: I answered already.
- Q. BY Mr. MINIER: Now, based upon your knowledge of the history of the time, can you tell us when it was in 1915 that the deportation order went out from the governing powers of the Ottoman Empire?
- A. When?
- Q. When?
- A. I think is, prepared 1914, and start realization 1915, because plan was prepared before.
- Q. Does the date April 28 ring a bell to you, Mr. Yanikian?
- A. If I had my map I can tell exactly date. May I have my map for tell you exact -- they are small.
- Q. Certainly,

- A. Yes that – yes, 24 April, 19--24 April.
- Q. April 24?
- A. 24 April, yes, first order start, 24 April, in 1914.
- Q. 1914?
- A. 1915.
- Q. Or 1915?
- A. 1915.
- Q. Now, somewhere back in the recesses of your mind, is that the approximate date that sounds like it might be the commemorative date known by the Armenian people as Martyrs Day?
- A. Yes, 24, yes, 1914.
- Q. All right. Armenia Martyrs Day is the day which commemorates or at least recalls to mind the date that the deportation order went out from the Ottoman Empire government, does it not?
- A. No, the date when they start kill.
- Q. All right. Is that the date then that you take to be the beginning of the main part of the massacres that you have testified to?
- A. No. Is massacre one and a half million, but I am telling you, within 260 years existence Ottoman Empire, Ottoman Empire no have one day that some place no have massacre, no revolution, no killing -- is not only Armenians, all around, because they have 22 different nations.
- Q. Mr. Yanikian, you have read accounts other than yours of what happened in that portion of the world at that time, have you not?
- A. Sure, I read 400 books.
- Q. Isn't it true that in the books that you have read that you have found out that the Armenian people normally tend to think of Martyrs Day as signifying the beginning of the great amount of massacres in 1915?
- A. Yes.
- Q. All right.
- A. This date, these main massacres, 15 -- is when day they start clean all country, and not let any Armenian-- and the telegram signed by --
- THE COURTS: You have answered, Mr. Yanikian.
- THE WITNESS: Yes, already,
- Q. BY Mr. MINIER: Mr. Yanikian, prior to that day, prior to Martyr's Day, prior to the deportation order, and to this event that you have just described, prior to that time, isn't it true that these various revolutionary committees, including the Dashnag, committee, started very active movements in certain cities in the eastern portion of Turkey?
- A. Yes.
- Q. And isn't it true that the central committee, the main center of the Dashnag committee was in the City of Van about which you have testified so?
- A. Yes, when you were telling active, what is mean "reactive"?
- Q. Arming with guns, with Russian weapons?
- A. For what -- for fight Turkish Army? You think Turkish Army, which have tanks, bring all Germany, half million soldier there, couple of hundred Amenians, these Dashnag organization can fight them -- they are special troop.

Mr. MINIER: Your Honor, I will move to strike the answer on the grounds that it is non responsive.

THE COURT: Granted.

A. BY WITNESS: Yes, because -- yes, they are active.

THE COURT: Wait a minute, Mr. Yanikian. Wait for the next question.

Q. BY Mr. MINIER: Now, Mr. Yanikian, going back a few months before April 24th of 1915, and before Martyrs Day--

A. Yes .

Q. Based upon your knowledge of the history of this time, you know, do you not, that in February there was an all Armenian National Congress of the Dashnag Committee held in Tiflis?

A. Yes.

Q. In what country at that time was the City of Tiflis?

A. Russia.

Q. So several months before Martyrs Day then there was a conference of the Dashnag Revolutionary Committee made up of Armenians living in Turkey, and that conference was held in Russia, is that not correct?

A. Yes, in the Tiflis.

Q. Now, is it not true, that after that conference --

A. (Interposing) Yes, I'm sorry.

THE COURT: Wait a minute. You haven't heard the question. Wait for the question.

A. No. but Congress --

THE COURT: (interposing) Wait -- wait. There is no question now. Wait until the question is before you attempt to answer it.

A. BY WITNESS: Yes, please.

Q. BY Mr. MINIER: Now, after that conference isn't it true that a great quantity of Russian weapons were smuggled into the Armenian population at Van and other cities in the area?

A. It is true that they have congress there. It is true on this Congress they put--

Mr. MINIER: Your Honor, I would move to strike the answer as totally non responsive.

THE COURT: So far the question has to do with smuggling in of weapons.

A. BY WITNESS: Yes, send weapon for help protect themselves.

Q. BY Mr. MINIER: These were Russian weapons, were they not?

A. Not only Russian, American, too.

Q. They were weapons then provided by the Allied Forces, is that correct?

A. No, bought by Armenian people money.

Q. Where did the weapons come from? They came from Russia did they not?

A. From America, from France, from all around the world -- even some Germany.

Q. They were smuggled in from Russia, were they not?

A. I no not how they smuggle, but bought in Paris, in London, they sent -- how they send, who brings, personally I don't know.

Q. In what country was Van at that time?

A. On where?

Q. In Van, back in 1915?

A. Turk.

- Q. Now, isn't it true that prior to Martyrs Day in Van and other cities within the physical confines, the physical boundaries of Turkey, weapons began to be smuggled into the hands of the Armenians?
- A. No, you can tell only about Van, because other section they no have.
- Q. All right. Let me restrict it to Van. Isn't it true then that weapons began to appear in Van, smuggled in, prior to Martyrs day?
- A. No Martyrs Day then.
- Q. Prior to the latter part of April of 1915?
- A. That's right, yes.
- Q. The weapons were being smuggled in to the various members and representatives of the different Armenian Revolutionary, Committees, were they not?
- A. That's right,
- Q. And is it not true that prior to the latter part--prior to the latter part of April of that year that the Armenian people in that portion of Turkey began to use those weapons to attack the Turkish Army behind its battle lines?
- A. No, use -- attack and protect themselves, different reasons -- if you tell protect themselves, my answer is yes. But for attack, is no. How ten people can attack thousand?
- Q. All right, then let's ask it this way, is it true that prior to the latter part of April of 1915, the Armenians at Van began to use the weapons smuggled in for the purpose of protecting themselves?
- A. Yes.
- Q. Now, isn't it true that the reason -- the reason given by the government of the Ottoman Empire for the deportations was the claim that Armenians had been using these smuggled weapons to attack the Turkish Army behind its front lines?
- A. No.
- Q. What was the reason, then, that the Ottoman Empire gave the deportations?
- A. Now, I told you that when this triumvirate, Talaat, Enver, and other Bey, three people, they saw that Germany armies advancing of some success--
- Mr. MINIER: Your Honor, I move to strike the answer. I asked for the reason, not for what these people saw.
- THE WITNESS: The reason -- I am telling reason why.
- THE COURT: Not what you think- the reason may have been, but what reason did Turkey give.
- THE WITNESS: Reason--
- THE COURT: Why did Turkey say they were doing it?
- THE WITNESS; Because they want start their creating ponturistic idea.
- Q. Is that the reason they gave to the world?
- A. That is for clean behind.
- Q. They didn't give that reason to the world?
- A. I don't know what reason they give to world.
- Q. My question is the reason that was given publicly by the representatives of the Ottoman Government for the deportations?
- A. Reason for Turkey -- for Turkey declaration, long saying Turkey for Turkey. This was reason signed by all three dictators.

Q. You have done a great deal of reading on the subject, have you not, Mr. Yanikian?
A. I am sorry.
Q. You have done a great deal of reading on the subject, have you not?
A. I told you I read because I don't believe what I can read one book, I try more for find out really this real or true, and I read many books.
Q. Aren't you one of the world's foremost historians with regard to Armenian history?
A. History Armenia? I know little Armenian history.
Q. Do you deny that the Turks publicly gave the reason for the deportations as being attacks upon the rear of the Turkish Army by Armenians within the country of Turkey?
A. If you want reason, I am presenting you official documents.
Mr. MINIER: Your Honor, I move to strike the question as being non responsive.
THE WITNESS: No, reason is not this.
THE COURT: Granted.
Mr. MINIER:
Q. All right. Isn't it true that the representatives of the Ottoman Empire accused the Armenian subjects of Turkey, or of the Ottoman Empire of treason against the Turkish Army in World War I?
A. Not only Armenian, all Christian.
Mr. MINIER: Your Honor, I move to have the answer stricken and the question read again so that perhaps Mr. Yanikian can answer.
THE COURT: I thought that was responsive, maybe I misunderstood the answer. Can I have them both again?
Mr. MINIER:
Q. The question was, isn't it true, Mr. Yanikian, that the representatives of the Ottoman Empire accused the Armenian subjects of the eastern portion of the empire of treason against the Turkish Army or the Ottoman Empire Army in World War I?
THE WITNESS: What was the answer.
THE COURT: Just a moment, Mr. Yanikian., let me have the question again.
(Question and answer reread to the Court.)
THE COURT: Denied.
Mr. MINIER:
Q. Did the Ottoman Government accuse the Armenians living in Turkey of treason behind the front lines in World War I?
A. Accuse on what; newspaper? On what? Accusation to whom?
Q. In newspapers, wherever?
A. Yes.
Q. Now, one thing regarding the deportations, you referred to the kurdish people, the Kurds earlier, I believe.
A. Kurds, yes.
Q. That's a group of Normandic tribesmen that live in that general area, is It?
A. Yes.
Q. It is a group of people?
A. Yes, nation.

- Q. You distinguished the Kurds from the Turks, did you, as two different types of people?
- A. No, same. They have Christian Kurd, they have Mussulman Kurd.
- Q. Is a Kurd a Turk?
- A. No. Is Kurd it is different nation.
- Q. Do you consider the Kurds to be savage barbarians as you consider the Turks?
- A. Some of them, yes.
- Q. Are there other nations incidentally of the world, or other peoples of the world that you considered to be savage barbarians besides all of the Turks and some of the Kurds?
- A. In my knowledge in the world, no one.
- Q. All right, now, isn't it true, that many of the groups that were being deported into the desert were attacked by the Kurds?
- A. Yes. I told you one part Kurds, yes, other parts, no.
- Q. So the deaths in the desert were both due to the Turks and the Kurds; is that correct?
- A. Yes. There was Mussulman Kurds and Christian Kurds. Christian Kurds they save lots of Armenian.

THE COURT: You have answered it, Mr. Yanikian.

THE WITNESS: I am sorry.

MR. MINIER:

- Q. Now, you have indicated that there was a great international Armenian movement to help the Allied powers fight Turkey in World War I; is that correct?
- A. Yes.
- Q. And isn't it true that Armenians were recruited all over the world, all over the world for the purpose of going to Turkey and fighting against the Turks?
- A. No. Because you are using fighting and defending-- if you use defending, I tell yes, if you are using fighting Turk, I will tell no.
- Q. All right. Should we say that they were defending while the rest of the Allies were fighting; is that a correct way to put it?
- A. Allied fighting Army by Army, fighting, we can do something. But Armenian all around the world, mobilize, help by money, by so for go protect villages, protect orphans, take them, put them -- in America now, you have half people now fifty, fifty-five, all this orphan from this time.
- Q. All right. At any rate the Armenians were recruited around the world to go to Turkey?
- A. For help.
- Q. At this time, you were at the University of Moscow?
- A. Yes.
- Q. You were living in a country--Russia, were you not?
- A. Yes.
- Q. That was at war with Turkey?
- A. Yes.
- Q. And you were born in Turkey, were you not?
- A. Yes.
- Q. Now, you joined a certain student group at the University, did you not?

A. Yes .

Q. And that group issued manifestoes, didn't it?

A. Yes. Go help Armenian people.

Q. And it also, did you say, that you had marches with flags?

A. Yes.

Q. Through the streets?

A. Streets, yes, demonstration.

Q. Speeches?

A. Huh ?

Q. Speeches?

A. Yes.

Q. Rallies?

A. Yes.

Q. Now, you had many classmates at the University of Moscow, did you not?

A. What many?

Q. You had many classmates there? This was a big University?

A. Yes. I am talking -- I can talk all day about group.

Q. Isn't it true that many of your classmates, two years later, were to become leaders in the communist revolution in Russia?

A. No, all they dead of my knowledge.

Q. All right. You say that you joined an Armenian General by the name of General Dro?

A. That is right.

Q. And this was an international volunteer army that he had?

A. Yes.

Q. This was an army under the command of General Antranik, wasn't it?

A. You cannot call this army. We call group, it is not army.

Q. Well, doesn't the history books refer to it as an International Armenian army of ten thousand persons?

A. Yes.

Q. And you wore uniforms, didn't you?

A. Yes.

Q. You carried weapons?

A. Yes.

Q. Isn't that an Army, Mr. Yanikian?

A. Yes.

Q. Now, under General Antranik, there were ten thousand volunteers, is that correct. approximately?

A. I don't know.

Q. And you testified earlier, did you not, that many of the generals of that volunteer army were older men?

A. That is right.

Q. And these most of them were the same older men who had been active in the revolutionary movements in Turkey for the last twenty-or-so years, isn't that true?

A. Maybe. I told you my age, how old I was.

- Q. So those generals, then, were men who had spent twenty-or-so years in revolutionary movements within Turkey that now had field commands, correct?
- A. Yes.
These men who protect villages, they was head of this group which you call Army.
- Q. Where was the Army -- where was General Antranik's Army formed? It was formed in Russia, was it not, in Tiflis?
- A. I don't know.
- Q. Could it have been?
- A. I don't know. I was in Moscow. I told I stopped last time in Tiflis couple hours, that's all.
- Q. Isn't it true that you and all the other soldiers of those ten thousand soldiers were fighting--
- A. I was not soldier.
- Q. May I finish my question.
Isn't it true that you and all of the other soldiers fighting in that Armenian volunteer regiment were fighting for Russia?
- A. No.
- Q. You were fighting under Russian direction, were you not?
- A. No.
- Q. You were simply out in the middle of a war zone with ten thousand soldiers and no direction?
- A. Ten thousand how many miles distance?
- Q. Were you fighting for the Turks?
- A. I am sorry, how many miles distance ten thousand?
- Q. You were fighting with Russian arms, were you not?
- A. No Russian Army. Russian Army fight with Turk Army.
- Q. I am sorry, weren't you fighting with Russian weapons?
- A. Not only Russian weapons, American German weapons, too.
- Q. Now, is it your testimony that this volunteer regiment of ten thousand people had no connection with the Russian Army?
- A. I don't know what connection they have. We wasn't interest.
- Q. In other words, you had a Turkish army on one side, right? And a Russian army on the other side, right? And somewhere right in the middle with no supervision and no direction, you just happened to have ten thousand men dressed as soldiers, correct?
- A. No. Because I repeat, you never in my place on this front you leave concentration ten thousand Armenian volunteers. They are hundred there, three hundred there, one hundred behind line, one hundred Van, two hundred Erzurum, so and so. If you count maybe ten, ten thousand, I don't know.
- Q. Isn't it true that the main headquarters for this entire army was in Russia?
- A. In Igdar, is frontier town.
- Q. In what country?
- A. Igdar.
- Q. Yes.
- A. In frontier.
- Q. On the frontier. Well, it has got to be in one country or another?

A. They have two. Main one is important Van, other Igdar, one center.
THE COURT? All right, All the members of the jury and the alternate jurors are present.

You may proceed, Mr. Minier?

Mr. MINIER: Thank you, your Honor.

CROSS EXAMINATION (Continuing)

BY Mr. MINIER:

Q. We were talking, I think, about General Dro, Mr. Yanikian, General Dro had one of four different divisions all under the unified command of General Antranik, is that no correct?

A. I don't know how many divisions he had.

Q. And you were with General Dro, I believe you said, about six months?

A. All together I was in the battle place, this section from day when I enlist Moscow, until I came out in the hospital, all together, is six months. How many days I was there, -- or there, is, after 60 year, I have no diary for.

Q. Did you call it a battle place?

A. Sure, yes.

Q. Were there battles going on?

A. Yes, surely.

Q. There was fighting between soldiers?

A. Between soldiers, Turkish and Russian soldiers, and by the way, in the Turkish soldiers lots of Armenian, too.

Q. Well, how did you know that there were any battles going on between Turkish soldiers and Russian soldiers?

A. Because I have eyesight and see.

Q. I thought you said that the Russian Army was some completely different place and you were just there with a few volunteers for protection?

A. No -- I sorry. Sometimes we are behind lines. I told you our business, this group 60 peoples, is nothing for fight -- it is only for protest, sure -- that we are fighting for protect dying people.

Q. Who were you fighting?

A. Who attacked family, who attacked villages, who attack children.

Q. Turks?

A. Turks, maybe between them Armenian, too.

Q. Now, you were behind the Turkish and Russian lines, is that correct?

A. That's right.

Q. You and--

A. (Interposing) Sometimes, not all times--sometimes.

Q. All right. sometimes you were on the line and sometimes behind it.

A. Yes.

Q. And when you say "behind" are you talking about being behind the lines in Turkey?

A. By the way, you know, no special line fixed -- this mountain -- this supposed Turkey -- this mountain Russian-- this mountain so and so -- we need something we was behind--sometimes we are behind, sometimes behind them -- is all one.

Q. Were you sometimes on the Turkish side of the line?

A. Many times.

- Q. So in other words, at times there was a front consisting of Russian soldiers and Turkish soldiers fighting each other, correct?
- A. Yes.
- Q. And at times you were inside?
- A. Behind.
- Q. Inside Turkey?
- A. Behind Turk lines.
- Q. Inside – behind the front?
- A. That's right.
- Q. And you were in there wearing a uniform, correct?
- A. Yes, my special.
- Q. And you had your weapons, correct?
- A. Only Browning.
- Q. Only a Browning?
- A. That's right.
- Q. Only a Browning? Does that shoot bullets?
- A. Bullets, yes. Browning, and lots of ammunition with us, and couple pieces of dynamite. No weapon like you talking.
- Q. Now, you used a Browning to shoot two bullets into the brain of Bahadir Demir, did you not?
- A. Yes.
- Q. So you had used a Browning before, didn't you?
- A. Surely, I use. Not small like this, big one.
- Q. Now, during this six months, did you have occasion to kill any Turks with that Browning?
- A. No, I don't, my knowledge, no.
Direction, I never kill.
- Q. In other words, you never directly got involved in the fighting; is that correct?
- A. Yes. We shoot. I don't know I hit somebody or not, I don't know, maybe.
- Q. Well, by shooting and hitting, how were you protecting at that time?
- A. Protecting?
- Q. You say that you are protecting?
- A. We saw some people half-savage, half-wounded so and so, we collect them, take back, you know, to hospital so and so, came back again, after they give order fix fine, if he can pass. Some artillery there, we was by specialize we pay for go fix and came back, sometimes we heard fighting, we can see smoke there and there.
- Q. Were you kind of like the Red Cross taking care of the wounded?
- A. We have our Red Cross. Our group have Red Cross.
- Q. Wasn't this volunteer brigade from Russia? It was from Russia, right, your group?
- A. Yes.
- Q. Was not this volunteer brigade from Russia fighting in Turkey on the same idea as the volunteer brigade that was sent in the "30's to fight in Spain?
- A. Volunteers from Russia, they no fight Turkish Army, they protect villages for nobody attack them.
- Q. Were the Russians fighting the Turks, or were they also protecting?
- A. What? When Russian fighting Turk protecting who?

- Q. Did the Russians fight the Turks, or were they only protecting along that front?
- A. No, fight. They killing each other.
- Q. All right. Now, you said that you marched with General Dro's group towards the city of Van?
- A. Yes, that is right.
- Q. And you said that Russians and Turks were killing each other?
- A. I don't know. They fighting in the war, you can see what you kill is distance, you don't know, you shoot, you don't know.
- Q. Is there any particular way that you could tell that all of the bodies that you saw in all the rivers were nothing but Armenians?
- A. Mr. District Attorney, already I told. I don't want more talk about blood which I saw. I told once, you want accept this yes or no, answering this question. I am tired with blood.
- Q. So you will only testify in response to questions of your attorney Mr. Lindsey?
- A. Even I am sorry, even I ask my attorney please, no more blood. Because here we are talking--
- Q. Pardon me, Mr. Yanikian.

Your Honor, I must ask for some assistance of the Court. The witness won't answer my questions, he makes speeches, he gives lectures, he argues. I don't know what would happen had any of my witnesses done this, but there is no -- I have to call upon the assistance of the Court in directing the witness to answer the questions rather than lecturing the jury.

THE COURT: It is not the usual situation where you are dealing with a witness who has a completely fluent understanding of the language. That's the thing that bothers me. It is quite true what you say that the answers are to a large extent narrative, and in many instances non responsive. Whether the witness appreciates this to the extent that he could if we were talking in Armenian, I have some question. That's why I am a little reluctant to do much more than I have. I question my ability to make him understand what it is that is expected of him, and what he should do. I thought I could. I certainly would do it, but you have got that problem. Mr. Yanikian, will you try to listen to each question that Mr. Minier puts to you. Do not answer it or start to answer it before you hear the question. Then when you answer it, will you answer it as briefly as you can answer it, at the same time being fair to yourself with your answer. But don't say anything more in your answer than what is necessary to answer the precise question. You have the right to explain an answer if the answer needs explaining. Many questions can be answered without an explanation. If you are asked were you at such and such a place at such and such a time, you can answer yes or no, or "I don't remember." That doesn't need any explanation.

Many questions are of that kind. So if you answer -- if the question does not require an answer that requires -- that needs an explanation, just answer it as briefly as you can. In those cases where you think the answer needs explaining, why don't you just ask me, "May I explain?" And I will then advise you whether an

explanation is needed in that instance. Then we will move more rapidly and we will also move more understandably from the standpoint of the jury.

The jury will grasp it more readily; so you will be helping your side of the controversy as well as protecting the expedition of the entire lawsuit. Will you try to do that?

THE WITNESS: Yes, your Honor.

THE COURT: All right.

Mr. MINIER: Thank you, your Honor.

Now, Mr. Yanikian, how could you tell that all of bodies you saw in all of the rivers were only Armenians?

A. Is need explanation. Can I explain?

THE COURT: That is one that does require one, I think.

THE WITNESS: Because, you know, that Turk, they are Mussulman, Armenian, they are Christian. You know, that Mussulman have something which they use on the body.

THE INTERPRETER: Circumcise.

THE WITNESS: What you call that?

THE INTERPRETER: Circumcise.

THE WITNESS: When we take body for put in the ground, we can see is Armenian or Turk. For this, I am telling you I told that Armenian.

Q. Didn't you testify that you did not bury the bodies in the river because there were too many?

A. Some of them, yes. But no all. All is impossible. Some of them, I pass even without looking.

Q. You didn't look at all the bodies to see if they were circumcised, did you?

A. No.

Q. Did you ever, during this period of warfare between the Turkish Army and the Russian Army, did you ever see a dead man other than an Armenian in the entire six months that you were there, ever?

A. I saw lots of body.

Q. Did you see dead people who were not Armenian?

A. They no have on their fez -- because you know--

THE COURT: Now, that doesn't need an explanation.

Did you ever see a dead man in the six-month period that was not an Armenian?

THE WITNESS: Of my knowledge, no.

Mr. MINIER:

Q. So you never saw a dead Turk or a dead Russian; is that correct?

A. No. I saw dead Russian.

Q. You did see dead Russians?

A. Yes.

Q. But none of the Turks you ever saw dead?

A. May I explain why, because Russian have uniform.

THE COURT: That doesn't require an explanation. The question is did you ever see a dead Turk during this time?

THE WITNESS: In my knowledge, no.

Mr. MINIER:

Q. Did your group under General Dro have a flag?
A. Flag?
Q. Flag.
A. Yes.
Q. Whose flag?
A. Armenian.
Q. There was no nation, no independent nation of Armenia at that time, was there?
A. Yes. But we have our flag.
Q. All right. You had the flag of the Armenian Revolutionary Federation, did you not?
A. No. We have flag Armenian nation, 1500 years.
Q. All right. You had a flag at that time of a nation which did not exist as a political entity, correct?
A. But there is Pagoum, existence, flag is the proof existence nation. Not existence government.
Q. Now, can you show us on the board where Van is?
A. Here.
Q. Thank you. That's marked V-a-n, correct?
A. Yes.
Q. Now, back in 1915, what country was Van in?
A. In Turkey.
Q. Would you like to take your seat again?
A. Thank you.
Q. You marched on Van or toward Van with General Dro; is that correct?
A. This direction Van.
Q. All right. Inside of Turkey, correct?
A. Yes.
Q. Isn't it true that your group, under General Dro, constituted an invading army inside the geographical boundaries of Turkey?
A. Surely.
Q. How were your uniforms different from those of the Russian Army; can you tell us that?
A. Can I explain, your Honor.
THE COURT: You will have to.
THE WITNESS: Russian Army have their Pagoum. Pagoum.
THE INTERPRETER: Emblem.
THE WITNESS: There, we have Armenian flag three color. I can show you there is some color. These three color line which is flag for nation about fifteen years. We have on our Pagoum, red, blue, yellow. If you want, I can explain meaning these colors.
Q. Now, what color was the rest of your uniform? .1
A. It was as khaki.
Q. What color was the Russian uniform?
A. Oh, different color -- dark, we are light.
Q. So you had yourself a different color uniform to distinguish you as being the volunteer Armenian regiment?

- A. Volunteer -- not Armenian regiment -- volunteers around the world, because we have volunteers from America, too.
- Q. But were they not of Armenian descent?
- A. I'm sorry?
- Q. Weren't most of these volunteers of Armenian descent?
- A. No, we have just -- we have Polish, we have Russian, we have French -- any kind.
- Q. What about General Antranik, was he not Armenian?
- A. Sure, he is Armenian.
- Q. And General Dro was Armenian?
- A. Yes, Armenian, yes.
- Q. And to your knowledge, all of the activities that General Antranik's regiment with its various divisions engaged in were without any of the knowledge or without any knowledge on behalf of the Russian government?
- A. I don't know -- I was too small then -- and no specialize for know all detail what is going upstairs.
- Q. Now, your purpose in marching towards Van as an invading army was to help revolutionaries in the city of Van correct?
- A. That's right, revolution by name Aram -- I don't know his other name.
- Q. Now, isn't it true that the various different divisions of General Antranik's army converged upon Van?
- A. I don't know.
- Q. Did you participate in the battle of Dilimon?
- A. In the battle -- never I participate any battle.
- Q. Are you familiar with the battle by that name?
- A. All the world know.
- Q. About the Battle of Dilimon -- right?
- A. Dilimon?
- Q. Maybe I should ask our interpreter--
- THE INTERPRETER: There was no such battle. I don't know what name is Dilimon.
- Mr. MINASIAN: Dilizhan.
- Q. BY Mr. MINIER: Dilizhan --
- A. Dilizhan, oh, yes.
- THE COURT: Pardon me. There has been from time to time in the courtroom, and I won't identify the sector of it, a certain tendency on the part of some spectators to take a part in the testimony either by demonstrating the congeniality with the witness, perhaps, or against him in other instances, and this has been manifested by outward demonstration and some conversations, laughter, smiling, so forth.
- I can't permit this, ladies and gentlemen. Every body here is welcome in the courtroom, but I have to ask you to restrain any outward demonstration of your feelings one way or another in the lawsuit.
- Everybody must have this in mind. I can't permit it to go on any further.
- All right.
- Q. BY Mr. LINDSEY: I guess I was mispronouncing it.
- A. Dilizhan.
- Q. Dilizhan.
- A. I know, yes.

- Q. Were you in that battle?
- A. May I explain?
- Q. Can you answer it yes or no? Do you know where is Dilizhan?
- THE COURT: Just say whether you were in that battle or not.
- THE WITNESS: Is about 120 miles from Van.
- THE COURT: Oh, but were you in it?
- THE WITNESS: Not I was not there.
- THE COURT: That's the answer.
- Q. BY THE WITNESS: No.
- Q. BY Mr. MINIER: All right. From your knowledge of that battle, this was a battle that took place as the volunteer regiment went towards Van, is that correct?
- A. Dilizhan, no Turk there.
- Q. No Turks there?
- A. Is Russia.
- Q. All right, that was --
- A. (Interposing) Armenians pass side, behind the line.
- Q. Who fought? The Russians?
- A. The Russians -- belong to Russians. Is Armenia, no belong to Turk -- Dilizhan is --
- Q. Who fought, what two sides fought at Dilizhan?
- A. You are talking is, something with after, revolution in the Caucas, then they have battle -- Dilizhan is here (indicating on map) -- here is Dilizhan. Van is here. Dilizhan is here. You see the Russian -- Dilizhan is here. This part we are talking after revolution start, in the Caucas.
- Q. All right. Let's go on to the time that you said you spent 2 to 2-1/2 months with the Russian Army. -- you did testify to that, did you not?
- A. Two, 2-1/2 months, the Russian Army?
- Q. Yes, didn't you testify earlier that you spent 2 to 2-1/2 months with the Russian Army?
- A. Our group, yes.
- Q. Your group. And that was when you were still with your group, is that right?
- A. Yes.
- Q. So at least at that time for two and a half months your volunteers were not just out miles and miles away from the Russian Army, were they?
- A. No.
- Q. They were fighting with the Russian Army, weren't they?
- A. Sure, yes,
- Q. They were fighting with the Russian Army and Turkey, were they not?
- A. Yes.
- Q. At a time when Turkey and Russia were at war, is that correct?
- A. Yes.
- Q. So you were fighting with the Russian Army inside Turkey against the Turkish Army, correct?
- A. May I -- a little explanation -- yes, with Turkish Army on which was Armenian, too -- in Turkish Army, Armenian, too.
- Q. Now, isn't it true, Mr. Yanikian, that in this invading army under general Antranik of which you were a part, committed many, many war atrocities of its own?

A. War -- if you--well, I was part this machinery you call war, yes.

Q. Did Erzurum, that was the city you were born, is that correct?

A. Yes.

Q. Now, was Erzurum also taken?

A. Three times, hand by hand.

Q. Who took it?

A. Russian take from Turk, after Turk take from Russian back, after take again -- is three times change.

Q. Now, did your volunteer army ever play any part in taking Erzerum?

A. No.

Q. Never?

A. No any part -- volunteer army, maybe -- but no me.

Q. Well, based upon your great knowledge upon the history of the times, don't you know whether or not the volunteer army took part in taking the City of Erzerum?

A. Is possible.

Q. It is possible but you don't know?

A. I don't know--it's possible, but all front they have different group there--there--there.

Q. Would you go to the board, if you could, please, and point out where Erzerum is?

A. There (indicating on map).

Q. Thank you.

A. You want I mark?

Q. Yes, could you mark it, please?

A. Sure (drawing circle on map.)

Q. Now, do you have any idea how many miles that might be behind the frontier between Russia and Turkey,-- Erzerum?

A. Was frontier.

Q. How many miles to the border between the two countries, not where the fighting ran?

A. Russian Army move, this -- taken back.

THE COURT: Where is the border between Russia and Turkey?

A. BY WITNESS: Here is border (indicating on map).

THE COURT: How far from that border is Erzerum?

A. BY WITNESS: Oh, Erzerum from border, if you take -- it depend what direction you take -- if you take from Kars, is--

THE COURT: (Interposing) What is the closest distance?

A. BY WITNESS: Closest be about, between 80 and 100 miles.

Q. BY Mr. MINIER: That is the closest?

A. Closest, yes. From Russian frontiers, Erzerum, closest. See, Sarakamish is closest, about a hundred miles.

Q. So then when the Russian Army, which was aided by the volunteer army, took Erzerum, they were taking a Turkish town which is 80 to a hundred miles inside the border of Turkey, correct?

A. No, Erzerum take with Russian Army, not volunteer.

Q. Well, didn't you just say that you weren't sure whether the volunteers aided in the taking of Erzerum or not?

- A. They not, thousand people take city who is protected half a million soldiers? Best army Turkey was there.
- Q. Mr. Yanikian, didn't you just tell us that you didn't know that maybe the volunteers had helped the Russian Army?
- A. Help?
- Q. Help take Erzerum?
- A. Help, yes, but no take city -- taken not city-- help, yes.
- Q. Isn't it true that the Russian interest in this war with Turkey was to try to sweep across Turkey and get to the Dardanelles?
- A. I don't know. I was not in head of state, what they have in their mind.
- Q. Isn't true the idea of the Armenians in their participation was with the help of the Russians to carve out of an entire nation taking the whole eastern portion of Turkey?
- A. No,--Armenia, if you ask, no. If our Judge give permission, I explain. But if is yes, it is no.
- Q. Now, does Kars also appear on the map, the town of Kars?
- A. Yes.
- Q. Could you point that out, please?
- A. Here is Kars.
- Q. Isn't there a circle around Kars over to the left there? Did you see where the word Kars is written?
- A. Here.
- Q. Is it within the little circle?
- A. I am sorry, here, you have circle, but when war start Kars was Russian. You put on the Turkish. Kars was in Russia.
- Q. Kars was Russian?
- A. I am sorry, this time frontier was here, Kars in behind in the Russian property, not on the Turk property. Turk take, that is right, Turk take Kars after Russian take, Turk again take. Is frontier where Kars where I live is in Russia. We escape and live there.
- Q. Now, where was it that you blew up the biggest ammunition station in Turkey?
- A. I suppose someplace here (pointing on map.)
- Q. That is somewhere in the area north of Van?
- A. Then frontier Persian, and corner Van. Here Van, this Lake Van, corner between this.
- Q. Now, you can take the seat again, please.
At the time you blew up that biggest ammunition dump, the location of that dump was well inside of the country of Turkey, was it not?
- A. Surely, yes.
- Q. That was ammunition that was to be used by the Turk Army in fighting the Russians, was it not?
- A. Surely.
- Q. So you, in affect, destroyed the greatest single concentration of ammunition to be used by the Turkish Army in fighting the Russians, right?
- A. I am glad that I did.
- Q. You did do that, did you not?

A. Yes. I don't know, but after I learned that I did, and I am glad.,

Q. And for this, you were decorated by the Russian government?

A. That is right.

Q. When you went into Kars you went with the Russian Army, did you not?

A. Yes. But not like soldier, like private citizen.

Q. Like a private citizen, correct?

A. That is right.

Q. You weren't wearing a uniform then, were you?

A. No.

Q. You didn't have a gun on you?

A. No.

Q. You are just a private citizen?

A. Private citizen. By dressed what they call dress this time gallifay sport coat, but I have my emblem.

THE INTERPRETER: It is the name of a general -- a French General.

MR. MINIER:

Q. When you went into Kars with the Russian Army, were you in effect just a private citizen out there in the middle of the war zone, correct?

A. That is right.

Q. Did you have your suitcase with you?

A. No, I have some military you know, when they put in cart, maps, and so I have with me.

Q. All right. Now, I think sometime earlier in your testimony on direct examination you mentioned President Wilson and the establishment of an Armenian nation, did you not?

A. Yes.

Q. Now, did Armenia function as a country for a period of two to three years at the time during or just after World War I was concluded?

A. Yes.

Q. All right. Now, Armenia actually began to function as a separate country with its own government some time in 1918, did it not?

A. That is right.

Q. Although it wasn't actually recognized at that time?

A. We have our Ambassador in Washington by name, I will tell you -- Basdormajian.,."

Q. All right. But the actual borders--

A. We have our Embassy in Washington.

Q. But at that time, the borders of the country had not yet been decided, had they?

A. Not yet.

Q. All right. Now, Armenia was actually recognized as an independent country or a nation in 1920, is that not true?

A. Yes.

Q. And how was that?

A. You know very well, President Wilson declare.

Q. Actually, it wasn't Wilson, it was a treaty, the Treaty of Sevres?

A. What?

THE INTERPRETER: Sever (*Sevres*) Treaty. (Interpreter explains to witness.)

THE WITNESS: Before Sever treaty, Wilson present his 14 points to Congress of United States, and the United States Congress accepted these, not only for Armenian which exist, but all Armenian under Turkey.

Q. What was the treaty of Sevres, Mr. Yanikian?

A. Sever Treaty, signed by Allied, by Turkish government on which they fix frontier Armenian country.

Q. This is the treaty which was signed by the Ottoman Empire and the Allies fixing the boundaries of Armenia?

A. That is right.

Q. That was in 1920?

A. I tell you exactly. Ten, August, 1920, and boundaries fix Article 89.

Q. How long did the independent nation of Armenia last?

A. How long?

Q. After this treaty, how long did it continue to exist as a government, as a recognized country?

A. I think two years.

Q. Well, it was just a few months, wasn't it?

A. No. More than that.

Q. Was not Armenia -- the new country of Armenia invaded by Russia in December of 1920?

A. Nobody invaded the Armenia inside the revolutions. They are private business.

Q. Isn't it true, after that time, half of what you historically considered Armenia ended up as part of communist Russia?

A. Armenia was like all Russian revolution start, they start revolution everywhere include Armenia and they came communistic block.

Q. Wasn't it Armenia -- a portion of Armenia, wasn't that in the first conquest by communist Russia?

A. No conquest. It is not conquest. Inside people himself did. Russian Army never conquest Armenia.

Q. All right. Why is part of Armenia in Russia today? Is there some reason?

A. What?

Q. Is there some country today known as Armenia?

A. Armenia now like California in the United States.

Q. It is a part of Russia, right?

A. No. Is no part of Russia.

Q. Part of USSR?

A. No. I am sorry, no part of Russia.

Q. Part of the USSR, correct?

A. May I explain?

THE COURT: Is it part of the USSR?

THE WITNESS: There are 15 government in the USSR like you have 50 states, they have 15 different nation.

Mr. MINIER:

Q. But they don't quite have the independence we do in this country, do they, Mr. Yanikian?

- A. Second question is not connected with my trial. If we start talking about all -- this is nothing. But this is country which is part Russia. Like California America.
- Q. The only place known as Armenia today is the communist Russia of Armenia run out of Moscow?
- A. We no talk communist Armenia, we talk Russian USSR.
- Q. It is a socialist republic?
- A. Yes.
- Q. Now, all right, after Armenia in 1918 began to function as a government, isn't it true that the governing group in Armenia set out on a policy to exterminate all of the Moslem population within the physical boundaries of the country of Armenia?
- A. I have no knowledge.
- Q. You have no knowledge. Could that be possible?
- A. I think, no.
- Q. Isn't it true that after Armenia began to function as a government in 1918, that the rulers or the governing parties or the governing body of Armenia devastated hundreds of Moslem villages within Armenia's boundary?
- A. I think you are addressing to me wrong. You cannot address president now, he is in Washington. I don't know. He asking something I don't know.
- Q. Well Mr. Yanikian, isn't it true, for the last three or four days, you have displayed the deepest most detailed knowledge of times, places, hours and events that took place at that time, that period of history, correct?
- A. Not yet.
- Q. Well, is it true, now, that it is when I ask you about acts committed by the Armenians, against the Moslem residents of Armenia, that you all of a sudden have no knowledge or no memory, is that the case?
- A. May I give explanation?
- THE COURT: No. I don't think it is required. Do you have any knowledge of it, or do you not?
- THE WITNESS: Yes. Because you are asking questions is specific which need all time explanation, and you no let me explain what is about. You want I answer yes or not. I cannot answer yes or not. I explain why is yes, why is not.
- Mr. MINIER:
- Q. Isn't it true, based upon your knowledge of the history of the time, that you are aware that the inhabitants of hundreds of Moslem villages were massacred by the Armenians after the Armenian government began to function in 1918?
- A. When they fight, each time destroy other villages, maybe Armenian destroy their villages, Turkey destroy their villages, is possible.
- Q. It is possible, then?
- A. Possible both side they fight.
- Q. Then it is not possible that massacres were committed, not only by the Turks, but also by the Armenians?
- A. No Armenian never did any massacres, never.
- Q. In all of your reading of history of the time, Mr. Yanikian, have you ever heard of children being burned in ovens in the Armenian village of Shakhab—Moslem children being burned in ovens in history books?
- A. Never heard.

- Q. Based upon your knowledge of history, Mr. Yanikian, don't you know, or have you read that the killing of the Moslem residents of the new government of Armenia became so widespread and so rampant that some members of the Armenian Parliament itself had to protest the massacres of the Moslems?
- A. I was not in Armenia at this times, I don't know,
- Q. So you don't know, correct?
- A. I don't know.
- Q. But you know about all of the Massacres committed by the Turks against the Armenians, whether you were there or not, correct?
- A. I know almost from history -- I was not there every corner where these massacres -- I not yet find in history any place where these massacres, I not yet find in history any place when you can explain what you told me now,-- why you are asking? I cannot find in history. If you give me one history book, not different with language, French, Armenian, Russian -- not different, if I read, I accept. But other massacre, I am talking, all libraries full, historical books, not written by Armenians, even by American -- for this I know, but I was not there.
- Mr. MINIER: Your Honor, I move to strike the answer as non responsive. I only asked if he had heard about massacres committed by the Armenians and we have another lecture about massacres committed by Turks.
- A. BY WITNESSI: I never read -- read that, I never read.
- THE COURT: Granted.
- Q. BY Mr. MINIER: Now, was, or is there some Republic or country by the name of Azerbaijan?
- A. Azerbaijan?
- Q. Yes?
- A. Yes, A-z-e-r-b-a-i-j-a-n.
- Q. Yes?
- A. yes.
- Q. Where? Could you show that to us on the map, please?
- A. I think is here (indicating on map) -- here where is Macu--some place here, I think here (indicating).
- Q. All right.
- A. On the Caspian Sea, -- next to Caspian Sea.
- Q. You are indicating an area somewhere over to the east of the border of Turkey, is that correct?
- A. No, not nothing do with Turk.
- Q. Not to the east?
- A. Not connection, between -- Azerbaijan and Turkey, they have Russia and Persia. It is not include there.
- Q. Would you take your seat again, please.
- A. Thank you.
- Q. Is it true that of that country, Azerbaijan, most of the population is Moslem?
- A. In which town?
- Q. Take the whole country in general?

- A. I don't think so.
- Q. You don't think so?
- A. No.
- Q. All right. Let me ask you this, isn't it true that the killings of Moslems living within the boundaries of the Republic of Armenia, after 1918, became so widespread that the Foreign ministers of this other country, Azerbaijan, in September of 1919 had to protest the devastation of 200 Moslem villages, and the massacre of the inhabitants by representatives of the Armenian government; did you read that in any history books?
- A. Not yet.
- Q. Based upon your knowledge of history, did you ever read that the Foreign minister of Persia, of Iran, on October 21, 1919, was so concerned with the massacre by the Armenians of Moslems, in Kars and Yerevan, that he made an official protest on behalf of the Persian government?
- A. I don't know.
- Q. Did you ever hear that the prosecution of the Moslems within the Armenian Republic became so bad that Turkey made an official declaration of war in December of 1920 against the Armenian Republic? .
- A. I know they declare war, but what is foundation, why -- I don't know.
- Q. And in all of your books you never read any reason given by the Turkish government?
- A. I was not interested in Azerbaijan.
- Q. Pardon?
- A. I was not interested in Azerbaijan.
- Q. You were interested in Persian history?
- A. In Persian history.
- Q. Yes.
- A. Persian history which is connected with Turk and with Armenia.
- Q. All right. Now, with regard to Persia, let me ask you about another area, this suit that you had with the Persian government, I think you testified about the reasons that our government didn't cut off aid to Persia, you told us about that, did you not? You indicated that it was basically because we didn't want to offend the Shah of Persia because of the oil?
- A.. Perfectly all right -- right.
- Q. Now, with regard to this law that you referred to that says that we don't give foreign aid to some country that owes a citizen of our country money --
- A. (interposing) Yes.
- Q. (Continuing) And isn't it true that our State Department informed you over and over again that that law did not apply to you?
- A. No, never the answer on this question. I was not asking for last ten years that they collect for me, I ask explanation why this law, accepted by Congress, by Senate, not use, and never they answer -- you cannot find any answer why. And also, I was forced ask our Congress.
- Q. Mr. Yanikian --
- A. (Continuing) Congress show why -- that's right.

- Q. Didn't the State Department tell you in writing that because you were not an American Citizen when the debt was incurred that you did not fall within the provisions of that act?
- A. This time, when I ask first, they, to help me collect, that's right, they sent this letter.
- Q. All right. So they told you that, didn't they tell you in effect that we are not going to cut off our aid to Persia because you were not a U. S. Citizen at the time this debt from Persia to you was created?
- A. In my knowledge, never I receive any letter from State Department in which they explain why this law cannot apply to Yanikian -- never, never. Even their answer to State--to Senator, they never mention this. Only they mention, Yanikian want we collect his money. I don't want they collect my money, -- ten years I demand explanation, what is this, law or not?
- Q. All right. Let me ask you this, did you kill Mehmet Baydar and Bahadir Demir because the Persian government would not pay you?
- A. No.
- Q. Isn't true that when you were testifying about the fact that the Persian government wouldn't pay you that you made this statement from the witness stand, and what result now, Yanikian is in this chair?
- A. That's right. But not because -- because State Department put before me choice, for everything -- before everything in my life, or make choice, that's all.
- Q. Why didn't you kill a representative of the State Department, Mr. Yanikian?
- A. I'm sorry? -- but, together, this money I will use for put before the world Armenian massacres, and other nations massacres, which connected with this program, which we organize for produce this film. Why I kill State Department?
- Q. Did it ever occur to you to kill a member, or an employee of our State Department?
- A. Never enter my mind.
- Q. Did it ever occur to you to kill some representative of the Persian government because they won't pay you?
- A. If I was after money, maybe you be right. Is not after money for myself, I was after why this -- I cannot realize this my idea. Why. I take one line, walk, walk, walk -- is, what is Turkey? I take other line, or State,--I can see our young generation all this dope, where is come--go to Turkey, go to Turkey.
- Mr. MINIER: Your Honor, I move to strike the answer. I asked him if it ever occurred to him to kill a representative of the Persian government,
- THE COURT: Granted, except that portion where he said, "No," if he said "No." I have forgotten even now.
- Q. BY Mr. MINIER: Mr. Yanikian, have any of the members of your family ever been killed by Russians?
- A. I refuse answer.
- Mr. MINIER: Your Honor, may we have the witness directed to answer?
- THE COURT: You must answer, Mr. Yanikian.
- A. I don't know.
- Q. BY Mr. MINIER: You don't know?
- A. No.

- Q. Isn't it true, for years, Mr. Yanikian, in all of your books that you have been stating in the summaries of your books that 20, or 26, perhaps it is, members of your family have been killed by Turk and Russians?
- A. Not by Russian -- by revolution, type revolution they kill, all rich people killed.
- Q. In your books don't you say Russians?
- A. I no say in my book -- in my biography, some people say--
- Q. Mr. Yanikian --
- A. (Interposing) Never I wrote my biography.
- Q. You have never written your biography?
- A. Never.
- Q. All of the biographies appearing on the covers?
- A. People talk, for this -- I have --
- THE COURT: (Interposing) You have answered. You never wrote a biography.
- A. BY WITNESS: No.
- THE COURT: All right.
- Q. BY MR. MINIER: Well, will you admit, Mr. Yanikian, that on the covers, or on the fly leafs of all of your books where it gives a biography, it says that about 20 members of your family were killed by Turks and by Russians?
- A. Yes, some biographer put this.
- Q. Why didn't you tell the biographer "Don't put that in because it is not true?"
- A. It is their business -- my interest, I am interest publish my book, what they put biographer, I don't care what they explain my life.
- Q. Mr. Yanikian, are you now denying that you have claimed time after time in the past that the members of your family have been killed both by Turks and by Russians.
- A. Not by Russian -- revolution.
- Q. Russian revolutionaries, right?
- A. Revolution -- no Russian, revolution in any nation, they kill rich people.
- Q. All right.. How many of your family have been killed?
- A. I don't know.
- Q. Would it help refresh your memory if you looked at some of the biographies on some of these books of yours?
- A. I don't know how many.
- Q. How many were killed by Turks?
- A. I don't know.
- Q. How many were killed by revolutionaries other than Turks?
- A. I don't know either.
- Q. Now, Mr. Yanikian, we have Defense Exhibit Letter S here, don't we, The Triumph of Judas Iscariot. You are familiar with that book, are you not?
- A. Yes. I think so.
- Q. Now, the very last three pages are called "Gourgen Yanikian Biography" are they not?
- A. Yes.
- Q. Did you look at this book before it went to print?
- A. I look only what I wrote.
- Q. You never looked at what the biography was?

A. Is not interested in biography.

Q. Isn't true that you wrote every word in this book, including the biography?

A. No.

Q. Tell us, Mr. Yanikian, who is the Research Publishing Company?

A. In Los Angeles, some publish company.

Q. Mr. Yanikian, do you know what the term "Vanity Press" means, a Vanity publishing house?

A. No. What this mean?

THE INTERPRETER: (Explains to witness.)

THE WITNESS: I no research company who publish this book.

Mr. MINIER:

Q. You paid for this to be published, didn't you, Mr. Yanikian?

A. Yes.

Q. You paid for all your books to be published, haven't you?

A. Yes.

Q. Is it not true, you have never had one legitimate publication of a book by somebody else?

A. I told before, my interest was not make money on my writings, on contrary, spread my idea around the world. I have enough money for make living, was not interested, and I told that this book second two thousand copy I sent to Washington, which you have other book.

Q. How much did this book cost you to publish?

A. I don't know. Lots of money.

Q. Pardon? About five thousand?

A. Maybe.

Mr. MINIER: Your Honor, may I--well, let me ask you this if this statement is true. May I read on page 254 from Defendant's Exhibit S, your Honor?

THE COURT: Yes.

Mr. MINIER:

Q. Mr. Yanikian, let me ask you if this statement is true.
"Yanikian has lost 26 members of
his family at the hands of communists and Turks
and is now devoting all his time and energy
towards bringing about a change in conditions
which make massacres possible."

A. That is right, I wrote this.

Q. You did write this?

A. Yes. I told -- I told they quote when I told what I am doing, I explain, and this in quote here.
I no write, I told, and I am repeating

Q. Now, you just told us you didn't know how many of your family were killed, correct?

A. I suppose.

Q. Why is it you told the man who wrote this biography that you lost 26 people in your family?

A. Another put 70.

Q. Did you lie every time you told somebody how many members of your family were killed and give a different figure?

A. I no ever lie.

Q. Is this true, 26 Members?

A. If I can have what I am courage tell what I am tell around the world, I have courage tell I am never lying. You will know.

Q. Why did you tell the man that wrote this biography that 26 members of your family were killed?

A. If you count is came more than 26. It depend if I take my family --

Mr. MINIER: I move to strike the answer is nonresponsive.

THE COURT: Well, it is so far, but we haven't heard it all.

THE WITNESS: If you count 26, hundred, depend how long you go, you know, with brother-in-law, second line, came more, and more after, came two million.

Mr. MINIER:

Q. Mr. Yanikian, let's go back.

Did you tell the man who wrote this biography in your book that you had lost 26 members of your family?

A. Yes.

Q. Was that a lie?

A. No.

Q. Why did you tell the man that exact figure of 26?

A. Because I figure this is 26.

Q. Why can you not figure in the courtroom today any number of your family who were killed?

A. I don't want.

Q. Every time you have prepared or given the information for a biography in one of these books that you yourself published, have you given the biographer a different number of persons killed?

A. No.

Q. You just said you gave somebody seventy?

A. They came themselves, somebody who wrote my biography asking me.

Q. What about the references to communists; did you also tell this biographer that your family had been killed both by communists and Turks?

A. I told I will only answer questions connected with my court here.

Mr. MINIER: Your Honor, may we have the witness instructed to answer the question?

THE COURT: Please answer, Mr. Yanikian.

THE WITNESS: What is question?

Mr. MINTER: May we have it read back?

THE WITNESS: I forgot question.

(Question read.)

THE WITNESS: If it is help for justice, I will tell, but is nothing do with justice.

Mr. MINTER: Your Honor, may we have the witness instructed to answer the question, please?

THE COURT: That does not answer the question, Mr. Yanikian.

THE WITNESS: I am no answering this question, your Honor.

THE COURT: Did you tell the biographer that your family -- 26 members of your family had been killed by the Communists and the Turks?

THE WITNESS: Maybe in talk I told, maybe.

Mr. MINIER:

Q. All right. If you told him that in talking, what did you mean by members of your family being killed by the communists ?

A. No communist, by revolutionary.

Q. All right. What revolutionaries?

A. Revolution which in country around -- all around, you know very well revolution, in Russian revolution, and six, seven, ten million people was killed.

Q. How many of your family members were killed by revolutionaries?

A. I don't know. Really, I don't know.

Q. Were any of your family members killed by Russian revolutionaries?

A. Maybe.

Q. Have you ever considered killing a representative of the Russian government in revenge?

A. Never. For what? Revenge? My heart never I have revenge. Never I have. And I never -- I will have. No revenge in me.

Q. Haven't you?

A. It is very cheap -- revenge.

Q. You have referred a number of times, have you not in your statements to the officers, about America being a diamond and that you killed the two people to dust off the diamond?

A. That is right.

Q. All right.

How does killing these two Turkish diplomats help to dust off the American diamond?

A. I will repeat same answer, because your question cannot be yes or not. It is need explanation. I repeat, I use this two symbol evils for put light that we can see each other clear and clean dust which is sometimes, some corner our diamonds, American life.

Now, you want know what this is, I can tell you. You go in the jail and see how many people there for dope. Where came this dope? Last year we paid thirty-five million dollars to Turk. You want proof. Please, may I have card this.

Q. Well, let me ask you this: In this books "The Voice of An American"

A. Yes.

Q. This is another of your own publications, right?

A. Yes.

Q. How much did this cost you to publish, another five thousand?

A. Maybe.

Q. Now, in this book, you mentioned dope on about two pages, did you not?

A. Three pages.

Isn't it true that all of the rest of the book talks about a different kind of dust, correct?

- A. I told you from the beginning, I accept that this book be presented like document only which is of connection with this trial. Other which no have connection with this trial, I no want discuss this.
- Q. The rest of this book talks about things like how bad movies are getting, doesn't it?
- A. I told you it is our private business in our home.
- Q. Doesn't the rest of this book tell about how terrible it is that women can leave a lot of money to dogs in their wills?
- A. I don't want discuss it.
- Q. This book isn't about Turkey, is it -- this book "Voice of An American"?
- A. Yes.
- Q. Is the word Turkey in the book anywhere on one page?
- A. Dope --what is dope?
- Q. Is the word Turkey any place in this book?
- A. What is dope?
- Mr. MINIER: Your Honor, could we have --
- THE COURT: Answer, Mr. Yanikian.
- THE WITNESS: I don't know. I forgot. I will read book again for see. I think, yes.
- Mr. MINIER:
- Q. Now, let me ask you about April of this year when you had your three day period in seclusion. What was your financial condition at that time? You didn't have a lot of money, did you?
- A. No. I spend all my money.
- Q. Now, you had been a rather wealthy man, had you not?
- A. Yes.
- Q. You came to the United States, or when you came back that one time, didn't you have around a quarter of a million?
- A. Yes.
- Q. How much money do you think you spent on writing and publishing all of these books?
- A. May be fifty-thousand.
- Q. Now, prior to April, you had attempted to sell that painting of the Persian Room by the great Armenian master Sarian, had you not?
- A. Yes.
- Q. You had been unsuccessful?
- A. No. They offer, and I turn down. They no accepting my price, I told, "No, I'm not accepting." I give free.
- Q. Now, when you were very wealthy, isn't it true that you used to give ten-dollar tips?
- A. Maybe, maybe more.
- Q. And for some period of years, were you a member of the Coral Casino Club?
- A. Yes.
- Q. That's a rather exclusive club connected with the Biltmore Hotel, isn't it?
- A. Yes.
- Q. But In April, isn't it true, that in April of last year, that for five years you had been on welfare?
- A. Yes.

- Q. And in addition, because of your financial problems isn't true that your friend Mrs. Rettig was also giving you \$50.00 a month to help you out?
- A. If I ask more, she will give more.
- Q. But she was giving you \$50.00 a month, is that correct?
- A. Regularly, yes.
- Q. Now, you indicated that when you went down to Los Angeles for the purpose of going to the Turkish consulate, you stayed in one of the very plush hotels there; was that your testimony?
- A. Yes. I went to see consulate.
- Q. You had enough money to stay in a fine hotel in Los Angeles, did you?
- A. Yes.
- Q. Were you on Welfare at the time that you went to Russia?
- A. Yes.
- Q. You testified I believe that the Russian government made you pay half of your fare, did you?
- A. Yes.
- Q. You had no problem raising that amount of money, is that correct?
- A. No, not this reason.
- Q. Well, you did pay for half of it?
- A. I can pay both way, but I put condition, I want to be invited officially, because I am going in Communistic country, I want to be invited officially.
- Q. Armenia then is a communistic country?
- A. Yes, Russian Communistic, yes -- is no secret. We have our map, red, all Russia.
- Q. Now, how much did your trip cost you to go to Russia?
- A. Personal for me, it cost \$2,000.
- Q. When was it that you stopped in Istanbul during this trip?
- A. Where I what?
- Q. Didn't you stop in Istanbul?
- A. Yes.
- Q. On the way over or on the way back?
- A. No, when I go there, I stop Istanbul -- I stop Beirut, two days; Istanbul, four hours, because I needed --
- THE COURT: Just when was it?
- A. BY WITNESS: Yes, when I go.
- Q. BY Mr. MINIER: All right. When you went, one of your purposes in Istanbul was to talk to some of the fellow members of this secret society, is that correct?
- A. That's right, correct.
- Q. Now, do you have some of the film script that you can show us regarding this film that you had worked on for 25 years?
- A. I burn everything.
- Q. You don't have any notes at all?
- A. I have not here, -- they in other town.
- Q. Do you have the complete film scripts, -- do you?
- A. In my brain, yes.
- Q. In your brain?
- A. Yes.

Q. What did you burn then?

A. In my brain, I cannot burn my brain.

Q. Well, didn't you just say that you had burned the film scripts?

A. Film, yes, but not idea what I will tell -- I have notes -- I have notes, yes.

Q. How big a stack of film script did you acquire in this 25-year period?

A. About 600 pages.

Q. And would you like to tell us some of your friends who are also members of the secret society?

A. No.

Q. Can you name anybody who is a member of that society?

A. No.

Q. Well, how many people are in the society?

A. I can tell how many country, but not how many member,

Q. How many people?

A. I don't know how many people.

Q. Aren't you the head of the society?

A. What?

Q. Aren't you the head of the society?

A. Yes, is my organization -- I organize.

Q. Have you told your friend, Mrs. Rettig, about this secret society?.

A. No.

Q. Well, now, when you had that lengthy interview with the FBI, you didn't tell them that you had called these two Turkish Diplomats because you could no longer make your movie, did you?

A. I told why I cannot make movie, because I no receive money, I told -- I told FBI that go ask State Department why I did destroy these two evil, -- I told FBI, yes.

Q. My question was, you did not tell the FBI, did you, that you had devoted 25 years, sacrificed 25 years of your life to this movie, did you?

A. I no told all my life history, I told only why I did.

Q. My question--

A. (Continuing) Then asking me other questions, they ask me why I did, -- they was interest in --

Q. My question Mr. Yanikian, I ask you, you did not tell the FBI about sacrificing 25 years of your life for this movie, did you?

A. I don't remember.

Q. When you had the--

A. (Interposing) I'm sorry, I told FBI that State Department force me go this direction, that's right -- I told this.

Q. Now, in your conversation with Detective Norton, you didn't tell him either, did you that you had sacrificed 25 years of your life to produce this movie?

A. No, I told that State Department push me this direction.

Q. You didn't tell Detective Baker, did you, that you had sacrificed 25 years of your life to produce this movie?

A. No. because I no want anybody know.

Mr. MINIER: If I might have just a moment, your Honor--

Your Honor, I have a one page document, I wonder if we might have it marked People's next in order for identification.

THE COURT: Yes,

THE CLERK : People's No. 53.

(Whereupon a newspaper ad thereupon duly marked as people's exhibit No.53 for identification purposes only.)

Q. BY Mr. MINIER: Mr. Yanikian, is this the same secret society that you advertised in the Santa Barbara News Press to get members for?

A. I will see -- I don't know.

Q. Well, my question is, this secret society that you devoted your life, 25 years of your life to, did you put an ad in the Santa Barbara News Press to get interest in your secret society?

A. Secret society, never mention secret society. Maybe I put some ad -- name different meaning, but not secret society. You cannot find any word in my publication.

Q. Didn't you testify for your attorney, Mr. Lindsey, about forming an international secret group?

A. Yes.

Q. For the purpose of this movie?

A. Yes, -- because I no want these people suffer on their country, too, because on this society some Turkish people themselves.

Q. Now, this was this Paradise Group, was it not? The one that you called Paradise?

A. Yes, movie called Paradise.

Q. Did you advertise for people offering them presentation certificate for entrance to Paradise?

A. No.

Q. I am going to show you People's exhibit No. 52 and ask you if you recognize this as an exact copy of a piece of paper that--

A. (The witness examining exhibit) Is nothing to do with secret society.

THE CLERK: If the Court please, I believe that was Exhibit 53.

Mr. MINIER: I'm sorry, People's 53.

A. BY WITNESS? Is nothing to do.

Q. BY Mr. MINIER: It refers to a motion picture, does it not?

A. Motion picture there.

Mr. MINIER: Your Honor I would like to give this to the Court and offer it in evidence as People's Exhibit next in order prior to asking any further questions about it.

A. BY WITNESS: Yes, yes, -- I advertise about motion picture, that's right.

THE COURT: Any objection, Mr. Lindsey?

Mr. LINDSEY: No, your Honor.

THE COURT: Received.

(Whereupon a photocopy of newspaper ads thereupon duly received in evidence as People's Exhibit No. 53.)

Q. BY Mr. MINIER: Now, on this Exhibit 53, is this not a Xerox copy of an advertisement you placed in the Santa Barbara News Press in the issue of July 2nd, 1970?

A. I don't know what is there.

- Q. Sorry. (Exhibit presented to the witness.)
- A. Motion picture -- you are talking about this?
- Q. Yes. Is this an advertisement, a copy of an ad you put in the News press?
- A. Seven, two, seventy -- this, yes, this is -- but not -- this has nothing to do with society, this is connected with motion picture, That's right, this is my ad, that's right.
- Q. Are these two different ads?
- A. Yes, is different, nothing to do one each other.
- Mr. MINIER: Your Honor, may I read from the exhibit?
- A. BY WITNESS: One is connected with movie picture, that's right. Have connection with this secret organization for Paradise production, that's right,
- THE COURT: Yes.
- Mr. MINIER: First I will read one portion, or one ad. (Reading) "If you have desire for happiness in the hereafter --"
- THE WITNESS (Interposing) No, I'm sorry--
- THE COURT: Wait a minute,
- A. BY WITNESS: Your Honor, is has noting do.
- THE COURT: Just a moment. There is no question now for you to answer.
- Mr. MINIER: (Reading) If you have desire for happiness in the hereafter, address Chairman, Society for the Science of Living, Inc., a non-profit organization whose chairman also is a Doctor of Divinity. You will receive free a revocable, nontransferable certificate, issued in your name for a presentation To Whom it May Concern at the entrance to Paradise, entitling you to free admittance and a happy life forever after. We are giving a limited quantity of these certificates only to help our fellow men, freedom from worry and save them money. No donation, please. Our sole condition is that you be humane. Send your request with name, address, and age to Chairman, P.O. Box 30485 Santa Barbara."
- Q. BY Mr. MINIER: Did you place that exhibit in the News Press?
- A. Yes.
- Q. And was that your post office box?
- A. Yes.
- Q. Now, regarding the second ad (Reading):
 "Motion picture assistance wanted.
 Persons interested in local work with motion picture production group, planning large scale production, please contact P. O. Box 30485, Santa Barbara, 93105, with brief resume stating availability, Beginners welcome."
- Q. BY Mr. MINIER: Did you also place that ad?

A. Yes.

Q. Was this second ad about the movie, was that related to your production of this movie called Paradise?

A. Yes.

Q. And were you about ready to start production then?

A. One part -- one part, because production be in 20 different places, in different town.

Q. Now, with regard to the other ad, does this entrance to Paradise, does that have anything to do with the Paradise movie?

A.. Nothing to do with Paradise production.

Q. Are you a Doctor of Divinity, as you indicated in this advertisement?

A. Yes.

Q. In which church is that?

A. What?

Q. What church?

A. Same church like Sheriff Carpenter.

Q. Universal Life Church?

A. Same church like Sheriff Carpenter.

Q. You sent away \$25 and you got a certificate back?

A. Yes, same what Sheriff Carpenter did, and same reason I did.

Mr. MINIER: Your Honor, I have two more exhibits that I would like to have marked for identification as People's next in order, if the Court please.

THE COURT: All right.

THE CLERK: People's Nos. 54 and 55, your Honor,
(Whereupon two Xerox copies of certificates thereupon duly marked as people's Exhibits 54 and 55 for identification purposes only.)

A. BY WITNESS: Your Honor, may I have one question asked?

THE COURT: You better take it up with your lawyer.

A. BY WITNESS: Okay.

Q. BY Mr. MINIER: Mr. Yanikian, showing you first Exhibit 54, is this a Xerox copy of your Doctor of Divinity diploma?

A. Yes.

Q. Showing you People's Exhibit No. 55, is this a copy of your Universal Life Church, Doctor of Divinity?

A. That's right.

Mr. MINIER: We would offer these two into evidence, your Honor.

THE COURT: Received.
(Whereupon two Doctor of Divinity certificates thereupon duly received in evidence as people's Exhibits Nos. 54 and 55 in evidence.)

Q. BY Mr. MINIER: Now, was it upon the basis of these two diplomas here that you advertised that you were a Doctor of Divinity?

A. What?

Q. Was it on the basis of these two diplomas that you have advertised as a Doctor of Divinity?

A. Yes.

Q. Now, you haven't taken any courses, have you, to become a Doctor of Divinity?

A. Not in America.
 Q. Not in America?
 A. No.
 Q. Well, you don't have any association with this Universal Life Church, other than sending a letter?
 A. Never I was there.
 Q. You sent a letter to Arizona?
 A. Yes--no Arizona, Santa Barbara, California, too.
 Q. You sent them what, some money? -
 A. Indeed you can ask Sheriff carpenter, he has same.
 Q. You sent the money, did you?
 A. \$20.00.
 Q. And they sent you back a diploma saying you are a Doctor of Divinity?
 A. That's right.
 Q. But you say that the advertisement saying you are Doctor of Divinity, talking about Paradise has nothing to do with this movie that you devoted 25 years to?
 A. No, nothing do. Is something private. Is nothing do.
 THE COURT: We will take the evening recess, ladies and gentlemen of the jury, and, Mr. Hargraves, I have a note from the bailiff regarding your doctor's appointment. We will see to it that you keep it. Don't worry about it.

Ladies and gentlemen of the jury, it is your duty not to converse among yourselves or with anyone else on any subject connected with the trial, to form or express any opinion thereon until the cause is finally submitted to you.

10:00 o'clock tomorrow morning, please.

(Whereupon at 4:30 o'clock this date the proceedings were adjourned until the hour of 10:00 o'clock a.m., Thursday, June 21, 1973.)

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**25. SANTA BARBARA, CALIFORNIA, THURSDAY, JUNE 21, 1973; 10:00 A.M.  
 MORNING SESSION**

THE COURT: All members of the jury and alternate jurors and the defendant are present.

**GOURGEN MKRTICH YANIKIAN,**

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

**CROSS EXAMINATION (Continuing)**

BY MR. MINIER:

Q. Mr. Yanikian, calling your attention again to the ad that we were talking about yesterday in the News Press for motion picture assistance?  
 A. Yes.  
 Q. Could you tell us what part of this movie that you were going to make about the massacres was to be made by the people who responded to this ad in the Santa Barbara News Press?  
 A. Not yet fixed.  
 Q. Well?

A. (continuing) Only I want know whom we can use, but not fix it which part they will play.

Q. And did you get a group of actors that responded to this ad that you placed in the paper?

A. Some of them I have their address, and I told that I can use, when I need it.

Q. Now you said that the other advertisement the one that refers to Chairman Society for the Science of Living is not related to this ad for the movie?

A. No, nothing to do with it.

Q. Now, is that a corporation of which you are the permanent lifetime chairman?

A. Yes.

Q. And how long ago did you form that corporation?

A. Twenty-five years.

Q. Twenty-five years.

A. Yes. In Beverly Hills, official recorded -- but never I use.

Q. Did people respond also to this advertisement?

A. Only three -- not many people want to go to Paradise -- only three. One out, and two in Santa Barbara.

Q. Did you give them some certificates?

A. Oh, yes, I give.

MR. MINIER: Your Honor, may I have marked as People's exhibit next in order a certificate for identification?

THE COURT: Yes.

THE CLERK: People's No. 56.

(Whereupon the certificate document thereupon duly marked as People's Exhibit No. 56 for identification purpose only.)

A. BY WITNESS: May I see this?

MR. MINIER: As soon as your attorney has, I will be glad to show it to you.

Q. Was the placing of that advertisement and the offering of certificate related to the 25 years of your life that you sacrificed for this goal you testified about earlier?

A. Is something to do with what I did in the Biltmore?

Q. No, I was asking--

A. (Interposing) Is connected or not?

Q. No, I was asking if it was connected.

A. (Nodded negatively.)

Q. Is the ad and certificates that you offered were connected with your 25-year sacrifice?

A. No. Is only for help people nothing to do with my 25 years' work.

Q. Now, showing you People's No. 54, is this one of the certificates that you had prepared to give to people who responded to the add?

THE CLERK: If the Court please, that number was corrected to 56.

THE WITNESS: Yes.

THE COURT: Yes.

THE WITNESS: And I told you I receive only three response. One from out Santa Barbara, two from Santa Barbara,

Mr. MINIER: Your Honor, we would offer People's 56 into evidence.

THE WITNESS: You want know who receive in Santa Barbara?

Mr. MINIER: Would you show it to his Honor, please, Mr. Yanikian.

THE COURT: All right, it is received.

(Whereupon the above described exhibit previously marked for Identification thereupon received as People's No. 56 in Evidence.)

THE WITNESS: Your Honor, this I need some explanation about this certificate, can I?

THE COURT: All right.

THE WITNESS: I will start long, long 65 years ago when I was in the school, next to me sit down young boy. He was what they call -- it is mean he don't know who his father.

THE INTERPRETER: He don't know who his father was.

THE WITNESS: What they call this?

THE INTERPRETER: Illegitimate child.

THE WITNESS: That's right. Next to me sit down young boy he was love one girl, family this girl forbid her meet to him, and he kill himself, this young boy. And what is reason? Because they told who his father? Illegitimate boy. This impression I have I feel bad for this poor boy kill himself because he no have father. Young people, make talk, make speech, I saw many couples, some of them already pregnant, and boyfriends I ask, "Why you no marry?"

"Because we no have money."

"What money?"

"For marry, we need \$40.00."

I was thinking suppose this boyfriend go, this girl give life to this baby and baby will grow, go school, who is father? Nobody know, and how his life they will call like friend what I. Then when I read in newspaper that they selling, you know, for five cents, seven cents, minister certificate, Doctor Divinity for \$20.00, I thought just a minute, I can help them, and I sent seven cents for receive minister's official advertised in the newspapers.

Also I sent \$20.00, I receive Doctor Divinity, and first couple when I told, "You want marry?"

"Yes, but we have no money."

"I no charge, I marry."

And I marry them. Marriage was what they bring to me Doctor certificates.

Certificate document from County here registered second floor what I did. They bring witnesses, I put name witnesses, sign, give them, -- no, I sealed and send myself, and signed Doctor Divinity so and so official. After this couple married.

After this, I saw child born, she have name father. I did this no one Mr. District Attorney, you can check on recording office here Santa Barbara County, and you can see how many Yanikian marriage.

What I receive Yanikian? One white flower.

After they told that why you no--

Mr. MINIER: Mr. Yanikian--

A. Just a moment, I receive from Judge explain. After this, some people say very good, some people wanting paradise, why you no do this. Free, I do free everything I put free, and I put, "Please no charge, no donation." I receive three people want go to paradise. One from Santa Barbara -- out Santa Barbara come

two from Santa Barbara. One was very interesting because I receive one asking six months after I put this ad. I was surprised. Six months wait.

Why, I ask. I start checking and I find this is very good friend our District Attorney, and I sent to him the certificate. I am sorry I cannot tell more. I no make any money, I no ask anything.

Q Mr. Yanikian, how many people have you married under authority of this Doctor Divinity Degree?

A I don't know.

They spread word no spend money, thirty, forty dollars for marriage, Yanikian is doing official because is official by nothing illegal, you know. I don't know, but couple years registered can tell you if you check.

Q Do you have any estimate, Mr. Yanikian as to how many people you have married under authority of this Doctor of Divinity?

A. Not too many -- no, only poor people, who is came-- they no have money.

Q. Ten, twenty ? Any estimate?

A. Maybe -- I no take records -- I no keep records. Is something for help people. No charge. I spend my money.

Q. So then, isn't it true, that in addition to being a poet, and an author, and an inventor, you consider yourself to be a minister?

A. Officially, yes -- but accordance law, yes.

Q. People's Exhibit No. 56 is the certificate you prepared for people who responded to the ad with a desire to enter Paradise, is that right?

A. That's right.

Q. And it is under president -- well, P.T. for president, Society for the Science of Living, and you have Gourgen Yanikian, P.T. under president.

A. That's right.

Q. And that is the Doctor of Divinity title?

A. That's right.

Q. And this is an irrevocable nontransferable certificate?

A. Surely.

Q. To Whom it May Concern, is that right?

A. That's right.

Q. At the entrance to Paradise?

A. That's right. if they believe, they ask help -- I am helping. I am no taking money.

Q. Now, what this society here, Society for the Science of the Living, represented by this diploma, is that in any way related to the massacres that you have testified to?

A. Not -- I told you, is nothing to do with massacres. Is philosophic society organized in -- for create human -- good man, because, for me, Mr. District Attorney you will know, good Armenian can be bad man. Good American also can be bad man. But good man never can be bad Armenian or bad American. All my life, I try this direction.

Mr. MINIER: Pardon me, but I move to strike that, your Honor.

A. BY WITNESS: You ask and I am answering you.

Mr. MINIER: (Continuing) : Move to strike it as non- responsive.

The Court : I will let it stand.

Q. By Mr. MINIER: Now, Mr. Yanikian, let me ask you something about your books, did you have an opportunity since you were on this stand yesterday to look at the two books here in the courtroom, the Voice of an American, and The Triumph of Judas Iscariot to see if the word "Turkey" appears anywhere in those books?

A. I like see.

Q. But you haven't had a chance?

A. I like see -- I no have chance. I like see.

Q. Let me ask you about Harem Cross, that was another one of your books, was it not?

A. Yes.

Q. First, let's go back to Triumph of Judas Iscariot, is that built around the theme that Christ was not divine? Is that correct?

A. This book received mark diploma in the United States, if you take this diploma and see who is honored members after you can put this, there is Mr. Eisenhower, Bernard Shaw-- all name, and I hope my defense will present. They elected me for this book, this book is classic book.

MR. MINIER: Your Honor, may counsel approach the bench, if it please the Court?

THE COURT: Well, is it necessary right now? I was about to ask Mr. Yanikian to confine his answer to that last question, and this is the subject you wanted to approach the bench on, is it?

A. BY WITNESS: Yes, I can.

THE COURT: You were asked, Mr. Yanikian, that the main theme of the book was not that Christ was lacking in any divine character? Was that the main theme of the book, The Triumph of Judas Iscariot?

BY WITNESS: I don't know -- you read this book?

THE COURT-. No, no -- just tell us.

A. BY Witness: Oh, what?

THE COURT: Is the main theme of The Triumph of Judas Iscariot that Christ was not divine?

BY Witness : No.

THE COURT: That answers the question.

A. BY Witness : No. I'm sorry. Absolutely wrong idea. If you know, maybe you don't read.

The COURT: That answers the question.

A. BY WITNESS: No.

Q. BY Mr. MINIER: The book Triumph of Judas Iscariot is basically about religion, is it not?

A. Yes.

Q. It is not about the massacres, is it?

A. Yes, it is about massacres, too -- give me book.

Q. Do you have reference to massacres in that book?

A. Yes. May I have -- Exhibit is, what is number?

Q. Mr. Yanikian, would you be willing to do this, at the next recess would you be willing to look at it and see if you can find any reference?

A. No, I want -- I know which page exactly. I read last -- yesterday, you read four spaces. You can read four more and you have your answer.

Q.. Are you talking about the last page where --

A. (Interposing) Last page, yes.

Q. All right. Now, this book is 254 pages, isn't it?

A. Yes.

Q. Now, isn't the only reference to massacres on the last page which is your biography?

A. Yes.

Q. All right. In the book itself, it is just about religion, is it not?

A. Just a minute -- this book, yes.

Q. All right. And in the book itself, excluding your little biography at the end, the word Massacre is never mentioned?

A. Yes. My book is -- and is now the word "Devoting all his time and energy to what bringing about a change in the condition which make massacre possible."

Q. That is on the last page, isn't it?

A. Yes.

Q. Now, in the Voice of an American, this other book, have you had a chance to look at that to see if the word "Turkey" appears in that book?

A. I told you I am trying create man -- I am not trying create barber.

THE COURT: Mr. Yanikian, just answer the question.

BY WITNESS: No, no.

Q. BY MR. MINIER: All right. Now, let's talk about Harem Cross.

A. Yes.

Q. That is a novel you wrote, is it not?

A. Yes.

Q. In Harem Cross there is no reference to massacres, is there?

A. No, none my books you have any massacres. Massacres you can find only in my articles, around the newspaper, in my poetry and magazines, but not in my books. In my books I try creating good man.

Q. All right. Another of your books is Mirror in the Darkness, is it not?

A. Mirror in Darkness, yes.

Q. The word "Turkey" does not appear in that book?

A. I told you, there are no national for me exist.

Mr. MINIER: Your Honor I move to strike the answer.

THE COURT: Granted. Will you answer the question, Mr. Yanikian.

A. BY WITNESS: No, no.

A. BY MR. MINIER: Now, you wrote some plays also, did you not?

A. Yes.

Q. One of the plays is The messiah, is it not?

A. Yes.

Q. The word massacre doesn't appear in that play, does it?

A. No.

Q. The word Turkey doesn't appear in that play?

A. No.

Q. That is a play about religion, isn't it?

A. Yes.

Q. You wrote a play called Life Symphony, did you not?

A. Yes.

- Q. That play is not about, massacres, is it?
- A. No.
- Q. It is not about Turkey, is it?
- A. No. Turkey, nothing, only create man, --good man.
- Q. Did you write a short story by the name of Elusive Choda?
- A. Yes.
- Q. That is not about massacres, is it?
- A. No.
- Q. Did you write a play, or a short story entitled LL 222?
- A. It's American life, nothing.
- Q. Did you write it?
- A. Nothing Turk there -- no Turk, no Armenian.
- Q. Is that a story that you wrote?
- A. That's right.
- Q. That is a comedy, isn't it?
- A. Yes, I wrote lots of comedy, too.
- Q. It's a comedy about American marriage?
- A. No, no.
- Q. It is a comedy?
- A. No, no -- please, you read, after you can tell. Absolutely-- you read this LL 2 -- 22, if somebody make mistake, and they changing suitcases, after they cannot find each other, what is this, American?
- Q. Mr. Yanikian, did your story LL 222 have anything to do with your 25-year sacrifice to bring about the world recognition of the story of the massacres?
- A. No, is go his way -- is go one direction, other go other direction.
- Q. Did you write a script for a television series?
- A. Yes.
- Q. And that television series was about unusual and humorous law cases, was it not?
- A. That's right.
- Q. One of the portions of that television script was The Bachelor, wasn't it?
- A. Maybe -- what name? Bachelor? Yes.
- Q. All right. This series was known, the name of your TV series was "Your Verdict, Please," was it not?
- A. Yes, -- Yes.
- Q. Was there anything in that television series about Turkey?
- A. No Turkey -- is only biased on our court, like now we have, that's all
- Q. But they were all humorous, weren't they?
- A. Yes. I take all facts from our documents.
- Q. No murder trials were there?
- A. No, nothing. I told you in my writings, except my special writings, poetry, you cannot find any Turk war.
- Q. Well, Mr. Yanikian, how much time during this 25 year's the sacrifice of your life to bring about better conditions and expose the massacres, how much time did you spend on that goal?
- A. 24 years.
- Q. But in the meantime, you were writing these comedies and plays?

- A. What you think my principle writing if I am working serious for creating something serious, I will let my brain relaxation, then I start write comedy. You understand?
- Q. So your comedies were to relax your brain?
- A. That is right.  
Comedy, because if I continue all time directing tragedy, blood, so and so, I came crazy. Then I work four, five hours after two three hours I go to comedy finally. If - yesterday you ask what kind book I have in jail, please ask comedy, Jack London, and funny story.
- Q. You wrote a very serious paper did you not, entitled "America At The Crossroads"?
- A. Yes, I wrote.
- Q. And in that paper, you developed yourself of Neocapitalism?
- A. That is right.
- Q. In that serious paper, did you mention anything about the massacres?
- A. No. Create new man. New American.
- Q. Did you mention anything about Turkey?
- A. No. I told you, never I mention Turkey, because I am not interested in person, Turkey don't exist, like savage people, I create new man, new Human, who can interested what is life, that killing each other is wrong. That I try 25 years.
- Q. So the only one of your works-- your publications in which you were going to refer to the massacres in Turkey, was to be this movie; is that correct?
- A. No. I have some articles.  
Couple days ago, I think one yourself read here. What is name --number so and so. You have some, I don't know, you read yourself is about Turk, when Armenian demand-- in my speeches in the radio every week, 20 minutes, and my poetry published around the world.
- Q. Did you write a paper called "The Great Society" that you printed up and distributed?
- A. Yes.
- Q. You didn't mention Turkey or the massacres in that, did you?
- A. No, but I am sorry, what I start "Great Society," -- world, Lincoln world, that's when situation came change, we will think anew, not stale like before, no.
- Q. Did you write another paper called "The Twentieth Century's Challenge"?
- A. Yes.
- Q. One called "Wrong Emblem in the Wrong Place?"
- A. That is right.
- Q. One called "Plan For a Sixth Column"?
- A. That is right.
- Q. In any of these, you didn't mention Turkey, did you?
- A. No. But what is all--
- Q. Let me ask you about your real estate development. You were engaged in extensive real estate development here in Santa Barbara, were you not?
- A. Yes.
- Q. Was that also for mental relaxation from your life's goal?

A No. Because never I try make money on my writings. I make free speeches, even invited Los Angeles like Alumni University of New York, so and so. Never I accept any money on my speeches.

Q Was your extensive --

A You ask me, let me answer. After you can go away. After you can answer second question. You ask me about my situation, my real estate, never, because never I make --

Mr. MINIER: Your Honor

THE WITNESS: Your Honor

THE COURT: Wait a minute. You weren't answering about real estate, you were answering about writings and not getting anything for your writings. That is not responsive to the question that had to do with the real estate action. I don't know what the question was now. Maybe you can read it back.

THE WITNESS: May I have, your Honor?

THE COURT: Yes, she can read it back.

THE REPORTER: (Reading)

Q Let me ask you about your real estate development. You were engaged in extensive real estate development here in Santa Barbara, were you not?

"A. Yes.

"Q. Was that also for mental relaxation from your life's goal?

"A No. Because never I try make money on my writings. I make free speeches, even invited Los Angeles like Alumni University of New York, so and so. Never I accept any money on my speeches."

THE WITNESS: No, for make money for cover expenses because State Department not help me receive my two million dollars.

Mr. MINIER:

Q All right, your real estate development activities were not directly related to your 25 years sacrifice, were they?

A Surely, because this real estate I want make money for cover expense what I am doing, publishing book free, sending thousand, thousand copy pamphlets around the United States, making speech free. How I came money, I cannot receive. This money is going. I try make some money on real estate, that is right.

Q How long, Mr. Yanikian, were you a member of the Coral Casino Club at the Biltmore Hotel?

A I don't know.

Q Several years?

A Huh?

Q Over ten years?

A Maybe.

Q Was that also, your membership in the Coral Casino, was that related to this 25-year sacrifice of yours?

A No. Is my private life.

Q That was for mental relaxation, was it?

A That is right, for mental relaxation. That is right.

Q Wasn't it also true that during this time that you were making your 25-year sacrifice, and while you were living in Santa Barbara --

A. Yes.

Q. -- that for mental relaxation you were frequently in many different local bars drinking?

A. Surely. I am alone, I will go, sit down, relax half-hour, have one scotch and water, no ice, after go work or go sleep, that is right.

Q. So for mental relaxation, when you weren't working on this life's goal, you spent a good many hours at the Black Beard Bar, did you not?

A. I was everywhere. I don't know what you call black Beard. Somewhere when I with your Assistant, yes.

Q. That's Mr. McKinley?

A. Yes.  
I meet him there, and he bought me beer, for the beer, I say thank you. He offer me beer, I drink his beer.

Q. Let's get up to Thursday night, the 25th, a day and a half before you killed Mr. Demir and Mr. Baydar.

A. I no kill anybody, I destroy two evil. Go ahead.

Q. Thursday night, the 25th of January, isn't it true that that night you were drinking, you were not just crying in your room?

A. Drinking?

Q. You were drinking in three local bars?

A. Lie. Only I was one bar, one bar, and I tell -- is no far from Coral Casino, Bistro. Yes, I have one drink, I bought two drinks two people next to me, that's all.

Q. First, were you at the Bistro, correct?

A. Hull?

Q. Where you at the Bistro bar on the night of the 25th?

A. That is right.

Q. At that time, were you meditating, and did you have this vision or this scene of all of your life's events as you were sitting in the bar having a drink?

A. No. What time I left bar?

Q. When --

A. What time I left bar?

THE COURT: Don't ask questions, just answer.

Mr. MINIER:

Q. Mr. Yanikian, you destroyed the two evils that you began --

A. Thank you very much.

Q. -- when was it you began to cry?

A. About two o'clock.

Q. This was after -- the day after you had been at the bar, correct?

A. Yes, after bar.

Q. After you went to the Bistro bar, didn't you then go drinking at the Somerset?

A. I don't know where I go, but I no think I was one place, maybe I go there, but two o'clock everything is closed. I was there because I start sending my package.

Q. You were where?

A. In Bistro. Across Bistro we have mail box.  
I put mail which will go to Los Angeles, to Santa Barbara, exactly across Bistro they have box.

Q. Do you recall whether you did or did not then go to the Somerset after the Bistro?

A. What I did? What you mean what I did. I walk there and that's all. If I—

Q. Mr. Yanikian, is it true that Thursday night, a day and a half before you killed the two men, you were drinking.

A. I no kill anybody.

Q. --and trying to seduce the cocktail waitress?

A. What? No.

Q. You don't recall being at the Somerset, correct?

A. No.

Q. You didn't recall dangling a key chain with some keys?

A. I was only one place.

THE COURT: Wait a minute.

THE WITNESS: I don't know

THE COURT: Wait for the question. Don't interrupt the question. Wait 'til the question is finished.

THE WITNESS: But your Honor, I am sorry, your Honor.

THE COURT: Just do that. We can't hear you both at the same time, so wait for the question before you answer.

Q. Now do you recall a day and a half, Thursday evening, day and a half before what happened at the Biltmore, do you recall having a key container with some rings on it and dangling this in front of the waitress at the Somerset Restaurant?

A. I no remember.

Q. All right. Let's go on to some more of your publications. Did you also write a paper called Free Sexism?

A. That's right.

Mr. MINIER: Your Honor, I have here a book marked Free Sexism. May we have it marked as People's next in order for identification?

THE COURT: Yes.

THE CLERK People's No. 57.

(Whereupon a book entitled Free Sexism thereupon duly marked as People's Exhibit No. 57 for identification purposes only.)

Q. BY Mr. Minier: I show you People's 57 for identification and ask you if this is not one of your own personal copies of your papers entitled Free Sexism?

A. It is. You found this in the documents which FBI steal from me, yes.

Q. Is that your writing? When did you write Free Sexism?

A. Copyright -- you can see when, is copyrighted August 13, '69 copyrighted in Writer's Guide, Los Angeles, August 13,'69.

Mr. MINIER: Your Honor, I would like to offer this into evidence as People's 57.

THE COURT: Received.

(Whereupon the Exhibit Free Sexism thereupon duly marked as People's Exhibit No. 57 into evidence.)

Q. BY MR. MIINIER: Mr. Yanikian, was this work of yours entitled Free Sexism, was that part of this 25 year sacrifice that you have told us about?

A. No, it's part of my relaxation, and help people.

Q. Now, in order to help these people, you advertised in the UCSB Daily News, the newspaper, did you not?

- A. That's right.
- Q. For interviews?
- A. That's right.
- Q. And then you interviewed a number of young girls? Is that correct?
- A. Not only girls, students, boys.
- Q. Students?
- A. Boy and girls.
- Q. And then you wrote up the results, is that correct?
- A. Yes-- why you no ask me I no published?
- Q. Now--
- A. (Continuing) Why you no ask why I no published.
- THE COURT: Now, Mr. Yanikian, do not ask questions. Just answer.
- A. BY WITNESS: May I have explanation?
- THE COURT: No, no. None is necessary.
- Q. BY Mr. MINIER: I am going to call your attention to page 3 Mr. Yanikian. Now, you asked the students certain questions about their sex life as part of this research project, didn't you?
- A. Yes, 25 question -- start 25 question, and include, also, --
- Q. And among these questions, for example, were, 'Are you a virgin? If not, describe the circumstances how, why, when, where you have your first sexual intercourse?'
- A. Yes.
- Q. Among the questions asked, did you ask, "if you experienced mouth genitals contact with your sex partner?"
- A. Yes.
- Q. "Also, have you experienced anal stimulation?"
- A. Yes.
- Q. You asked all of these questions to teenagers, did you not?
- A. I am sorry, no teenage -- students they are. I no ask how old they are -- you can read.
- Q. You asked students?
- A. I no check how old they are -- students cannot be less than 17, 18, and in my ad, if you, wish, I pay for this, and I put -- I will put 21 question, you ask -- you read my ad.
- Q. This was for relaxation, was that correct?
- A. Yes, and help people.
- Q. And then you documented certain of the answers and certain of the factual situations that were related to you?
- A. Related to me, no.
- Q. By these students?
- A. No, is nothing to do by--
- Q. Well, in this exhibit that we are talking about, would you refer to page 9. Didn't you relate certain of the answers, or responses that were given to you as part of this research project?
- A. Which?

- Q. Well, for example, did you record such answers as this one on page 9, "If you don't know why he had such great success with all the girls he met, I will tell you, it was because his penis was 20 inches long?"
- A. I told?
- Q. No, no. Is this the kind of the answer you received?
- A. The answer they given, the answer given I fix answer what I needed -- all answer not different. Is their answer. I have my question, they answer me, and I put on my paper .
- Q. All right. And then you described ten particular interviews, did you not, that you called "Ten Different Episodes?"
- A. Yes, most unusual, yes.
- Q. And each one involved the subject who was telling this to you, being a teenage girl, isn't that true?
- A. No -- what is mean "teenage?" What? How old?
- Q. 18,19.
- A. Maybe.
- Q. Episode No. 1 concerned a 19-year old girl having sexual relations with a 42-year old Catholic priest, correct?
- A. That's right.
- Q. And Episode No. 2 --
- A. (Interposing) What they told I put on the paper.
- Q. Episode no. 2 concerned sexual relations between a 19-year old girl and a German shepherd dog, does it not?
- A. Yes. They told me, I put on the paper.
- Q. Episode No. 3 that you wrote up concerns a 20-year old minister's daughter, in her attempt to seduce virgin teenage boys does it not?
- A. What they told I put on the paper. Before I put on the paper I have this record -- a record, after I put on the paper.
- Q. Episode No. 6 has to do with -- No. 6 calling your attention to page 36, that one does have to do with a male doesn't it? A young gentleman? That was not one of the girls that you interviewed correct?
- A. Page 36?
- Q. No. 36 -- page 36, that was Ernest, was it not? Episode No. 6 starting on page 35, that is your interview with Ernest?
- A. Well, yes, what is all -- yes, that's right.
- Q. In Episode 6 you relate how Ernest liked to have intercourse with chickens, is that correct?
- A. Yes. I told you, what they told I put on the paper, and I am glad you --
- Q. Episode No, 10 has to do with sexual relations between Lesbians, isn't that correct?
- A. Yes, I put.
- Q. How much time did you devote to this research project, Mr. Yanikian?
- A. Oh. maybe three, four months, maybe.
- Q. You say that was relaxation?
- A. Relaxation, and -- relaxation and help people.

- Q. Now, isn't it true, Mr. Yanikian, that actually, the movie that you wanted to produce to show all over the world was a movie based upon the sexual experiences related by you in this book Free Sexism?
- A. It is your imagination.
- Q. Let me ask you if you wrote this on page 5. (reading)  
 "The answers obtained from my questions were so interesting and often so shocking that I couldn't help visualizing their terrific impact upon the public if they were put into action on the screen rather than published in book form."  
 Did you write that, Mr. Yanikian?
- A. Yes.
- Q. Was that your intention to produce this as a movie?
- A. No -- yes, but what I no did.
- Q. Was that the movie that you were going to call Paradise?
- A. No, this book--
- Q. Did you go on to write, "Since movies displaying plenty of sex action are what the public obviously demands today, I feel sure my material could be made into a film more revealing in its sex aspects than any other being publicly shown in the United States or abroad."
- Q. Did you write that?
- A. You have book -- everything is there.
- Q. Did you go on to say,  
 "Because all of this material is based on fact, actually, it is a report of the facts of life existing on the campuses today, the educational value of a film production should not be underestimated."
- A. Yes.
- Q. And did you begin to prepare this movie, Mr. Yanikian?
- A. No.
- Q. Well, didn't you go on to write --
- A. (Interposing) No.
- Q. Didn't you go on to write this, Mr. Yanikian,  
 "With all my findings assembled and clarified I started to write a scenario, but soon decided this could be done better under the direction of professional moviemakers?"
- A. Yes.
- Q. And then didn't you go on, in this little book to suggest the format for the movie, based upon these sexual episodes?
- A. Yes. I have intention -- after I change my mind, that is very bad if I produce this, and what is done -- when is August 13, 1969, four years ago, and I put like that, because I cannot see ten, one hundred persons from students, thirteen thousand, I cannot come decision and make that have the art, -- and I forgot and spend money, and throw away, and it stay in my papers, which you have now. Four years before this -- '69, Mr. District Attorney.
- Q. Mr. Yanikian, could I ask you just one or two questions about your brother Hagop. Just let me ask you this, did you make any reference to this vision, this vision of your brother to any of the officers that you talked to?
- A. I don't know.

Q. You told us yesterday that you had an interview with a psychiatrist, Dr. Patterson, did you not?

A. You sent to me.

Q. Did you have such an interview?

A. I no have, -- you send to me. Present himself like doctor, and couple of days ago I saw he sit down there (indicating) -- now, too. I don't know whether he is there or not. Reason I know why.

THE COURT: The question is, did you talk with Dr. Patterson?

A. BY WITNESS: Yes.

THE COURT: All right. That is the answer.

Q. You didn't tell him about the vision, did you?

A. I don't know. Never he show me what I told.

Q. Mr. Yanikian, did you ever mention your brother Hagop in any of your books?

A. No. My brother -- my family, I never mention anybody from my family in any my books.

Q. How about any of the biographies appearing on the jackets of your books, they tell about your life, don't they?

A. Maybe some of them.

Q. Now, you never mentioned Hagop in any of those biographies?

A. Never any no Hagop never any family, brothers, my sisters, you can have in any my books, never I mention any family my family.

Q. Now, you have told us how when you fell off the sled into the snow your brother Hagop picked you up and warmed you?

A. Yes.

Q. Is that correct?

A. That's only way, because it is connected with me. He give me new life.

Q. Mr. Yanikian, isn't it true that in everyone of your biographies in practically every place that you have consistently said that your mother came back alone and took you out of the snow?

A. No.

Q. That's not true? May I have the book, please?

A. (Handing)

Mr. MINIER: May I read from page 251, your Honor?

THE COURT: Yes.

Mr. MINIER: Thank you.

Reading from the biography

THE WITNESS: But first --

Mr. MINIER: -- the Triumph of Judas Iscariot --

THE WITNESS: Who wrote this biography?

Mr. MINIER:

Q. Let me ask you about this quotation.

A. Who is biography you are reading mine, who wrote this biography?

No, first I want know what you are reading.

THE COURT: Just a moment, Mr. Yanikian.

THE WITNESS: Who wrote?

THE COURT: There is no question pending, nothing to answer at the moment. Mr. Minier has been given permission to read something from this book, so let him do that.

Mr. MINIER:

Q. Mr. Yanikian, let me ask you if this statement is true:

“On the road to Kars where a sizeable Christian Armenian community existed, the infant had his second narrow escape. He fell from a sled and was not found until 24 hours later when his mother insisted on returning alone to the snow. When she reached him, he was half-frozen, but very much alive.”

A. He receive. I am no telling he has been somebody wrote for me.  
Your Honor--

Q. So you didn't write it?

A. Just a minute. When you take this biography yesterday today, you want to play game. May I read, Your Honor?

THE COURT: There is nothing to read now.

THE WITNESS: (Reading) "In 1918--

THE COURT: No, no Mr. Yanikian, there is no cause.

THE WITNESS: Because even here is--

THE COURT: Mr. Yanikian, your lawyer, when Mr. Minier has finished his questioning of you, anything that needs to be brought out to explain anything you have said in answer to Mr. Minier's questions will be asked of you by your lawyer. So don't worry about being left dangling unprotected, your lawyer will take care of you and bring out anything that needs to be brought out.

THE WITNESS: I am sorry. Thank you.

THE COURT: It is all right.

THE WITNESS: Thank you very much, your Honor. He never wrote any biography.

Mr. MINIER:

Q. So that statement is not true, is that correct?

A. It is not my statement.

THE COURT: Is it true or not true?

THE WITNESS: Huh?

THE COURT: Is that statement that your mother came back alone to find you in the snow true or not true?

THE WITNESS: Surely is not true.

THE COURT: That answers that.

THE WITNESS: Surely is not true. Where they found, I don't know.

THE COURT: No, no, no. You have answered.

MR. MINIER:

Q. Mr. Yanikian, do you know whoever it was that wrote that biography where he got his information about your life?

A. I don't know.

Q. You don't know how he could have made that mistake, do you?

A. I don't know. I was not interest. Only I can accept my quotation when they ask and my quotation is here. "After starting"--

THE COURT: You don't know how he got it, that's the answer.

THE WITNESS: After this why we no using other my biography from other books which I have?

THE COURT: You have answered it Mr. Yanikian. You have answered the question. Now let's take the morning recess.

Ladies and gentlemen of the jury, it is your duty not to converse among yourself or with anyone else on any subject connected with the trial or to form or express any opinion thereon until the cause is finally submitted to you.

THE COURT: All members of the jury and the alternate jurors are present, gentlemen.

**CROSS EXAMINATION (Continuing)**

BY Mr. MINIER:

Q. Now, Mr. Yanikian, I believe you told us, didn't you, that you don't know how -- whoever wrote that biography that appears at the end of your book, how that person got the information?

A. I was not interested.

Q. I am going to show you a book with a blue cover and ask you if you can't identify this as being a book of your writings that you left at Mrs. Rettig's house?

A. Yes.

Q. Now, specifically calling your attention to this one, is this also one of yours?

A. (Witness examining document) Yes.

Mr. MINIER: Your Honor, I would like to remove this one writing from the book and then may we leave it marked as People's next for identification?

A. BY WITNESS :Why no put all book?

Mr. MINIER: Your Honor, this is a 7-page typewritten document.

THE COURT: All right. It may be marked for identification.

THE CLERK: People's 58.

(Whereupon a 7-page document thereupon duly marked as People's exhibit No. 59 for identification purposes only.)

Mr. MINIER: If you can wait just a moment, Mr. Yanikian I would like to ask you a question or two about it.

Q. Is this document a biographical sketch of you and your life?

A. I don't know, may I see it?  
Is answering question.

Q. It is answering questions?

A. Yes.

Q. These are your answers to a question that was put to you about telling some things about your life?

A. Somebody ask where you were born, I am telling.

Q. All right.

A. Something--

Q. Is this your story about your life?

A. No. I told. Is not all, but what they ask I answer.

Mr. MINIER: Your Honor, I would offer this into evidence as People's 58. Would you show it to the Judge, Mr. Yanikian?

THE WITNESS: Yes.

THE COURT: Any objection?

Mr. LINDSEY: No objection, your Honor.

THE COURT: Received.

(Whereupon the above described Exhibit thereupon duly received as People's Exhibit No. 58 in evidence.)

Mr. MINIER:

Q. Mr. Yanikian, you say that in this document you are answering some questions telling where you were born and so on; is that correct?

A. Yes.

Q. Who asked the questions, do you know?

A. I forgot.

Q. Well --

A. I don't really know, I forgot.

Q. Was not this a document that you prepared in order to give to one of the publishing houses, that you paid to publish your books?

A. I no prepare. I answer question. And is me they giving copy, who prepare even, I don't know. I don't remember. Because my book start publish 1950, 23 years ago.

Q. The questions you were answering here were where you were born, something of your childhood, especially the two episodes when you were a baby; is that correct?

A. I think so.

Q. All right. And didn't you write- this, "When the Turkish massacres against my people sent the entire -- my family fleeing in midwinter over the mountains, I fell from my sled and was not found until 24 hours later when my mother insisted on returning alone through the snow. When she reached me, I was half frozen, but very much alive."

A. Mother and sister, they mistake. Mother and brother, no sister.

Q. You made a mistake?

A. Sister. There is sister.

Q. Would you look at it Mr. Yanikian again?

A. Sister like this can't come mother and sister. It is mother and brother.

Q. There is nothing in this writing by you about your brother coming along with your mother?

A. Yes. When you take sister, is not sister, it is brother. Because here is sister, I no have sister who can come, they make mistake. My sister is maybe ten years old at the time.

Q. Just let me ask you specifically; did you yourself Gourgen Yanikian write this, "I fell from my sled and was not found until 24 hours later when my mother insisted on returning alone through the snow"?

A. My mother and brother, because I no have sister.

Q. Did you write this?

A. I no write, I told.

Q. Somebody else wrote this?

A. Surely. I cannot write English.

Q. Didn't you just tell us a few moments ago that you wrote that?

A. No. Type is question and answer. They are answer -- question and answer. They ask, and I answer. They put, I ask, I told brother, they put sister, so what?

Q. You didn't write English too well, did you?

A. No.

- Q. In here you spelled when v-e-n, didn't you?
- A. Well, I no have now you are taking this maybe 20 years ago. Now, my English much better. 20 years ago, my English not, but it is mother and sister, it is mother and brother.
- Q. Mr. Yanikian, going back for a moment to when you were with this volunteer regiment in 1915, did you know that a gentleman by the name of Solomon Telirian was fighting in that same volunteer regiment?
- A. I told you I was young, too, and small like small soldiers, small volunteers. I no have connection with top. How old I was, maybe 19, something. No, I don't know.
- Q. Mr. Yanikian, you know who Solomon Telirian was, don't you?
- A. Who?
- THE INTERPRETER: (Explaining to defendant.)
- THE WITNESS: I heard name, but I never meet him.
- Mr. MINIER:
- Q. Isn't he one of the greatest national heroes to the Armenian people, Mr. Telirian?
- A. Yes. We have lots, Aram, Telirian. We have Dro, Keri.
- THE COURT: That's all right. The question was:  
isn't he one of them, we don't have to know them all.
- THE WITNESS: Yes.
- Mr. MINIER:
- Q. Do you know Mr. Telirian was born in the same area you were?
- A. I no ask his biography, I no meet never him, how I can know when he born?
- Q. Based on your knowledge of Armenian history, don't you know that Mr. Telirian was fighting in the same regiment at the same time that you were?
- A. No.
- Q. Do you know why Mr. Telirian is one of the great heroes of the Armenian people?
- A. Because he is hero he protect Armenian people from massacre, that's all. He protect Armenian villages. He protect people, killing, he stop killing.
- Q. You told us the other day about Pasha Talat, didn't you?
- A. Who?
- Q. Talat Pasha?
- A. Talat Pasha, yes.
- Q. Would you refresh our memory as to who Talat Pasha was?
- A. Triumverant, three people -- Talat Pasha, Enver Pasha, Jemal Pasha. Young Turk, they organize, they throw away Sultan, take power themselves, that's all three.
- Q. Who ordered the deportation of the Armenian peoples from Turkey?
- A. Oh, deportation, they start hundred years--- killing, start hundred years.
- Q. Well, in 1915?
- A. 1915, by order this triumvirate.
- Q. All right. one of whom—
- A. Talat Pasha, Enver Pasha, Jemal Pasha.
- Q. Now, the reason that Solomon Telirian is a great national hero to the Armenian people is because he was the assassin -- the man who hunted down and killed Talat Pasha?
- A. Yes. I am glad he did.
- Q. All right. How did he assassinate Talat Pasha?

A. I don't know.

Q. With a gun, wasn't it?

A. I don't know.

Q. You don't know that?

A. Oh yes -- yes, I know, in the Berlin.

Q. In Berlin. That's right.

A. In the Berlin, with one bullet.

Q. Now, what happened?

A. I'm sorry, when you telling Armenian name, you put pronouncement different -- I cannot understand what you mean.

Q. Mr. Yanikian, what happened to Solomon Telirian after he hunted down and shot to death with a gun Talat Pasha on the street of Berlin?

A. Oh. German police arrest him.

Q. Yes.

A. And they have trial.

Q. And did he resist arrest?

Mr. LINDSEY: Just a moment. Let him finish his answer. You asked him what happened to him and I think he should be allowed to state what happened to him.

Mr. MINTER: Well, if counsel will address his objections to the Court, perhaps the Court will rule.

Mr. LINDSEY: I do -- I do object to any interruption while he is responding to the question.

THE COURT: He may have been.

A. BY WITNESS: You let me answer -- after you can second question. I am sorry.

THE COURT: You may answer what happened.

A. BY WITNESS: He was arrested by German police, and he was tried, and German Court find him not guilty.

Q. BY Mr. MINIER: In an internationally recorded---

A. (Interposing) International Court find him not guilty, and they accuse Turkish government for massacre Armenian people; they fix there in the documents. You are talking about this case Berlin, the whole story you can read-- you can see..

Q. What year was this, 1921, perhaps?

A. I think, '21 -- '22, something -- '21 -- what year was it? -- '21.

Q. Now, when Solomon Telirian shot Talat Pasha, he did not resist arrest, did he?

A. I don't know.

Q. Wasn't he just like you, he allowed the police to arrest him?

A. I don't know-- I don't know -- I don't know --I don't know -- he resist or not, but I know what he was arrested after, -- if he resisted or not I don't know.

Q. And like you, Mr. Yanikian, Solomon Telerian had a trial for murder, did he not?

A. No, he is destroying some other--- he is trying for terror by decision party.

Q. My question was, he was tried in Germany in Berlin for murder?

A. No -- yes, for Talat Pasha, that's right.

Q. And he killed Talat Pasha, who was the former--

A. (interposing) Yes, he destroy.

Q. (Continuing) Who was the former representative of the Ottoman Empire?

A. Yes, he destroy one evil.

- Q. And the press from around the world came to Berlin to report that story, did they not?
- A. Oh, yes, all around the world.
- Q. Right. And the story of the trial was printed in newspapers all over the world, correct?
- A. I think so.
- Q. And at that trial, a great deal of evidence was introduced about the massacres, was it not?
- A. I think so.
- Q. And Solomon Telirian was acquitted, correct?
- A. By decision court -- German Court.
- Q. And then he became, as a result of his act of assassination and acquittal, became an international hero, did he not?
- A. Surely, somebody try destroy evil, who kill three million people --- two million people, surely he is hero.
- Q. All right. Did you know Solomon Telirian?
- A. No, never I met.
- Q. Did you read about him?
- A. I read, yes, surely, all newspaper.
- Q. Did you read Mr. Avakian's book about Solomon Telirian?
- A. Yes, his my friend, hero, -- yes, I read, and you have also read.
- Q. And you had an autographed copy of that from Mr. Avakian?
- A. Not yet -- disappear, I don't know where is.
- Q. But you did have one, didn't you?
- A. Yes, he gave me autograph copy, give to me.
- Q. And the whole book was devoted to the act of the heroism of Solomon Telirian, correct?
- A. No, all this book devoted explanation court, what court, who was Judge, what do, what lawyer was there from England with Lords, what came from America -- who came, and so on, for protect -- that is all. Is not only make him hero, he is good historical, all even in the court, this book, with pictures.
- Q. Are you familiar with the name Tolakian, T-o-l-a-k-i-a-n?
- A. Yes.
- Q. Is that another Armenian hero?
- A. Yes.
- Q. What did he do?
- A. I think he kill Pasha or something.
- Q. He assassinated Enver Pasha?
- A. That's right.
- Q. Was Enver Pasha one of the rulers?
- A. Enver Pasha, triumvirate.
- Q. And Mr. Tolakian became an international hero to the Armenian people by the assassination of Enver Pasha?
- A. He became international hero for mankind, not only for Armenian people, for mankind, and this guy was invited in America, for be guest in America houses -- American -- no Armenian. He become international hero, no Armenian.

Q. Do you recognize the name Eganian?

A. Yes he was -- kill other triumvirate. Jemal.

Q. He killed Jemal Pasha?

A. That's right, Jemal Pasha, that's right.

Q. And he also became an international hero by killing Jemal Pasha?

A. Yes, become mankind hero.

Q. Do you recognize the name Shioragian, S-h-i-o-r-a-g-i-a-n?

A. I don't know -- Armenian? -- I don't know what he did.

Q. Who was the third member, was another member of the ruling group Said Halim Pasha?

A. Well there are lots of Said Halim Pasha -- was, I think, he is Prime Minister or something.

Q. Was he also assassinated?

A. I don't know -- maybe. I think so.

Q. All of the people we have just spoken about who became international heroes by assassinating Turkish officials, they were all Armenians, correct?

A. They Armenian, by decision descend people who destroy Armenian nation, Jewish nation, Greek nation, Bulgarian nation -- and other nation. Not only Armenian, they are hero for all of these Balkan nation who was on Ottoman Empire, and these stories start not today, 60 years story.

Q. Mr. Yanikian, didn't you think that this trial here in this courtroom would make you an international hero, the same as these other gentlemen we have mentioned?

A. No, I'm sorry -- I'm sorry, you are wrong.

Q. Mr. Yanikian, referring to this manuscript that we have been talking about, the 120 pages that you sent out.

A. Yes.

Q. We are trying to find a copy of the translation?

A. What you want tell -- I can tell page even. What you want tell? What you want to ask?

Q. Well, we will come back to it when we find Exhibit 17.

A. Okay.

Q. I believe you testified earlier, didn't you, that you kept seeking the answer to the question of why during this three days after medication in the month of April of last year?

A. Why?

Q. Didn't you testify that during that three days you kept seeking the answer to your question why?

A. That's right.

Q. And you testified, didn't you, that you found the answer in this trial?

A. No.

Q. Didn't you so testify, was my question?

A. In three days, I think all what is going around what idea I have, how State Department blow all of this idea--how our children use dope, and how we pay money to Turkish government for use this dope send to us -- all this pass, after.

MR. MINIER: Your Honor, I move to strike the answer as non responsive.

A. (Interposing) After I kill -- but you ask, I am answering -- you ask what I did.

THE COURT: The motion to strike the answer is granted.

A. BY WITNESS: One word I can tell?

THE COURT: Now Mr. Yanikian, you are not answering the question.

A. BY WITNESS: I don't know what he is asking.

THE COURT: The question was, didn't you testify -- read the question, Mr. Reporter.

REPORTER: (Reading)

'Didn't you testify that during that three days you kept seeking the answer to your question why?

A. That's right.

Q. And you testified, didn't you, that you found the answer in this trial?

A. No.

Q. Didn't you so testify, was my question.

A. BY WITNESS: Yes. I very idea, Paradise -- dead, but idea himself stay in Yanikian -- this, now, is not Paradise, is Yanikian's case.

THE WITNESS: You have my answer, or I repeat, Mr. District Attorney? You have my answer, or I repeat?

THE COURT. Don't ask questions.

THE WITNESS: I repeat or not?

THE COURT: No, no reason.

Mr. MINIER:

Q. Now, when you wrote in your manuscript -- first let me ask you, you did write this, did you not, in that manuscript that you sent to the various newspapers, "I will do everything in my power to insure that this letter will not only become the property of my fellow countrymen, but also the property of humanity"

A. That is right.

Q. -- "I will try to insure that my deed will not -remain a secret"--

A. That is right.

Q. -- "I will insure that they will arrest me and I will continue to defend my rights before a world court."

A. Surely.

Q. In saying that, wasn't it your idea to become another Solomon Telirian?

A. No. It is my idea it is Yanikian case for prove that massacre not receive, you know, yet satisfaction, judgment from mankind?

Q. Mr. Yanikian, didn't you tell us for the last three days that you never killed anybody?

A. No. I no kill anybody.

Q. Why did you just use the word that you killed somebody?

A. I no kill anybody.

Q. Didn't you just refer to killing people?

A. No. I cannot kill anybody, and never I kill in my life. I told you that I destroy symbol of evil for use them like light for have this, and I have.

Q. Let me ask you some questions about the Ottoman Empire.

On this map that we have on the board, do you see where we have Turkey drawn in?

A. May I suggest, please. May we put big map, we have same map, but big, two times, and much better form, because you mistake Kars, you put in the Turkey. Kars never was in the Turkey, but--

THE COURT: He is talking about the map on the wall, Mr. Yanikian.

THE WITNESS: Okay.

THE COURT: So we will deal with the map on the wall.

Mr. MINIER:

Q. Mr. Yanikian, the Ottoman Empire included many countries other than the one we have designated as Turkey, didn't it?

A. Ottoman Empire almost take possession in 1300, 1320, something, about 22 different nation, including Armenia.

Q. Before World War 1, the Ottoman Empire included what we have shown as Turkey, also Syria, did it not? Was that part of the Ottoman Empire?

A. Syria?

Q. Syria, yes.

A. I think yes, one part Syria.

Q. Lebanon?

A. Yes.

Q. Iraq?

A. Mesopotamia, yes.

Q. Jordan?

A. Gorgen?

Q. Jordan?

A. Yes.

Q. Yemen, way down at the bottom?

A. All this section.

Q. All that section in there?

A. All this section, include all Palestine, include all this, that is right, this Ottoman Empire. Jordan Syria---

THE COURT: You have already answered that.

THE WITNESS: Duruz, Armenia.

Mr. MINTER:

Q. Many countries, didn't it?

A. About 12.

Q. What does Ottoman mean? Does that refer to a ruling dynasty, Ottoman?

A. Ottoman? No, is I told you when dictatorial power in triumvirate.

Q. Well, the Ottoman Empire was known by this particular name for several years?

A.. Ottoman name that I came from Sultan, Ottoman, Sultan Abdul Hamid, throw away by this triumvirate, they organize young Turk, they take constitution, everybody was happy, and they put Mohammed is name, he came figure Sultan, this Empire, but they dictate theme-selves.

Q. Prior to World War I

A. Yes.

Q. -- wasn't there an expression that was used to refer to the Ottoman Empire as the "sick man"?

A. Not after when war start. Not from the beginning. From the beginning 60,000 Armenian was in the Ottoman Empire Army with Turk, and fight with American with French with Russian. 60,000 Armenian Soldiers.

Q. My question, maybe you didn't understand, Mr. Yanikian. Didn't the Ottoman Empire used to be referred to as the "sick man"?

A. Not from the beginning. After when Germany start losing his power, then they declare sick man, and everybody wait what they can have :From the "sick man."

Q. The reason that the Ottoman Empire was called the sick man was because it had degenerated under the rule of the Sultans, isn't that a fair statement?

A. No. Because there was dictated by this triumvirate. Well, how long did the Ottoman Empire have the Sultan?

A. Ottoman Empire first time they came on this 1,071, they fight Byzantine, take -- may I show?

THE COURT: It is not necessary to show.

THE WITNESS: Take Anatolia.

THE COURT: The question is how long have they had a Sultan.

THE WITNESS: Sultan, after 1200, all time they have Sultan.

Mr. MINIER:

Q. Do they still have a Sultan?

A. No. Now they have republic.

Q. There is no Ottoman Empire anymore, is there?

A. No, they have Turkish Republic now.

Q. Is a Sultan who used to be in the Ottoman Empire, the Sultan was what the ruler of the empire was called, isn't that correct?

A. Yes.

Q. Like a king or something of that nature?

A. No, is more than that. Because accordance Ottoman Empire, their rule Sultan sometimes is head of religion leader, he is two, he is Sultan and God.

Q. Sultan-and Caliph, right?

A. Huh?

Q. Caliph?

A. Caliph. Religious leader.

THE INTERPRETER: C-a-l-i-p-h.

Mr. MINIER:

The Caliph was at that time the head of the Islam---of the religion of Islam?

A. At the same time, he was Sultan all Ottoman Empire.

Q. So for hundreds of years, the ruler of the Ottoman Empire was both the ruler of the government and also the head of the religion, correct?

A. Yes.

Q. Of all of the Ottoman Empire, correct?

A. Yes.

Q. Of all of the different countries within the Empire ?

A. Yes.

Q. So in effect, the Ottoman Empire was a church and State rolled into one, wasn't it?

A. Together, yes. Not separation.

Q. Ruled by one man, right?

- A. Figuratively, no one man. How I know? History by triumvirate to this.
- Q. Now, at the end of World War I, after World War I was over.
- A. Yes.
- Q. Isn't it true that there was less than half of the original territory -- less than half of the territory that the Ottoman Empire had had gone into the war? In other words, through World War 1, didn't Turkey or the Ottoman Empire lose over half of its land?
- A. No. Ottoman Empire start losing his from Balkan War, start 1910.
- THE COURT: He is not asking -- Mr. Yanikian, he is not asking you that, he is asking you if as a result of World War I the Ottoman Empire lost about half of its land. That is the question. Not the Balkan War in 1910, but as a result of World War 1, did the Ottoman Empire lose about half of its previous territory.
- A. (Continuing) I cannot tell half of it, for this I will figure, take country and tell half, or one quarter--I don't know, but they start losing, this all.
- Q. Let me ask you this, at the end of World War 1, the only thing that was left of the Ottoman was just this general portion that we know today as Turkey, isn't that true?
- A. Yes, and one piece -- Europe, too.
- Q. And after World War I the rest of this Ottoman Empire didn't no longer exist?
- A. No, they taken -- Allies take it. The war finish, they lose, Germany lose -- Turkey lose.
- Q. So the Allies break up the Ottoman Empire?
- A. Not Ottoman Empire broke, that people revolt, if you know Greeks revolt -- you know, Balkans revolt -- they revolt, taken their country back.
- Q. When did World War I end?
- A. When end?
- Q. 1918, the end of the first World War?
- A. Oh I think -- yes, your right.
- Q. All right, when the first World War came to a close, when the allies won, in 1918 the -- Turkey was an occupied country in a great abortion of the country, was it not, occupied by the Allies?
- A. I think is 15 -- or 14, something—something, because from the beginning, World War 1 Germany was advancing very well. Turkey declare war. He have secret agreement, nobody expect.
- Q. My question was, at the end of the war, 1918?
- A. Yes, suppose.
- Q. And wasn't Istanbul and the Straits where the ships go through, these were occupied by the Allied forces, correct?
- A. They are occupied, yes, but never pass -- but never pass -- never pass, despite the fact all the power Ally they cannot pass, and Kemal Pasha was there was there, he protect.
- Q. All right. In 1918 at that time the Sultan was Mohamad the 6th, was he not?
- A. I think, yes, Mohamad 6<sup>th</sup>.
- Q. The ruler of what was left of the Ottoman Empire?
- A. Yes.
- Q. And he ruled up here in Istanbul, did he not?

A. Yes.

Q. And Istanbul was occupied by the Allies, correct?

A. Yes.

Q. Now, throughout the entire history, several hundred years of the Ottoman Empire, isn't it true that the capital of the Ottoman Empire was always Istanbul?

A. Yes they call now Constantinople -- no Istanbul, after they change to Constantinople.

Q. Now, at the end of the war when most of the rest of the world stopped fighting, isn't it true that in the eastern portion of Turkey the Turkish Army refused to stop fighting?

A. I don't know what the Turkish Army -- I was not commanding Turkish Army -- I don't know.

Q. Aren't you quite a historian of this particular period?

A. You want -- if you give me permission, I will tell. Same time in the Erzerum, Kemal Pasha organize his congress, and declare that he don't recognize Istanbul, and he start after, slow, slow, he move in Ankara, and Ankara declare --

THE COURT: (interposing) You are not answering the question, Mr. Yanikian. the question was, aren't you quite a historian of this particular era in the Turkish history?

A. BY WITNESS: May I ask what is question?

THE COURT: That was the question, aren't you quite a historian of this particular---

THE INTERPRETER: (interpreting to witness.)

THE COURT: Particular time--

A. BY WITNESS: Who, hero?

THE COURT: The time--

THE INTERPRETER: (Interpreting to witness.)

BY WITNESS: May I hear the question please.

Mr. MINIER: Your Honor, I am perfectly willing to move on, I would be happy to leave it to the Court, however.

THE COURT: You want to withdraw the question?

Mr. MINIER: Yes, your Honor , because I don't remember it.

THE COURT: Forget that one, Mr. Yanikian.

Q. BY Mr. MINIER: World War 1 came to a close when Germany surrendered to the Allies, is that true?

A. That's right.

Q. In 1918, correct?

A. Yes.

Q. And isn't it true that at that time the Sultan who still purported to rule the remains of the Ottoman Empire surrendered here in Istanbul?

A. Yes, he was there,-- but what he did, I don't know.

Q. And at the same time, is it not true, that the Turkish Armies in the east of Turkey refused to surrender their country to the Allies?

A. That's right, Kemal, declare war to Istanbul--is revolution.

THE COURT: You have answered. You have answered the question.

Q. BY Mr. MINIER: All right. Kemal Pasha -- Kemal Pasha started the revolution in the eastern part of Turkey?

A. Yes, he organize his-congress in the Ankara, and he--

THE COURT: (Interposing) All right. You have answered again Mr. Yanikian. You have answered the question. You needn't go on with that.

Q. BY Mr. MINIER: The revolution which he started was a revolution against the Sultan and the Sultan's government in Istanbul, is that correct?

A. You fight with Greek?

THE COURT: No, the question is not whether he fought with Greece, the question is whether the revolution was not organized against the Sultan, not the Greeks -- the Sultan?

A. BY WITNESS: I don't know what he has his mind.

Q. BY MR. MINIER: Well, didn't you testify that he--

A. (Interposing) He came, yes.

Q. (continuing) He started a revolution?

A. That's right.

Q. Didn't you mention that he was revolting, or fighting?

A. Yes.

Q. With Istanbul?

A. Yes. He was trying beat triumvirate, take power from triumvirate.

Q. Take power away from --

A. (Interposing) 'Triumvirate, Jemal, and other three.

Q. All right. The triumvirate was still in control of the old government of the Ottoman Empire?

A. That's right.

Q. Yes. Located in Istanbul?

A. Sultan, no -- is not country, because Ankara is not him. Ankara is in hands of Kemal Pasha, nobody can go.

Q. Now, in 1919 the Greeks invaded --- they made an invasion of Turkey, did they not?

A. With help it Italy.

Q. By help of all of the Allied powers?

A. No, by help Italy -- Allies American, not help.

Q. Didn't they make a landing under the protection of the Allied Fleet and begin to invade Turkey?

A. Yes.

Q. And then didn't there begin a series of war battles-between the Greek Army and the Turkish Armies?

A. Yes, but--

THE COURT: That's enough.

A. (Interposing) Why? They there, why?

THE COURT: No Mr. Yanikian. You have answered the question.

A. BY WITNESS: Yes.

THE COURT: It needs no explanation.

BY MR. MINIER: Now, after the Greek invasion in 1919, in June of 1919, didn't the revolting armies over in the eastern portion of Turkey sign a document stating that they were going to resist the Allies and the Sultan and not give up their country?

- A. First they sign document to Holy War, against Christian, start clean up -- Ataturk, after, he take out in Ankara, he want Ankara for Turk, no Christian, and first order was clean Ankara from Christians. After they came together and told, now we fight Sultan.
- Q. My question was, in June of 1919 didn't the revolting armies sign a document of resistance against the Sultan and the invading Allied Armies?
- A. I cannot tell exactly that, because I no signed any document. I know history from what history tell me, I can use summary, but no -- 15 July, I cannot.
- THE COURT: No, you do not know the answer to the question.
- A. BY WITNESS: I don't know.
- THE COURT: All right. That is the answer to it.
- A. BY WITNESS: I don't know.
- Q. BY MR. MINIER: Now, let's talk about your home- town Erzerum, in July of 1919 was there a national congress called by the revolutionaries that met there in Erzerum?
- A. Which revolution?
- Q. The ones that you just referred to, didn't you testify that Kemal Pasha --
- A. (interposing) The Turk.
- Q. Yes.
- A. Yes and first they clean Erzerum from Armenian they kill twelve hundred Armenian, kill.
- THE COURT: Mr. Yanikian, that is not answering the question.
- A. BY WITNESS: Okay.
- THE COURT: Listen to the Question, please.
- BY WITNESS: Yes, yes.
- Q. BY Mr. MINIER: Now, because of the revolution against the Sultan's government, isn't it true that the Sultan ordered the death of Kemal Pasha who was leading the revolution?
- A. I don't know what order he give.
- Q. Hasn't your study of history indicated that the Sultan sent an army trying to take back the eastern portion of Turkey?
- A. Is not interested in what Sultan and Kemal, is interested Armenian history and Christian history.
- Q. All right. You don't know whether the Sultan issued a death order for Kemal Pasha or not, is that correct?
- A. I think something I heard.
- Q. You think you heard that, right?
- A. Yes.
- Q. Now, in April of 1920---well let me ask you this, in April of 1920 don't you recall in your study of History of the time that a new grand national assembly was convened in Ankara, or a new government?
- A. I don't know date -- which date, April 13? I don't know.
- Q. Do you know at some point in time then if---
- A. (Interposing) If you ask me they organize, yes, but when, I don't know.
- Q. In 1920, is that fair enough?
- A. Organize what? In Ankara, yes.

Q. In Ankara, in 1920?  
A. Yes.  
Q. And Kemal Pasha was elected president of a new government?  
A. Not yet -- he was elected only president congress.  
Q. All right, president of the congress.  
A. Yes, not yet president republic.  
Q. This was here at Ankara, is that correct?  
A. That's right.  
Q. So at that time really there were two different governments in Turkey, weren't there, a revolutionary government in Ankara and the Sultan's old Government in Istanbul?  
A. No, they have more than that.  
Q. Well, all right. Did they have at least those two governments?  
A. These two, plus someone on Mesopotamia.  
THE COURT: All right, let's take this up after the noon recess.  
Ladies and gentlemen of the jury, it is your duty not to converse among yourselves or with anyone else on any subject connected with the trial, or to form or express any opinion thereon until the case is finally submitted to you.

1:30, please.

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26. SANTA BARBARA, CALIFORNIA, THURSDAY, JUNE 21, 19733, 1:30 P.M.

THE COURT: All right, gentlemen, the members of the jury and the alternate jurors are all present.

GOURGEN MKRTICH YANIKIAN,

resumed the stand and testified further as follows:

CROSS-EXAMINATION (Continued)

BY Mr. MINIER:

Q. Mr. Yanikian, you recall this Treaty of Sevres that we talked about earlier?

A. We talked about Kemal Pasha.

Q. Do you recall in 1920 a Treaty -- the Treaty of Sevres?

A. Before '28, we have '21, 1921.

Q. All right. That's when there was a treaty?

A. No. Kemal Pasha declare communist Turkey.

Q. Is there some kind of a treaty that you made reference to?

A. Is after -- is long -- no, is not '28, no.

Q. Was there a certain treaty that purported --

A. Treaty Sevres.

THE INTERPRETER: Sevres, S-e-v-r-e-s.

MINIER:

Q. Was that in 1920?

A. 1923. And this a treaty which fix French line, sign by Turk also, line paragraph 89 Armenian territory separate by Turkey territory.

Q. All right. Is this the treaty that you made reference to earlier that purported to set aside a republic or a state or a nation of Armenia?

A. First treaty this, after this other three, four. They have this Treaty Sevres, after came Lausanne, after came Paris Treaty,---- three.

- Q. All right. That treaty was signed after Kemal Pasha started a government of his own in Ankara, didn't it?
- A. No, -- yes, after this came Kemal Pasha organized inside treaty by the Red army Russian.
- Q. All right, what I am asking is, isn't it true that Kemal Pasha had already started a new government before this Treaty of Sevres? Before the Treaty of Sevres was signed?
- A. Yes.
- Q. All right. Now, the treaty that we are talking about that was signed which purportedly created the Republic of Armenia?
- A. Yes.
- Q. It was signed by the Sultan, wasn't it?
- A. By whom? By Sultan? -- no, by Allies and Turks.
- Q. But it was --
- A. (Interposing) Not Turk sign nothing.
- Q. The Turks who signed it?
- A. No.
- Q. Were the Turks representing the old Ottoman Empire government in Istanbul, is that correct?
- A. Is no sign -- this treaty signed by Allies and Turk.
- Q. By the Turks, though; which Turks?
- A. I don't know, Sultan side or other side, but Turk government -- like I don't know who was American government.
- Q. It was by this government in Istanbul?
- A. No. Ankara -- Ankara government.
- Q. Have you done any reading lately on that aspect of history?
- A. No.
- Q. Now, Mr. Yanikian--
- A. (Interposing) Why you reading -- reading you what you did -- I no need reading.
- Q. Mr. Yanikian, isn't it true that the Ankara government, Kemal Pasha's government never even recognized that treaty? Never had anything to do with that treaty?
- A. What that mean?
- Q. They denounced that treaty?
- A. What is Kemal -- he represent government? Turkey government sign treaty.
- Q. Mr. Yanikian, there were two governments in Turkey, weren't there, one old Ottoman Empire government, and a new Revolutionary Republic of Turkey government, right?
- A. Yes.
- Q. Now, the treaty with the Allies was signed by the old government, by the representatives of the Sultan in Istanbul, isn't that true?
- A. I don't know who sign for Turkey -- I don't know. But I know Ally and Turkey, they sign this Sevres treaty in exactly 1924 -- 1923, -- no, I'm sorry, October 29 -- no, August 10, 1920.
- Q. Mr. Yanikian, based upon your study of the history of this area, don't you know that it has been the continuing representation of the government of the Republic of

Turkey for the last fifty years that the Republic of Turkey never had anything to do with that treaty we are talking about?

- A. I don't know. If some government sign some treaty, if head of government change, is treaty change, also? if now we change our president, are all the treaties dead?
- Q. I have asked the question of you Mr. Yanikian, is it your testimony that you don't know whether it was the Sultan's government or the Revolutionary government of Kemal Pasha who signed the Treaty of Sevres? You don't know?
- A. I don't know -- they sign or not. I know only the Turk Republic sign. October 29, 19 -- 10 August, 1920, and Paragraph 89, exactly, in fix line between Turk and Armenia .
- Q. Mr. Yanikian, isn't it true that the Republic of Turkey has never recognized the validity of that treaty simply because the Republic of Turkey never signed it?
- A. It is not true that you think that government when change head of government treaty is also change.
- Q. Mr. Yanikian, is your historical ability with regard to the time limited mainly to the alleged massacres committed against the Armenian people?
- A. No, I know all history, until today.
- Q. All right. At any rate, regardless of who signed the treaty, eventually, isn't it true that the Revolutionary government of the Kemal Pasha took power and became the one government of all of Turkey, correct?
- A. Yes. They defeat -- after the triumvirate escape, taking all the money what they can, was escape, the rest escape, all, and after that Kemal came head of all Turkey, without any Sultan --no Sultan -- no triumvirate. Then he came head of government.
- Q. Have you ever heard of the Treaty of Lausanne?
- A. Lausanne?
- Q. Yes.
- A. Well, is after three years, they have other treaty.
- Q. All right. The Treaty of Lausanne is the only treaty ever signed by the Republic of Turkey under Kemal Pasha, isn't that true?
- A. I don't know who sign from part Turkey treaty, but I know in '23 they have Lausanne Treaty, that's right -- also Allies at Lausanne.
- Q. Ever since the revolution led by Kemal Pasha, the capital of Turkey has been Ankara, isn't that true?
- A. Yes, all time Ankara after Kemal Pasha take, they never move in Istanbul. They stay Ankara all the time.
- Q. After the Turkish revolution, isn't it true that in 1922 the Sultanry, in other words the business of having the ruler of the country being the Sultan was abolished after Kemal Pasha came in, isn't that true?
- A. After Kemal Pasha came in, no rule, he was elected president on Congress, after he elected President of country.
- Q. My question is this: the republic of Turkey did away with having a Sultan, did they not?
- A. I don't know what they did with their Sultan.
- Q. Didn't they say, "We are a republic, we are ruled by a Congress, no longer ruled by a Sultan"?"

- A. Yes. Kemal declared this when he was in Ankara. He did -- don't recognize Sultan', don't recognize triumvirate for this they start fighting, triumvirate escaped. He sole dictator there.
- Q. Ever since Kemal Pasha led the revolution which took over the government of Turkey, isn't it true Turkey has never since been ruled by a Sultan?
- A. Sure, never.
- Q. Isn't it true at that time the Sultan who had the old government in Istanbul had to escape on a British destroyer before he would be killed by the revolutionaries?
- A. Sultan never was in Ankara, Sultan where he escape, I don't know on which ship he is escape, I don't know.
- Q. He did escape, though?
- A. I don't know. Surely, if he no he escape, he be killed.
- Q. He never came back to Turkey, did he?
- A. He never came back America too.
- Q. My question is he never came back to Turkey, did he?
- A. I don't know.
- Q. Your knowledge of history does not go that far; is that correct?
- A. I am sorry, no. I am sorry, I am not see where he was, Sultan, he went, I am no watching when he go, where he sleeps, what he did, is not my business.
- Q. Do you know that the Royal family, that is the relatives of the Sultan were exiled? In other words, thrown out of the country?
- A. I don't know. It is my country, I will interest my Royal family. It is not my country.
- Q. Now, the republic -- you recall the republic of Turkey was officially first proclaimed as a republic on October 29, of 1923, does that ring a bell?
- A. I think so. Yes, I think so.
- Q. Don't the people of Turkey, to this day, celebrate that date, October 29, going back to 1923, the same as we celebrate July the 4th in this country?
- A. Same like all Armenians celebrate April 28th, massacre. Same all around the United States.
- Q. We are talking about Independence Day.
- A. All around the United States even Governor came and put flag this day for Armenian who have massacre.
- Mr. MINIER: Your Honor, I move to strike the answer as non responsive.
- THE COURT: Granted.
- Mr. MINIER:
- Q. We are talking about Independence Day, Mr. Yanikian, for the Republic of Turkey?
- A. I was not there, my friend, I don't know what they did. I don't know what they did.
- Q. All right. Let's talk about some Armenians, then, see how your memory is with regarding Armenians.
- Did you testify earlier about a great Armenian hero Solomon Telirian who assassinated the Talat Pasha in Berlin?
- A. Yes.
- Q. You do know about that, correct?
- A. I know.
- Q. You also know about the assassination of Jemal by another Armenian?
- A. Yes.

Q. Now all of those assassinations took place outside of Turkey, did they not?

A. Yes. because they escaped, they was not in Turkey.

Q. All right. They had to escape, did they not?

A. No. They escaped.

Q. These men were representatives of the old Ottoman Empire under the Sultan, correct?

A. Yes. They control Sultan, yes.

Q. Isn't it true that Kemal Pasha and the new government actually had out death warrants for these representatives of the old Ottoman Empire?

A. Maybe.

Q. And these representatives who escaped and who were later assassinated.---

A. Because they send lots of money. They will go for spend this money.

THE COURT: Wait for the question, Mr. Yanikian.

THE WITNESS: I don't know

THE COURT: Wait for the question. You haven't heard the question.

THE WITNESS: Okay.

Mr. MINIER:

Q. These men who were assassinated--

A. Yes.

Q. --were they not assassinated because of the part that they had played in the deportations and massacres?

A. They were assassinated because they was planned and ordered start discrimination killing my nation. Not only my nation, other nations. This reason why they assassinated -- three people.

Q. And these three people---

A. More than three, they assassin other, too.

Q. --weren't they the people who were actually running the government of the Ottoman empire in 1915?

A. Ottoman Empire? Jemal I think.

THE INTERPRETER: 1915.

THE WITNESS: 1915. Ottoman Empire--- 1915 Sultan.

Q. Didn't you testify earlier, although the Sultan was still the nominal ruler of the country, didn't you testify for the last several days that this triumvirate was in effect running the country?

A. That is right, that is right.

Q. All right. That is the same triumvirate that was assassinated outside of Turkey?

A. That is right.

Q. The reason they were outside of Turkey is because they had to escape from Kemal Pasha's new government, correct?

A. They escape outside country, this I know. Assassinated outside country. I don't know why they escape why one go Germany, one go other, I don't know.

Q. After the new government, since 1923 has been called the republic of Turkey, has it not?

A. Republic Turkey, I think yes, in '23, they declare, yes, I think is "23 they declare Republic Turkey. But Kemal not yet president of government.

- Q. After the new republic of Turkey came into being, did it not -- did the government not abolish Islam as a state religion?
- A. Yes. They separate religion, they did, yes.
- Q. And they abolished this Caliph, the idea of having the spiritual head of the government?
- A. Yes, they did.
- Q. Did they give women the right to vote?
- A. Yes.
- Q. You referred to this fez that used to be worn in the olden days?
- A. Yes.
- Q. The fez being the particular kind of hat in a conical shape -- shaped like a cone?
- A. Everybody dance on the street, Armenian kiss Turks, Turks kiss Armenian, Turk go Armenian church, Armenian go Mussulman because told finish, now we have republic.
- Q. All right. Now, when the republic came in under Kemal Pasha, didn't the government of Turkey outlaw the wearing of this fez?
- A. I don't know when outlaw. I know they no wear more.
- Q. You know, anyway, that the people stopped wearing the fez in Turkey after the republic was established?
- A. No. I was not in Turkey this time.
- Q. Do you know from your knowledge of history of the whole time that the new republic of Turkey enacted a whole new system of laws based upon Swiss law and not based upon the old law that they had for hundreds of years?
- A. I know that by history that he declare on first speech that he will reorganize all Turkish system and put democratic way country in which principally the American or Swiss, I don't know, but he told this.
- Q. Back in the old days, before the war, there was some title of Pasha, was there not, such as we have in Talat Pasha and Jemal Pasha and so on?
- A. Yes.
- Q. When the republic came in, didn't the new government of Turkey abolish that title?
- A. Accordance newspaper, yes.
- Q. When the republic came in, didn't the new government of Turkey abolish that title?
- A. Accordance newspaper, yes
- Q. Now, prior to World War 1, in Turkey, the Turkish people didn't have last names, such as we do, did they?
- A. No.
- Q. Isn't that another thing that the New Republic did when it came in, that is ordered that everybody in Turkey would take a last name?
- A. I was not in Turkey, don't know what they did inside -- what organization is inside. I was not there. I can read the newspaper -- the Revolutioner -- there are new government, they want organize democratic system government that's all.
- Q. Didn't you tell us that you know all history Mr. Yanikian?
- A. But not inside -- I know American History, but I don't know 25 years ago what done in California, or what done in San Francisco -- I don't know.
- Q. Now, this man, Kemal Pasha, did he then after the revolution take a last name for himself?

- A. Yes.
- Q. And did he take the last name Ataturk?
- A. Yes, Ataturk -- what means father's Turk Ata -- Father Turk; they call it.
- Q. And is not Kemal Ataturk looked upon in the Republic of Turkey as the father of the modern Turkish Republic?
- A. That's right.
- Q. Is he not the equivalent of our George Washington here in the United States?
- A. May be Washington -- maybe Lincoln, I don't know which--I know that some is start organize in Turkey, that's right.
- Q. Did the new Republic of Turkey also abolish the practice of polygamy, namely, the legal right to have more than one wife?
- A. I told you, I no live in Turkey.
- Q. I am asking you about your vast knowledge of history.
- A. Yes I know.
- Q. Is that true?
- A. I know they abolish-- you can take history book and they have abolish.
- Q. Do you also know that changed their day of rest in the Republic of Turkey from Friday to Sunday, just like we have it in the Western world?
- A. Yes. Also they change their alphabet, too.
- Q. All right. For a thousand years at least, the Ottoman Empire had used the Arabic alphabet, had they not?
- A. No, never Ottoman Empire have thousand years life---All their life is 650 years.
- Q. All right. For 650 years the Ottoman Empire used the Arabic script, did they not?
- A. Arabic -- half mixed with Persian.
- Q. All right. And after Kemal Ataturk came into power and the Republic of Turkey was born, was that not one of the first things done to change the entire alphabet?
- A. That's right.
- Q. To the Roman letters such as we use in this country?
- A. You are right.
- Q. They also changed the old calendar, and in its place started using the Western calendar?
- A. Yes.
- Q. Did they not?
- A. Yes, they change.
- Q. Now, back in the days of the Ottoman Empire, didn't many of the women wear veils over their faces?
- A. Yes.
- Q. Wasn't there another thing that the Republic did was to abolish the wearing of the veil by women?
- A. Oh, Yes.
- Q. Now, the Ottoman Empire, we have indicated before, was an enemy of the United States, and France and England and Russia?
- A. Who?
- Q. The Ottoman Empire, in World War 1, was an enemy of England and France and Russia and the United States, correct?
- A. No. This time, even not yet war started, is American Embassy was there.

Q. Well, all right. At some time during the period of 1914 to 1918, isn't it true that --

A. (Interposing) When Turk—

THE COURT: (Interposing) You Haven't heard the question, Mr Yanikian. You haven't heard the question.

A. BY WITNESS: What is it?

Q. BY Mr. MINIER: Sometime during the first World War was not Turkey, the Ottoman Empire, at that time an enemy, at war with France and England and Russia and the rest of the Allied forces?

A. No -- yes, French, Russian and English, but not rest -- not American.

Q. All right. French, Russian, English?

A. That's right.

Q. All right. Now, the new Turkish Republic in World War II, at the end of the war, was on the same side, was it not? On the same side of the United States and England and France, wasn't one of the Allies in World War II the---

A. (Interposing) Who? -- yes, they declare war, never go in the war. They declare war for be ready have their part, -- not one soldier died-- not one soldier died in war two, second, Turkish.

MR. MINIER: Your Honor, I move to strike the answer as non responsive.

THE COURT: Granted.

Q. BY . MINIER: My question was, Mr. Yanikian, at the end of World War II, was not the Republic of Turkey an Ally of England and France and the United States and Russia?

A. Yes.

Q. With respect to the Korean war isn't it true that the Republic of Turkey was the first nation in the world to join with the United States forces fighting in Korea?

A. I no have history correct.

Q. All right. Didn't Turkey participate in the Korean War on the side of the United States?

A. Yes. He came member of United Nations, too.

Q. Turkey joined NATO, did it not, the North Atlantic Treaty Organization in 1951?

A. I cannot tell the exactly date, -- yes.

Q. At some point in time Turkey became a member of NATO is, that correct?

A. Yes. But before they came NATO, they have --

THE COURT: No. You weren't asked that question what they did before, Mr. Yanikian. So just answer the one question,

A. BY WITNESS: Yes.

Q. BY Mr. MINIER: And ever since World War II hasn't the United States maintained military bases in Turkey?

A. NATO yes.

Q. Mr. Yanikian, showing you the picture of Mehmet Baydar?

A. Yes.

Q. What connection did you feel that this man had with the Ottoman Empire?

A. Ottoman Empire?

Q. Yes.

A. He represent evil Turkish government, for me.

Q. But the evil Turkish government--

- A. Yes.
- Q. That committed the things that you have testified to was thrown out of power in the revolution, was it not?
- A. Why don't it change? What they did their grandfather, why they not accept contract with me sign them selves? Why? Why?
- Q. Showing you the picture --
- A. Yes -- yes -- same, same answer, for me he represent evil government. I have nothing to do with the Turkish people. I am asking government, because they know history.
- Mr. MINIER: Your Honor, may we have the answer stricken and the witness instructed by the Court to respond to the question, please.
- THE COURT: Yes.
- A. BY WITNESS: Yes, I know.
- THE COURT: The answer is stricken.
- Q. BY Mr. MINIER: Mr. Yanikian, how old did you think that Mr. Demir was when you killed him?
- A. I no know -- I no look at his passport.
- Q. Are you familiar with Robert's College? You heard the testimony, didn't you, of Mr. Demir's relatives about his attending Robert's College in Istanbul?
- A. Yes, Robert College, built by American.
- Q. As a matter of fact, isn't that the oldest American college outside the continent of the United States?
- A. Yes, old in Near East, oldest.
- Q. What did you expect that this man had to do with the massacres?
- A. Why he no explain to his people who they are?
- Q. If Mr. Demir was 30 years old, that would have made him born in 1943, would that be correct?
- A. Yes.
- Q. And that was how long after the massacres, almost thirty years, wasn't it?
- A. Fifteen -- yes, thirty years.
- Q. Do you think his father could have been involved in the massacres?
- A. May be.
- Q. Did you think that perhaps the wife or the daughter of Mr. Baydar had something to do with the massacres?
- A. I have nothing to do with their family, Mr. --they represent for me evil government who cannot explain, and he no want explain his people to them, from where came and whose property they take.
- Q. Let ask you about another subject, Mr. Yanikian. I believe you testified yesterday, didn't you, that the United States Government had never told you the reason that they could not stop their aid to the government of Iran because Iran owed you some money, isn't that true?
- A. When I ask that they collect -- help me collect they told, the State Department, they told that accordance International Law they cannot do this, that is this International Law, no writing law -- it don't exist, because Iranian government send a letter to State Department, and say that accordance International law you cannot ask, and

they told, because Iranian government insist that accordance International Law we cannot mix on this business for this we cannot help.

Q. Do you recall my asking you yesterday if the United States government had not informed you over and over again that the law did not apply to you because you were not a citizen when the debt was incurred?

A. When I ask for help collection, but not after when ask use law, which has nothing do -- I no ask collect money for me. Also, my letters you have, and you have State Department letter.

Mr. MINIER: Your Honor, may we have two letters marked for identification as People's next in order?

THE COURT: Yes.

THE CLERK: People's No. 59 and 60.

(Whereupon two letters thereupon duly marked as People's No. 59 and 60 for identification purposes only.)

Mr. MINIER: Just a moment, Mr. Yanikian.

BY WITNESS: That's okay.

Q. BY Mr. MINIER: Mr. Yanikian, let me ask you on another subject while we are waiting for the letters.

A. Yes.

Q. With regard to the plays you told us you have written, when is the last time one of your plays has been performed?

A. Where?

Q. Anywhere?

A. Which play?

Q. Any play?

A. But which play, I have lots of plays, which play you are asking?

Q. When was the last time any of your plays was performed anywhere?

A. Isla Vista.

Q. That was "The Messiah"?

A. That is right.

Q. Isn't that the same play that the City Council refused to be allowed to be presented here in the City of Santa Barbara?

A. In your knowledge, yes.

Q. I am asking in your knowledge, did not the City Council---

A. I read in newspaper.

Q. My question, Mr. Yanikian, is: didn't the Santa Barbara City Council refuse to allow the presentation of that play in Santa Barbara?

A. Yes.

Q. And the only place that play has ever been performed is in Isla Vista, is that not true?

A. No. Outside California, three four other places.

Q. Let me show you these letters.

Mr. Yanikian, with regard to People's 59 for Identification, is this not a letter that you received from the United States Department of State?

A. Yes.

Q. Is not People's 60 for Identification another letter you received from the Department of State?

A. Yes. The last letter.

Mr. MINIER: Your Honor, I would offer these two letters into evidence.

THE WITNESS: Yes, this letter, yes.

THE COURT: Received.

(Whereupon the above described Exhibit previously marked for identification thereupon received as People's Exhibits Nos. 59 and 60 in evidence.)

MR. MINIER: May I read from these letters, your Honor?

THE COURT: Yes.

MR. MINIER: First from the letter dated August 6, 1964 from the Department of State "The Department would be pleased to help you if it could find a valid business for doing so. Unfortunately, a State has no right under international law to intervene on behalf of a person who is not its citizen when he was wronged by another State. "The wrong in your case occurred when the Iranian government failed to pay you the amount" --

A. Armenian government never owe me money.

THE COURT: Don't interrupt, Mr. Yanikian.

Mr. MINIER: (Reading)

-- "When the Iranian government failed or refused to pay at some later date after you became a citizen of the United States.

"The fact that they did not, does not change the fact that the debt was due and owing before you became a citizen."

Q. Do you recall receiving this letter?

A. May I see? I can recall, I think, yes.

Mr. MINIER: May I read from the letter dated February 18, 1972, your Honor, that is People's 60?

THE COURT: Yes.

Mr. MINIER: The third paragraph (reading).

"The Department's views concerning the validity of your claim under principles of international law remain unchanged from those expressed in the letter of August 6, 1964. In such letter the department stated that a State has no right under international law to intervene on behalf of a person who is not its citizen when he was wronged by another State, and that it was clear from the information which you furnished that your claim arose at least ten years-prior to the date you became a United States national in 1955."

Q. Mr. Yanikian, was that the first time you decided you would destroy representatives from the Turkish government during this three day period in April?

A. Yes.

Q. How was it that you decided that you would use the offer of the painting of which there is a photo of People's Exhibit No. 3? How did you decide upon this kind of an offer in order to get the two diplomats here in Santa Barbara?

A. What you think I will have excuse for start talk them. I will have something to talk.

Q. You thought that they would be particularly interested in that painting?

A. I am sure.

Q. And was the same true with People's No. 4, the bank note?

A. That is right.

Q. Did you decide that you would use these two particular items for bait during this three day period in April?

A. No.

Q. When did you decide to use these particular items?

A. After I make my decision that now our paradise program is dead. That---

THE COURT: When was this? The question is when?

THE WITNESS: In three days period.

THE COURT: In the three day period?

THE WITNESS: That is right.

Then I came conclusion after reading all my documents, paper, plans, map, I saw that finish----

THE COURT: Mr. Yanikian, the question was just when. You told it, you have answered.

THE WITNESS: In three day period.

THE COURT: You have answered that question. It was just when, and you have said during the three day period,

THE WITNESS: The three day period. I fix that is finish. I will find something else, and I create Yanikian's case.

MR. MINIER:

Q. This was all during the three-day period?

A. Yes.

Q. -- that you decided to use these two items?

A. After when I decided that Yanikian's case, after this, I was trying now, what, how then I find this take time for thinking.

Q. Do you recall when it was that you first came upon the idea of using the offer of this painting?

A. I tell you this. July maybe something.

Q. What about the bank note?

A. Same, because I will have something more interesting then they will talk because I am Armenian, they can see I am Armenian.

Q. Did you take the pictures of the painting in order to show something to the consul officials?

A. First I call by telephone.

Q. And when you called, you described these items, is that correct?

A. No. I told. "I have something to offer, and I want see Consul General." He told, "I am busy, but tomorrow you can see my assistant."

Q. Did you have the photograph of the painting at that time?

A. Yes, small one.

Q. Did you take the photograph especially for that purpose, or did you already have the photograph?

A. No. I have lots photographs. They small because picture I have other, too small pictures.

Q. Now, when you went to the consulate and you took the little photograph of the painting and the banknote --

- A. It was in my pocket.
- Q. -- At that time you had already made up your mind that you were going to destroy two people, had you not?
- A. Yes. But not yet where and how.
- Q. When you spoke with Mr. Demir, the younger of the two---
- A. Yes.
- Q. -- did you at that time know that you were going to destroy this particular person?
- A. Yes.
- Q. When you took your trip back to Soviet Armenia, and this was already after you had made up your mind that you were going to destroy these two men; is that correct?
- A. Surely. I wait only they fix time when.
- Q. When you had your telephone conversation with the consulate, and you insisted that the Consul General himself come --
- A. He told he come with his family, I told "Please no wife, no family, you, and your Vice Consul." Yes.
- Q. Didn't you insist that the Consul General himself come to pick up the painting?
- A. Yes.
- Q. Wasn't that so that you would make sure that the act of destroying this person had the maximum publicity value?
- A. No.
- Q. Why did you want to have the Consul General himself as opposed to the Vice Consul?
- A. I prefer two, because is question is too big. I think I have right when I sacrifice my life for mankind, I think they think if they think they are in mankind, I think if two people I use for put light on this darkness is not too much.
- Q. When you moved into the Biltmore Hotel, you did move in with the express intention of having these people come to Santa Barbara and destroying them?
- A. Yes. They want see in the Biltmore Hotel, they no want come my home because it is too cheap for them.
- Q. Do you recall when it was that you wrote these one-page letters in Armenian that you sent to the various different people?
- A. All this before, before I went Armenia.
- Q. Before you went to Armenia?
- A. Yes I prepare everything is ready, but they told me "You expect answer one, two months." And I have time go.
- Q. Did you carve out the hollow in this Who's Who book People's No. 39?
- A. Yes.
- Q. When did you carve this out?
- A. In my home.
- Q. In your home at the Biltmore?
- A. No.
- Q. Where?
- A. In my apartment where I live.
- Q. Do you recall when that was?

- A. May, June, I don't know. Small, I don't cut my day, I cut little, because it is difficult.
- Q. Did you carve that out to fit the Luger?
- A. That is right.
- Q. When you carved that out, the reason was you were planning to use that Luger to destroy these two diplomats?
- A. That is right.
- Q. Was there any particular reason that you picked the Who's Who book?
- A. Because I have two books, one bible, and Who is Who, other book is too small, and I choose Who is Who. What was the reason for the preparation of this brown package containing the cork board?
- A. This?
- Q. Yes.
- A. Is for my pictures which I have on the wall.
- Q. Well, was the purpose of this so that it would appear when the diplomats came to your room that that was the painting they were to pick up?
- A. No.
- Q. Why was the cork board wrapped in the brown paper?
- A. For my pictures which was on wall. I want put this, and I have my big pictures on board, I put this for put there. After I let stay there, I no did. That's all.
- Q. When you took these two guns to the room was the Luger in the book when you took it into the Biltmore room?
- A. I'm sorry?
- Q. How did you take your two guns into the Biltmore, in a suitcase, or how?
- A. No, one is in the book and suitcase, other in, also -- in the folder, in my suitcase.
- Q. And when was it that you loaded the Luger?
- A. They was all time loaded, 25 years, they was loaded.
- Q. You hadn't obtained some ammunition for either one of them shortly before this?
- A. Oh. yes, I have lots of ammunition for both.
- Q. You say you didn't load either one of them except 25 years ago?
- A. Yes, 25 -- I have -- I load it -- no, I -- I bought, when I bought this gun, small gun, two, three years ago, I bought, I think, for this too, ammunition.
- Q. Why did you have the extra magazines or clips for the Luger there in the top drawer of the dresser?
- A. Because sometimes I was traveling, you know, desert I have my gun, and two special extra in my car.
- Q. Why did you have them there on the top drawer of the dresser?
- A. What? -- at what I do?
- Q. Did you have the extra bullets in case you needed more bullets to destroy these two people?
- A. Surely, in my -- I put in dresser.
- Q. Now, when you took those two guns into the room, was it your plan all along to use the Luger that you made the hole in the book first?
- A. That's right -- that's right.
- Q. You were going to use the Luger first?
- A. Yes,

Q. Was it your plan to aim for the heart when you would be shooting the Luger?

A. No I was take Luger because I no use 20, 25 years -- I was scared that maybe it not work, for this, I take small one, also, with me.

Q. So you had the little Browning?

A. Yes.

Q. In case the Luger didn't work?

A. That's right.

Q. Did you bring the Browning as a mercy weapon to administer the coup de grace?

A. Reserve,

Q. Pardon?

A. Reserve for this and -- reserve. I cannot make mercy shot when no more bullets, I shot all, and I no want change, you know.

Q. Now, when these two diplomats arrived at the room it was already fixed, was it not, that they would die?

A. No die -- it was fixed that I will destroy them.

Q. In other words, there was nothing that would change that, was there, once they arrived, they are going to be destroyed no matter what they did?

A. I don't know -- I don't know -- because -- because I was talk with them, and I suppose I will talk one, two hours, but they short speech, only 15 minutes we talk.

Q. As far as you were concerned they would not leave that room alive, is that correct?

A. (Nodded affirmatively.)

Q. Did you tell them that Turkey was a dirt nation?

A. No. I told that, "Why, you no explain your people? Explain real story about your nation. You young generation." I told this, -- we are 15 minutes friendly talk.

Q. All right. Isn't it true -- well, let me ask you this, they called you an Armenian son-of-a-bitch, correct?

Q. After, yes.

Q. Isn't it true, that you told Mr. Demir and Mr. Baydar that you were going to kill them before they called you an Armenian son-of-a-bitch?

A. No, we was talking -- we was talking, and when I told -- when they offer me money, five thousand dollars money, that we will send to decoration, we give you this, this and you give these picture, now we are friends, stop writing about -- against our government, now everything finished, I told, 'look, you change your system government, Ottoman Empire now, change you Republic, you call, in young generation, but you stay same dirt mentality,' I told, and when I told 'dirt mentality,' other jump in and hit me.

Q. You recall your interview with Mr. Rapp of the FBI, don't you?

A. On general, yes.

Q. All right. Didn't you tell Mr. Rapp that when the two Diplomats arrived at the cottage that you talked to them for about ten or fifteen minutes, that you told them what you thought about them, and that there was an argument?

A. That's right, that's argument, that's right.

Q. Didn't you also tell Mr. Rapp that -- well, pardon me.
Let me ask first about Mr. Baker's conversation, then we will go back to this one.
Recalling your conversation with Mr. Baker, you recall that detective, don't you?
Detective Baker?

- A. Which is Mr. Baker? First come who is arrest?
- Q. The second one.
- A. Second one.
- Q. Do you recall hearing the tape recording of you and Mr. Baker?
- A. I don't know if was tape recording -- we sit down and talking friendly. I don't know that is recording -- I don't know.
- Q. All right. Well, I am referring to the tape recording we heard played here between you and Mr. Baker.
- A. Yes, I heard. But at the time I don't know that they are tape recording. If I know they tape recording, I will sit, sit down and look on him, because he no have right - friendly, we sit down and talk, that's all?
- Q. All right, let me ask you about being hit on the head then, did you get hit on the head with the chair?
- A. Uh-huh,-- they hit me.
- Q. And did that make you bleed?
- A. I don't know -- I don't know. To me nobody can know if in this situation -- I don't know.
- Q. All right. Do you recall hearing all of Mr. Lindsey's questions about the blood on this chair that was in the room?
- A. Yes, -- maybe.
- Q. You remember that chair?
- A. Oh, I remember chair, when where is, after I saw -- the chair was on the bedroom.
- Q. Was that your blood that was on the leg of the chair?
- A. How I know?
- Q. Well, did you have a wound?
- A. How I know is my blood? You show this picture after six months.
- Q. I am asking about your memory, do you recall having any kind of a wound as a result of being hit?
- A. I have some wound, I know, because, you remember even when doctor testify, he told he has something next to his eye -- doctor told you (indicating) -- but this time when they hit me, I don't know what kind wound was, is bleeding -- blood is going -- I don't know. I was too busy.
- Q. The fact that they hit you on the head didn't have anything to do with your destroying them, did it?
- A. No. Is make me angry, because nobody in his life can call me son-of-a-bitch Armenian -- no difference who he is, even he is king, cannot tell me.
- Q. Didn't they hit you on the head after you told them that you were going to kill them?
- A. No. After this I jump up and told, 'Now, I will destroy you,' then I jump and I take my book.
- Q. Didn't you tell Mr. Rapp of the FBI that you said "I will kill you," and that then one of them picked up a chair and hit you across the shoulder?
- A. They hit me when I told that you are same dirt mentality what you have been, and they call me son-of-a-bitch, after this I told.
- Q. My question was, didn't you tell Mr. Rapp of the FBI that you were hit with the chair after you said you were going to kill them?

A. I don't know -- I don't know what I tell; -- I am telling what is reality -- what I told after three hours they came, I don't know.

Q. Let me ask you if you recall this conversation between you and Detective Baker.

A. Who is Baker?

Q. What?

A. First or second?

Q. Second.

A. Oh, second, -- yes.

Q. Baker?

A. Yes.

Q. "Baker: They started coming towards you?"

"Yanikian: Yes."

"Baker: Did you say anything to them, that I am going to kill you, or I'm going to shoot you?"

"Yanikian : No, I told before.

"Crook: What did they say to you when they saw the gun?"

"Yanikian: Why, we have given you everything to you."

"Baker: Did you tell them you were going to kill them?"

"Yanikian: Yes."

"Baker: Before they hit you with the chair?"

"Yanikian: Yes."

Q. Now, do you recall that conversation?

A. No -- no. This conversation, maybe, but I told that when they hit the chair, then I jump and tell, "Now, I will destroy you." After maybe destroy, I use "kill."-- maybe.

Q. You would have destroyed --

A. Because you know why, because, we want talk, I want ask him lots questions other about Armenia. For this, we have conversation, sit down and talking.

Q. You would have destroyed them even if they had not hit you with the chair, isn't that correct?

A. I don't know what I will do.

Q. You were planning to destroy them?

A. Yes, yes.

Q. All right..

A. Maybe at this time I have heart attack and die, I don't know. My heart pressure, maybe heart pressure, maybe I die this moment, I don't know.

Q. The only thing that the blow with the chair did to you was to make you more angry, isn't that correct?

A. Oh. Yes, yes.
Not mere angry, is make more than that, more angry.

Q. Do you recall opening the book?

A. Yes. I no open. When I take, is open they look surprised with this book. I told, "I will destroy you." And they see book.

Q. My question is do you specifically remember opening this book?

A. Yes.

Q. And you remember taking the gun out, don't you?

- A. Yes.
- Q. And you specifically remember shooting them with the gun?
- A. Yes.
- Q. Do you specifically remember aiming for their hearts?
- A. I don't know. I start shooting, you know, I don't know and I don't know. And I don't know first where I only put, I put, and I start shooting, I don't know until I saw no more bullet all I shoot. Then I put this gun back, take small -- I don't know how many I shot by small one, but last two I remember I shot in head.
- Q. Didn't you tell Detective Baker, "Maybe I hit in the heart, I try for heart, I don't know"?
- A. I don't know, maybe heart. I tried. If I want destroy what different heart or brain, no difference.
- Q. When you opened the Who's Who book and took out the Luger, your intention in doing that was to destroy them, wasn't it?
- A. Surely.
- Q. Now, at the time that you started shooting, isn't it true that both of them were sitting still in the yellow chairs?
- A. Which? One Consul General was sit on right side, yes. I start shooting when they sit down, one stay, and was surprised. Even one surprised with chair when I take this book, he go, "What is this?" He throw chair on the bed and looking at me. They cannot understand, but when I start shooting, he sit down, he sit back.
- Q. One was still seated when you were shooting, correct?
- A. First, yes. Second standing.
- Q. And then you specifically remember taking the smaller, gun, the Browning, and aiming for their heads, do you not?
- A. Yes.
- Q. Was your purpose in aiming for their heads in order to make sure that they were destroyed?
- A. No. I no want they suffer, and I call this mercy shoot, coup de grace.
- Q. Your intention was that they would die without suffering; is that correct?
- A. Yes. I figure if no bullet which I can hurt, in these two bullets which I put in the brain is finished, and I no want they suffer because my idea is not make people suffer, my idea destroy these two evil for put light. Use them like light in the darkness when we can sit down here and talk, then people think what is going around.
- This is my purpose. Yanikian's case, because State Department kill my other purpose 25 years. Then I create Yanikian's purpose.
- Q. And your suitcase, you had already packed because you knew you would be going to jail; is that right?
- A. Yes, that is right.
- Q. Now, with regard to the manuscript, this 120-page manuscript, when you referred-
- A. Original I was in my brief case in the Biltmore Hotel.
- Q. Now, when you referred to the act that you were going to commit in that manuscript, was the act of destroying these two people the act you were talking about?

- A. No. These two people, I no mention any people, but I told that I will do this for -- first for my country because I am Armenian -- for my nation because I am Armenian, for my country because I am American, for human because I am human, and I wrote this only. But I no mention that name this, this, this, no.
- If I find some other two represent Turkish government, no people Turkish government in Santa Barbara, in other town, maybe I will take them. For me they are object for creation.
- Q. Now, in this letter that you sent out--
- A. Yes.
- Q. -- written in Armenian, didn't you say that "Current times show us that the only successful way to get something done is by violent action"?
- A. Yes. Because we are tired waiting.
- Q. Is this the kind of violent action you are referring to, namely using the gun to destroy these two people?
- A. No. If you read -- I am sorry, if you read next, is to you make choice. Read next line, is to you make choice.
- Q. When you wrote in this letter, "All the representatives of the so-called Turkish government should be eliminated from this earth wherever they appear to represent their government, ' is that the kind--
- A. Yes. Why?
- Q. In this letter what you are saying, then, was for all Armenians to kill any representatives of the Turkish government they could find, correct?
- A. Yes. No all Armenian, only Yanikian – only, individual like me. I no call Armenian people. Even I told "Please, no church, no organization, nobody can mix, is only business individual Armenian like I am." I represent no party, nobody. I am individual Armenian. I am human, I call this to human Armenian, not only Armenian, all around the world.
- Q. Is the assassination of Turkish diplomats what you meant in what you called a new kind of war in this 120-page manuscript?
- A. This I called this for putting light in the darkness that we can see each other without mask.
- Q. Didn't you refer to a new kind of war
- A. That is right.
- Q. -- in your manuscript?
- A. That is right. Why?
- Q. By the new--
- A. That is right. Sixty-years we are tired waiting with promise, broken contract, we will do something. I find this way.
- Q. By a new kind of war
- A. New kind war, yes. It is Yanikian's war.
- Q. Yanikian's war?
- A. That is right. I call this Yanikian's war.
- Q. The new kind of war is the assassination of Turkish diplomats?
- A. No. Destroying evil. Until you read next--until they go on the court -- international court, see what is wrong. Read all. Why you take two line?

Q. When you wrote this “The Turkish representatives no matter in what country, in what city, or what village they might be, have no right to function there. They should be annihilated by an Armenian individual.”

A. Why?

Q. Were you not calling--

A. Why? Continue.

THE COURT: Wait a minute, Mr. Yanikian. Listen to the question. Do not ask questions, please. Wait for the next question.

THE WITNESS: Thank you very much, your Honor.

THE COURT: Please do that.

THE WITNESS: But your Honor, he is taking--

THE COURT: Listen to the next question.

THE WITNESS: -- half sentence after eliminating you read all line.

THE COURT: Will you ask the next question, Mr. Minier.

Mr. MINIER: Thank you, your Honor.

THE WITNESS: I am sorry, your Honor.

Mr. MINIER:

Q. In that statement, Mr. Yanikian, weren't you calling upon Armenians all over the world to begin annihilating representatives of the Turkish government?

A. Individual. No. Armenian individual.

Q. Were you calling upon individuals all over the world to begin killing, annihilating Turkish diplomats? Yes?

A. Yes. For reason.

Q. And as you further indicated, you, Gourgen Yanikian will be the first to blow the trumpet heralding this new style of warfare, correct?

A. That is right.

Q. It was your intention, was it not, that people would receive these letters, that your manuscript would be published, and that other people would begin to kill Turkish diplomats all over the world?

A. This -- I let them choice what they want do. Because the purpose this letter awaken conscience each individual.

Q. Mr. Yanikian, calling your attention to page 120 of the manuscript, let me ask you if you did not write this?

A. Yes, I typed.

Q. Let me ask you if you wrote what I am about to read to you there.

“The capitalist system is an obsolete system. At the present time it is useless. It should be destroyed and a new system instituted which would serve the whole nation as the owner, master, lord of this country,” didn't you write that?

A. Which line you are read. I am sorry, I cannot see this. Is Armenian, I cannot see this. You read English on which page? My lawyer, they will look. They have translation.

Yes, please, I found. What you telling?

Q. See if you didn't write this?

A. Yes , yes. What you telling?

Q. “The capitalist system is an obsolete system at the present time and is useless?”

A. No, wrong translation, go ahead.

Q. It should be destroyed?

A. No, who wrote this lie? I, original--

Q. Could you show us that portion, please?

A. Yes.

Mr. MINIER: Your Honor, may we have the Court Interpreter do some official interpreting.

May I have it, please.

THE WITNESS: Yes here -- capitalistic system -- you want I translate?

Mr. MINIER: Why don't we let Mr. Saroyan do it.

A. BY WITNESS: Here, Capitalistic system --

THE INTERPRETER: "The capitalistic systems -- the hammer of the capitalistic system is not only for people like me, so that they can kill, not only the individual person's will be hammered, they are forcing them to change their style and their existence."

A. BY WITNESS: Is opposite -- capitalistic system try change -- I am not telling change capitalistic system.

Q BY Mr. MINIER: Maybe I can ask the interpreter. Is there a statement there "It should be destroyed and a new system instituted?"

THE INTERPRETER: It says, "Let us forget the universe, and if the people have brains enough to see what is happening today, on this universe, then we must understand and realize that this system must be changed because the hammer on the bodies and on their heads is such that the individuals cannot endure, and it is not only the individuals that will be changed, it is the nations, the peoples, those who have become victims of this kind of society."

A. BY WITNESS: Where is destruction capitalism?

Mr. MINIER: Your Honor, may I show something to the Interpreter here to see if he can find a reference?

THE COURT: Yes.

BY WITNESS: Your Honor, can I translate myself?

THE COURT: Maybe later if your attorney wants you to, but not right now.

A. BY WITNESS: Maybe some other place you find, but not here -- you cannot find, because every change I told democratic way.

THE COURT: Mr. Yanikian, will you give him a chance to find it.

THE WITNESS: I'm sorry.

THE COURT: Will you just be quite and let him look for it.

A. BY WITNESS: Okay.

Mr. MINIER: Your Honor, I think that perhaps I can simply go on and might be able to take it up at a later time at the recess.

THE INTERPRETER: I will look it over.

THE COURT: Well, let's take the recess now.

Ladies and gentlemen of the jury, it is your duty not to converse among yourselves or with anyone else on any subject connected with the trial, or to form or express any opinion thereon until the cause is finally submitted to you,

We will take the afternoon recess.

THE COURT: All members of the jury and alternate jurors are present, gentlemen.

CROSS EXAMINATION (Continuing)

BY Mr. MINIER:

- Q. Mr. Yanikian, when you wrote in this Manuscript there is no doubt in my mind that there will be others who, realizing that we do not have any other solution would rely upon the same means as I which is the only language understandable to the world. When you are referring to "same means," did you--
- A. (Interposing) May I have my Armenian text because I now no trust any translation, -- what I can follow.
- Q. Let me ask you this Mr. Yanikian
- A. (Interposing) Armenian, please.
- Q. Did the manuscript -- did you say that there was no doubt in your mind that there would be others, realizing that they didn't have any other solutions, who would rely upon the same means as you, which was the only language understandable to the world?
- A. I want see my manuscript, if I can, I find. Don't worry.
- Q. All right. You don't remember if you said that, right?
- A. Look, 120 pages, you think I remember every word-- but you are talking me translation. I want see what I wrote.
- Q. Do you recall writing in the manuscript that other people should commit similar acts as you were about to commit?
- A. But what way-- yes.
- Q. Were you contemplating then that other people would follow your lead and begin to destroy Turkish Diplomats throughout the world?
- A. I am sure, yes.
- Q. And when you wrote this in your letter, "I will be the first one as an example to many more to follow. I have no doubt that many who think like myself will have a long list. I have no doubt that many are going to follow my path to fight this new method of war."
- Were you referring to other people destroying Turkish Diplomats throughout the world?
- A. Yes.
- Q. How many persons did you contemplate destroying through sending out this type of letter all over the world, all of the diplomats?
- A. How many I sent?
- Q. How many people were you intending to have killed as a result of people following your letters?
- A. After destroying these two, putting light, if Turkish government tell, "Okay, lets go United Nation." War is stopped,
- Q. You in effect were telling the people through your letters to begin killing Turkish Diplomats, were you not?
- A. Until -- until, justice prevail. Until we go in the courts -- read about that.
- Q. Isn't what you have been calling for in this manuscript, and in these letters, a modern-day massacre of Turkish Diplomats?
- A. No. I no call this modern days.
- THE INTERPRETER: (Interpreting to the witness.)
- A. BY WITNESS: I no use these words -- I no use these words.
- Mr. MINIER: I have nothing further, your Honor.
- THE COURT: Redirect?

REDIRECT EXAMINATION

BY Mr. LINDSEY:

Q. Mr. Yanikian, that page 110--

A. (Interposing) I no have anything here.

Q. Let me show you page 110, is that the page that Mr. Minier was referring to a little while ago, some kind of translation from it?

A. Yes.

Q. If I were to ask you to read aloud only one sentence at a time, in Armenian, and with Mr. Saroyan's help to have him translate that as he watches the written word, sentence by sentence, so that there can be no doubt in this courtroom as to what is said on that page 110?

A. You want I read aloud? I read aloud?

Q. Aloud in Armenian, just one sentence and stop.

A. Okay.

Q. And then let Mr. Saroyan watch the sentence, so that he may then tell us what it says.

A. Where I start?

Q. At the top.

A. Top.

Q. Now, go slow so that Mr. Saroyan can see what you are reading, so that he may interpret for us.

A. (Reading in Armenian.)

THE INTERPRETER: "Humanity should be the guiding spirit of communication with all races and people."

BY Mr. LINDSEY: Now, the next sentence.

A. (Reading in Armenian.)

THE INTERPRETER: "The question is not only between the nations, but it is between the individuals."

Mr. MINIER: Your Honor, pardon me, but might I suggest that since we have a Court Interpreter that we simply have the Court Interpreter read what is on the page? I have no objection.

Mr. LINDSEY: Well, to make no misunderstanding, your Honor, what Mr. Yanikian, who did this writing, as he is --

THE COURT: (Interposing) All right. Proceed in the manner that you are following now.

Q. BY Mr. LINDSEY: The next sentence.

A. (Witness reading in Armenian.)

THE INTERPRETER: "Not knowing, not being capable of doing things, it is imperative that we must learn to do things not only for the individuals but it is also essential for the nations."

A. (Witness reading in Armenian.)

THE INTERPRETER: "Today, it is march, tomorrow it is the moon, tomorrow other celestial places--it is imperative to arouse the curiosity of all the human beings that are craving for civilization advancement."

A. (Witness reading in Armenian.)

THE INTERPRETER: "Let the human beings with all their intelligence, lose their hope, so that they can find one day the creative sacred."

A. (Witness reading in Armenian.)

THE INTERPRETER: "That the composition which is called the Universe it has neither beginning or ending. It cannot become the question of the entire thinking people.

A. (Witness reading in Armenian.)

THE INTERPRETER: "Has neither beginning or ending. It cannot become the question of the entire thinking people."

THE WITNESS: Finding out secrets.

(Witness reading in Armenian.)

THE INTERPRETER: "In order to be able to understand, you must, of necessity see the entire universe. Whichever way he looks, whichever direction he looks, he must always find himself in the universe. And in order to be able to come out should always be negative."

A. (Witness reading in Armenian.)

THE INTERPRETER: "It is impossible for human brain to be able to comprehend and understand the workings of the universe."

A (Witness reading in Armenian)

THE INTERPRETER: "Only let us confine ourselves to our universe, on earth."

A (Witness reading in Armenian.)

THE INTERPRETER: "in order to compare with the Sahara Desert, it is only a minor insignificant being. The capitalist hammer and the system --or the hammer of the system is not only confined to human beings like me, but it has also changed not only nations and people but it also has changed individuals."

(Witness reading in Armenian.)

THE INTERPRETER: "We can never talk about rights and justice because this very heavy hammer is in the hands of the people that will never allow you to think for yourself."

A (Witness reading in Armenian.)

THE INTERPRETER: "Let us leave other history of other nations. Taking into consideration of the past nations the only policy or the only system which has been outstanding is the capitalistic system all over the world."

A (Witness reading in Armenian.)

THE INTERPRETER: "Let us confine our argument to only that nation and race of people which I belong to, and I belong to the Armenian race."

THE WITNESS: This is something destroy capitalist?

Mr. LINDSEY: Thank you very much, Mr. Saroyan.

THE WITNESS: May I know who translate this?

Mr. LINDSEY:

Let me take up another matter. Mr. Minier asked you about a play and whether or not the City Council of the City of Santa Barbara had prevented that play from being produced here in Santa Barbara; do you remember that question?

A. Yes, I remember.

Q. Did the Santa Barbara News Press editorially blister the City Council for that act of censorship?

A. Yes. Editorial, and told that, "You are elected for special reason. You cannot take from Yanikian his constitutional right. Not you, nor Congress, nobody can take."

Q. And among your papers that the FBI took was there a copy of the editorial of the News-Press doing exactly that?

A. Two copy. Two originals, no copy, two originals.

Q. Now, let me take up another matter.

Mr. Minier, this morning, was asking you about a publication of yours called "Free Sexism" do you recall that?

A. What call?

Q. "Free Sexism." Do you recall that?

A. What called?

Q. "Free Sexism."

A. Yes. Not publication, I never publish.

Q. Mr. Minier pulled out certain parts of that and asked you about them, do you recall?

A. Yes.

Mr. LINDSEY: May I have the Court copy, please?

Q. I would like to hand you People's No. 57.

A. Yes.

Q. And ask you, is that work that you did, deal only with the subject of sex as brought out by Mr. Minier, or did it include other subject areas as well?

A. What, I am sorry? Translator.

THE INTERPRETER: (Interpreter explaining to defendant.)

THE WITNESS: No. Here is 21 questions stand out for everybody, and first question --

Mr. LINDSEY:
Just a minute, I haven't asked you that.

Mr. LINDSEY: Your Honor, I am going to ask permission to the Court, if I may, to read the first six and a half pages to put that evidence in proper context if I may?

THE COURT: It is in evidence, isn't it?

Mr. LINDSEY: Yes, your Honor.

THE COURT: You may read it.

Mr. LINDSEY: In this courtroom --

THE COURT: You may read it.

Mr. LINDSEY: Thank you, your Honor. Starting on page one.

THE WITNESS: Yes.

Mr. LINDSEY: Title "Free Sexism by Gourgen Yanikian." "Being an author of many published books and other works (mostly on controversial subjects), I recently found my attention focused on what is perhaps the most discussed subject around the world today -- the younger generation.

"In order to obtain first-hand and authentic material for writing on this subject, I placed an ad in the campus near City College and a State University. The ad stated that persons interested in receiving good pay for an hour's time by giving their honest and frank verbal answers to questions asked in a private poll should send name, age, sex, and telephone number to my post office box address. I guaranteed that no responder's identity would be revealed."

“To my surprise, there were almost 300 persons, those from females outnumbering males, three to one. I wondered if the girls were more curious, venturesome, greedy, or only more eager to talk about themselves than were the boys.” The ages given ranged between 16 and 23, though most were in the 17 to 19 group.”

“It seemed to me that a hundred hours of quizzing and listening should provide more than enough material. But how to select only a hundred names from the motley array of letters spread out on my desk was a problem. I started to solve it by sorting the letters into stacks, according to whether they were from boys or girls; typewritten or handwritten, legible or scrawly, on fancy, ordinary, or scrap paper; laconic (as called for in my ad) or long and autobiographical as if to prove the writer's willingness to answer verbal questions as unreservedly as they responded to the ad.”

“After rereading the letters, I eliminated a few, made subdivisions under some stacks, and shifted the letters around until the one atop each stack indicated take character of those underneath. From then on, I relied more on intuition than on conscious reason in whittling down to less than half the number of letters received. From these I made a list of persons to be called. Whenever I failed in my first attempt to contact one by telephone, the name was scratched from my list.”

“Finally, there remained exactly one hundred young folks -- ninety-eight of them students-- with each of whom I had arranged an appointment for a private interview in my home. The appointments were discretely strung out over a couple of months time; no one failed to keep his or her appointment.”

“Upon each person's arrival, I would introduce myself (sometimes unnecessarily, since many already knew me through my writings) then explain the purpose and nature of the poll, making sure that each one understood and agreed to its conditions before setting started.”

“Accordingly, I took a snapshot which would later be put in my files under its corresponding name and data in the interview. To each participant I repeated my promise to keep all names secret, adding that photos would be destroyed when my work was finished. Though given them advance notice that some question would be of the most intimate kind, particularly prying into their sex life, I assured them that my interest in their bodies was strictly impersonal, that I intended to probe only their minds. The list of questions, prepared in advance, is given below. However, it was seldom necessary to ask all that appear as subheads, for these served only as prompts when the basic question was answered either too abruptly or hesitantly.”

“Number 1.” What if any, are your religious affiliations? Do you believe in God?
In life after death?

“Number 2.” What, in broad terms, do you think is the meaning or purpose of our lives on this earth?

“Number 3.” As a matter of your personal concern, what does the word 'sex' signify?

“Number 4.” (Addressed to either sex) Are you a virgin? If not, describe the circumstances how, why, when, where -- you first had sexual intercourse.

"Number 5---

Mr. MINIER: Pardon me, your Honor since Mr. Lindsey was going to read all the page -- six pages, I think we should have the record indicate that he is leaving out number three, and I assume he will leave out others, so if it could only be indicated when one is left out, I wouldn't have any objection.

Mr. LINDSEY: I will read number three again. "As a matter of your personal concern, what does the word 'sex' signify?"

Mr. MINIER: I am sorry, that was my mistake, I apologize Mr. Lindsey, I had my numbers wrong.

Mr. LINDSEY: (Reading)

"Number 4," again I think I read that one probably.

"Number 5. Do you go steady with one particular friend of the opposite sex, or do you play the field? If you go 'steady' how long or short a time does that represent; that is, do you ever, seldom, or frequently make a change from one regular companion to another? And why?"

Mr. LINDSEY: (Reading) (Continuing)

"6." What physical qualities do you look for or most admire in persons of the opposite sex?

"7." Do you regard yourself as being handsome, beautiful, ordinary, or ugly?

"8. Have you experienced mouth-genitals contact with your sex-partner?

"9." Have you experienced anal stimulation?

"10." Do you use or have you used dope? If so, what kind, how often, how did you get started on it, and do you find it easy or difficult to obtain?

"11." Do you or does your partner use contraceptives? If so, which one should assume the responsibility of providing them? What kind of you prefer? Would you welcome a premarital pregnancy? If so, why?

"12." (Addressed to girl) Have you ever had an abortion? If so, how many?

"13." Do you think the laws pertaining to abortion should be stiffened or liberalized?

"14." When do you feel most satisfied and happy?

"15." What is your attitude towards homosexuals and lesbians?

"16." Are you glad you were born? Grateful to your parents for that fact?

"17." Do you find that the generation gap existing between you and one or both parents is a small crevice or a wide chasm? What are the chances of being bridged?

"18." Who pay for your education? Do you need, or think you do more money?

"19." What are your views in regards to prostitution?

"20." What are your feelings about the unrest, turmoil and violence that are manifested on campuses all around the world today, and particularly as to how your own campus is affected?

"21." What kind of plans are you making for the conduct of your life? What do you want to be, or do? Do you want to be married soon, sometime later, or never?

"The answers obtained from my quiz were so interesting and often so shocking that I couldn't help visualizing their terrific impact upon the public if they were put into action on the screen, rather than published in book form. Since movies

displaying plenty of sex action are what the public obviously demands today, I feel sure my material could be made into a film more revealing in its sex aspect than any other being publicly shown in the United States or abroad. Because all this material is based on fact -- actually, it's a report of the facts of life existing on campus today -- the educational value of a film production should not be underestimated."

"With all my findings assembled and classified, I started to write a scenario, but soon decided this could be done better under the direction of professional movie-makers. However, as I had already divided into three broad sequences the large amount of material at hand, from which the parts best suited for presentation on screen could later be selected, I am setting them down here I II, III, as suggestions for their use."

No. 1. Introduction: Taken from material on preceding pages 1, 2, 3.

Blown-up reproduction of campus newspaper ad. Presentation of reason for placement of ad. Emphasis on fact-finding angle of quiz. Author, role for middle aged or older man, seated at desk. Author is examining letters from stacks heaped up on desk. Author possibly makes phone calls to set dates for interviews. Transition, somehow, made plausible too.

II : II consists of those answers to questions on foregoing pages that lend themselves better to dialogue, than to action.

III: Actions, the most sexy, speak louder than words. In order to inject more action into part II the dialogue may be interspersed with any number of specialty acts, spontaneously put on by some of the talented patrons in a bistro-like cafe. As the cafe is adjacent to campus, no alcoholic drinks are served. Proprietors and operators and most patrons are students. The place has the intimate atmosphere of a students' clubhouse. At the rear, small stage or platform and piano. In front of that, crowded dance floor. Music by radio, on and off. Dialogue presented in snatches between persons dancing, or among others sitting in various side groups at tables, in foreground. Dialogue to be derived from the most interesting facts revealed in the following answers.

'No. I: 90 percent of the youngsters said they believed neither in God nor in life after death. 7 percent were connected with some religious organization, only because of following their parents' wishes; they were unable to state precisely what they believed. 3 percent were active members of a church and firm believers in its teachings.

"No. 2: The opinion of a large majority was that life in the abstract has no overall purpose, but the individual life's purpose is self-preservation, which comes wrapped inside the package of birth. A few said they had never thought about the subject, and couldn't care less.

"No.3 How the young folks personally construed the word 'Sex' is shown in the samples below:"

And they are outlined.

- Q. BY Mr. LINDSEY: Now, Mr. Yanikian, did you write-- make that study, prepare that written report for the purpose of some kind of sexual excitement of either yourself or any other reader of it?
- A. No, for education.
- Q. Putting that publication a little bit more in context, by reading the first six or seven pages does that help to explain better what you are trying to accomplish with that work you were doing?
- A. Yes.
- Q. Now, let me go on to something else, Mr. Yanikian.
- A. (Interposing) But never I did, they offer money, I turn down.
- Q. You never published that, did you?
- A. No.
- Q. You were offered money to publish it?
- A. Not publish they offer money for make movie, I turn down.
- Mr. LINDSEY: May I have that exhibit, please.
- A. BY WITNESS: Never publish, only copy, you know, register three copy, in my suitcase, and nobody read -- nobody read, I'm sorry.
- Q. BY Mr. LINDSEY: All right. Now, you were asked some questions this afternoon by Mr. Minier about that Congressional Act and your contract, and that judgment concerning the Persian Government do you recall that?
- A. Yes.
- Q. Did you, on February 9, 1967, receive a letter from the Department of State, signed by Deputy Legal Adviser, where he sent to you as a part of that letter copies of the Congressional Act that they were talking about?
- A. That's right.
- Q. And has Mr. Minier's office been kind enough to provide us with copies of that letter, and copies of the Congressional Act that the State Department has claimed all these years has made it impossible for them to do anything for you?
- A. Yes.
- Mr. LINDSEY: May I have these marked for identification, please.
- THE COURT: Yes.
- Mr. LINDSEY: May they be marked as a group of three sheets, your Honor.
- THE COURT: Yes.
- THE CLERK: Defendant's Exhibit U.
(Whereupon a document consisting of three pages thereupon duly marked as
Defendant's Exhibit U for identification purposes only.)
- BY Mr. LINDSEY: Mr. Yanikian, I show you, Defendant's Exhibit U for identification and ask you if this is a copy of a letter you received about that February 9th date on there, and if a copy of those two, what appears to be federal copies, or the federal statutes were included with that letter?
- A. Yes.
- Q. Now, Mr. Yanikian?
- A. Yes. What you ask me?
- Q. Was the original of that letter and the copy sent to you by the Department of State at that time among your papers that were seized and taken by the Federal Bureau of Investigation in this case?

A. Yes.

Mr. LINDSEY: May I see them, if your Honor please. I would ask at this time that they may be introduced into evidence as Defendant's Exhibit U.

Mr. MINIER: No objection, your Honor.

THE COURT: Received.

(Whereupon the three-page document thereupon duly received in evidence as Defendant's exhibit U in evidence.)

Mr. LINDSEY: May I now read the letter, if it please your Honor?

THE COURT: Yes.

Mr. LINDSEY: (Reading):

"Department of State, Washington.

February 9, 1967.

"Mr. Gourgen Yanikian, 74 Chase drive,
Santa Barbara, California."

A. BY WITNESS: My home was there.

Mr. LINDSEY: (Reading):

"I have received your letter of January 5, 1967, referring to our earlier correspondence on the subject of your claim against the Iranian government. You indicate your belief that United States Foreign Aid Assistance legislation bars, assistance to foreign countries owing money to a United States citizen and that Iran is subject to such a restriction on the basis of your claim."

"While our earlier correspondence with you and your counsel was primarily directed to the question whether there was an International Law basis for the United States government to press your claim against Iran, we also have kept in mind the requirements of our Foreign Assistance legislation. We have been unable to conclude from the materials made available to us so far what yours is a case falling within that legislation."

"We will be happy to reconsider the matter if you wish, but we are uncertain from your letter precisely what legislative provisions you believe applicable and why. If you are focusing upon section 620C of the Foreign Assistance Act of 1961, as amended, the material you have provided thus far has not been addressed to that provision in any detail; and we would appreciate receiving from you a statement regarding the applicability of that section. For your assistance I am taking the liberty of sending you the text of Section 620C."

Now, 620C is a short paragraph, which they have attached, which reads as follows:
(Reading):

"No assistance shall be provided under this Act to the Government of any country which is indebted to any United States citizen or person for goods or services furnished or ordered where, first, such citizen or person has exhausted available legal remedies which shall include arbitration or, second, the debt is not denied or contested by such government, or, third, such indebtedness arises under an unconditional guaranty of payment given by such government, or any predecessor government, directly or indirectly, through any controlled entity: provided that the President does not find such action contrary to the national security.

Q. BY Mr. LINDSEY: Mr. Yanikian, did you read that section when you got this letter?

A. Sure.

Q. Did you find anything in that section that led you to believe that the United States government could not have helped and assisted you in as a citizen, or a person?

A. Surely. My Citizen they no tell when born, they no tell when they owe you, under what International Law-- any citizen. Only if President United States can stop, and despite the fact that they told, we no have -- they have all documents, I send them again, all 20, 24 pages, I give copy, here with letter -- already you have these all, but now I am sent. But then only I no ask money from them. I ask them use this law.

Q. Now, let us turn our attention to another matters you were asked by Mr. Minier whether you had ever told either Mr. Baker or Mr. Norton in those tape recording discussions that you had with them on the afternoon of January 27th --

A. (interposing) Never I know that they record.

Q. Just a moment. Whether you have told them in those conversations as to whether you were struck with a chair before or after?

A. Yes. I told, before.

Q. Wait?

A. You no finish?

Q. Let me finish, -- I am not Mr. Minier.
Now, you remember being asked those questions by Mr. Minier?

A. Yes.

Q. Just yes or no,

A. Yes,

Mr. LINDSEY: May I have the exhibits please, that is the court record of the one of Mr. Baker, I believe it would be 51 -- Exhibit 51.

Mr. LINDSEY: Your Honor, may I ask permission, and for the record to read on that report shortly after the middle of page 12, and over to a line or two beyond the middle of page 13?

THE COURT: All right.

Mr. LINDSEY: Mr. Baker was asking you these questions, and you were giving these answers as shown on the tape, and on the official transcription here.

"Baker": Were you standing up when you shot the parabellum?

"A." Oh, yes.

"Q." You had gotten up from the bed, you went to get the book --

"A." Yes.

"Q." You opened tire book, took the gun out--

"A." Yes.

"Q." They started coming towards you --

"A." Yes.

"Q." Did you say anything to them, that I am going to kill you, or I am going to shoot you?

"A."No, I told before.

Mr. "CROOK": What did they say to you when they saw the gun?

"A." Why. We given you everything to you.

"BAKER": Did you tell them you were going to kill them?

"A." Yes.

"BAKER": Before they hit you with the chair?

"A." Yes.

"BAKER": Is that why they hit you with the chair?

"A." No. After hit chair, I told, now, you know, you are going too far. They call me by name, you know, so and so.

"BAKER": What did they call you?

"A." They called, you Armenian son-of-a-bitch.

"BAKER": Was this after you said you were going to kill them? Did you say how you were going to kill them?

"A." No.

"BAKER": Did you say that you were going to shoot them?

"A." No. After this I went open Who is Who, take it out.

"Mr. CROOK": Was it after the remark, then, that you opened up Who's Who and shot them?

"A." Pardon me?

"Mr. CROOK": It was after they called you names?

"A." Yes. Armenian son-of-a-bitch.

"Mr. CROOK": And then you -- did this make you angry When he called you that?

"A." Sure, make me angry. I told, you killed two million people. You know what one told? Too bad we no cut all. I told, okay, now you know who I am.
Now I will kill you."
Do you remember that?

A Yes, I remember.

Q. Now, you were also asked by Mr. Minier whether, in the same time of any of those discussions, you ever made any mention of your brother, remember that?

A What?

INTERPRETER: (Explains to defendant)

THE WITNESS: Yes.

MR. LINDSEY:

Q. Did you in fact mention to them about your brother during those conversations?

A. Yes.

Q. Does that appear in the official transcripts that have been introduced as a part of the prosecution exhibit in this case?

A. Yes.

Q. Now, let me turn on another matter.
Mr. Minier asked you this morning about a series of books that you have written?

A. Yes.

Q. Starting, with Judas of Iscariot, Voice of An American, a number of other publications?

A. That is right.

Q. Remember that?

A. Yes.

- Q. He asked you in essence whether all those books, and those plays, and all the rest that you referred to, you had made any reference at all to the subject of Turkey or to the subject of massacres, do you recall that?
- A. Yes.
- Q. Now Mr. Yanikian, did you have, during the last 25 years, other publications and writings that you were engaged in on the subject specifically of Turkey and of the massacres?
- A. Yes.
- Q. Did you produce or write written articles for publication in newspapers around the world on the subject of Turkey
- A. Yes, articles.
- Q. I'm not Mr. Minier, now. Did you produce articles for publication around the world and newspapers on the subject of Turkey and the massacres?
- A. Yes.
- Q. And were there copies of these articles among your papers seized by the FBI?
- A. Yes.
- Q. No, no, you must let me finish.
Were there copies of those articles among the papers that you had that were seized by the FBI in this case?
- A. Everything what I wrote, published, around the world, here, French, Germany, all around. I have special--
- Q. Listen to my question.
Were there copies of those articles pertaining to the subject of Turkey and the massacres in the papers seized by the FBI?
- A. That is right. Special record I have.
- Q. Were you then engaged during the last 25 years, in part, in your writings and publications on--
- A. Yes.
- Q. --on the subject of Turkey and the massacres?
- A. Yes.
- Q. You also mentioned about the radio. During the last 25 years, have you also devoted portions of your time without charge to radio broadcasts on the subject of Turkey and the massacres of the Armenian people?
- A. Yes.
- Q. Was that in Fresno?
- A. Yes.
- Q. Was that on an Armenian radiostation?
- A. Yes.
- Q. How long a period of time did you engage and spend your time without compensation on broadcasts pertaining to the subject of Turkey and of the massacres?
- A. May I explain you?
- Q. Just yes or no. If it needs explaining, you can.
- A. Yes. But why? Because--
- Q. Let me ask you this.
- A. Yes.

- Q. Over what period of time
- A. Two years.
- Q. Over two years period of time?-
- A. Yes.
- Q. How often?
- A. Twenty minutes, fifteen minutes, every week.
- Q. For two years?
- A. Yes. One year six months eight months like this. How long I live there.
- Q. Did you also engage in ads at times – payment of ads on this subject, any publications of any kind on the subject of Turkey and of the Armenian massacres?
- A. Yes.
- Q. Then Mr. Yanikian, the books that Mr. Minier referred to was not the only production and writings that you had, was it?
- A. No.
- Q. So that on this subject of Turkey and the massacres, you would have to look at the rest of your publications to find it?
- A. Yes.
- Q. Did you also have occasion, Mr. Yanikian, in the last 25 years, to write letters year after year to the editors of different papers around the world on the subject of Turkey and the massacres?
- A. Yes.
- Q. Did you also have occasion at your own expense to make speeches at the public gatherings and meetings of people of different groups on the subject of Turkey and the massacres?
- A. Yes.
- Q. And what was it that the Turks down at the Biltmore offered you \$5,000 for, Mr. Yanikian?
- A. That I stop writing and insulting them. "We are now friends. You give to us, this we give you two decorations and \$5,000. You will stop." Then start our argument.
- Q. Had you also been a writer of poetry?
- A. What?
- Q. Poetry?
- A. Lots of.
- Q. Has the writing of that poetry been directed often against Turkey and on the subject of Armenian massacres?
- A. Yes.
Some addressed to our State Department when they went to Turkey, after they came back in Washington make speech, put lots of poetry and publish in Boston magazine they can read what I call them..
- Q. Has some of your most barbed writings against Turkey and the Armenian massacres been in the form of poetry that has been published in newspapers in different parts of the world?
- A. Around the world, yes.
- Q. Is that a part of what these Turkish officials in Santa Barbara wanted to get you to stop doing?
- A. Yes.

Q. And there was a mention this morning in your answer to Mr. Minier about the Mark Twain award you had.

A. I am sorry, you no ask where is this poetry. Where is book with poetry.

Q. Well let me ask it.

Mr. MINIER: Your Honor, I think I will object.

There is a very strange difference here, I am going to object that Mr. Lindsey is obviously leading. He asks, he gets an answer, after a few words stops him. It is quite different from my questions and answers of Mr. Yanikian, and I would request that Mr. Lindsey not be allowed to cut off his witness, to start him and to stop him at will. It is obviously leading. I don't think it should be allowed.

THE COURT: I think it expedites the matter generally, and I am in favor of it.

Mr. MINIER: I was earlier, also.

Mr. LINDSEY: I think I have better control. I appreciate it, your Honor, I am trying.

THE COURT: I think that's all it amounts to.

Mr. Yanikian knows his own counsel, and doesn't know you.

THE WITNESS: I am sorry, your Honor.

THE COURT: That's all right, just follow your attorney's directions.

You are doing much better.

THE WITNESS: I am sorry.

Mr. LINDSEY:-

Q. You are the witness, and I am the lawyer, right?

A. I think so.

Mr. LINDSEY: May I have a copy of the Mark Twain matter please.

Q. Mr. Yanikian, did you receive a Mark Twain award in past years for one of your publications?

A. Yes.

Q. What publication?

A. Triumph of Judas.

Mr. LINDSEY: May I have one moment, your Honor.

Q. What is the Mark Twain award, Mr. Yanikian?

A. I am sorry.

Q. What is the Mark Twain award?

A. Mark Twain, I think he is famous American

THE INTERPRETER: No, award. (Explaining to defendant)

THE WITNESS: Like an Honorary member this society. They send diploma.

Mr. LINDSEY:

Q. Among the papers that were taken at the outset of this case into the custody of law enforcement, were there included the records pertaining to the International Mark Twain Society?

A. Yes .

Q. And has Mr. Minier's office been kind enough to make available copies for use in the trial of those records?

A. Yes.

Mr. LINDSEY: May I have these next two items marked for identification, your Honor?

THE COURT: Yes.

Mr. LINDSEY: May they be marked as one exhibit, your Honor.

THE CLERK: Defendant's Exhibit V.

(Whereupon a two-page document thereupon duly marked as defendant's Exhibit V for identification purposes.)

Q. BY Mr. LINDSEY: Do you recall the question of Mr. Minier this morning that perhaps that book Triumph of Judas Iscariot might have had some disrepute of some kind?

Mr. MINIER: Objection, your Honor. That assumes a fact which is only not in evidence, it is not true. There was never any such inference.

Mr. LINDSEY: I withdraw the question.

Q. Mr. Yanikian, let me show you Defendant's Exhibit V for identification and ask you if you can recognize those?

A. (Witness examining Exhibit) Yes.

Q. Is it a letter you received from, the Mark Twain Society, and also a copy of the Honor itself, or the certificate itself?

A. That's right.

Mr. LINDSEY: May we ask, your Honor, if this may be introduced as defendant's Exhibit next in evidence.

Mr. MINIER: No objection, your Honor.

(Whereupon the two-page document duly received in evidence as Defendant's exhibit V.)

Mr. LINDSEY: May I read it, your Honor. It is very brief.

THE COURT: All right.

Mr. LINDSEY: The heading is "International Mark Twain Society", dated October 20, 1950.

"Dear Mr. Yanikian:

We are pleased to inform you that you have been nominated to the Honorary membership, upon your acceptance the award will be made and the certificate of Honorary Membership issued by the Board of Directors in your name. There are no dues or assessments. With kind personal regards and all good wishes, I am cordially

Yours, Cyril Clemens."

It is signed by Cyril Clemens, President.

It also indicates in the letterhead the names of Winston Churchill, the Duke of Windsor, Jan C. Smuts, W. L. Mackenzie, Harry S. Truman, Clement R. Attlee, David Lloyd George, Franklin D. Roosevelt, George Bernard Shaw, Claire Booth Luce, Lady Nancy Astor, Herbert Hoover, among the honorary positions, and a list of other names that I will skip.

Page 2 has the heading, "The International Mark Twain Society. This certifies that Gourgen Yanikian is an Honorary Member of this Society. Cyril Clemens, President. November 27, 1950."

Q. BY Mr. LINDSEY: Mr. Yanikian, did you receive this certificate as a result of that book that you wrote, The Triumph of Judas Iscariot?

A. Yes.

Q. Let me turn to another subject, the matter that you asked about with regard to that diploma thing that you had, or Doctor of Divinity, do you recall the questions put to you by Mr. Minier earlier?

A. Yes.

Q. Did you, during the last 25 years, Mr. Yanikian,--

A. (Interposing) What?

Q. Did you, during the last 25 years,--

A. (Interposing) Drink?

THE INTERPRETER: (Explaining to witness.)

Q. BY Mr. LINDSEY: Did you, during the last 25 years, devote a portion of your time to trying to help young people in their relationships?

A. All my life.

Q. As a part of that did you obtain one of those certificates that authorized you to do certain acts?

A. Yes .

Q. The place from which you obtained that certificate is it a valid authority to issue those certificates?

A. Yes.

Q. Was your certificate legally valid in California ?

A. Yes.

Mr. MINIER: Objection, your Honor, that calls for a conclusion of law that obviously this witness is not able to answer.

THE COURT: Sustained.

BY Mr. MINIER: Did you as a result of the work that you were doing with young people, and in connection with that certificate that you have, perform marriage ceremonies when requested to do it?

A. No ceremony -- but marry, yes without ceremony.

Q. And did you issue certificates?

A. Yes.

Q. Marriage certificates?

A. Yes.

Q. Did you sign your name on them?

A. Yes.

Q. Were those certificates recorded right upstairs in this very courtroom in the County Clerk's office of the County of Santa Barbara?

A. Yes.

Q. And are there several certificates?

A. Yes.

Q. That you issued for the marriage of young people in this area?

A. Yes.

Q. Did you ever get one penny for doing that, Mr. Yanikian?

A. One white flower.

Q. And to your knowledge was there ever anything illegal or wrong?

A. No.

Q. Or questionable or suspect?

A. No.

- Q. In what you were doing?
- A. No, is perfectly normal. Read the newspaper, read newspaper, everybody do same. And I specially pay \$20 for help these people.
- Q. Now, let me turn to another subject, you were asked by Mr. Minier during the last many years here in Santa Barbara, you had spent a portion of this time in the subdivision, do you recall that?
- A. Yes.
- Q. How much did it cost you in cash Mr. Yanikian, for the care of Mrs. Yanikian?
- A. \$150,000.
- Q. Was the work that you did in that subdivision, did that go any substantial way to pay that 150,000?
- A. Yes I take from job and pay.
- Q. Was that subdivision in part also to try to keep you going in your own needs and in addition to meeting the needs of your wife?
- A. Not now--I did before.
- Q. Mr. Minier brought out, as a matter of fact, in the last three or four years or so your financial situation has become such that you are on welfare.
- A. No secret.
- Q. Is that something that you are ashamed of, Mr. Yanikian?
- A. No, Santa Barbara receive half a million dollar already from my subdivision, -- Yanikian lose his subdivision, Santa Barbara receive half million dollar already, every year they have \$50,000.
- Q. Mr. Minier brought out also when he was questioning you that a lady that had been kind to you, Mrs. Helen Rettig, also compensates you \$50 a month?
- A. I am sorry, I take from her \$3,000, after I give back. I take \$25,000, give back, When I needed cash money, quick, today, she give all time, and no receive nothing. Is friendships she in a lady. She is American lady.
- Q. And is there anything either belittling, Mr. Yanikian, to your knowledge, or disreputable, or discreditable--
- A. (interposing) No.
- Q. (continuing) In that?
- A. No. Because I ask Welfare Department that I cannot live with this sum, because I not -- want live like human, but people who know me, they know that I will receive money -- can I borrow some place for pay? I have official letter from Welfare Department signed, yes, Mr. Yanikian, you can borrow, any place where you want, and I borrow there -- I borrow in the bank, and I owe bank now -- no secret, I no care, no secret.
- Q. Has the money that has been advanced to you by Mrs. Rettig gone in the form of loans to you then?
- A. Yes is loan -- not first time. Sometime I take \$25,000, and I pay back. And without signature -- no note, nothing.
- Q. Let me turn your attention to another subject. You were asked by Mr. Minier about the differences in the members of your family that were killed in the past.
- A. Yes.
- Q. Now, were there some of those family members that were killed during the Russian Revolution.

- A. Yes.
- Q. Did the Russia that has grown up today, was that the result of the Bolshevik revolution during which some of your members were killed?
- A. Yes.
- Q. Are there some members of your family today still behind what we have come to know as the Iron Curtain?
- A. Yes.
- Q. And are you, Mr. Yanikian, concerned and have been since the Bolshevik Revolution that those members of your family be protected from retaliation by the Russian government?
- A. Yes.
- Q. And if there has been a difference in the figures of the number of family members killed, has this been related to your desire to protect the members of your family?
- A. Sometimes in my -- other exhibit in my book, "Voice of America." you have nothing to think about my family killed -- when I can read, I take out this. You can read my biography -- same book, I told them take out, because is publish here in Santa Barbara - I can supervise it, and take out. I don't want anybody mention. It was all the world know that I don't like communists, and the same, they know themselves, but my not liking is not something different-- something different, they know, But despite the fact, I have friend -- some friend there.
- Q. Now I return your attention to another subject.
Do you recall Mr. Minier, during much of his questioning, kept referring to a map, and that map is identified as People's Exhibit 51 -- I see it is still for identification; do you recall that?
- A. Yes.
- Q. And that map was used in your questioning to cover many of the areas in that eastern part of Turkey, do you recall that?
- A. Yes.
- Q. Do you remember you made requests from time to time to use a more accurate map to help illustrate your answer, do you recall that?
- A. Yes.
- Q. Is that map around this courtroom that would have been much better to illustrate the answers that you were giving to Mr. Minier?
- A. Yes. Because I can understand much better. Is same map, but more bigger and fixed.
- Mr. LINDSEY: May we have a moment for the map, your Honor, please. Would you recognize the map that you prefer to use?
- A. Sure.
- Q. Incidentally, while the map is being obtained, what is this little item I have here?
- A. Armenian flag, 1700 years.
- Q. Has that been the Armenian flag for 1700 years, Mr. Yanikian?
- A. Yes. And by meaning—
- Q. What is the meaning of the colors in that flag?
- A. Red is Sun, Blue is Water, this is bread.
- Q. The orange?
- A. Yes.

Mr. LINDSEY: May we ask if this may be introduced, your Honor, as defendant's Exhibit next in order?

THE COURT: All right. Now, this map you are about to refer to is not in evidence, is it?

Mr. LINDSEY. If not, your Honor, I would ask that it be marked for identification, and then we would ask --

THE COURT: I am wondering if this is proper rebuttal testimony, the fact that the witness may have preferred to use another map doesn't mean that Mr. Minier wasn't privileged to use the map that he wanted to use.

Mr. LINDSEY: Well, your Honor, in order for me--

THE COURT: How is it proper rebuttal?

Mr. LINDSEY: For me to take Mr. Yanikian back over and correct or to otherwise explain the answers that he gave, in part, using that map up there, I can more adequately do with this map that he asked to use.

THE COURT: All right.

Mr. LINDSEY: I would also suggest that this is the map that he requested,

THE COURT: You may use it. The fact that he requested to use another map, does not mean that the District Attorney has to use the map that he wants to use.

Mr. LINDSEY: I didn't want to be limited to Mr. Minier's map when I questioned Mr. Yanikian on the same subject.

THE COURT: All right, put it on.

THE CLERK: If the Court please, may I have a clarification on the flag; was that to be in evidence?

Mr. LINDSEY: In evidence.

THE CLERK: Defendant's Exhibit W.

(Whereupon the above described exhibit was thereupon received as Defendant's Exhibit W in evidence.)

Mr. LINDSEY:

Q. Now Mr. Yanikian, resume the stand.

I believe this morning you were asked, in part, whether the massacres of the Armenian peoples --

THE COURT: What was the question, I didn't hear it.

Mr. LINDSEY: Maybe I can rephrase it this way. I was trying to at least lay a foundational comment.

Q. Do you recall this morning being asked, by Mr. Minier, about perhaps reasons for the massacres of the Armenian people?

A. Yes.

Q. Do you recall also -- do you recall one area of questions pertaining to the subject of the fighting between Russia and Turkey?

A. Yes.

Q. And then perhaps Turkey was just engaged in defending itself, do you recall that?

A. Someplace, yes.

Q. Now, Mr. Yanikian, with reference now to the map that we placed on the board, can you indicate where the boundary line was, to your recollection, in 1915 between Turkey and Russia?

A. 1915?

- Q. Yes.
- A. 1915?
- Q. Yes .
- A. (Pointing on map.)
- Q. You have indicated the border area up there?
- A. Yes. Green, until is Persia. This Russia, this Turkey here.
- Q. Where was Kars in 1915?
- A. What time?
- Q. Kars in 1915, Russia or Turkey?
- A. No, Russia, I am sorry, Kars is Russian here. Line was here. Kars here. Here this line. 1915 when war start, Kars was in the Russian.
- Q. Mr. Yanikian, what is your understanding of the number of Armenians killed in 1915?
- THE COURT: That is not proper rebuttal. That has been gone into on direct examination.
- Mr. LINDSEY: Maybe I can rephrase it this way.
- Q. Were the peoples -- or the Armenian peoples that were massacred only in the area where the Russians and the Turks--
- A. All around Turkey.
- Q. Would you indicate it on the map?
- A. (Indicating.) Istanbul, Ankara, rule all around.
- Q. And in all these areas -- Constantinople, Ankara -- were there any Russians fighting the Turks in those areas?
- A. Yes. Despite the fact in Turkish army we have 60,000 Armenian who fight with Russian. Here massacre all around.
- Q. Were the massacres occurring, then, in 1915 in many locations great distances from where the Russians and the Turks were fighting in the military?
- A. Yes.
- Q. Do you have any knowledge or belief, Mr. Yanikian, from all that you have known in the past years and up to the present time, that Turkey at any time was engaged in defending itself against Armenians?
- A. Turkey defending himself against Armenians?
- Q. Yes.
- A. In the Erzerum they kill 1,200, Armenian, wounded 400 Armenian, seven Turk killed. Who defend whom? Who killed whom?
- Q. You were also asked in this area, I believe, about the invasion of Turkey by Greece, do you recall that?
- A. Yes.
- Q. Do you recall being asked this morning, I believe, that at one point in time that Greece had invaded Turkey, do you recall that?
- A. No, Greece went for protecting their people who was killing also.
- Q. Mr. Yanikian—
- A. They want go Turkey for protect their Greek people, because Turk killed Greek too. Is not only Armenian kill. Killed Armenian, Greek, Jewish, Balkan.
- Q. Mr. Yanikian, resume the stand.

Do you recall being asked also that when Greece invaded Turkey that the eastern -- the Turkish Army in the east of Turkey separated away and tried to become independent by itself, do you recall those questions?

A. Yes.

Q. Now, did that separation away by the eastern Turkish Army, did that cause the Armenian massacres to take place?

A. Yes, all time. Separation declare, you know, is -- what is name, Kemal, he went to Erzurum come after Ankara he organize his government, after he move Ankara already no Armenian.

THE COURT: Will you attempt to limit your client's answer to the question, please, Mr. Lindsey, as you have been up 'til now. These are questions that can be answered more briefly.

Mr. LINDSEY:

Now, Mr. Yanikian, do you recall also being asked of another possible explanation for the massacres that were somewhere around 1915, may be about February of 1915, some persons who might be or were nominated this morning as Armenian revolutionaries had held a meeting, do you recall those questions?

A. Yes.

Q. Was there a meeting in the early part of 1915 by some of these persons?

A. Maybe. I think they have some meeting with Kemal himself, because Kemal himself was declared himself communist and he have Red army and he meet there for talk.

Q. Now, to your knowledge and belief, based upon all that you know and experienced from your being in that eastern Turkish area in 1915 and 1916--

A. Yes.

Q. -- and to that approximate time, were the massacres of the Armenian people caused by the Armenian revolutionary persons?

A. Massacre cause Armenian revolution? Armenian revolution came--

Q. Just answer yes or no.

A. No. What you asking that massacre did Armenian revolution.

Q. Were the massacres the result--

A. No.

Q. --of any actions by the Armenian--

A. No.

Q. Were the Armenian revolutionaries trying to protect their own people?

A. That is right.

Q. Against the Turks?

A. Not only -- from America he came. American send money, American send bread --

Q. You were also asked this morning, of perhaps another reason for the massacres of Armenian people was that the Turkish government viewed some actions by some Armenians as acts of treason, do you recall those questions?

A. Yes.

Q. And the treason that was used this morning --

A. Yes. May I ask explain I will this.

Q. No.

A. No. I heard treason.

Q. Do you have any knowledge or belief, Mr. Yanikian, from all the time, and what you experienced and what you have studied over there, that if such was any concept of treason, why, women and children were butchered and killed by the Turks?

A. Why?

Mr. MINIER: Objection, your Honor. I think that this question assumes facts that are only in evidence through the testimony of—

THE COURT: (Interposing) Sustained.

Q. BY MR, LINDSEY: Mr. Yanikian, in all of the time .that you were in that eastern Turkish area --

A. Yes.

Q. Did you ever hear of any single instance when any Armenian person was accused by any Turkish government official of treason?

A. No. In the history we no have any Armenian who was killed -- massacre.

Q. I just want to know about treason.

A. No.

Q. Has this accusation by the Turkish government of treason been a recent accusation?

A. For their protects.

Q. Is this a part of what your concern has been in recent years of the Turkish government policy?

A. Yes.

Q. To try to blame the Armenians for what had happened by accusing them of treason?

A. That's right.

Q. You were asked about the deportation orders. Do you know of any reason, whether treason or otherwise, for the Turks to have deported the Armenians as they did into the desert area?

A. Because they told we are not Turk, -- without Armenia, without any Christian.

Q. Mr. Yanikian, was there in Turkey at one time a policy, a policy generally that could be called a Holy War policy?

A. Holy War? What you mean?

THE INTERPRETER: (Translating to witness.)

BY Mr. LINDSEY: Just yes or no.

A. Declare --

Q. (interposing) just yes or no.

A. Yes -- yes.

Q. Was there, to your knowledge, at the highest levels of the Turkish government a determination made that all Christian persons, including Armenians, were to be eliminated?

Mr. MINIER: Objection, your Honor

A. BY WITNESS: Yes.

Mr. MINIER: Object on the ground that it is leading. Mr. Lindsey has been testifying now for some time rather than the witness.

THE COURT: Yes; sustained. I permitted that on question that I didn't consider -- on questions I thought it was proper, but when you get into something like this --

Mr. LINDSEY: Yes, your Honor.

Q. Mr. Yanikian, was there a declaration issued by the Turkish government pertaining to religion?

A. Yes, Holy War, they declare.

Q. All right. Now, against whom was that declaration made?

A. Against all Christians, especially Armenia.

Q. Balkan people?

A. Huh?

Q. Against Balkan people?

A. Balkan? -- no, only the Turkey, I don't know what time is -- not Turkey, because Balkan have their government, -- but not Turkey.

Q. Mr. Yanikian, in all the time that you were in that eastern Turkish area, was there any reason that you ever knew of on the part of Armenian Christians to cause a Holy War to be declared upon them by the Turkish government?

A. Not my knowledge, no, -- never. On the contrary, they are very good citizens. They fight with Turkish Army against French.

Q. Now, you were also asked this morning, or maybe yesterday afternoon, that perhaps another reason had to do with weapons being obtained by some Armenian people, maybe the revolutionaries, do you recall that?

A. Yes.

Q. Were weapons obtained by Armenian people at one time in that Middle East?

THE INTERPRETER: (Translating to witness.)

A. No.

Q. Just yes or no.

A. No, the Russian never did anything, -- the Russian.

THE COURT: No, is all you want.

A. BY WITNESS: No.

Q. BY Mr. LINDSEY: Did any Armenian peoples obtain weapons to engage in war against Turkey?

A. No. They have weapon for protect their family, their villages.

Q. Did those weapons come only from Russia?

A. No, from America, too.

THE COURT: That has all been testified to by the witness on the cross examination, this part.

Mr. LINDSEY: Your Honor, but the problem is --

THE COURT: Well, then it isn't proper rebuttal if you are simply repeating what he is already saying.

Q. The next question, Mr. Yanikian, in all of the time that you were in that area, did you ever see or hear, or have any knowledge of any kind whatsoever that the possessing of weapons by any Armenians was a cause for the massacres that occurred?

A. Possession weapons Armenian for what?

THE INTERPRETER: (Translating to Witness,)

A. BY WITNESS: No, no, if they have weapon, they cannot make massacre.

Q. BY Mr. LINDSEY: Do you recall the question this morning carrying the history of Turkey on right into 1951, in the NATO organization, do you recall that?

A. Yes.

Q. Now, Mr. Yanikian, do you recall you were also asked about the Republic of Turkey being formed in October 1923?

A. Yes.

Q. In 1923, two years after that new government was there, were massacres of other people still being committed by the Turks?

A. Yes.

Q. In 1941, in World War II, were they still deporting Christians and Jews.

A. Yes, but no left Armenia -- Armenian left also, in Constantinople-- Armenia -- no Armenia.

Q. And as late as 1956 was the Turkish government still engaged in certain acts?

A. Still today, too, they doing today, too. Now, one part Armenia they taken from Constantinople and sending to-- is desert for die, today.

Q. So these matters that you have knowledge of even up until recent times?

A. All time.

Q. Has this had a part in your thinking about the two government representatives down there at the Biltmore Hotel, and what they represented?

A. Yes, surely. They represent the government who doing it today, even today in '73.

Q. Now, Mr. Yanikian, you do recall a number of questions about the events, this is in 1915-1916 in Van, Kars, and in through that area; do you recall that?

A. Yes.

Q. Now, have you had since back in that time in 1915 certain beliefs and understandings in your mind as to what happened in that area, and the causes of them?

A. Yes, surely.

Q. And as a part of those beliefs and understandings come from a book entitled Ambassador Morgenthau's Story?

A. That's right.

THE COURT: I ruled on that, Mr. Lindney. I am not going to change it.

Mr. LINDSEY: Your Honor, I would like to have the book at least marked for identification.

THE COURT: You may do that.

THE CLERK: Defendant's Exhibit X.
(Whereupon a book entitled Ambassador "Morgenthau's Story" duly marked as Defendant's exhibit X for identification purposes only.)

Q. BY Mr. LINDSEY: Is this the book that you had translated ,yourself at your expense into Russian, and also in French?

A. No myself, I pay for translation.

THE COURT: That inquiry, is not relevant. I would have to interject myself into this case, gentlemen, but I am not going to let that book in evidence, so any inquiry regarding the book is totally irrelevant, unless you want to make it as an offer of proof, in which case it ought to be done in the absence of the jury.

Mr. LINDSEY: I had only one chapter I am concerned with that deals with this area, your Honor.

THE COURT: No inquiries are going to help you any except in the way of an offer of proof, which if you wish to make, you certainly will be permitted to make in the absence of the jury.

Mr. LINDSEY: In view of the line of questioning by Mr. Minier this morning, I would like to make that offer of proof, and if desired, outside the presence of the jury, on the theory, in view of the questioning, your Honor,

THE COURT: All right.

Ladies and gentlemen of the jury, it is your duty not to converse among yourselves or with anyone else on any subject connected with the trial, or to form or express any opinion until the cause is finally submitted to you.

You are excused until 10:00 a.m. tomorrow morning.

(Whereupon, at 4:30 o'clock p.m. this date, the jurors were excused until the hour of 10:00 o'clock a.m., Friday, June 22, 1973.) 1696

(OUT OF COURT PROCEEDINGS)

(Whereupon the following proceedings had outside the hearing and presence of the jurors, as follows:

THE COURT: How long will this take, gentlemen?

MR. LINDSEY: Not more than just a minute or two, your Honor. It will be very brief.

THE COURT: All right. I believe all members of the jury and alternate jurors are absent.

Mr. LINDSEY: Your Honor, my offer of proof is this. First of all the basis of it is that Mr. Minier questioned Mr. Yanikian --

THE COURT: (Interposing) That is something to tell the Appellate Court, don't tell me. I have already ruled.

Mr. LINDSEY: Your Honor what --

THE COURT: (Interposing) What are your reasons why you think I ought to change my mind. I am not going to do it in this case, but just make your offer. Just make your offer what it is you want to prove.

Mr. LINDSEY: The offer I want to prove, your Honor, is that Ambassador Morgenthau's book, and he was the official Ambassador of the United States to Turkey during the time that Mr. Minier in part questioned Mr. Yanikian about times and events in that area of eastern Turkey, and for which there has been an impression I submit, left on this jury about whether Mr. Yanikian either knows what he is talking about, or may in fact be twisting the history, and I want to be able to present to the jury Chapter 13 of that Ambassador Morgenthau's Story in which Ambassador Morgenthau details the events in that area specifically.

THE COURT: Chapter 13 would be a part of the record. Offer the book in evidence. Mr. Minier will object to it. I will sustain his objection. You have the book as a part of your record, so the Appellate Court can take a look at Chapter 13. No point in your telling us what Chapter 13 said.

Mr. LINDSEY: No. The purpose, your Honor --

THE COURT: (Interposing) I have a general idea what it says. That is sufficient for the purposes of my ruling.

Mr. LINDSEY: It reviews in detail the cause being entirely by the Turkey and not otherwise.

THE COURT: I am sure that there are many books that take that position, just as there are probably many that take the absolute contrary position, and I am not going to get in this trial into a battle of history books on the cause of this controversy and this is the basis for my ruling. However, you now have your record complete, and if

I have made a mistake in excluding this book from the jury's attention, you are in a position to fully demonstrate that mistake to the Appellate Court.

Mr. LINDSEY: Your Honor, for my record, if I would be permitted, this is merely an offer of proof, that from this book I would read the one paragraph -- the preface to Woodrow Wilson by the author.

THE COURT: No, I am not going to permit that. It is all a part of the record.

Mr. LINDSEY: I understand, but this is merely my offer, your Honor,

THE COURT: There is no jury here.

Mr. LINDSEY: Yes. This is my offer of proof, I want for my record so that the Appellate Court would know.

THE COURT: You want to say what part of the book you wish to read?

Mr. LINDSEY: Yes.

THE COURT: Well, that's all right.

Mr. LINDSEY: If I were permitted, your Honor, I would desire to read the one paragraph prefaced by the author to Woodrow Wilson, which is just before the preface itself, there is a preface by Henry Morgenthau dated October, 1918, and in Chapter 23, which runs from page 293 -- well, runs over to 300. It is approximately seven pages, and then it is entitled 'The Revolution at Van.' And my purpose is to show in those seven pages from the Ambassador's book the event that occurred and the causes and reason, and this would be my offer of proof.

THE COURT: All right.

Mr. LINDSEY: Your Honor, I have nothing more to present at this time.

THE COURT: 10:00 o'clock tomorrow then, gentlemen.

(Whereupon the out of court proceedings thereupon concluded.)

(Whereupon all proceedings adjourned until the hour of 10:00 o'clock a.m., Friday, 22 June, 1973.)

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