

NEW YORK STATE SPECIAL COMMISSION ON ATTICA

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In the Matter of the :

Public Hearings :

at :

NEW YORK, NEW YORK :

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Channel 13/WNDT-TV
433 West 53rd Street,
New York, New York

April 21, 1972
10:30 a.m.

Before:

ROBERT B. MCKAY, Chairman,

MOST REV. EDWIN BRODERICK,

ROBERT L. CARTER,

MRS. AMALIA GUERRERO,

AMOS HENIX,

BURKE MARSHALL,

WALTER N. ROTHSCHILD, JR.,

MRS. DOROTHY WADSWORTH,

WILLIAM WILBANKS,

Commission Members

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ARTHUR L. LIMAN,
General Counsel

MARC LUXEMBURG,
Deputy General Counsel

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MR. McKAY: This is the morning session of the public hearings of the New York State Special Commission on Attica.

We begin to day with the eighth day of our hearings.

Mr. Liman, are you ready to proceed?

MR. LIMAN: One moment.

MR. McKAY: They put us on a little earlier than we had anticipated.

A R T H U R E V E, having been duly sworn by Mr. McKay, was examined and testified as follows:

EXAMINATION BY MR. LIMAN:

Q Would you state your full name for the record?

A Arthur O. Eve.

Q What is your occupation?

A Member of the New York State Assembly,

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1 first going in.

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2 I had been invited a number of times after-
3 wards by the inmates to be the principal speaker for
4 various graduations, be it the high school equivalency,
5 D.V.R., the Dale Carnegie Program. I have also been
6 out there to meet with the inmates on grievances, and
7 so forth, and I tried to correspond with any inmate
8 who wrote me.

9 Q Had you met with this superintendent,
10 Mr. Mancusi, before?

11 A Yes, I met with Superintendent Mancusi
12 several times.

13 Q You were in the D-yard at Attica on all
14 days during these events, Thursday, Friday, Saturday
15 and Sunday?

16 A Yes.

17 Q We have had a lot of testimony by other
18 observers on the details of some of these visits,
19 and I will try not to be unduly repetitive with you.

20 Q On Thursday, am I correct that you received
21 the list of five demands and fifteen demands from
22 the inmates and brought them out?

23 A Yes. There were two sets of demands, five
24 and then fifteen to I guess twenty, the next time.

25 Q Among these demands was a request that cer-

tain private citizens come to Attica as
observers, as well as members of the Press?

A Right.

Q Did the inmates define for you, Assembly-
man, what role they wanted the observers to play at
that time?

A Yes. Because of experiences at Auburn
State Prison, the Tombs, Queens and other prisons
within our State, the men felt that whenever things
had happened before, they had hopefully negotiated
in good faith with the State and the authorities and
that subsequently after they had given up that things
that had been agreed upon were reneged on.

And, therefore, they wanted observers there
whom they had some confidence in, the various ele-
ments within the yard.

So that they could observe the negotiations
between the State and the inmates in the yard; that
we would subsequently serve as monitors after the
whole thing was over and we could ensure that what
had been agreed upon would in fact be carried out.

And that was the request for them asking
for observers to come.

Q Did they ask that the observers either
mediate the controversy or negotiate for them?

1
2 very clear that we were there as observers. I must
3 say that if a particular segment of the yard wanted
4 a particular person -- evidently that person was
5 added to the list, so you must realize that there
6 were some people who had confidence in one observer
7 element and another segment of the yard may not have
8 had any confidence whatsoever in that particular indi-
9 vidual.

10 So, they made it very clear that all
11 negotiations will be conducted by us in the yard and
12 where all of the inmates in the whole yard could
13 participate and hear what was being said and agreed
14 upon.

15 Q On Thursday, did any of the inmates express
16 concern about the condition of the black and white
17 inmates who had been taken to the box the night be-
18 fore?

19 A Yes. When I went in, the inmates had --
20 someone told me what had happened, and sort of might
21 have been one of the reasons for this thing happen-
22 ing, and the rumor had been that two men who had
23 been taken up to the segregated units were being
24 beaten, the rumor was that these guys had died, and
25 so I was asked Thursday to go up and to look at these

1 two men and see their condition and report

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2 back to the inmates in the yard, and I did.

3 Q You did go --

4 A Yes.

5 Q -- to H.B.Z., the segregated unit, or
6 the box, as we have been calling it?

7 A Right.

8 Q What was the condition of the black in-
9 mate there?

10 A He did not converse very much with me.
11 He told me he was all right. The white inmate was
12 very upset, emotional. He said that he had been
13 manhandled, beaten, and he had a scar on his neck,
14 but other than that, I could not see any physical
15 damage to him.

16 Q Did the black inmate have any marks of
17 mistreatment?

18 A No. He didn't tell me that he had any.

19 In fact, he was very very quiet and very
20 very subdued.

21 Q Did you report back to the men in the
22 yard that the men in the box were okay?

23 A Right. And I would say that regardless,
24 again, there were men in there who did not know me
25 as well, and did not have confidence and you always

2 I think the majority of them believed my report was
3 in fact the truth and they accepted it.

4 Q Was concern also expressed in the yard on
5 Thursday about the possibility that inmates were
6 being mistreated in C-block?

7 A Right. Again, I was asked to go upstairs
8 by some of the men who were the chief negotiators,
9 who were trying to find out whether or not things
10 were in fact fact or rumor, because rumors somewhat
11 helped to deteriorate the kinds of situations which
12 were going on, so I went up and there was one parti-
13 cular Puerto Rican inmate that some had said had been
14 beaten, and I went up and I saw him.

15 And he told me that the guard had stuck
16 his billy stick through the cell block and attempted
17 to hit him or to beat him.

18 Q Do you mean he struck him through the cell--

19 A Cell window.

20 Q The cell window?

21 A I subsequently saw the guard who had done
22 this and he said that he stuck the stick through be-
23 cause he was trying to remove a blanket that the
24 inmate had thrown up over his cell block window, and
25 I said, "You know you could have used another method

1 in order to do this," and the inmate said,

2 "You know, other than that, he was all right."
3

4 I again reported that he was not dead;
5 he was alive and I reported to them that the guard,
6 I felt, had used poor judgment in removing "the
7 blanket from the window," but other than that, the
8 inmate was all right.

9 Q Did you ask that an inmate from D-yard
10 accompany you on this trip so that there would be
11 some verification from an inmate in the yard, not
12 just yourself?

13 A Yes.

14 Again, being someone alone in this kind
15 of situation, because the other observers had not
16 arrived and being that there were men in there who
17 did not subsequently believe what I had said, I made
18 the recommendation that one of their leaders go along
19 and I got Commissioner's Oswald's okay that he would
20 allow one inmate to come out who had the respect of
21 the inmates and we would tour C-block together.

22 Subsequently, this was done.

23 Q Now, on Thursday an injunction was drawn
24 up by Professor Schwartz, with the assistance of
25 an inmate, and that was signed late Thursday night
and presented to the inmates on Friday morning in the

1 yard with Mr. Oswald present.

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2 You were there also when the injunction
3 was presented?

4 A Yes.

5 Q Can you tell us what the reaction was to
6 the injunction and what effect, if any, you thought
7 it had on the mood of the inmates in the yard?

8 A Well, not being a lawyer and understanding
9 fully the contents of all of the legal protections,
10 but it was my impression that this injunction would
11 in fact give the men amnesty or would be immunity
12 from any civil charges based on property damages and
13 others, as far as the prison was concerned.

14 And this was basically because of what
15 happened at Auburn and other prisons, where inmates
16 were charged with first-degree robbery for "stealing
17 the keys of a guard during the rebellion," there
18 at Auburn, and they had had experience where charges
19 were subsequently thrown at them in fantastic mag-
20 nitude.

21 The document came back and the question
22 arose as to whether or not this document protected
23 them for the whole duration of whatever the period
24 would be during this period of negotiation, whether
25 or not it was just for one day, and whether or not it

2 based on the one day, or whether or not the full day,
3 and the lawyers representing the inmates, who were
4 in fact -- inmates disagreed with the interpretation
5 of Professor Herman Schwartz, and there were basically
6 two of them.

7 Subsequently that was sort of made null
8 and void.

9 I would like to say that other attorneys
10 subsequently, afterwards, had both agreed that the
11 inmates were in fact right on their interpretation.

12 Q Was there a feeling on the part of some
13 inmates that they had been tricked?

14 A Yes. You have got a yard of twelve to
15 fifteen hundred men and I'm sure there were men in
16 there that have done so much time and men who have
17 been thro-gh a system whose credibility was in fact
18 very, very questionable and this is why, I think,
19 the inmates wanted all negotiations to take place in
20 the yard, because they knew that whatever had to be,
21 basically, you know, agreed upon, would have to be
22 accepted by all of them; that if regardless how small
23 the so-called dissatisfied group would be, it would
24 create a problem, and this is why they insisted that
25 all negotiations take place in D-yard where all of the

2 upon and participate.

3 Q Am I correct that they stipulated that
4 there could not be any private negotiations --

5 A That's right.

6 Q --with the group of spokesmen.

7 A Right. Right. They had made that very
8 clear.

9 Q During this visit in the yard at which the
10 injunction was discussed, criticized, did an inmate
11 suggest that Commissioner Oswald be held hostage?

12 A I think that happened on the second trip,
13 I believe. I don't know if it was that one or the
14 first or second trip, but this was one inmate that
15 was roundly boosed, and all of the men said "You know,
16 are you crazy; are you out of your mind; do you want
17 to get us all killed?"

18 That was an emotional reaction from a
19 young man that everyone could tell, you know, --
20 no one in that yard would even agree with that kind
21 of situation.

22 Q Now, following this Commissioner Oswald
23 indicated that he was not going to return to the
24 yard; am I correct?

25 A Right. He did.

1 Q And the inmates, as you have said,
2 indicated that they were not about to negotiate any-
3 where other than in the presence of all inmates?

4 A Right.

5 Q Now, what effect did this have on the role
6 of the observers?

7 A Yes. At that particular point we became
8 somewhat messengers between the inmates and the State;
9 that because the State refused to negotiate with them
10 in the yard, we were taking out their demands and
11 taking them to the State, and subsequently bringing
12 the State's reponse back.

13 But the inmates made it very clear to us
14 that we -- that we, and I repeat: we could not make
15 decisions for them and their lives; that they and they
16 alone could make, you know, those decisions affecting
17 their lives.

18 Q When you say the inmates made it clear to
19 you that you could not bind them or make decisions for
20 them, how was this communicated?

21 A It was told to us very openly and very
22 frankly that we were just observers.

23 Again, you must realize that the observer
24 list not only contained the people whom the inmates
25 wanted, but also others who had subsequently come,

1 others whom the Governor himself had sent;
2 also the more conservative legislators who represented
3 that immediate community. They were all allowed in
4 and out of that yard. They all sat in on everything
5 that we attempted to do as an -- the Attica observer
6 committee.

7 So, the number went from thirteen to some
8 twenty-four, twenty-eight, and the Governor sent
9 people whom he thought could help contribute to some
10 negotiations, or observers, and he sent five in on
11 a private plane of the State on Friday.

12 So, the number increased considerably and
13 there were some in there that the inmates might not
14 have thought too much about, but again, they did not
15 protest their participation.

16 Q Did you act as chairman of the observer
17 group?

18 A Yes. On Saturday, when things became very,
19 very difficult to a degree, when Officer Quinn died --
20 you must realize that most of the observers came
21 Friday evening. Most of us had never seen each other
22 before, in many cases. There had to be a degree of
23 dialogue among ourselves and people, somehow or other,
24 feeling each other out, testing the commitment, con-
25 cern and by Saturday evening or early afternoon it had

1 saying, and why.

2 They felt very strongly about, you know,
3 many of the things. Not only did we discuss the
4 twenty-eight demands, but when in the yard -- they
5 gave us so many things. We discussed the question of
6 the firing of a doctor, the hiring of a Spanish inter-
7 preter for the doctor so that the Spaniards could
8 receive medical care who could not speak English.

9 We had talked about things of removing the
10 screen on visitation days so men could kiss their
11 wives and hold their children.

12 We talked about a number of things in there
13 and the Commissioner exchanged with us -- in fact,
14 they brought in someone from the parole board from the
15 State to even discuss some parole issues. There were
16 just a number of issues that they had raised in the
17 yard, but some of them became sort of basic, critical
18 key points that were somewhat narrowed down, but in
19 that room we discussed with Oswald just a whole host
20 of things.

21 Q Well, in these negotiations or these dis-
22 cussions with Commissioner Oswald, did you try to
23 persuade Commissioner Oswald to grant the inmates'
24 requests?

25 A Yes. I would say that where we felt -- in

1 fact, I think everyone in the room agreed

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2 with most of them. I think Oswald had said prior to
3 sitting down, he said, "Gee, these are things I want
4 answers to. These are things that I have said."

5 You know, he took great pride in saying
6 that "The inmates are not asking for a lot of things
7 that I, you know, myself feel should happen, but
8 it just takes time."

9 He said, "It takes money."

10 And then we got into the question issue
11 by issue and he responded to whether or not he had
12 the money; whether or not it was administrative
13 changes; whether or not the unions had to be checked
14 with and, you know, so forth.

15 I think most of the agreements that the
16 State made, I think the New York State stated that,
17 I think, only four could be implemented immediately;
18 that the rest of them needed other kinds of consi-
19 derations and other things that would gradually have
20 to be done.

21 So, of the twenty-eight -- the Times did
22 have an in-depth thing on it. I think they said
23 only four could be implemented and I think again
24 that raises serious questions in the inmates' minds,
25 that hope you give us a time, a period of saying that

1 Hey, you have to take this back to the New
2 York State Legislature, you have got to check this
3 out with budget, and then that became a serious prob-
4 lem, even when we took those points back.

5 Q Did you believe that at the time of these
6 twenty-eight demands that the Commissioner had accep-
7 ted only four, as within his power to implement
8 immediately?

9 A I-- you know, the Commissioner -- he seemed
10 a man who had honor, as a man who I thought was con-
11 cerned, because we had met on a number of occasions
12 prior to Attica and talked about prisons.

13 I also realized his limitations. I also
14 realized the tenor of our New York State Legislature
15 by virtue of its actions on Medicaid and welfare and
16 a lot of other things, but we all knew that things
17 were hardening, because Quinn had died.

18 Quinn's death created problems and I think
19 everybody wanted to see this thing resolved, you
20 know, if it was possible as soon as possible, because
21 Oswald had said to me and to several others that he
22 was under great pressure by others of the State who
23 were in that room who wanted to go in and who did not
24 want to support his positions.

25 So, he knew that he was under a lot of

1 pressure.

2 Q Did he tell you from what sources this
3 pressure was coming?

4 A Well, he implied to everyone that he was
5 somewhat alone. I didn't find out until Saturday
6 afternoon that Bob Douglas had been there and then
7 when I realized that Bob Douglas had been there, then
8 I knew the Governor was there, to a degree, and I
9 became concerned that, you know, he was alone even
10 with Bob Douglas in the room and that created, you
11 know, a great concern within my mind.

12 Q Mr. Douglas arrived, I believe, Friday
13 afternoon.

14 Were you aware that Mr. Heard and General
15 O'Hara were there earlier on Thursday?

16 A Oh, yes. Heard and I talked extensively
17 on Thursday because I had asked him to assist in
18 bringing the people who the inmates wanted, the list,
19 because they made it very clear to me that they would
20 not begin negotiating until those observers that
21 they had asked for were there.

22 In fact, when I realized that the State
23 was reluctant to request or to provide transportation
24 for some of these people, even to call them, I then
25 called my office Thursday evening and told the young

1 lady in my office "Call these people."

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2 "Get them here at any cost or any circum-
3 stances." And to my shock she followed my orders
4 by even pre-paying some of the plane fares that I did
5 not sanction, but I told them it was important because
6 I was being confronted by the inmates and my credi-
7 bility became very questionable on whether or not I
8 was in fact attempting to get the other observers
9 there.

10 Q But from your prior answer you apparently
11 felt that the arrival of Mr. Douglas was more the
12 presence of the Governor than the presence of Mr.
13 Heard?

14 A Heard was -- you know, in New York State
15 Bob Douglas handles negotiations with the political
16 leadership. Bob Douglas meets with the black caucus
17 when we want to meet with the Governor. Bob Douglas
18 is in fact the acting governor in most political de-
19 cisions that are made in Albany.

20 Q To keep within the chronology, I am not
21 going to ask you about Sunday now, but on Saturday
22 did you try to get to see Mr. Douglas?

23 A Yes. Mr. Douglas had sent for three mem-
24 bers of the observer committee to come and see him in
25 the room where he was.

1 Q Which room?

2 A Well, Bob --

3 Q Who was with you?

4 A Bobby Garcia was one, Wyatt T. Walker
5 was another, and I think the other was Herman Badillo,
6 those three people, and I think maybe even Alfredo
7 Matthews, but the three of them -- the three people
8 that flew in on the Governor's private plane were
9 there and I think that part of our problems as to
10 observer committee, to a degree, was that some of us
11 would stay in the room and we would try to communicate
12 among ourselves and there were some who were privi-
13 leged to run into the room where Oswald was and the
14 State people were and then come back to us.

15 And I became concerned on what kind of infor-
16 mation they were taking out of our room into the "Other
17 room."

18 And some of these were Assemblyman Emery ,
19 Senator McGowan -- they had certain privileges where
20 they could go anywhere and they could meet with
21 Oswald whenever they wanted to; they could go in the
22 room which the rest of us could not do.

23 We had to get permission.

24 We had to ask permission for Oswald to come
25 in the room and talk to us.

1 At that particular point when I over-
2 heard the guy say "Bob Douglas wants to see you, you
3 and you," I said, "I am going along also." And
4 Senator Bobby Garcia said, "Yes, come along." And
5 he really grabbed me by my arm and I became the
6 fourth person that left the room.

7
8 When we got up to the door where Bob Doug-
9 las was, the guard at the door let the first three
10 in and he stopped me and said, "He does not want to
11 speak to you."

12 And I, at that time, had been selected as
13 Chairman of the group, and I said, "I am Chairman
14 of the group, you know. If he is going to talk to
15 anyone on the observer committee, I demand that I be
16 present."

17 And I became very loud, very angry, and he
18 still didn't let me in and Oswald came out and escort-
19 ed me from the door back to the room and back in the
20 room when these gentlemen came back I then made a
21 determination that no one on the observer committee
22 would ever go in that room unless "one of the other
23 people went with them." And I selected then G.I.,
24 Jose Paris, who had been a former inmate at Attica
25 who had greater credibility than all of us.

I asked him that if anyone goes in that

2 we could all know what kind of thing was going on
3 and what was being told Bob Douglas.

4 Q Now, you testified earlier about the fact
5 that many of these demands, at least some of them,
6 required legislative action.

7 One of them, for example, was the statement
8 in the twenty-eighth that the Commissioner would
9 recommend the application of the New York State mini-
10 mum wage law to work done by inmates.

11 As an Assemblyman, and having been in the
12 New York State Legislature for a while, did you have
13 any confidence that the legislature would ever approve
14 something like that?

15 A Well, it must be also clarified that the
16 inmates said that if they got the minimum wage they
17 would be willing to have the State deduct from their
18 wages because of maintaining them in that facility,
19 the cost of rent, the cost of guards, the cost of
20 everything, and that the balance of the money would
21 be then given to them so they could send to their
22 families, because many of their families were in fact
23 on welfare. They knew that the State of New York,
24 that running that institution did in fact cost money,
25 and they were willing to have whatever it costs for

2 you would do a hotel or a restaurant, and that the
3 balance of the money be given to them.

4 And I think that should be a very definite
5 clarification, because if they got the minimum wage
6 and after you took the basic expense from it, they
7 may have had very little left, but I think it was a
8 key question to a great degree of dignity, of men
9 working for what they considered not slave-labor wages,
10 but in fact a wage in which he can consider himself
11 a man.

12 Q Even with that qualification, did you be-
13 lieve that the legislature would approve the recommen-
14 dation?

15 Q Well, again, that was a question that had
16 to, you know, take into consideration a lot of things,
17 but I think Oswald was honest by saying to them that
18 the legislature had to consider it.

19 I indeed had my reservations, knowing,
20 again, the kind of legislation that they had passed
21 in '71, which was prior to Attica; that our legisla-
22 tive body and its executive branch had lost their
23 sensitivity for human life, and I said this probably
24 on the floor during the session and afterwards, and
25 I was very concerned about my whole legislative and

1 also so-called democratic process in the State 986
2 of New York.

3 Q You didn't express these reservations to
4 the inmates when you returned to Saturday night?

5 A Well, again, we were in the room to give
6 these points to Oswald. Okay?

7 Now, Oswald made it quite clear that he
8 had to go back -- I say this to you, if you think the
9 men in there did not understand that the system was
10 going backwards, that the system was becoming regres-
11 sive-- you know, one thing an inmate has is plenty
12 of time and he reads.

13 He knew that New York City Welfare costs
14 were cut ten percent because his family has had to
15 suffer by it.

16 So, I think generally -- and I would like to
17 say this -- at one point in the yard they said that
18 they would give up -- they would give up the hostages
19 if the State in fact -- and they told Oswald this.
20 They said, "If you give us D-block, let us run D-block
21 by ourselves, we will go to work every day; we will
22 go to lunch every day; we will go to everyone of our
23 meals," but he said "Just let us have control of this
24 block and let us set up the kind of program in here
25 that will help us. We will do our own educational

1 programs. We will do everything. Give us an 987
2 opportunity to have some say on our lives and we can
3 show that we will do a very excellent job and live up
4 to all of your laws and rules and regulations."
5

6 I think you must realize that the whole
7 quest in that yard was for dignity, self-respect and
8 an opportunity to not be dehumanized, but to be helped
9 with whatever the programs were.

10 Now, whether or not the requests were reason-
11 able -- I think in any negotiations you are going to
12 go for the total jugular vein, and, you know, they
13 were asking for everything, and they meant it. They
14 meant it very seriously.

15 I frankly thought it was very unique that
16 if we did give them the minimum wage and we deducted
17 from them the cost of running that institution, that
18 it would be a very positive thing in giving the man
19 the dignity that he is in fact the breadwinner of his
20 family.

21 Q This request by the inmates to be given
22 D-block was made on Friday when Mr. Oswald was in
23 the yard?

24 A I believe it was made with Oswald, either --
25 as you know, Dunbar went in after Oswald refused to
go in, but again he did not have the power, but this

1 kind of dialogue and subject matter was dis-
2 cussed.

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3 Q Did you try to persuade Commissioner Os-
4 wald on Saturday to grant amnesty?

5 A Yes. I think amnesty was talked about con-
6 siderably at one point. A real effort was made by
7 four members who were lawyers to meet with the District
8 Attorney because people had said to us that only the
9 District Attorney can give that within that jurisdic-
10 tion, and I think Clarence Jones and Julian Tubber,
11 and I think Tom Wicker -- I have got the four -- three
12 or four, but they met with the D.A. to talk about
13 amnesty and to talk about what he was willing to give
14 up or not give up, so they could go back and say to
15 the inmates that this is what they are willing to do.

16 Prior to that I would like to say that when
17 we approached the Governor first on amnesty and they
18 said "No," when I went back into that yard on Friday
19 with all of the observers and I was chosen as Chairman
20 at that time, they selected me in the room to tell the
21 inmates that the State said "No amnesty."

22 I did not prefer, you know, being chosen
23 to a degree, but somebody had to tell them, and when
24 I told them on Friday when Dunn and all of them went
25 in there, I said, "You have asked me to be honest with

1 you at all times. I am going to be honest 989
2 with you. The Governor has said 'No amnesty' and
3 that was on Friday."

4 Many of the observers were shocked that
5 the inmates did not charge us or did not beat us or
6 attack us, because they felt this was going to be the
7 response, and then it was total silence, and then we
8 went back into the business of what was going on, but
9 that was the Governor's response at that time.

10 Q How did you approach the Governor on Fri-
11 day?

12 A I think all of that happened through Oswald.
13 Everything was going through Oswald.

14 Again, I didn't know that Douglas was even
15 at the prison, because I had no knowledge. Evidently
16 other people on the observer committee who were privi-
17 leged to go into the room where he was, knew that
18 Bob Douglas was there.

19 I did not know that he was there.

20 Q Mr. Eve, when did you learn that Officer
21 Quinn had died; was it before you went into the yard
22 or Saturday night with the twenty-eight demands?

23 A Yes. We learned prior to going in that
24 Officer Quinn had died. I remembered him as being
25 one who was brought out by the inmates on Thursday or

1 one who had been injured on Thursday.

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2 I was very shocked that the Press printed
3 and the State allowed them to print that he had been
4 thrown out of a second floor window. This was a total
5 lie, but had been told constantly.

6 Q Now, was it your understanding that that
7 was a story which was issued by the State, that he had
8 been thrown out of a window at Attica?

9 A Only the State could have told that story,
10 because the Press was not inside.

11 Q Did anybody in the State with whom you had
12 dealings ever do anything to dispell the story that
13 he had been thrown outside, been thrown out of a win-
14 dow?

15 A In fact, the Buffalo papers ran it after
16 his death, and they reccredited it again that Officer
17 Quinn had died and he was the one who had been thrown
18 out of a second floor window.

19 Q Did you understand that when you read these
20 stories and heard these stores that the windows at
21 Attica all had bars?

22 A Right. I knew it. In fact -- now, as
23 far as the papers, I didn't read a paper every day,
24 and subsequently, looking at the accumulation of pa-
25 pers and stories that happened at Attica, I really read

1 most of them after the massacre was over; 991

2 but it was shocking to me to see that the State allowed
3 this kind of lie to be told Thursday evening, Friday
4 and even after Saturday, after he died, which was,
5 you know, just a very serious situation.

6 Q Did any of the observers try to confront
7 Mr. Oswald or any of the other State officials about
8 this story that this was the way Quinn was injured?

9 A They may have because, again, we sort of
10 settled down as a unit with a close surveillance of
11 ourselves, and whether or not anyone talked with the
12 State, say Saturday afternoon and on -- up until that
13 time people were somewhat going in and around, you
14 know, and doing their own thing to a degree, with
15 talking to Oswald.

16 I'm sure that Senator John Dunn had a lot
17 of conversation that we were not privileged to, Assem-
18 blyman Emery, Senator McGowan, many of them had a lot
19 of conversations and I would assume that the people
20 that the Governor sent on his private plane may have
21 had that kind of, you know, opportunity.

22 Q But in any event, nobody communicated to
23 you that that was not the way he was injured?

24 A As far as the State is concerned, no.

25 Q In fact, during this period up through Sun-

1 day, did anybody, whether from the State or 992

2 otherwise, tell you that it happened some other way?

3 A No.

4 Q Were you in favor of the inmates' accept-
5 ing these twenty-eight demands even though they did
6 not include full amnesty?

7 A I would say that we all agreed that that
8 was all that Oswald was willing to give up. I think
9 Bill Kunstler expressed these points very clearly, but,
10 you know, if you have respect for your President or
11 your Governor or your public officials and you are
12 given, as an employee, certain directions, that you
13 cannot make any determination for yourself. I want
14 to first of all keep that commitment, that even though
15 we tried to get Oswald to do the very best he could,
16 that the final determination and all of that was in
17 fact left up to the inmates, and I think Bill Kunstler
18 on Saturday evening expressed the feeling of most of
19 us, that that was the best we could do, and he recom-
20 mended they accept it.

21 I think the inmates' initial response was
22 somewhat very negative, but then subsequently -- I
23 remember one inmate saying "These men have done the
24 very best they could. Before we throw it aside and
25 reject it, we should let them go and we should sit down

1 and discuss it among ourselves."

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2 Q That was Saturday night?

3 A Saturday night, right.

4 Q It was on Saturday night that Clarence
5 Jones read the twenty-eight demands?

6 A And also the District Attorney's letter.

7 Q And the District Attorney's letter?

8 A Right.

9 Q Did Mr. Kunstler on Saturday night also
10 announce in the yard that Officer Quinn had died?

11 A Yes.

12 Q What was the reaction to that announcement?

13 A It was sort of a very silence for a while,
14 and I think that some of us were surprised that they
15 did not know it; at least some of them, or quite a
16 few of them evidently did not know it. Some may have
17 known.

18 And it was silent for a moment and then,
19 you know, it went on, and Kunstler continued to talk.

20 Q What was the reaction to the speech and
21 presentation of the demands by Clarence Jones?

22 A They listened very, very attentively. They
23 waited until they completed, and there were some boos
24 and jeers, you know, afterwards.

25 Again, that's when Kunstler got up -- because

1 he was very upset, I guess, at that time, and
 2 he said, you know, that "this is the best we could do.
 3 This is what the State was willing to give up and I
 4 recommend you accept it, but, again, as you have told
 5 us, you and you alone can make that decision and the
 6 final decision is subsequently left up to you."

7 Kunstler, as their attorney -- and they
 8 had chosen them as their attorney -- and he was acting
 9 in that capacity, I believe, as an attorney, that
 10 they should, in fact, you know, accept it.

11 Q Did you have any feeling from your obser-
 12 vations in the yard as to what percentage of the in-
 13 mates were really participating in this and vocal in
 14 the demands for amnesty?

15 A Well, a lot of things evidently transpired
 16 among the inmates while we were not in there. They
 17 talked among themselves. They evidently discussed
 18 various issues and positions and I'd say that from
 19 what the public facade -- the public position was and
 20 what many of the men who said to you privately around
 21 the table that they were not going to let maybe
 22 amnesty be the one thing that got them all killed, to
 23 a degree.

24 They felt -- I think this is -- you know,
 25 there was a very great suspicion on even what was

1 agreed upon, whether or not it would be lived 995
2 up to. I think it was unfortunate that Oswald did not
3 go back in and negotiate because I think if he perso-
4 nally had been there and had gone through these
5 things and if they could have felt his sincerity and
6 felt that he really meant it, I think it would have
7 been a great contributing factor to helping to alle-
8 viate the discussion.

9 We also discussed with them and they were
10 concerned, on what kind of monitory proceedings would
11 be set up. These were not in the demands, but I know
12 that this was a very essential and critical point.

13 I volunteered to stay there for two weeks.
14 Other guys said they would stay a week or they would
15 come back and, you know, we were trying to get up
16 mechanics.

17 We even talked with John Dunn, who had
18 more political clout in that group than any of us,
19 because he was chairman of the permanent committee--
20 whether or not there were funds to pay for pay-out
21 of monitors from the ghetto areas of Buffalo and
22 Rochester.

23 There was a great concern of the inmates,
24 and we discussed this with Oswald on "how and where
25 are you going to house the inmates once this thing

1 has been agreed upon?"

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2 This was quite, in fact, never subsequently
3 determined, because they knew that the cells there
4 had been -- you know, many of them had been literally
5 demolished as far as many of the things in them, and
6 became a question of where are we going, you know, you
7 know, you know, we are going to stay here, we are
8 going to another institution, how are they going to
9 house us?

10 Again, the twenty-eight demands had a lot
11 of intertwining administrative decisions that were
12 not being made that was of, in fact, great concern to
13 the inmates.

14 And, I don't know, the amnesty thing was
15 a very difficult thing.

16 Q Did you have any kind of impression,
17 based on your own observation, as to what percentage
18 of the yard was really involved in speaking up and
19 what percentage was sort of holding back?

20 A Well, I saw them take a vote Friday
21 evening to allow the Press to interview the hostages.
22 There were some who said "No, don't let the Press
23 talk to the hostages."

24 Around -- as far as the leadership table,
25 and then that question was put to all -- in fact, I

1 recommended it to some of the leaders.

997

2 I said, "Listen, I think you are wrong if
3 you don't let the Press talk to the hostages."

4 And, you know, they put it to a vote and
5 it was voted overwhelmingly to allow the Press to talk
6 to the hostages and take pictures, you know, anything,
7 and they went over and they talked to the hostages.
8 They took pictures and so forth.

9 John Dunn asked the hostages how were they
10 being treated, were they eating, how was the food that
11 came in.

12 They said they were eating. The Press saw
13 the fact that the hostages were sleeping on mattresses
14 and most of the inmates were in fact sleeping on the
15 ground and it was very obvious to some of us there, and
16 I believe most of us, that the inmates didn't want
17 anything to happen to the hostages.

18 In fact, on Thursday they insisted that
19 the medical records of the hostages be given to them
20 when the State was not prepared to send in a doctor
21 for fear of the doctor's life.

22 Subsequently a doctor did volunteer to go
23 in, Dr. Hanson, but when I got there they had made
24 indications, regardless of whether the verbiage was,
25 they had said to me that the manner in which they handled

1 the hostages -- that they really didn't want 998
2 anything to happen to them, because they were their
3 key source of strength for any form of meaningful nego-
4 tiations.

5 Q About how many of the inmates would you say
6 participated in the booing after Clarence Jones read
7 his demands?

8 A Well, it's very difficult to tell. You
9 have got twelve to fifteen hundred men and the T.V.
10 cameras would be focusing on the table and if you are
11 in a big yard and you got bright lights looking at
12 you, you really -- it is very difficult to even see
13 sometimes beyond those lights, and you would say it's
14 you know boo, you know, maybe fifty, sixty, maybe
15 even the majority, but I think it was sort of a thing --
16 in fact, it was the majority, I felt, because I think
17 when Kunstler said what he said and Champion said
18 what he said -- I shouldn't have mentioned his name --
19 Champion said, you know, "Listen, you know, these men
20 have done the best that they could. Before we, you
21 know, say no, let us let them go and discuss these
22 things among ourselves and, in fact, I have commended
23 Champion for taking that position.

24 Q That was on Saturday night?

25 A Saturday night, right.

2 of knowing all during this period really what percen-
3 tage of the men were serious about particular demands
4 and what percentage were simply just chiming in or
5 uninvolved?

6 A Well, I think Herman Schwartz said to them
7 on the first day when they gave the first five demands
8 that a lot of them, he felt, they could not subsequently
9 get, being a lawyer, and he was very honest with them.

10 And when we got to Sunday, when you get to
11 that chronological order, I think many of us felt that,
12 you know, the Governor is coming there and personally
13 showing concern and willing to say that he, as Governor,
14 will ensure that these things are done and that he
15 will ensure, frankly, that the inmates who were not
16 beaten, harassed or subsequently brutalized after-
17 wards, that even that might have been just the catalyst
18 that was needed.

19 There was always going on a question of
20 credibility or belief or truth. Whether or not in
21 fact people were playing games with them or being
22 dishonest and I would say that, you know, Oswald in not
23 coming back had personally, personally negotiating
24 with them in the yard, was a very, very deteriorating
25 factor.

1 Q Did the various delays that you 1000

2 experienced in going back to the yard over these four
3 days contribute to this credibility problem?

4 A Yes. Especially on Sunday morning.

5 As you know, Bobby Seale came in Saturday
6 night and Bobby stated -- very briefly, he just
7 subsequently said to them that the State wanted me
8 to tell you to accept these twenty-eight points, and
9 I refused, and I am going to not make any recommenda-
10 tions to you.

11 I am going to go out and talk to the central
12 committee in California and I will be back tomorrow
13 morning.

14 When Bobby left, a number of the observers
15 left with him and the rest of us stayed and went over
16 the twenty-eight points, and that's when Clarence
17 Jones read them.

18 But, the -- what was the point, the second
19 point?

20 Q Really, you had delays from time to time
21 and when you got back in --

22 A Yes. Sunday morning, when we thought we
23 would be allowed to go back in at seven-thirty and
24 Bobby Seale and the Commissioner got into a dialogue
25 and Bobby decided not to go in, because they were

1
2 trying to make him say what he tell the inmates 1001
3 and whether or not he would tell them to accept the
4 twenty-eight points, and he refused to tell the State
5 what he was going to say, and he left.

6 They refused to let us go back in and prior
7 to that time, whenever there was a commitment by us
8 when we left the yard that we would be back at a par-
9 ticular hour, I would go down to A-block and holler
10 into the yard to the security force that, you know,
11 we were upstairs, we were still working, we had not
12 abandoned them, but Sunday morning the Commissioner
13 refused to let us go back and the men had T.V. sets
14 in the yard, so they could see Bobby Seale was on the
15 news and the news flash, and they had a radio, so they
16 knew that Bobby Seale had left and had made a state-
17 ment and such and such, but they hadn't heard from
18 the rest of us, and I'm sure that that creates --
19 created unrest, because Bobby had said he would be
20 back and that we would all be back at seven, seven-
21 thirty that morning, but we in fact didn't get back
22 until much later, and they did not allow us to go
23 down and tell the inmates that we were upstairs.

24 I think they were deciding then on whether
25 or not to go in on Sunday.

Q Did you personally overhear the conversa-

2 on Sunday?

3 A I just heard portions of it, because Emery
4 and Bobby and the Commissioner, Assemblyman Emery,
5 really got into it for a while, but the gist of it
6 was they wanted him to make a commitment to say what
7 he was going to say and they literally wanted him to
8 say to them to accept the twenty-eight points, and
9 when he would not do that and there was some expres-
10 sion by one or two legislators, who were from that
11 area, don't let him go in, you know, don't let him go
12 in unless he says so, Bobby Seale decided not to go
13 in.

14 Q By Sunday, had you learned that the inmates
15 were not prepared to accept the twenty-eight demands?

16 A Well, again, no.

17 There were a lot of factors -- I think if
18 Bobby Seale, whatever Bobby Seale would have told
19 them, I don't know what effect that would have had.
20 There was a question that they had asked us to leave
21 so that they could discuss it among themselves. We
22 didn't now what had been determined after they had
23 discussed it among themselves and in fact, it may have
24 been a very positive response when we got back in
25 there Sunday.

2 to know what took place that evening and that night
3 and early morning while we were out of there, because
4 I'm sure that these things were discussed. They were
5 gone over and we didn't know what kind of determina-
6 tion they had made.

7 Q By what process did you expect the inmates
8 to reach some kind of consensus on whether or not to
9 accept the twenty-eight demands?

10 A By vote, by individual conversation, by
11 dialogue, by exchange and reaching a consensus that
12 they ought to live with and agree on, you know, the
13 same way that anyone reached that kind of a conclusion.

14 Q Did you understand that there were any
15 restrictions on inmates leaving the yard if they
16 disagreed with the majority position?

17 A No, I did not, you know, have that under-
18 standing.

19 In fact, I had had -- someone had said to
20 me that only the guys in the yard were guys that
21 wanted to stay and that other inmates that wanted to
22 go could go.

23 Now, this is what one of them said to me,
24 because I was concerned if anyone was in fact being
25 held there who did not want to, but I did not have

1 this told to me by, you know, the whole group. 1004

2 This was just told to me by one of the inmates.

3 Q By the time you entered the yard finally on
4 Sunday afternoon, had you learned that the inmates
5 were not prepared to accept the twenty-eight demands,
6 as they then stood?

7 A Well, I think I ought to mention some other
8 things prior to that on whether or not they were wil-
9 ling to accept it.

10 That may have been a very contributing fac-
11 tor or when we got in there why things happened.

12 When the Commissioner would not let us go
13 in, we kept insisting that we go in; we be allowed to
14 go down -- I be allowed to go down and let the inmates
15 know we were upstairs, we had not abandoned them.

16 This was refused.

17 It then came back to us by him when we all
18 kept saying "Some of us have to go in, we have to go
19 back in." Frankly, some of the observer committee
20 had told me individually and privately that they were
21 not willing to go back in, they did not want to be
22 asked to go back in, they didn't want me to embarrass
23 them in asking them to go back in, and I said I would,
24 you know, honor their request.

25 Q Why did they say they didn't want to go back

A Well, I think the whole thing with Bobby Seale and the way this happened, and our not being able to go down and tell the inmates -- it had rained. Just the whole psychological thing may have deteriorated and, you know, some were concerned.

So, we kept pushing. "We have got to go in. We have got to go in. You have got to let us go in. You cannot go and send the troopers in because a massacre is going to take place."

In fact, Clarence Jones thought of the message to send to the Governor, because he became concerned and Clarence, while we were all having our exchange with the Commissioner, Clarence was sitting on the side writing up a little message that he felt we all should agree to, and when he finished it, he said, "I have got an idea that you might be able to consider."

He said, "Let's send a message to the Governor that all of us can agree on," and that's when the message said simply -- and it took us almost an hour or better to agree to some two paragraphs, because of political differences, but we said "Governor, come to Attica and talk to the observer committee, because if you send the troopers in, a massacre will take place,

2 inmates will be lost."

3 And we said simply, "Come to Attica and
4 talk to us."

5 Some of the observers wanted him to come
6 in and go and talk to the inmates, but after discus-
7 sions we knew and we felt politically that would give
8 him an out. Some wanted to say in the message, "Let's
9 talk about amnesty or give the inmates amnesty," but
10 again, we had to consider the political consideration
11 and we felt that this would give him the out to say
12 no.

13 Q In other words, if you had asked him to come
14 and grant amnesty he could refuse to come to Attica
15 on the ground that --

16 A He could refuse to come, right.

17 Q On the ground that he would not give amnesty?

18 A Right. He said before that he wasn't get-
19 ting it. As chairman of the group, I didn't want
20 anyone to walk out of that room saying I didn't agree
21 to it.

22 I went around after we had worked on the
23 text, and I asked every individual legislator, inclu-
24 ding the three from that particular area, and everyone
25 in the room, "Do you agree with the text of this mes-

Now, we made the request of Oswald to go in and then Oswald came back and he said, "We'll let a small -- we will let you go back, but we don't want any legislators to go in."

I imagine some legislators had expressed to him that they weren't going in any more. I insisted that I had to go back in because I had been in anytime that anyone had been in that yard for the four days, and I said, "I have got to go back because if I am not with them, some of the men will feel something is happening if they don't see any legislators."

And then he came back and he made the request of us that, "Okay, we will let some of you go back if, providing you sign a waiver," and again that became an issue.

"Why do you want us to sign a waiver?"

In fact, I didn't want to sign a waiver, but we were told that the Governor did not want the State to be liable for anything that might happen to us if anything happened to us while we were in the yard.

So, we signed the waiver and six of us, six of us who were black and Puerto Ricans, were ready to go back in.

We then -- the group wanted to send the

1 message to the Governor over WBIA or some 1008

2 station that Clarence Jones owns, and we said, "No."

3 I said, "No," because, you know, before
4 we send it out, let the inmates -- let the inmates
5 know what we are doing and what we are saying.

6 Q I take it up to this point the inmates had
7 not said "We want the Governor"?

8 A Oh, yes. By all means.

9 In the dialogue in the yard and everything
10 else, personally people wanted the Governor there,
11 but the fact of it was that, you know, the Commissioner
12 said he was representing the Governor, so that became
13 a dead issue.

14 They were willing to accept the Commissioner
15 negotiating with them in the yard for the Governor,
16 okay? But because the Commissioner was no longer
17 negotiating, circumstances were deteriorating to a
18 degree and we realized that positions were in fact
19 hardening.

20 Some of us had had experience, personal
21 experience by the correctional guards, one of whom
22 called me a "Boy" on Saturday after Officer Quinn
23 died.

24 One guard, who was reluctant at the time
25 to let me go by him and sort of blocked my passage, and

1 I politically avoided any confrontation.

1009

2 One guard who brought us some food that
3 night -- when he brought it in the room, he said,
4 "If I knew I was bringing this shit into you people,
5 I would not have brought it." And he slammed it to
6 the ground.

7 One woman in a restaurant, not on the
8 grounds, but on the table. One woman in a restaurant
9 where Senator Bobby Garcia and I went to eat, said,
10 she hoped that they killed all of us.

11 So, you know, Saturday evening and Sunday,
12 you know, we knew that if that was the community,
13 that was the guards, that tensions and positions
14 were hardening considerably, because Officer Quinn
15 had died.

16 Q You said positions were hardening, and you
17 mentioned positions of correction officers and the
18 community.

19 Did you feel that positions were hardening
20 on the inmates' side also?

21 A I don't know, because at that particular
22 time we hadn't been back in there after they had
23 received the demands, but when the Commissioner -- in
24 fact, the group wanted to send this message out, and
25 I said, "No. Let's discuss it with the inmates, be--

1 fore we sent this message to the Governor." 1010

2 I said, "The inmates said we could not do
3 anything or make any decisions for them unless they
4 agreed to it." And I said, "Let's not make any deter-
5 mination or do anything without their consent."

6 The group voted that even if the inmates
7 said "No, don't send that message to the Governor,"
8 they still was going to send it.

9 So, we asked the Commissioner, "Let us go
10 down and talk to them. Let us go into the yard."

11 He then said, "Yes, the six of you can go."

12 He allowed us to go down to A gate, and
13 when we got to A gate, Richard Clark said they wanted
14 some Press men in, but they wanted this time black
15 and Puerto Rican Press because they felt the white
16 Press had edited, condensed and projected on their
17 T.V. screens in their media not the whole truth, but
18 just part of the truth which, in fact, polarized
19 America against them, and especially white America.

20 They said, "We want you to bring in black
21 and Puerto Rican reports who are going to tell the
22 truth, the whole truth."

23 They also said that they wanted someone
24 to interview the hostages who also wanted to send a
25 message to the Governor. Okay?

question of a message to the Governor had been discussed by them in the yard, because they made the request of us that the hostages wanted to send a message to the Governor.

We then told Richard Clark we were, you know, sending out a message to the Governor; here is a copy of the text.

We gave it to him, he read it, and he said "We would like to take it into the yard and I would like to read it to the brothers."

And we said, "Richard, understand we are asking the Governor not to come into the yard, to the inmates," okay?

"We are not mentioning amnesty in there. We are asking him to come and just talk to us so that we can give him our thinking on the situation, because he is not getting it from us. He is getting it from Bob Douglas, his secretary, and we feel, you know, that situation -- the situation is getting sort of difficult" and I said, "We are asking him to come and just talk to us, not you guys."

And he said, "Okay."

Q Could you in the future try to leave names out?

2 So, he said, "Let me take it in."

3 And while we are in conversation with him,
4 Deputy Walter Commissioner Dunbar is standing with
5 us and listening to the conversation and one other
6 Deputy Commissioner and when Richard said "I want to
7 take this into the inmates," Deputy Commissioner Wal-
8 ter Dunbar said, "No, you cannot take that in."

9 And Richard said, "What's wrong with it?
10 It's nothing but a piece of paper. Why can't I take
11 it in and read it to the inmates?"

12 And he said, "No."

13 He said, "Assemblyman Eve, don't let him
14 take it in. Get that piece of paper back."

15 And I said, "Well, what's wrong with a
16 piece of paper?"

17 And he made a real issue out of it, and I
18 was concerned, because they had correctional offi-
19 cers standing behind us with submachine guns who were
20 also listening to the conversation, and we had asked
21 them to remove those men with the submachine guns
22 from behind us because it made it very difficult for
23 us to talk to one inmate who we assumed was unarmed
24 and did not have that kind of weaponry.

25 But the State refused to move them. I asked

1 Richard then, "Give me the paper back." 1013

2 I said, "Let's not create any agitation.
3 Let's not create anything that's going to create prob-
4 lems. And if this paper is so important, give it to
5 us," but I said, "Read it, take as much time as you
6 want to, and be sure that you tell the inmates that
7 we are asking for the Governor to come and talk to
8 us and not you," and I said, "Remember what the mes-
9 sage says."

10 He did that. He gave it back to us. He
11 also told us that they had not been fed their sand-
12 wiches.

13 The Commissioner had told us in the room
14 that they had been fed at 10 a.m. Then we waited
15 until they brought the sandwiches out of a room, took
16 them in to the inmates, and they came forward and
17 they took them back into the yard. We were stand-
18 ing there talking continuously waiting on the black
19 and Puerto Rican Press members to come from the front
20 of the prison.

21 During the interim the telephone rang.
22 Deputy Commissioner Dunbar went over to the telephone
23 and he said, "The Commissioner wants to talk to the
24 six of you upstairs."

25 We went upstairs, and before we went we

asked could we be allowed to go into the yard 1014
and talk to the inmates when we came back from upstairs.
We did not know what he wanted us upstairs for, but
we were told "Come back upstairs, he wants to talk to
us."

On our way up, while we were waiting on the
gates to open, Clarence Jones came down and he said,
"We had talked to the Governor."

He said, "John Dunn became very concerned
and gave us the Governor's private number," and he
said, "four of us talked to the Governor."

And Clarence told us briefly who talked
to him, and he said, "I want to tell Richard Clark
that we had talked to the Governor."

So he went over to the gate individually
himself and talked to Richard Clark.

The seven of us then went upstairs. And
when we went upstairs, got into the observer room,
minutes afterward, the Commissioner came in and gave
us a copy of a statement that he had given Richard
Clark.

In fact, the statement had been addressed
to Brother Richard Clark.

I am mentioning his name again.

Q This is the statement that said, "I urgently

1 request you to release the hostages unharmed now 1015
2 and to accept the recommendations of the committee of
3 outside observers, which recommendations were approved
4 by me, and join with me in restoring order to this
5 institution."

6 A Yes. I think further didn't he say some-
7 thing about a small group coming out in negotiations?

8 Q Yes.

9 He also said, "Only after these steps are
10 taken am I willing to meet with a five-member com-
11 mittee, chosen by you, to discuss any grievances you
12 may have and to create a mechanism by which you may be
13 assured that the recommendations I have agreed to are
14 implemented."

15 A Right.

16 Now, that's the first time I have heard
17 that message since then, but I remembered it almost
18 word for word.

19 When I saw it, when he gave it to me in
20 the room and I read it, in the latter part of things,
21 you said was very critical, but a smaller group
22 coming out in negotiations -- when I read that, I
23 looked at it and I said to the Commissioner, "You
24 and the Governor have just signed my death warrant."
25

I said, "I know it doesn't make any dif-

1 ference to me whether or not I die in 1016

2 D-yard with the inmates, if they stab, cut my throat,
3 choke me to death," I said, "or whether or not after
4 you have performed your massacre that some of them
5 are going to get out and their friends are going to
6 get out and relatives are going to feel that in fact
7 we have not been honest."
8

9 They told us we cannot make any determina-
10 tion for them. They told us they were not going to
11 come out in a small select group and negotiate. Okay?

12 And I said, "What you have done is to allow
13 us to come and tell them we were doing one thing and
14 subsequently give them a message which contradicted
15 what we had said to them."

16 I said, "You have just set us up to get
17 killed. In fact," I said, "you and the Governor
18 really don't give a damn about my wife and five kids
19 because if they feel that I have not been honest with
20 them and straight, then they might even attempt to
21 kill me, someone or some friend at my home, while I
22 am driving my kids."

23 In fact, I broke down and started crying,
24 because I said, "You and the Governor have set us up
25 to get killed."

Q What did Mr. Oswald say?

1 A Oswald was shaken to a degree, because 1017
2 everyone in the room agreed that that act by the State
3 had in fact jeopardized the six of us who were willing
4 to go back and sign those waivers.

5 Q Did he appear to realize the consequences
6 of his words before you mentioned it?

7 A Right. Evidently he did not realize the
8 consequences, because -- maybe he did. I moved to
9 impeach the Governor because he attempted to kill me,
10 so I assume he realized what they were doing, but he
11 then said and allowed us to go back and in fact that's
12 when I insisted that we talk to Bob Douglas, because
13 I thought that Bob Douglas and the Governor engineered
14 that kind of political decision and we insisted that
15 we had to talk to Bob Douglas.

16 And I said, "Bring Bob Douglas here. He
17 is only fifteen steps down the hall. He has refused
18 to talk to me. He has refused to talk to us as a
19 group and he and he alone is interpreting the situation
20 for the Governor."

21 They then went out and said, "We will
22 think about it."

23 Oswald told us he was representing the
24 Governor and the State and I said to him, "You are not
25 Bob Douglas. Only Bob Douglas is really interpreting

1 the final decision as far as what's happening 1018
2 here for the Governor."

3 I said, "I understand the political se-
4 quence of power in Albany and I know when Bob Douglas
5 is here, no department or Commissioner supersedes his
6 particular decisions," and everybody in the room
7 agreed. Tom Wicker, Fuldon (phonetic), Herman Badillo,
8 and Clarence Jones. We all insisted that we had to
9 talk to Bob Douglas.

10 He went out and he brought Mr. Heard back
11 and my remark to him, "Is this the kind of game you
12 are continuing to play? We have asked you to speak
13 to Bob Douglas and you bring us someone else." And
14 Mr. Heard told us that his position within the exe-
15 cutive branch and I repeated to him, "In no disrespect
16 for your position, you are not Bob Douglas, as we
17 want to talk to Bob Douglas."

18 They went out again, stayed a while, and
19 then at our third time, in came Mr. Douglas.

20 Q What did you say to Mr. Douglas?

21 A We said to him, "You must get the Governor
22 here. We want to talk to the Governor."

23 Mr. Douglas' whole attitude, frankly, was
24 very arrogant with, like, "We have made a decision.
25 I will think about it. We will get back to you."

2 fantastic. And he went out of the room.

3 When he left out of the room, that's when
4 I said to the group, "The inmates want the hostages
5 to be interviewed so that it can come out to the Press
6 and that the message can be given to the Governor."

7 Q Mr. Eve, my understanding is that the tele-
8 phone calls by Congressman Badillo and Clarence Jones
9 took place after this meeting with Bob Douglas. I
10 know that, you know, that time has passed and that
11 chronologies can sometimes get confused.

12 A Well, I know that the conversation with
13 the Governor took place while we were down at A gate.
14 Okay? And I was not in the room when that conversa-
15 tion was going on.

16 Q Did you get back a report from the people
17 who spoke directly to the Governor as to what the
18 position was on coming to Attica?

19 A Clarence Jones had told us when he came
20 down that he had talked to the Governor; that he
21 had asked for the Governor for time; that he asked
22 him to come to Attica, but that, you know, the Gover-
23 nor's sort of remark was that he was thinking, he
24 was consulting with his people.

25 He did not literally, finally made up his

1 mind that things would stay status quo until 1020

2 he got back to them. That's what he told us at the
3 gate downstairs, and I assume that's what he told
4 Richard Clark.

5 The others we did not go into any detail
6 on what their conversations were.

7 Q Did you learn for the first time that
8 the Governor had decided not to come when he issued
9 his public statement that afternoon?

10 A Well, first of all, I was not aware of the
11 public statement that was made by the Governor at
12 that particular time. Even later on.

13 Q You were not aware of it at the time that
14 you went to D-yard, that the Governor issued a state-
15 ment that he wasn't coming?

16 A Right. I was not aware of it.

17 Q When Mr. Douglas was in the room with you,
18 did you state to him what reasons you wanted the
19 Governor for?

20 A Well, my position was that the Governor
21 was possibly getting a distorted view of what was
22 really happening at Attica. He was getting it from
23 people who had not gone in there, people who have
24 not had a chance to sit and talk to the inmates to
25 any degree, and that the Governor may also not have

1 realized some of the racial things that were 1021
2 going on that we felt might have been an indication of
3 the kind of considerations that the troopers would
4 have felt if going in.

5 We felt, in essence, that the Governor was
6 not in fact getting good information and we wanted
7 to talk to him and convey to him our evaluation of the
8 situation and also to plead with him for more time,
9 because we felt that with time this thing could be
10 resolved.

11 Q Did Mr. Douglas ask you what the outstand-
12 ing issues were?

13 A Herman Badillo brought up --

14 MR. MCKAY: Mr. Eve, before you
15 answer that entirely, our reporter needs to
16 change his tape.

17 Could you wait just a moment.

18 A Some -- I think one of the people brought
19 up the question -- I think Herman Badillo had talked
20 about this experience at Queens jail where he had
21 negotiated what he felt in good faith between the
22 inmates and the City of New York, and that subse-
23 quently, after the men had given up, they were
24 beaten.

25 Herman was concerned that had the Governor

1 come, that we would have an opportunity to talk 1022
2 with him and get further into it.

3 One of the observers did mention the
4 question of amnesty and I, as chairman, said "That's
5 not the issue that we are asking the Governor to come
6 here for."

7 Bob sort of let it be known to a degree
8 that this was some way out or vaguely one way or
9 another.

10 Q When you say "Bob," you mean Mr. Douglas?

11 A Douglas, right.

12 Q And he said that amnesty was not negotiable;
13 did he not?

14 A Well, yes. He said that to that particular
15 point, right, generally in that area. We said "Let's
16 bring the Governor so that we could talk to him and
17 we could give him our appraisal of the situation.
18 Let's talk to him even about what will happen after
19 the situation and whether or not he will implement
20 the twenty-eight points."

21 We just felt, frankly, that the Governor
22 could give us time, that his presence at Attica would
23 show concern and that might even mean that the inmates
24 might in fact accept the twenty-eight points.

25 Q Did anybody suggest that a delegation of

1 observers visit the Governor in Pocono Hills? 1023

2 A That was discussed at one period, but what
3 many of us were fearful of, that if we would leave
4 that this would subsequently give the State the right
5 to go in.

6 The Governor had not made a commitment
7 that he would talk to us; that he would even be there.
8 There was a question of where the Governor was. We
9 didn't know where he was.

10 Q Well, somebody reached him on the phone.

11 A On Sunday.

12 Q I'm talking about Sunday.

13 A On Sunday, no one, at least I wasn't going
14 to leave Attica after what had happened, under no
15 circumstances, and I think the vast majority of us
16 who were willing to go in, who were willing to go in
17 and put our lives on the line, were not about to
18 leave Attica, and this was why we said he can come
19 here, you know, with a private plane from Tarreytown,
20 New York, and, you know, talk to us, and, you know,
21 we were very emphatic. Bob left us with the feeling
22 that he was going to talk to the Governor and sub-
23 sequently get back to us.

24 Now, after that particular period, this
25 is when I said to the group, the inmates have asked

1 for an interview with the hostages, that in 1024
2 fact the committee said, "Eve, you interview the hos-
3 tages."

4 And I said, "I'm black. My credibility
5 with the Press and the system may be questioned."

6 I said, "I'm going to ask two whites, in
7 here, to go in with us."

8 I said, "I'm going to ask two men and
9 if they say no, I will understand, because I am
10 frightened also and I was frightened Sunday, and I
11 asked Senator John Dunn and Tom Wicker, two men who
12 had credibility with the inmates, with the Governor
13 and with the Press, I assume.

14 John Dunn said, immediately, no, and Tom Wicker
15 said let him think about it.

16 Clarence Jones said, "Well, if Tom Wicker
17 goes back, I will go with him," and then Tom Wicker
18 finally said, "No, dammit, yes. I will go in."

19 Q You said you were frightened Sunday.

20 What were you frightened of?

21 A Because of our credibility -- I was con-
22 vinced -- greatly diminished by the actions of the
23 Governor through Bob Douglas and the Commissioner on
24 the message they had given Richard Clark.

25 Q Mr. Eve, if the Governor's position was

1 that amnesty was not negotiable, what did 1025

2 you feel his visit would accomplish?

3 A I repeated -- the Commissioner's credibi-
4 lity had been damaged, okay, by virtue of not want-
5 ing to negotiate in the yard, and I think, like any-
6 one else, if you were confronted with the person
7 agreeing to something, if you can look him in the
8 eyes and talk with him you can sense whether or not
9 he will give up to those commitments and whether or
10 not he has the power to implement them.

11 I felt that for the Governor's presence
12 at Attica would have said that he lived up personally
13 to those things; that he was going to ensure that
14 no brutality, no beatings, no harassment would sub-
15 sequently take place; that a very effective monitoring
16 system would be devised by outside individuals, be-
17 cause the inmates had asked for Federal marshals to
18 take over the prison really at one period, and that,
19 you know, he could in fact get from us that there
20 were things who gave us indication that in a few days
21 or even maybe two or three days that this thing could
22 be resolved, that the men in the yard might be able
23 to come to a, you know, a basic agreement, because
24 there may have been just a small nucleus that was
25 attempting to hold out much longer.

1
2 Q Now, there are two points I want 1026
3 to follow up on that answer.

4 One is that you referred to looking at a
5 man in the eyes.

6 Did you feel that the inmates would have
7 to look the Governor in the eyes in order to get
8 this reassurance?

9 A No. I'm saying that if Oswald had gone
10 in -- if Oswald had gone in and negotiated those
11 twenty-eight points by himself, himself personally,
12 and had not had been a sort of message thing -- okay?
13 Had I felt the possibility of their accepting and
14 living up to was in fact greater by virtue of a
15 third party being involved, because they did not want
16 a third party involved in the negotiations, that was
17 a very, you know, thing.

18 There were people who were on the observer
19 committee whose credibility had to be questioned,
20 and that was even the conservative legislators, who
21 represented the Attica community.

22 We told them, and our message was, that
23 we knew that the Governor would not confront the in-
24 mates personally, and our message to the Governor
25 was not to do that, but in fact just to talk to us.

Q And did you feel that the Governor could

1 have accomplished something if he did --

1027

2 A By all means.

3 Q If he did not go in and face the inmates
4 man to man?

5 A By all means. By all means, and Richard
6 Clark, or the inmate we talked to, accepted that
7 condition.

8 Q You also said that it may have been that
9 there was simply a small nucleus that was holding
10 out and that, I take it, time may have weakened that
11 nucleus position.

12 What is that based on?

13 A Well, I think around the table you would
14 have a lot of inmates who would come over and talk
15 to you personally, even while things were being
16 said, and I got the feeling -- and I think they knew,
17 you know, living in a basic racist society, that
18 the Kerner Commission and the Milton Eisenhower
19 Commission have all documented that they knew that
20 racism was present; that racism was being encouraged;
21 that racism was being justified; that racism probably
22 represented the vast majority of the troopers that
23 would have gone into that yard.

24 As one who tried to get more black State
25 troopers on our force for the last two years, and have

1 failed, it was literally a white force, but 1028
2 they knew "Hey, you know, there is just a period of
3 time, you know, before this man is going to make a
4 decision to come in, and some of us are going to get
5 killed."

6 But I think the beauty of the guys in that
7 yard, from what I could take from them, was that
8 for the first time they wanted decisions to be made
9 together, totally together, which is very difficult.

10 I realize it is very, very difficult. But
11 they realized that if there was any faction that did
12 not agree, that you might have in fact had serious
13 problems.

14 Q What kind of problems?

15 A Well, the problems of them not agreeing.

16 You know, you must realize that the inmates
17 protect the hostages. You know, they had the in-
18 mates around the hostages.

19 Now, they evidently protected them around
20 them because they felt there may have been inmates
21 that would have killed them. They protected us when
22 we went in. When we went in there was a certain
23 group that walked and escorted us side by side. When
24 we sat down at the conference table they surrounded
25 us.
