

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 25, 1972
10:00 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

1 PRESENT:

2 ARTHUR LIMAN,
General Counsel

3 MILTON WILLIAMS,
4 Deputy General Counsel

5 JUDGE CHARLES WILLIS,
6 Deputy General Counsel

7 ROBERT POTTS, JR.,
Communications Consultant

8 ARTHUR MUNISTERI,
9 Deputy General Counsel

10 ROBERT SACKETT,
Deputy General Counsel

11 HENRY ROSSBACHER,
12 Deputy General Counsel

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15 MR. McKAY: This is the morning
16 session of the tenth day of the public hearings
17 before the New York State Special Commission on
18 Attica.

19 Mr. Liman, will you introduce our
20 witness for the morning?

21 MR. LIMAN: Today we are going to
22 have a more detailed exploration of the assault
23 plans of the State Police and the method in which
24 they were carried out.

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1 State Police appearing today, but to 1574
2 begin with, a member of my staff, Mr. Andrew
3 Liddle, is going to make a presentation based on
4 our study of the documents and on our inter-
5 view of the witnesses, of what the assault plan
6 was, the theory, and, Mr. Liddle, if you can
7 start.

8 After Mr. Liddle concludes with the
9 presentation of what the concept of what the plan
10 was, our first witness will be Major Monahan.

11 MR. LIDDLE: Thank you, Mr. Liman.

12 This portion of the hearings have a
13 three-fold purpose. Initially to familiarize the
14 public basically with the New York State Police,
15 so that in further testimony you will have some
16 working knowledge of their operations.

17 Secondly, to apprise the public of the
18 official plans for the retaking of the institution
19 and, thirdly, to afford you with a visual presen-
20 tation of the physical conditions as they existed
21 inside the prison just prior to the retaking on
22 September 13, 1971.

23 The State Police are basically a semi-
24 military organization, consisting of approximately
25 3500 men, twelve of whom are black, who are sta-

1 tioned in various areas of the State,
2 are broken down into nine troops, centrally loca-
3 ted. They are broken down into an uniform force
4 and a BCI force, being the detective division of
5 the State Police.

6 They are basically responsible for the
7 policing of the rural areas of the State.

8 The average trooper is a twenty-four
9 year old with a high-school education. Fifty-five
10 percent of the State Police officers have some
11 college.

12 Their initial training consists of 640
13 hours of basic training, with a supplement of 40
14 hours of in-service training every eighteen months.

15 In their basic training they are afforded
16 an eight-hour course in the use of firearms, in
17 which they fire some 3,000 rounds of pistol ammu-
18 nition or hand gun ammunition and shotgun ammu-
19 tion. This training is supplemented three times
20 a year after they are in the field, at which time
21 they fire an additional 420 rounds of shotgun and
22 hand gun ammunition.

23 At the time of the initial training,
24 they are also afforded some fourteen hours of crowd
25 control, which consists of basically moving and

1 controlling crowds in a non-confined
2 area.

1576

3 This is also supplemented at the in-
4 service training three times a year.

5 The State Police are armed basically
6 with a side arm, which is a hand gun, a .38-caliber
7 pistol. They have access to shotguns, which are
8 a pump action shotgun, or a shoulder weapon, which
9 is capable of firing either a slug, which is a
10 single ball, or buckshot, which I will briefly
11 describe as one shell containing either nine or
12 twelve pellets, approximately .38-caliber in size,
13 each of which has a lethal capability.

14 They also have, at their disposal, rifles
15 that are known as .270 rifles. They will be
16 referred to as .270 rifles here, meaning a .270
17 caliber rifle, which is a high-powered, big-game
18 rifle.

19 The State Police are regulated by
20 law and their own regulations, as far as their
21 firing of their weapons.

22 Basically, the manual which the State
23 Police go by, the administrative manual, states
24 that a member may draw his fire arm or may fire
25 a fire arm at another person after he has exhausted

1 all other reasonable means; when a member 1577

2 reasonably believes such action is necessary to:

3 Number one: effect the arrest of a
4 person who has committed a felony or attempted
5 to commit a felony involving the use or attempted
6 use or threatened or imminent use of physical
7 force against a person.

8 Number two: or has committed kidnapping,
9 arson, escape in the first degree, burglary in the
10 first degree, or any attempt to commit such a
11 crime, or regardless of the particular offense
12 which the subject -- if the subject of arrest or
13 attempted escape, the action that is necessary to
14 defend himself or another person from what he
15 reasonably believes to be the use of imminent or
16 imminent use of deadly physical force.

17 Now, deadly physical force described as --
18 deadly physical force means the physical force
19 which, under the circumstances in which it is
20 used, is readily capable of causing death or other
21 physical injury.

22 MR. LIMAN: That comes from the Police
23 Manual?

24 MR. LIDDLE: That comes from the
25 State Police Manual.

1
2 it states that a member shall not fire warning
3 shots.

4 They are also told on the range at the
5 time they fire the weapons that they can draw
6 their weapons for cleaning, authorized firearms
7 practice, or in the line of duty, when they are
8 prepared to shoot a person as prescribed by law.

9 These are the basic guidelines for
10 the firing or the use of weapons by the State
11 Police.

12 It should be noted here that due to the
13 nature of the rural responsibility of the State
14 Police, we have found that relatively few State
15 Police officers ever have occasion to use their
16 firearms. Very seldom.

17 A brief breakdown of the State Police
18 at Attica:

19 There were 600 members drawn from the
20 various troops throughout the State. Of this
21 600, one State Police officer was black.

22 The command structure at Attica was
23 basically the troop in which the facility is lo-
24 cated; it is commanded by a major and the major
25 was in charge of the group at that particular

1 facility due to the fact that the facility 1579
2 was within his troop area.

3 The State Police basically arrived on
4 Thursday, which was the 9th of September. They
5 had been working twelve-hour shifts at the faci-
6 lity up to the time of the retaking and on the
7 morning of the retaking the night shift was held
8 over.

9 So, by and large, the entire comple-
10 ment was present with one shift having worked
11 a twelve-hour tour previously.

12 MR. LIMAN: Let me interrupt one mo-
13 ment, Mr. Liddle.

14 When State Troopers practiced fire-
15 arms at the range, instructions are read to them.

16 Do you have the instruction that is read
17 with respect to when they should shoot?

18 MR. LIDDLE: No, I don't have the
19 instruction per se.

20 It is briefly this: they will draw
21 it three times: when cleaning, authorized fire,
22 when practicing or in the line of duty when they
23 are prepared to shoot a person as prescribed by
24 law.

25 MR. LIMAN: Is there a rule there

that if you are going to draw your weapon
to shoot, you should be prepared to shoot to
kill?

MR. LIDDLE: That is correct. That
is what we have developed through our interviews,
yes.

MR. LIMAN: Go ahead.

MR. LIDDLE: The basic plan for the
retaking was designed to include State Police
officers only for the physical retaking of the
prison, with the exception that two officers were
to go in with the State Police officers for iden-
tification purposes in the yard.

After the prison was under control of
the authorities, the plan called for correctional
officers and Sheriffs' Department personnel to be
responsible for the custodial duties of searching
inmates and returning them to their cells.

The National Guard had the basic respon-
sibility of caring for any injured and removing
the dead, if there were any, from the facility.

There were three basic forces that the
State Police were broken down into, namely, a
perimeter force, which I will describe, the main
force for the retaking of the prison, and a reserve

It should be noted here that at the time of the drawing of the plans, there were no hostages on the catwalks. The plans were for retaking of D-yard.

Now, the perimeter security, which I will go into first, was the security for the external portion of the prison itself.

Initially, there was a group of 75 officers that were lined up in this particular area. They were armed with shotguns; their hand guns.

They were under the command of a captain and they were responsible for preventing any inmates that were coming out of the D-yard itself from gaining access to this particular area of the prison or for taking them into custody in the event that they came out of the various doors, windows or tunnels in that particular area.

There was another force of twenty-five men that were strung out in this particular area here, under the command of a lieutenant. They were armed similarly with shotguns, their hand guns.

They were responsible for preventing any

1 inmates that were coming out of the prison
2 at the time of the retaking of gaining access to
3 the tower house area or for taking any inmates
4 into custody that did come out into that parti-
5 cular area.

6 There was a fence detail that was lo-
7 cated along this wire fence. This consisted of
8 approximately 65 men who were lined up in this
9 fashion. They were armed with shotguns, hand
10 guns, and were responsible for maintaining secu-
11 rity, preventing any inmates that may come out
12 of the school area or the auditorium area from
13 gaining access to the Administration Building.

14 It should be noted here that this peri-
15 meter force was disarmed of most of their shot
16 guns, who were given to an assault force or the
17 force that went into aid in the retaking. These
18 men also subsequently did go inside the prison
19 and the National Guard did take up their positions
20 out here. They went in as a reserve force.

21 The main group to retake the prison
22 came in from two directions. These two direc-
23 tions being from A-block and from C-block.

24 Actually, these were the only two blocks
25 from which the State authorities had control at

2 There were basically three details on
3 each block, and I will go into these three de-
4 tails and describe them as briefly as I can.

5 They had a roof -- what is known as a
6 roof detail, which was located on the top of
7 A-block roof.

8 This was intended to consist of six
9 men placed along the roof, armed with .270-caliber
10 rifles, commanded by a State Police lieutenant.
11 Their initial objective was to provide covering
12 fire for the forces that were to go in on top of
13 the catwalk.

14 MR. LIMAN: They were armed with
15 .270 rifles with scopes?

16 MR. LIDDLE: That's correct.

17 They were armed with .270-caliber rifles
18 with four-power scopes. These were high-power
19 rifles, which I described earlier.

20 MR. LIMAN: We will be able to show
21 later in the hearing what the view of the yard
22 was through a four-power scope.

23 MR. LIDDLE: They were placed in
24 this position with the thought in mind that they
25 could provide covering fire for the forces coming

1 out on the catwalks and that any over-
2 run of fire would be directed into B-yard in the
3 event that they had to use their weapons, as
4 opposed to being over here and having the over-
5 run of fire being directed into D-yard.

6 Again, there were six men, commanded by
7 a lieutenant. All were initially supposed to be
8 State Police personnel.

9 There was a group of men on the third
10 floor of A-block, which would have been the third
11 floor of the block along this area.

12 They were armed with gas guns and had
13 a back-up armament of .270 rifles. There were
14 five troopers, commanded by a non-commissioned
15 officer. Their objective was to fire tear gas
16 into the barricades, which were located here, and
17 I will describe them later, and to provide addi-
18 tional covering fire for the State Police person-
19 nel that were coming out the catwalks.

20 The main group of personnel retaking
21 the prison were a group of thirty men coming out
22 this particular catwalk, commanded by a lieuten-
23 ant, assisted -- correction. Commanded by a cap-
24 tain, assisted by a lieutenant.

25 Their objective was to come out the top

1 of A-block catwalk, swing to the right 1585
2 around Times Square, go down D catwalk and secure
3 this catwalk.

4 MR. LIMAN: What were they to be
5 armed with?

6 MR. LIDDLE: These people were, by
7 and large, and with their .38's, their hand guns,
8 and shotguns, loaded with double-0 buck, which
9 I described earlier, or slugs.

10 They also had a complement of three
11 gas dispersal units provided by the National Guard,
12 similar to flame throwers, but instead of throw-
13 ing glame, they dispersed gas.

14 These men were to come out also with
15 the thirty men to provide any gas dispersing
16 that may be necessary into the yard.

17 They were backed up by a -- included
18 by an additional or included with these men was
19 an additional ten-man barricade removal team,
20 which was designed to remove this barricade to
21 allow these thirty officers to go through.

22 There also was a fifteen-man rescue
23 squad that was to come in behind these people to
24 remove any hostages or injured troopers or
25 assault personnel that went in at the time of

1 the retaking.

2 So, a complement of a total of 55
3 armed troops were to go in on the top of the
4 catwalk. They also had at their disposal piked
5 poles.

6 I will note later that there was a
7 wire fencing located in these two portions here,
8 in addition to the barricade. There was a
9 thought at the time that these may be charged and
10 had piked poles, rubber clubs, bolt cutters, to
11 get through these.

12 In addition to this, there was a group
13 of twenty officers that were to go in on the
14 inside of the tunnel. In other words, underneath
15 the catwalk. They were to break up into a group
16 of ten men apiece, branch out into A-yard and
17 out into C-yard and secure the yards at the time
18 of the retaking.

19 There was, in addition to that, a five-
20 man group that was to go down inside the tunnel
21 to the Times Square area and secure the Times
22 Square area under the catwalks.

23 The same situation prevailed over on
24 C-block.

25 There was a six-man -- or to be a six-

1 man detail of .270 riflemen on top of 1587
2 the block, on top of the roof, were to provide
3 covering fire for the assault force that was to
4 go in on A-block -- or on C-block.

5 They were to provide cover if it was
6 requested, or if covering fire was requested to
7 fire onto the catwalks. The thought being here
8 that the overrun of any shots would go into A-
9 yard.

10 These men were also armed with .270
11 rifles.

12 There was a team of five troopers with
13 a non-commissioned officer on the third floor of
14 C-block. Here again, they were armed with shot-
15 guns and rifles with the intent of firing tear-
16 gas into the barricade initially when the group
17 went out on top of the catwalk, and to provide
18 additional covering fire with the .270 rifles,
19 in the event that this was needed.

20 There was a group of 30 officers to
21 go out onto the top of the catwalk; commanded by
22 a captain assisted by a lieutenant. They were to
23 go down C-block catwalk, swing to the left and up
24 B catwalk, secure the top of the tunnels.

25 MR. LIMAN: So that we are now -- to

1 be perfectly clear, when they did that 1588
2 and the group that was coming out from A-block
3 accomplished its mission, you would have troopers
4 who were now ringing D-block, troopers who had
5 come out on A catwalk who would be along the
6 D catwalk, and troopers who were coming out from
7 C catwalk who would be along B catwalk and they
8 would be ringing D-yard and they would be bring-
9 ing gun cover?

10 MR. LIDDLE: That's right.

11 The thirty men coming out here and the
12 thirty men coming out here initially -- ideally
13 would be ringing the catwalk.

14 In addition, you had the ten men removal
15 team which came out with these men and the fifteen-
16 man rescue team that came out behind them.

17 So, here you have fifty-five men coming
18 out supposedly from A catwalk and fifty-five men
19 coming out from C catwalk.

20 We had the same details in the tunnels.

21 We had a twenty-man group that was to
22 go down the inside of C-block tunnel, swing to
23 the right into C-yard, assist in securing this
24 yard. Ten men were to swing out to the left
25 and secure B-yard.

1
2 five officers who were to go down to Times
3 Square and link up with the other five-man group
4 that had come in from A-block.

5 After this was secured, the plans
6 also called for the detail that came out on top
7 of the tunnel to go in and secure D-block and
8 the detail that came out from the top of the tun-
9 nel came in to secure D, and they were to link
10 up with this particular location here.

11 There was a twenty-five man rescue team
12 also to come out A-block on the top of the cat-
13 walk behind the initial force that was to retake
14 the prison.

15 This was commanded by a State Police
16 Captain, assisted by a State Police lieutenant,
17 Lieutenant Christian, whose testimony will be
18 given later.

19 These men were also accompanied by two
20 correctional officers who were to aid in identi-
21 fying hostages that they counted. The plan was
22 for the detail to come out on top of the catwalk
23 behind the initial group that was retaking the
24 prison, to place ladders down in these areas, to
25 go down the ladders and to proceed to the hostage

1 area, which we have determined to be
2 roughly in this location.

3 These men were also armed with shot-
4 guns and their issued sidearms.

5 Up to 8:30, all of the officers were
6 briefed by Major Monahan, and were in position
7 by about 8:30. The plan called for a helicopter,
8 operated by the National Guard, to drop into
9 D-yard.

10 Now, again, I would like to reiterate
11 here that these plans were drawn up without the
12 hostages on the catwalks.

13 MR. LIMAN: We will be discussing
14 with the major the various changes that took place
15 at that point.

16 MR. LIDDLE: Now, just to give you
17 a brief idea as to what the catwalks looked
18 like.

19 Initially, there were eight hostages
20 placed on the catwalks, with prisoners behind
21 them with instruments at their throats. The
22 hostages were initially located in these areas
23 where I am placing the pins. They remained in
24 these positions for a period of time and just
25 prior to the dropping of the gas we have deter-

1 mined that these two hostages on B
2 catwalk were removed, taken over behind this
3 barricade in approximately this position. These
4 two hostages were put together on a seat, sat
5 down on a seat. These four hostages remained
6 in the position that I indicated here.

7 This is the picture just prior to the
8 gas drop.

9 MR. LIMAN: Thank you, Mr.
10 Liddle.

11 We will be questioning various
12 State officials, State Police officials, on the
13 plan, and we will be hearing today from Major
14 Monahan, who was in command of Troop A, from
15 Captain Malavich, who led the assault team that
16 Mr. Liddle referred to that came out on C-walk,
17 whose mission it was to ring the D-yard from
18 the B-block area, and also from Lieutenant
19 Christian, who was the lieutenant who went into
20 the hostage area as part of the rescue detail
21 and who was the first man in the hostage area
22 in D-yard.

23 We will also be hearing from one of the
24 hostages who was on the catwalk where one of
25 those red pins is now, as well as from the correc-

1 tion officer who witnessed various aspects 1592
2 of the police action.

3 I now call Major Monahan.

4 J O H N M O N A H A N, having been
5 duly sworn by Mr. McKay, was examined and
6 testified as follows:

7 EXAMINATION BY MR. LIMAN:

8 Q Major, you are a retired major of the State
9 Police?

10 A Yes, sir.

11 Q How long were you in the State Police?

12 A I completed twenty-five years October 16,
13 1971. I retired effective January 12, 1972.

14 Q And you had made your plans to retire on
15 your twenty-fifth anniversary prior to the Attica
16 uprising?

17 A That's correct, sir.

18 Q In your twenty-five years of the State
19 Police, were you stationed at various barracks
20 throughout the system?

21 A There are very few areas in the State
22 that I haven't had some exposure to in one form or
23 another.

24 Q When did you become a major?

25 A I've brought the dates, Mr. Liman, because

1 the last time we spoke I didn't have
2 them.

3 Do you want the exact dates on any --

4 Q Yes.

5 A I enlisted with the State Police on 10/16/
6 46.

7 I was promoted to corporal on 7/1/53. Ser-
8 geant 7/31/58. First sergeant on 3/10/60. Senior
9 investigator in the BCI on 9/20/62. Lieutenant on
10 7/11/63. Lieutenant supervisor BCI, which is now a
11 captain's position, on 11/14/63. Inspector on 1/14/
12 65. A major in charge of troop K at Hawthorn, New
13 York, on 7/21/66.

14 I was then transferred to organize and put
15 together a new troop in Middletown, Troop F, on 6/
16 6/68 and I was transferred to Batavia in charge of
17 A troop on 12/31/70.

18 Q Now, A troop in Batavia is the troop that
19 has jurisdiction of Attica, is that correct?

20 A Yes, sir.

21 Q What kind of training did you receive as a
22 police officer? Did you go to the academy?

23 A I have gone to our academy. I have gone to
24 a number of command management schools. I have gone
25 to AMA schools. I have gone to Harvard Homicide Semi-

1 nars. I have attended the FBI Academy in 1594
2 Washington.

3 Q Prior to September 9, had you inspected the
4 Attica Correctional Facility?

5 A I had made a familiarization visit to it.

6 Q For what purpose was that?

7 A Familiarization.

8 Any penal -- excuse me.

9 Any penal installations within A troop area
10 generally are the subject of a familiarization visit
11 by the man in charge of the troop.

12 Q How many troopers were there in A troop
13 over which you had command.

14 A The figure fluctuates, but I think it was in
15 the neighborhood of 345, give or take.

16 Q When were you first advised that there was
17 trouble at Attica?

18 A Approximately 9:15 a.m. on September 9.

19 Q Who called you?

20 A Superintendent Mancusi.

21 Q Did he make any request of you at the time?

22 A He told me that they needed assistance;
23 that there was a problem at the installation; that
24 there had been a take-over of the installation.

25 Q Did he give you any idea of what the dimen-

1 sion of the take-over was?

1595

2 A No, sir.

3 He said there were hostages involved. How-
4 ever, he did not have any specific figures at this
5 time.

6 Q Had there been a plan developed as to what
7 to do in the event a prison institution was taken over
8 and hostages taken?

9 A Not specifically, I don't believe, Mr. Liman.

10 Each installation has basically what they
11 call an escape plan, which is primarily devised to
12 set up road-blocks or other check points in the event
13 of an escape, as opposed to an actual take-over.

14 Q What did you do after you got your call from
15 Superintendent Mancusi?

16 A I immediately notified our division head-
17 quarters in Albany. I also alerted other supervisory
18 personnel in the troop and instructed them to mobilize
19 as many people as possible and have them respond
20 immediately to the Attica facility.

21 Q Did you give them any instruction as to what
22 they should do when they arrived at Attica?

23 A No, sir.

24 Just the response that I would be en route.

25 Q When did you arrive at Attica?

1 A Approximately ten a.m.

1596

2 Q Were you then given a briefing on the situ-
3 ation?

4 A I met Superintendent Mancusi and discussed
5 the matter with him and was given a brief picture of
6 the conditions that existed.

7 Q And the conditions that existed at that
8 time were that virtually all of the prison, with the
9 exception of parts of C-block and the Administration
10 Building, were under the control of inmates?

11 A Basically, the whole installation, sir,
12 with the exception of the Administration Building, was
13 under the control of the inmates.

14 Q Was there any decision made at that time
15 with respect to attempting to retake the prison?

16 A Shortly after my arrival we received a
17 call, the source of which I am not sure, that there
18 was a fire in the E-block building and that there
19 were people in the building.

20 We had a lieutenant with approximately
21 thirty men proceed to the area and take a piece of
22 fire apparatus inside the wall for the purpose of
23 checking the situation.

24 Once he arrived in there, aided by correc-
25 tion officers, they were able to retake the E-block

1 section and continue on into the C-block

1597

2 area.

3 Q Did they meet any resistance in the efforts
4 to retake C and E?

5 A None that was reported to me, sir.

6 Q And they succeeded in retaking E-block and
7 C-block by what time?

8 A Could we have one stipulation here, Mr.
9 Liman?

10 Everything now I would like to, rather than
11 repeating to the best of my knowledge, can we stipu-
12 late that all of my answers are to the best of my
13 knowledge and recollection?

14 Q Yes. I know you don't have a log or any-
15 thing that would give an exact time. All I am ask-
16 ing of you is your best recollection of about what
17 hour C-block and E-block had been retaken.

18 A I believe C and E and also A were retaken
19 by approximately eleven a.m.

20 Q Who was in charge of the retaking effort;
21 the State Police or the correction officers?

22 A I think it was a joint effort, sir. We
23 had mutual personnel going.

24 Q Was resistance met at all in retaking A-
25 block?

1 A No physical resistance, to my
2 knowledge. There were quite a few verbal exchanges
3 between some of the people at the gate and some of
4 the inmates in the tunnel.

5 Q But in any event, this proceeded smoothly
6 and without any physical confrontation --

7 A Yes, sir.

8 Q -- or exchanges of fire or assault?

9 A Yes, sir.

10 Q Now, was a decision made as to whether you
11 should continue your efforts to retake the institu-
12 tion, and in particular to take B-block and D-yard?

13 A Yes, sir. I felt at that time -- I believe
14 we were given a figure of in the neighborhood of 900
15 or more prisoners, or inmates, that had been retaken
16 or was in the process of being reconfined in the
17 C-block area, and to accomplish this necessarily dissi-
18 pated our force.

19 Therefore, I did not think that it was
20 feasible, based on the information available, that
21 there were in the neighborhood of in excess of 1200
22 inmates confined in the yard, to attempt to field a
23 skeleton force at this time. I didn't think we had
24 sufficient personnel available to accomplish a com-
25 plete retake-over and provide security.

1 Q How many men did you want before
2 you attempted to retake the institution?

3 A I felt that we could accomplish this with
4 a force of 350 people.

5 Q What kind of fire power did you think it
6 would be necessary to use at that point to accomplish
7 this with a force of 350 people?

8 A Just our issued weapons.

9 Q And your issued weapons are what?

10 A Side arms and shotguns and .270 scope rifles,
11 augmented by tear gas guns.

12 Q Were you given instructions to prepare for
13 the taking of D and B blocks in the yard when you had
14 sufficient men?

15 A I had tentatively discussed with some of
16 the supervisory persons -- the supervisory personnel
17 of the possibility of our moving in and at that time --
18 this is on the day of the uprising -- we had not
19 formalized any specific plans as to how we were going
20 to accomplish it, other than try to go in from the
21 two directions, which we ultimately did.

22 Q You say you discussed it with supervisory
23 personnel; to whom are you referring?

24 A My supervisory personnel.

25 Q Who are they?

1 A Captains and lieutenants who were 1600
2 at the scene.

3 Q Your subordinates?

4 A Yes.

5 Q At what point did you have sufficient men,
6 the 350 men, to retake the institution?

7 A I believe around five p.m.

8 Q That's on Thursday, September 9?

9 A Yes, sir.

10 Q When you had sufficient manpower, did you
11 inform the correction officials?

12 A The correction officials were constantly
13 being informed of what we had in the line of person-
14 nel. I didn't give them any specific figure of 350,
15 to my knowledge.

16 Q But did you tell him that you had enough
17 men to go in if they wanted you to?

18 A I believe I did, sir. I believe I made it
19 known to him. Exactly whom I told, I don't know.

20 Q Who were you reporting to at this point in
21 the Correction Department?

22 A At five p.m. there were a number of people
23 there, including the Commissioner and his assistant,
24 Mr. Dunbar, in addition to Superintendent Mancusi and
25 his assistant.

1 Q What were you told when you reported
2 that you had sufficient forces there?

3 A That negotiations had been commenced.

4 Q I'm sorry. You'll have to speak up.

5 A That negotiations had been commenced.

6 Q Were you consulted on a decision to nego-
7 tiate?

8 A No, sir.

9 Q Were you consulted on Commissioner Oswald's
10 decision to go into the yard?

11 A No, sir.

12 Q Did you voice any objections to either of
13 these strategies?

14 A I didn't think that I enjoyed that latitude,
15 sir. A correctional facility comes under Correction.
16 I had no voice in the operation of it.

17 Q Did you have an opinion at the time as to
18 whether the passage of time would make the task of
19 retaking more difficult if it became necessary to go
20 in with force?

21 A Yes, sir.

22 Q What was your opinion at the time?

23 A I thought the time would be a detriment
24 to us. I felt that the initial take-over had resul-
25 ted in confusion and disorganization within the instal-

1 lation and as time passed, I felt that
2 the disorganized aspect of it was corrected.

3 Q But you did not express these views to any-
4 body in the Correction Department; am I correct?

5 A No, sir. Not to my knowledge.

6 Q And nobody solicited your opinion on that
7 subject?

8 A No, sir.

9 Q What was the chain of command in the State
10 Police for this operation at Attica?

11 A Initially, when I responded, I was in com-
12 mand. I was the major in charge of the troop.

13 When Commissioner Oswald arrived, I think
14 around one-thirty, one-forty-five, he was accompanied
15 by two State Police officers who were superior to
16 me.

17 Q Who were they?

18 A The then Chief Inspector Miller, who is
19 now the First Deputy Superintendent, would be the
20 man in charge under our organizational structure, and
21 the Deputy Chief Inspector Quick, who is now an
22 assistant deputy superintendent, I believe.

23 Q Were they giving you instructions as to
24 what you should do?

25 A Upon arrival, I briefed the then Chief

1 Inspector with the conditions that existed

1603

2 and from there on in, every movement of the State Po-
3 lice, including the plans and whatever, were discussed
4 with him before being implemented.

5 Q Who was the Superintendent of the State
6 Police at that time?

7 A William Curwin.

8 Q Was Mr. Curwin on the scene at that time?

9 A Not to my knowledge.

10 Q Where was Mr. Curwin?

11 A I have no idea.

12 Q Did you speak to Mr. Curwin?

13 A During the period of the night through the
14 13th?

15 Q Yes.

16 A On a couple of occasions, sure.

17 Q Whose decision was it to retake the insti-
18 tution? Who had the responsibility to make the de-
19 cision to retake the institution?

20 A The Commissioner.

21 Q Which Commissioner?

22 A Oswald.

23 Q The Correctional Department's decision was --
24 the Correctional Department had the responsibility
25 to decide to retake, rather than the Police Department?

1 A Yes.

2 In other words, it was a correctional faci-
3 lity.

4 As far as the determination to negotiate
5 this was not a State Police function. We were there
6 to provide the necessary service to restore this
7 facility to lawful control if and when we were re-
8 quested to do so.

9 Q So that once a decision was made to retake
10 the institution, it would become your responsibility
11 to accomplish that mission?

12 A The State Police's responsibility.

13 Q And who in the State Police took the res-
14 ponsibility for actually drawing up the plans for
15 the police assault we have heard Mr. Liddle describe?

16 A I drew up the plans and submitted them to
17 Chief Inspector Miller, who approved them.

18 Q Now, was Mr. Liddle's description of the plan
19 an accurate description?

20 A Very accurate, sir.

21 Q When did you first draw up these plans?

22 A I believe we started working on them on
23 Friday.

24 Q Was there an evolutionary process in the
25 plan? Did it develop as the days went by from one

1 thing into another?

1605

2 A Definitely.

3 Q In what way did the initial plan that you
4 conceived differ from the one that Mr. Liddle has
5 described?

6 A Well, the basics remained constant. How-
7 ever, there were a number of events that occurred
8 during this period -- and this is what I was alluding
9 to earlier, about them solidifying their positions
10 and becoming organized.

11 Q When you say "them," you mean the inmates?

12 A The inmates, yes, sir.

13 The barricades that were erected on the top
14 of the C-tunnel roof and the A-tunnel roof initially
15 had been erected on possibly a third of the way out
16 from the Times Square area.

17 However, as the days progressed, they kept
18 moving them closer to the gate, coming out of the
19 A-block and also the gate coming out of the C-block.

20 Q Kept moving them closer to the block where
21 your people were?

22 A Yes, sir.

23 In addition to this, when they initially
24 erected them, they were very crowded and consisted
25 basically of benches and whatever. However, as the

1 time went on, they became more sophisticated
2 in that they acquired a chain fence someplace which
3 they had strung from rail to rail and a person who
4 was identified to us by correctional officers as
5 having worked as an electrician within the facility
6 was observed wiring these fences up.

7 Not knowing exactly what we were going to
8 be confronted with in this area, it necessitated
9 changing plans in an effort to provide what we thought
10 were necessary tools to gain access to the Times
11 Square or yard area.

12 Q What did you provide for that?

13 A Well, two -- we set up a plan whereby prior
14 to instituting the police action to restore this
15 facility to lawful control, that we would kill all
16 power in the installation, thereby trying to negate
17 the possibility of electricity being used to either
18 electrocute or shock people going in.

19 However, I don't recall getting a clear-
20 cut answer as to the possibility of emergency gene-
21 rators or areas being passed by electricians. So,
22 we availed ourselves of emergency equipment from a
23 utility company, bolt cutters, rubber gloves, et cetera.
24 In addition to this, during the build-up, mattresses
25 and other material was also being utilized in the

1 barricade area, and being soaked with some
2 kind of liquids, which we, not knowing exactly what
3 they were, and here again, rumors, I don't know the
4 source, but the thought that they were inflammables.
5 We knew that the inmates had access to inflammables
6 in some areas.

7 Here again, we were not able to bring in
8 firemen from outside because of the non-paid stature
9 of them. They are volunteers in the area. However,
10 by getting a coordinator, we were able to set up
11 charged lines, which would then be manned by our own
12 people that we felt we could utilize to douse any
13 flame or fire that was started as a measure of pre-
14 venting our access to the yard area.

15 In addition to this, we acquired piked
16 poles so that we could, again, rip these barricades
17 apart without actually having our own personnel be
18 accidentally burned.

19 Q I take it from your testimony that you under-
20 stood that the purpose of the barricades was to pro-
21 vide an obstacle to any police force that would come
22 out of either A-block or C-block and try to retake
23 the yard?

24 A That was my impression, yes, sir.

25 Q Now, is it fair to say that in any kind of

1 operation like this intelligence plays an

1608

2 important role?

3 A Yes, sir.

4 Q Now, what were your sources of information
5 as to what was going on in the yard; what kind of
6 weapons there were and what kind of obstacles you
7 would encounter?

8 A Well, some of the weaponry and the barri-
9 cades, per se, were visible to myself or anyone else
10 who cared to look. You could see these readily from
11 A-block or C-block.

12 In addition, you could observe -- I don't
13 know whether they were fox-holes or entrenchments
14 being dug in D-block yard.

15 The barricades, in addition to being barri-
16 cades and possibly being wired and electrified, they
17 eventually inserted sharpened sticks in them so that
18 you could conceivably become impaled upon them try-
19 ing to go through.

20 Q How did you know that?

21 A Pardon?

22 Q Did you know that in advance?

23 A Know what in advance?

24 Q What you described at the barricades.

25 A You could see them, sir.

1 In addition to that set-up, an ob-
2 servation team on top of the C-block roof -- however,
3 the -- for surveillance purposes of the yard.

4 However, I believe there was an objection,
5 because we were allegedly harassing the people in the
6 yard and we were asked to discontinue this.

7 Q So you did not have your assigned surveil-
8 lance team on the roof after that?

9 A Periodically we did, but to have a man up
10 there constantly, we were asked to remove him. We
11 also tried to set up surveillance using helicopters
12 and this we were asked to discontinue also.

13 Q Could you keep your voice up?

14 A What kind of surveillance equipment did
15 you have for the yard, major?

16 A Binoculars.

17 Q What kind of equipment did you have to over-
18 hear what was going on in the yard?

19 A None, to my knowledge, sir.

20 Q Do you know of any request being made by
21 the State Police for directional mikes or other
22 amplifying equipment?

23 A I believe there was some conversation or
24 discussion about it; I don't recall participating in
25 it. I recall hearing something about it later.

1 Q Do you know whether the State
2 Police has such equipment available to it?

3 A Not to my knowledge.

4 Q What about various uses of telescopes and
5 telescopic lenses; did the State Police have them
6 available?

7 A Some of our camera equipment has some of it
8 available.

9 Q Were there also a number of rumor going on
10 at that time while you were at the facility as to
11 what was going on in the yard?

12 A Yes. It was rife with rumor.

13 Q What means did you have of making a deter-
14 mination as to whether the rumor were factual?

15 A It depended on what the rumor was.

16 Q What kind of rumors were you hearing?

17 A Well, for example, we would get rumors that
18 they were going -- there was obviously an effort made
19 to break from one area into another, and if you
20 checked -- like, there was talk at one time, as I
21 recall, in the B-block at this end, that they were
22 going to break out of this C-block and come into
23 B-block.

24 However, we had checked with our own people
25 down there and they were experiencing no problems.

1 Q Were there also rumor about acts of
2 violence or atrocities by people in the yard?

3 A Yes, sir.

4 Q What kinds of rumors were going around
5 about that?

6 A Various kinds, sir. Rumors of attacks,
7 atrocities.

8 Q What means were there of verifying those
9 stories?

10 A Very limited, at that time.

11 Q Where were these rumors coming from?

12 A I have no idea.

13 Q But they were reaching the command post?

14 A Yes.

15 Q There was a lot of discussion in the Press
16 about the role of Captain Williams. He was described
17 as the commander of the police operation.

18 Is that an accurate description of his
19 role, would you say?

20 A No, sir. It is very erroneous.

21 Q What was Captain Williams' position?

22 A Captain Williams was the man who was left
23 at the command post, and the determination to leave
24 him there was based on his ability -- he has a well-
25 modulated voice. He is not prone to excitement, and

1 I felt that it would be beneficial to 1612
2 have a man with this type background and ability in
3 an area that would necessitate the relaying of orders.

4 Q Are you saying that he was relaying messages
5 on a radio?

6 A Mr. Williams basically -- or Captain Wil-
7 liams, was basically a mouthpiece for any orders
8 that had to go out or come in.

9 Q Was Captain Williams in the BCI?

10 A Yes, sir. He is in charge -- at that time
11 he was in charge of the BCI of Troop A.

12 Q Which was the Detective Force of Troop A?

13 A Yes.

14 Q Now, what was your information as to what
15 kind of weapons the inmates had?

16 A Knives. Spears. Bats. Pipes. It was
17 known to us that during the take-over they had acquired
18 at least tear-gas guns, which, if fired at a person
19 they are very lethal, the projectiles.

20 Q Was it known how many projectiles they
21 had obtained?

22 A Not to my knowledge, sir. No.

23 Q In preparing your plans and in reviewing
24 them with your superiors, what consideration was
25 given to the use of non-lethal force in subduing this

1 uprising and retaking the institution?

1613

2 A I don't actually understand, Mr. Liman,
3 one thing. There is a constant referral to lethal
4 and non-lethal weapons.

5 Throughout my twenty-five years of law
6 enforcement, I have seen death in almost all its
7 forms. I think that any weapon, whereby someone is
8 killed or seriously injured, must be considered a
9 lethal weapon, whether it be a firearm, a club, a
10 rock, a bottle, or whatever.

11 Q Was any consideration given to going in
12 with tear gas and night sticks, but not with guns?

13 A Not to my knowledge.

14 Q Was any consideration given to rubber bul-
15 lets? We read about them in Ireland.

16 A Not to my knowledge, sir.

17 Q Is there any reason why consideration wasn't
18 given to these methods?

19 A Number one, to my knowledge, I don't think
20 we have rubber bullets.

21 Number two: I think that we have a respon-
22 sibility to our own people also. We were confronted --

23 Q By your own people, you mean the State
24 Police?

25 A I'm talking about our State Police personnel

1 that we asked to go in and restore this 1614
2 facility to lawful control, and I personally would
3 not ask any of my men to go in and be confronted with
4 an excess of 1200 people without being properly armed,
5 as described by the New York State Police.

6 Q Is it fair to say that the safety of your
7 men was a major consideration in the way in which
8 the plans were drawn?

9 A The safety of my men, the safety of the
10 hostages, and the safety of the inmates was all of
11 concern to me.

12 Q Who made the decisions with respect to what
13 kind of armaments the men would use once it was
14 accepted that you would go in with fire power; with
15 guns?

16 A I don't exactly understand the question.

17 Q Who made the decision that you would use
18 shot-guns; for example, that details would carry shot-
19 guns?

20 A I would probably say that I had quite a bit
21 of say in it. However, I don't specifically recall
22 telling any given individual that you must have a
23 shot-gun, you must have your side arm.

24 We have shot-guns available, and any time
25 you feel a force that is going into a situation, then

1 I think it's incumbent upon whomever is making 1615
2 the plans to provide the people with the means that
3 you are provided with.

4 Q Am I correct that the means for the forces
5 that were going to go out on the catwalks would
6 include these 12-gauge shot-guns?

7 A Yes, sir.

8 Q What kind of ammunition were the troopers
9 issued?

10 A For the shot-guns, sir?

11 Q Yes.

12 A I believe double-0 buck and possibly some
13 osbalds (phonetic).

14 Q Possibly some slugs?

15 A Slugs, osbalds (phonetic). However you
16 want to refer to them.

17 Q The double-0 buck, as it has been described
18 by Mr. Liddle, consists of a cartridge which has
19 nine pellets or maybe as many as twelve, each of which
20 is roughly the size of a .38 caliber projectile?

21 A I didn't hear Mr. Liddle, but I would be
22 inclined to go -- I personally would liken them to
23 a .32 as opposed to a .38, but there is not that much
24 of a difference.

25 Q Each of these pellets, I take it, is lethal

1 in its capability?

1616

2 A Definitely.

3 Q Now, there are -- there is ammunition for
4 shot-guns which is of lower caliber, such as birdshot;
5 am I correct?

6 A Yes, sir.

7 Q And am I also correct in my understanding
8 that as the cartridge is ejected from the gun and as
9 these various double-0 shot come out, the further they
10 go the more they spread?

11 A I believe so, sir.

12 I am not a firearms expert, but I believe
13 that the muzzle control, whether it be choked, or
14 whatever, has a bearing on it. So, to get into the
15 exact spread per foot, I don't feel capable of pas-
16 sing on it.

17 Q Did you know what the spread was at that
18 time?

19 A I know they spread, but the exact spread,
20 I have no idea. Even today, I have no idea.

21 Q That means, does it not, that if a shot is
22 fired at a person who is at a substantial distance,
23 that even if the marksman is good, he may also in-
24 flict lethal injury on somebody next to that man?

25 A I would say that the distance involved would

1 definitely have a bearing.

1617

2 Q Was there any consideration given to using
3 ammunition other than double-0 buckshot?

4 A We do not have any, to my knowledge, sir.

5 Q Well, other than the fact that you did not
6 have any that was available, was there any discussion
7 as to the possibility of requisitioning some and using
8 other kinds of ammunition?

9 A Not to my knowledge.

10 Q Is there somebody in the State Police struc-
11 ture who makes the decision as to what kind of ammuni-
12 tion should be issued to the State Police and what
13 the rationale is of the particular issues?

14 A Yes, sir. Division Headquarters makes the
15 determination as to what firearms we will use and
16 what type ammunition we will use.

17 Q Here, you used what was available, am I
18 correct?

19 A That's correct, sir.

20 Q This situation at Attica was unique, at
21 least in modern times, am I correct, having twelve
22 hundred inmates, hostages, in the yard, which was
23 roughly one hundred by one hundred yards?

24 A I think it was unique, yes, sir.

25 Q Was there anybody in the State Police organi-

1 zation who raised with you the possibility 1618

2 that given the uniqueness of the problem, that perhaps
3 they could requisition or obtain some other kinds of
4 ammunition?

5 A No. But to get one thing straight here,
6 Mr. Liman, I have done some hunting in my life, and
7 number 6 shot and number 4 shot is also lethal.

8 Q But the lower the shot you get the less the
9 capability is of causing injury?

10 A It depends on the range, sir.

11 Q At these distances, with smaller shot --
12 you are not suggesting that smaller shot will inflict
13 the same amount of injury as one of these double-0
14 balls, are you?

15 A I would go along with the fact that the
16 six shot would probably inflict injury more readily
17 than buckshot.

18 Q More readily?

19 A Yes, sir.

20 Q Would it cause lethal injuries?

21 A I don't know, sir. It would depend on what
22 portion of the body was struck by it. You are getting
23 a big load going out in a number six. You are dealing
24 with a nine -- I don't have any idea of a six, but it
25 is many, many times more in excess of nine.

1 Q Were you aware of the National
2 Guard's plan of operation Sky Hook?

3 A Not by name.

4 Q Are you aware that the National Guard had
5 restrictions against using the type of shot of the
6 double-0 shot?

7 A No, sir.

8 Q Was General O'Hara on the scene?

9 A Yes, sir.

10 Q Did you discuss your plans with General
11 O'Hara?

12 A I believe he was consulted.

13 Q Now, General O'Hara had been the commander
14 of the National Guard; am I correct?

15 A I believe so, sir.

16 Q In discussing the plans, was there any dis-
17 cussion with General O'Hara of the type of ammuni-
18 tion that was being used?

19 A I doubt it. I think we just used what had
20 been provided.

21 Q Whose decision would it be as to whether
22 to equip a trooper with double-0 shot or a rifled
23 slug?

24 A I said that I thought that we had both
25 there. I was under the impression that they were all

1 equipped with buck-shot.

1620

2 Q Whose decision was it to use the .270 rifles?

3 A In part of the planning, I probably had a
4 hand in it. Who specifically decided it, I don't
5 know.

6 Q Does the State Police have available to it
7 any other forms of high-powered rifles than the .270?

8 A No, sir.

9 We did have some .30/.30's, and I believe
10 some .06's, but they were phased out and replaced
11 with the .270's.

12 Q Were you aware of the characteristic of
13 the wound caused by the .270?

14 A I'm sorry. I didn't --

15 Q Are you aware of the characteristics of
16 the wounds caused by a .270?

17 A I don't understand that question, but here
18 again, it would depend on what part of the body was
19 struck by a .270.

20 Q Were you familiar with the types of bullets
21 that were issued for the .270?

22 A I don't follow you, sir.

23 Q Do you know whether the ammunition issued
24 for the .270 disintegrated on impact?

25 A No, I do not.

2 muchroomed?

3 A I do not know that either.

4 Q Do you know whether it was steel jacketed?

5 A No, I don't.

6 All I know is it is issued ammunition, and
7 I am not that familiar with it.

8 Q And again, these decisions as to what kind
9 of ammunition should be used, whether it should be
10 steel jacketed, versus silver tip, were all made essen-
11 tially by way of procurement policy rather than for
12 the situation which was confronting you at Attica;
13 you used what you had?

14 A There was no special ammunition provided
15 for Attica in any form, to my knowledge.

16 Q And there was no discussion of ammunition
17 at Attica as to what should be used?

18 A Not to my knowledge, no, sir.

19 Q Was there an assault planned for Sunday?

20 A There was a situation that occurred Sunday
21 where our forces were moved into position to move
22 into the facility if we were so instructed.

23 Q Were they in fact placed on alert?

24 A Yes, sir.

25 Q Were you told by somebody that there might be

1 occasion for your forces to attempt to retake 1622

2 the institution on Sunday?

3 A Yes, sir. The exact force, I don't know.

4 Q But this would have been from a civilian
5 source?

6 A No. It would have come from correction.

7 Q By civilian, I mean from the Correction
8 Department.

9 A Yes, sir.

10 Q When was the first time that you were told
11 that you were going to be going in on Monday morning,
12 all things remaining equal?

13 A I believe it was Sunday evening.

14 Q On Sunday evening, did you participate in
15 a meeting with other people to finalize your assault
16 plans?

17 A Yes, sir.

18 Q Who was present at this meeting, if you
19 recall?

20 A I don't recall exactly.

21 Q Well, was Commissioner Oswald present, do
22 you recall?

23 A I believe Commissioner Oswald was there.
24 I believe his Deputy Superintendent was there.

25 Here again, there were so many meetings,

1 and so much activity going on where people 1623
2 would participate to a degree and then go off onto
3 some other area. To specify X number of people as
4 individuals who actually participated in this, I
5 couldn't do that.

6 Q Major, had you been told that the inmates
7 had threatened to kill the hostages if the State
8 Police moved in?

9 A Yes, sir.

10 Q Now, the hostages at that time were more
11 or less in the center of D-yard.

12 A To the best of our intelligence, we believe
13 that they were all in the center of D-yard, yes, sir.

14 Q How long did you estimate that it would
15 take for your troops coming out of C and A-blocks,
16 to reach the hostage circle?

17 A I didn't evaluate any time, because I
18 didn't know exactly what they were going to be con-
19 fronted with at these barricades.

20 Q But even if things went well, was it assumed
21 that it would take several minutes?

22 A I can't give you a period of time, Mr. Liman.
23 Our objective was to reach them as rapidly as possible
24 and protect them.

25 Q Was there anything in your plan that would

1 have protected the hostages in the circle in the 1624
2 yard, which was where they were on Sunday, if the in-
3 mates were determined to cut their throats?

4 A In the event that we didn't reach them in
5 time?

6 Q Well, you couldn't have reached them in
7 the five or ten seconds that it would take to slit
8 a throat.

9 A That's what I'm getting at. I mean, I
10 just wanted to clarify your question.

11 Q Yes, sure.

12 A Are you asking were there any plans to do
13 anything about the hostages if we were not able to
14 effect our mission and surround them --

15 Q No. What I'm asking, really, is whether
16 there was any way that your plan could have saved
17 the lives of the hostages if the inmates were deter-
18 mined to cut their throats?

19 A Oh, I doubt it.

20 Q Now, given that fact, what was the objective
21 of the police action, as you understood it?

22 A To try to reach them prior to this happen-
23 ing.

24 Q Was it, therefore, the assumption that the
25 inmates would not make an effort to cut throats at

1 the outset of your police action?

1625

2 A When you say an assumption, I don't know.

3 An assumption on whose part?

4 Q On the part of the planners of this action.

5 A I don't know what the assumptions were.

6 Q What was your assumption, sir?

7 A I was hoping that we could rescue the hos-
8 tages without them all being killed.

9 Q Am I correct, then, that that meant that if
10 you hoped that -- you hoped that the inmates would
11 not slash the throats as soon as you -- your men moved
12 out?

13 A I wouldn't go so far as to say that I hoped
14 they wouldn't slash throats. I just hoped that we
15 were able to reach them prior to their being disposed
16 of.

17 Q Was there anything then in the plan that
18 would have kept them from being disposed of before
19 you reached them?

20 A As we were going in?

21 Q Yes, sir.

22 A No, sir.

23 I don't -- and maybe I am anticipating your
24 questions. If you are getting at the scope equipment
25 people, if they were going to be doing any shooting

1 into that yard, the answer is no.

1626

2 Q In other words, what you are saying is that
3 it was never intended that the men with the .270's
4 on the roof of C and on the roof of A blocks, would
5 fire into D-yard?

6 A Only -- the only condition that that would
7 necessitate firing in would be in the event that
8 the twenty-seven man group, the so-called rescue group,
9 ran into trouble and possibly were in the process of
10 being overpowered. Then the thought process was to
11 try to protect them with these people.

12 Q So that they were certainly not to fire
13 into the yard, then, until the rescue detail had
14 reached the yard, until your rescue detail had reached
15 the yard, your .270 men were not to be firing into
16 D-yard?

17 A No, sir.

18 Q And that would mean that all during that
19 interim the hostages were on their own as far as
20 protection was concerned? There was nobody who could
21 protect those hostages until they were reached by
22 the rescue detail?

23 A Just the good Lord.

24 Q Right.

25 Well, when was the decision made to use gas

1 as the first step in the assault process?

1627

2 A Gas was considered and was to be utilized
3 right from the very beginning. The utilization of
4 gas as provided by the military and being dropped
5 from the helicopters, was something that was advocated
6 by the military. Just who, whether it was General
7 O'Hara or General Faker, just who, I have no idea,
8 but it was acceptable to us because we thought that
9 a saturation of gas conceivably would be an aid to
10 us and possibly a deterrent to any action on the part
11 of the inmates.

12 Q Do I understand that initially when you
13 planned to use gas you planned to use something other
14 than the gas that was dropped from the helicopters;
15 am I correct.

16 A We planned to use our own gas, sir, the
17 only gas that was available.

18 Q And what was the gas that was available to
19 the State Police?

20 A Tear gas. Utilizing tear gas projectile
21 guns, and also cannisters.

22 Q So that you would have to fire it out of
23 various forms of guns?

24 A Yes. Either fire it from a projectile gun
25 or throw it.

1 Q Am I also correct that somebody in 1628
2 the National Guard suggested that they could provide
3 a helicopter with C.S. gas?

4 A Yes, sir.

5 Q And you did not have either C.S. gas or a
6 helicopter in the State Police equipped to disperse
7 that gas?

8 A No. We had a helicopter, but not equipped
9 to handle this type gas cannister.

10 Q Were you familiar with the properties of
11 C.S. gas?

12 A No, sir. Not prior to the decision to use
13 it at Attica.

14 Q Before the decision -- who made the decision
15 that C.S. gas should be used?

16
17 (Continued on page 1629.)
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1 A I don't know who made the specific
2 decision, but I know during the conversations it allegedly
3 would have a devastatating effect and almost render everyone
4 immobile.

5 Q That was the property of it as described
6 to you, major?

7 A Yes, sir.

8 Q Were you told how long it would take in an
9 open area like the yard or it to become effective?

10 A Well, this was discussed. In other words,
11 when I say it would render everyone immobile, I am
12 talking now about people who were not equipped with
13 masks and also I was given to understand that it was
14 not a permanent situation, that, you know, you would
15 be subjected to some windering effects of it.

16 So, the decision to use it basically was to induce
17 these people to capitulate and restore their facility.

18 Q Did whoever suggested using this gas and
19 said that it would render people immobile suggest that
20 perhaps you could go in without guns behind the gas?

21 A No, sir. Not to my knowledge. Never to me.

22 Q If the gas was thought to render people
23 immobile, why did you feel it was necessary to still
24 have the troopers go in with guns?

25 A Because I wasn't convinced that it would, and

1 it didn't.

1630

2 Q Did the Correction Department, which
3 made the decision which advised you of the decision
4 to retake the institution ever ask you for an estimate
5 of what the casualties would likely be?

6 A I was never questioned about this, no, sir.

7 Q Did you have any communication with the
8 Governor prior to September 13?

9 A Prior to?

10 Q Yes.

11 A No, sir.

12 Q You asked prior to.

13 Did you have a communication afterward?

14 A Yes, sir.

15 Q What was the communication?

16 A Telephone.

17 Q What was the nature of the conversation?

18 A He spoke to me.

19 Q When he spoke to you, he spoke to you and
20 thanked you?

21 A Yes, sir.

22 Q Did any of the Governor's staff present at
23 Attica ever ask you for an estimate of the likely
24 casualties from this effort to retake the prison?

25 A No one ever asked me for an estimate, sir.
