

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.

1 Q Did you expect that there would 1631
2 be casualties, sir?

3 A I was afraid so. I hoped not.

4 When you say casualties, are we now talking about
5 injuries or whatever?

6 Q Yes, sir. Death or wounded people.

7 A Or injury?

8 Q Right.

9 Who was responsible for providing medical aid to
10 people who were wounded or injured?

11 A Well, the facility itself has some medical
12 facilities on the grounds, but in addition to this
13 I believe it was the National Guard who was requested
14 to field a first aid unit or something. The complete
15 breakdown I am not in possession.

16 Q Now, you were not, in any event, involved
17 in this whole question of providing medical assistance
18 to people who were injured?

19 A Other than I knew it was being provided.

20 As far as doing the actual providing, no, sir.

21 Q Major, was there any decision made as to
22 whether correction officers would be used in the assault?

23 A Yes, sir.

24 Q What was the decision? Who made it?

25 A Two correction officers were to be the only

1 correction people used in the actual
2 police action to retake the facility and when I say the
3 actual police action, I am talking about--and I think
4 we are dealing with the 189--the 180 some odd men out
5 of--I heard a figure of 600 before, which is all
6 granted by sheriff's and other law enforcement people,
7 but actual action group who were initially assigned to
8 go into the inner yard, I believe, consisted of 189
9 state police officers and the rescue team were accompanied
10 by two correction officers for the purposes of
11 identification of hostages who we knew some of which
12 were in prison garb.

13 Q Was there any decision made as to whether
14 correction officers should participate in providing
15 fire power for this assault?

16 A The correction officers, to my knowledge,
17 were not to accompany us in and they were not to
18 provide any assistance in the actual retaking of the
19 facility.

20 Q Was there a reason that was--first of all,
21 who made the decision that correction officers would
22 not be used to provide fire power?

23 A I believe John Miller and I both discussed
24 it with Superintendent Mancusi and whether he requested
25 it or I did, for all intents and purposes I would say

1 we jointly did.

1633

2 Q What was the reason given for not using
3 correction officers?

4 A The death of Officer Quinn.

5 Q You said the death of Officer Quinn?

6 A Yes, sir.

7 Q By that you meant the effect that it had on
8 the correction officers?

9 A I--

10 Q What do you mean?

11 A I felt that it had an adverse effect on them.
12 They lost one of their own and I think it had an effect
13 on them for that reason we asked them not to participate
14 in the actual take-over.

15 Q Did you feel that your men, who also heard
16 the news of Officer Quinn's death, were capable of
17 more self-restraint?

18 A Yes, sir.

19 Well, I'm sure they felt badly. I don't think
20 it had the same impact on state police personnel that
21 it had on correction personnel.

22 Q Did you mingle at all with your men during
23 these four days that they were waiting for orders to
24 go in?

25 A Yes.

1 Q Did you come to a conclusion as

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2 to their state of mind and mood?

3 A Yes, sir.

4 Q What was the conclusion, sir?

5 A I felt that they were restless. They had
6 been away from home; that they were hoping that the
7 thing would be concluded either by capitulation or to
8 resolve it, but I think our mood was completely different
9 than corrections. We had not lost one of our own people
10 and I heard the expression "being up tight."

11 In my opinion--and I have handled details at
12 other major events--I don't feel that our people were
13 up tight. I don't think that this entered into it at
14 all.

15 Q Did you know that some of your men were
16 relatives of correction officers, brothers and cousins?

17 A Not at that time. I learned this later, that
18 one of our people did have a brother who was a hostage,
19 I believe.

20 Q When you made your tours around the
21 institution, did you hear racial slurs, profanity?

22 A No, sir.

23 Q Who made the selection of which men to use
24 in the retaking of the institution?

25 A I believe that I played a major part in

1 selecting the key personnel. As far as the 1635
2 individuals--in other words, I would probably--and I
3 know that I did. I picked Captain MacCarthy and
4 Lieutenant Christian on the rescue detail, but as far
5 as picking the other 32 men, I did not do this.

6 Q When you say you picked them, you picked
7 them for particular qualities?

8 A Yes, sir. I have had many years of
9 exposure to Captain MacCarthy. I had worked with him
10 and another factor in my selecting him was that he
11 had some previous correction experience.

12 Lieutenant Christian I have had the privilege
13 of working with for many years. I know that the man
14 is a dedicated restrained officer and there are many
15 factors that go into the selection and, here again I
16 would like to make it perfectly clear that I don't
17 want this misconstrued that I did not pick any other
18 officers to lead a group.

19 Q Once you picked your group leaders, did they
20 have the responsibility for selecting the details?

21 A Some did, some didn't.

22 For example, like with the rifle crews. The
23 division has men trained in every troop in the use
24 of scope rifles. So, one of the first requirements
25 of being picked for this detail would necessitate you

1 being qualified in the handling of this

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2 type weapon, but basically once the officers for the
3 groups were picked, then, the officers in charge
4 basically selected their own personnel.

5 Q When did you brief your men on the role in
6 the assault plan?

7 A I believe it was about 7 a.m. on Monday
8 morning, sir.

9 Q Who was present at the briefing, sir?

10 A At that time he was Assistant Deputy
11 Superintendent Fanny (phonetic). He was with me and
12 all of the group or detail leaders were present.

13 In fact, I believe almost all of the commissioned
14 personnel were present.

15 Q Do you recall what instructions you gave them?

16 A Yes, sir. Their assignments were explained.
17 The anticipated problems, such as the barricades or
18 whatever were explained. Also, the use of fire power
19 was discussed in depth.

20 Q When you say it was discussed in depth, what
21 was said on that subject?

22 A The subject was that there would be no
23 indiscriminate use of fire arms; that force was to
24 be used to repel force, however, they were cautioned
25 against engaging into any hand-to-hand combat.

1 Q When you say that they were

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2 cautioned against engaging in any hand-to-hand combat,
3 do you mean that they were told to avoid hand-to-hand
4 combat?

5 A Avoid hand-to-hand combat.

6 Q Why?

7 A Because you always run the risk having
8 weapons taken away from you.

9 Q So, did that mean that if an inmate was
10 coming toward a correction officer with a knife or
11 with a baseball bat, that the officer was not to try
12 to subdue him by hand-to-hand combat, but would be
13 free to use his weapon?

14 A Not necessarily. It would depend on the
15 overt act of the inmate.

16 Q Suppose that the inmate seemed determined
17 to use his baseball bat.

18 A The officer then would have to protect himself.

19 Q And if he could not use hand-to-hand combat,
20 the nature of defending himself would be to discharge
21 his weapon?

22 A It is up to him.

23 Q But if you have instructed the men not to
24 use hand-to-hand combat--

25 A I told them to avoid it.

10
1 Q If they were told to avoid it, the 1638

2 only method left would be to use firearms; is that
3 correct?

4 A Not necessarily.

5 Q What else, run?

6 A You could also use a gun in many ways.
7 You could use a gun as a club, too.

8 Q That would be hand-to-hand combat.

9 A I don't know what you consider to be hand-to-
10 hand combat.

11 Q When you told them to avoid hand-to-hand
12 combat--I don't mean to be argumentative about this,
13 but when you told them to avoid hand-to-hand combat,
14 didn't you mean that they should not get themselves
15 into a situation in which they were going to be
16 slugging it out with an inmate?

17 A Right.

18 Q And wouldn't that--or put them in any
19 situation which their weapons could be taken from them?

20 A No. Here again, Mr. Liman, it is not that
21 easy to set up hypothetical situations. Each and every
22 individual must be guided by his own conscience and the
23 situation that he is confronted with.

24 I couldn't tell you that you could shoot me if I
25 got within one foot of you as opposed to not shooting

1 me if I am 10 feet away from you because 1639

2 here again I don't know all the circumstances.

3 Q Now, having told the men to avoid hand-to-hand
4 combat, was it then left up to the judgment of the
5 trooper as to whether he should discharge his weapon?

6 A It is always left up to the individual
7 officer.

8 Q Now, what controls are there over the
9 judgment of the individual troopers?

10 A Well, I believe Mr. Little accurately
11 explained that with his description or reading from
12 some of our state police policies.

13 Q But those are the principals which you
14 explained to your men, what is there in the way of
15 controls to keep a man, induce a man to observe those
16 principals when he goes into what may appear to him
17 to be a combat situation?

18 A What you hope is adequate training.

19 Q Now, most of those men had never been in a
20 situation like this; am I correct?

21 A I doubt very much if any of it had been in
22 a previous situation comparable to this and I hope
23 they never again see another one.

24 Q Do you have any idea how many of them had
25 been in combat in war?

1 A No, sir.

1640

2 Q Am I correct--and I base this on many
3 interviews with state police officers--that it is
4 really a rare occasion when a state police officer
5 will have occasion to use his firearm?

6 A I don't know exact statistics, but I would
7 say that that's probably a reasonable assumption.

8 Q There are many state police officers who
9 have been in the force a number of years and have
10 never had to discharge their weapon except at the
11 range or in firearms practice.

12 A I think you will find this is true in any
13 law enforcement agency, whether it be state police,
14 municipality, or any other agency.

15 Q Other than training men that they should
16 observe the rules, was there anything, any kind of
17 control to make sure that they would actually obey
18 the rule here; for example, instructions--were they
19 to fire only on command?

20 MR. MCKAY: Major Monahan, if you will
21 hold just a minute until our reporter can change
22 his roll.

23 Q Were there any other controls, Major, other
24 than the training that a person should live by the rules?

25 A I don't think I can answer that question,

13
1 Mr. Liman, because I don't know specifically 1641

2 what you are after.

3 Q Normally a police officer has to sign out a
4 weapon; am I correct?

5 A No. It is assigned to him.

6 Q So that you keep the serial number of the
7 weapon?

8 A Every man is issued a hand gun and it is
9 recorded in his personal jacket what gun he has assigned
10 to him.

11 Q In this situation do you know whether any
12 record was kept of the rifles that were assigned to
13 particular division officers?

14 A No, I do not, sir.

15 Q And you--

16 A I don't have access to these records anymore,
17 Mr. Liman.

18 Q But was there any program established at
19 Attica to make sure that a record would be kept of
20 each rifle that was assigned to each officer?

21 A No.

22 Could I inject something into this at this time?

23 Q Yes, sir.

24 A One of the programs associated with Attica
25 was the lack of adequate facilities to set up and

1 maintain an efficient command post. There 1642
2 are many things probably that could have been done
3 that were not done solely for this reason.

4 In other words, like you have a large detail.
5 Many of them assembled in the yards in front of the
6 administration building, yet you were working in a
7 little room adjacent to a superintendent's office and
8 there are many groups, whether they be advisors,
9 observers, or whatever, coming and going. So, to get
10 an efficient command post that you would like to do
11 was not possible under these given circumstances.

12 Q Now, Major, was--my understanding of this
13 situation at Attica was that there was no accounting for
14 the ammunition issued to police officers; there was
15 no record kept of what ammunition was issued and what
16 was returned.

17 A I don't believe there was, sir.

18 Q And that there also was not a record kept of
19 which police officer had which rifle?

20 A No, sir.

21 Q And also that in the case of shotguns, not
22 only was there not a record kept of which shotgun was
23 issued to which police officer, but you cannot determine
24 by ballistics the origin of a particular shot--trace
25 it to a shotgun?

1 A Not by projectiles. I believe 1643

2 there are some methods with casings, but it wouldn't
3 have any bearing on this whatsoever.

4 Q Now, was there any--there was a television
5 camera which was used to film this assault; am I
6 correct?

7 A Yes, sir.

8 Q Were the police officers instructed that
9 their actions were going to be filmed?

10 A No, sir.

11 Q Was any consideration given?

12 A At least I didn't instruct them.

13 Q Was any consideration given to telling them
14 that?

15 A No, sir.

16 Q Were there any discussions of using warning
17 shots or giving warnings before firing?

18 A None from my knowledge.

19 Q Am I correct that the normal police policy
20 as it is reflected in the rules of the rank, is that
21 a police officer should not discharge his weapon unless
22 he is prepared to shoot to kill?

23 A I believe that's so, sir.

24 Q What is the theory behind that, shooting to
25 kill rather than shooting to maim, if you have to shoot?

1 A It is a division policy, the origin 1644
2 of which I couldn't tell you.

3 Q We have also been told, major, that in
4 briefing your men you not only made the statements that
5 you reported here, but you also told them that this was
6 not to be shooting fish in a barrel or a turkey shoot.
7 Did you make statements like that?

8 A I believe I said something about fish in the
9 barrel. I was being facetious. However, in being
10 truthful with you people I thought I should include
11 everything that I said.

12 Q And you thought you should underline these
13 instructions for your men that they should use restrain
14 and caution?

15 A Yes, sir.

16 Q Did you feel that the circumstances here were
17 such that there was a danger that restraint might get
18 one thing?

19 A I don't believe so, sir.

20 Q Did you think of this--you have been in combat;
21 am I correct?

22 A Yes, sir.

23 Q Did you think of this as a combat-type
24 situation?

25 A Well, like any combat, Mr. Liman, you don't

1 know exactly what you are going to encounter 1645

2 until you get into it and I hoped, as long as we are
3 getting into supposition--I had hoped that the near-
4 sight of our people going out on the two walks would
5 induce the inmates to capitulate right then and there.

6 Q You mentioned that two correction officers
7 were to be used to accompany the rescue force into the
8 yard, major.

9 A Yes, sir.

10 Q Were they to be armed, do you know?

11 A I believe they were. I couldn't tell you.

12 Q But their function was to be identification?

13 A Yes, sir.

14 Q At the time you briefed you men, the hostages
15 had not yet been brought to the catwalk?

16 A I don't believe so, sir.

17 Q You don't believe they had been brought to
18 the catwalk?

19 A No.

20 Q When did you first learn, sir, that the
21 hostages had been brought to the catwalk?

22 A When I observed them from the A-block gallery.
23 I believe that's the phrasiology for it.

24 Q You had gone to the A-block gallery prior
25 to the time set for the drop?

1 A As our--after the briefing,
2 the supervisors or the group supervisors in turn were
3 instructed to brief their groups, details, and then
4 position themselves. I don't know the exact time,
5 but when I felt that they were in position, I then
6 proceeded to the A-gallery and was positioned on the
7 C-block side of the gate going on to the--not over by
8 C. In other words, just--

9 Q By--right over there on A-block--

10 A Right there.

11 Q Right by the catwalk?

12 A In other words, there is a gate that comes
13 out over that corridor, over a tunnel roof, and I was
14 in the cell block area just to the left of that, but
15 facing out into the yard. In other words, I would be
16 looking down into this yard--no, this yard over here--
17 here. Right.

18 Q And were you on the floor that was at the
19 same level as the catwalk?

20 A The tunnel roof, yes, sir.

21 Q So that would be the second floor?

22 A Second. Yes, sir.

23 Q Was it your plan to go out on the catwalk
24 with some of your forces?

25 A Yes, sir.

1 Q Were you equipped with a gas mask? 1647
2

3 A Yes, sir.

4 Q Was there any concern about the visibility
5 problems that might be created with shotguns and this
6 type of gas for your men?

7 A Didn't anticipate it.

8 Q While you were stationed there, did you see
9 the hostages brought out on the catwalk or were they
10 there when you got there?

11 A I truthfully couldn't answer that, Mr. Liman,
12 whether they were being positioned when I got there or
13 whether they were there prior to my arrival in the
14 A-block.

15 Q Now, major, what did you see?

16 A I saw a number of people that I believed to
17 be hostages. They were human beings. A number of them
18 had blindfolds over their face and each one of them
19 either had one or two individuals positioned alongside
20 of him, some of which had a sharp instrument up against
21 the throat area of the people that I believed to be the
22 hostages.

23 Q Did you have a police radio?

24 A Yes, sir.

25 Q Who was going to give the order for the assault

21
1 hostages by utilizing the instruments at 1649
2 their throat, that they were to institute the necessary
3 action in an effort to save the hostage's life.

4 Q Who gave these instructions, sir?

5 A I personally issued those instructions back
6 to the base. However, whether it was my instructions
7 or whether it was the instructions from the then Chief
8 Inspector Miller, I don't know, because apparently
9 there was a simultaneous observation or--I believe he
10 was made known of the situation and from information
11 made available to me he feels that he issued this order
12 and I feel that I issued it, but apparently it was a
13 joint--

14 Q Did you use in this order the term "overt
15 act," that they were not to fire unless there was an
16 "overt act" against the hostages?

17 A I don't recall the exact phrasing. Whether
18 I used "overt" or "attempted" or what to take the lives.

19 Q But the instructions were the men on the
20 roof were not to fire merely because the hostages were
21 being held with knives at their throats?

22 A Yes, sir. In fact, there was quite a lapse
23 of time between the time of this order and when there
24 was any fire.

25 Q And they were to wait until something was to

1 happen to the hostages?

1650

2 A Until they observed an act that they thought
3 would be detrimental to the hostage and then an effort
4 would be made to save the hostage.

5 Q Was there to be a command by the lieutenant
6 in charge of one of these group details for firing or
7 was that up to each trooper in the detail to make that
8 determination?

9 A The lieutenant in charge of each detail
10 with the individual who made the exact determination
11 to fire. I don't know what instructions were relayed
12 to them.

13 Q In normal circumstances, would it then be
14 up to each trooper to make that determination?

15 A I don't know what instruction they received
16 at that time.

17 Q In any event, in your instructions, you did
18 not say that they should hold fire until the lieutenant
19 gives a command?

20 A That's my recollection. Not in so many words.
21 I don't know the exact phrasing. I think the
22 lieutenant was instructed to have his people select
23 a target and keep them under observation and take the
24 necessary action if an act was made.

25 Now, how this was relayed to the men, I don't know.

1 Q By target, you would mean the 1651
2 inmate who was holding an instrument against the
3 hostage?

4 A Who was holding the instrument at the
5 hostage's throat.

6 Q Did you see the gas drop?

7 A Yes, sir.

8 Q Tell me everything that you saw from that
9 moment on.

10 A I was standing--

11 Q You can use that.

12 A I was standing approximately--

13 Q Can you hear that?

14 Yes, we can.

15 A I was standing approximately here looking
16 out in this direction. The bird or the helicopter
17 came in over the administration building, over the
18 A-block, made his pass, dropped very low. In fact,
19 I was concerned that he wasn't going to be able to
20 pull it out. He made his initial pass and dropped
21 the gas. As the gas dropped from behind this barricade,
22 there was a projectile or some type of--whether it was
23 a fire bomb or a gas projectile, I don't know, projected
24 from behind the barricade toward the cell block, where
25 our people were positioned.

1 A There was firing off to my right, 1653
2 which actually I couldn't account for. I then observed--

3 Q When you say off to your right, could it
4 have been from the windows of A-block?

5 A It very well could have been.

6 As I came out--as I approached the Times Square
7 area, I approached a number of people lying on the
8 catwalk who were obviously injured. I called and asked
9 for immediate medical assistance and then continued
10 around the Times Square area and started across the
11 catwalk going over to D, in that area.

12 And at this time our helicopter had followed the
13 military bird in after he had made his gas run and
14 utilizing an external speaker we have on them, he was
15 issuing instructions to the inmates as to how to
16 effect a surrender and what to do.

17 Q This was a taped message?

18 A No, sir. We had a man in the air.

19 Q Who was reading the message?

20 A He kept constantly repeating it. I don't
21 believe it was taped.

22 Q Now, this message that he was reading had
23 been composed the night before?

24 A Yes, sir. When we initially made up this
25 message I believe he told them to put their hands on

1 their heads and I think we told them to 1654
2 proceed toward the tunnel and in discussing this with
3 correction officials they pointed out that we were
4 using the wrong terminology in referring to the tunnel.
5 They said that the inmates didn't call it--if I say
6 tunnel and they said catwalk, or it could have been
7 vice versa, but whatever terminology we applied to that
8 catwalk or tunnel area, they said would not be
9 knowledgeable to the inmates, that this is not a phrase
10 or a term that they used and the message was then
11 changed to tell them to proceed to whatever terminology
12 they used.

13 Q The message was rewritten, I take it, so that
14 when it was issued it was issued as it had been composed
15 with the Correction Department people?

16 A Yes, sir.

17 Q Now, that was issued by a helicopter which
18 came in at some time, some point after the initial
19 helicopter which dropped the gas; am I correct?

20 A I believe, sir, he was right behind the
21 military bird and then just kept hovering over the yard.

22 In fact, something is coming back now. In addition
23 to utilizing our bird to deliver this message, it was
24 believed that the downdraft from the rotors would hold
25 the gas down also and possibly make it more effective.

1 Q Was that helicopter coming over 1655

2 the yard when you reached the Times Square or had it
3 been there before?

4 A The exact sequence of events I couldn't
5 detail. However, I do recall as I started over to
6 the--on the top of the catwalk going toward the
7 D-block, I do recall hearing the instructions from the
8 bird.

9 Q Do you know how much firing there was before
10 the instructions were given?

11 A No, sir.

12 Q Now, was--when you discussed this with the
13 correctional people, was there any discussion about the
14 possibility of putting the message in Spanish at all?

15 A I don't believe so, sir.

16 Q They never raised that as a problem in the
17 institution, that there were people there who did not
18 speak English?

19 A If they did, it wasn't to my knowledge.
20 and unless it was taped--I know the man that we use
21 is not fluent enough to speak Spanish.

22 Q But they didn't bring that as a problem to
23 your attention?

24 A No, sir.

25 Q What did you do afterward? I interrupted you.

1 A I then observed a concentration 1656

2 of inmates trying to--in compliance with the instructions--
3 effect their exit from the D-yard by going through--
4 there is a door about half-way from Times Square--by
5 going in that door and they would go through the
6 tunnel and come out into the A-yard here.

7 In looking down into the A-yard side of the catwalk,
8 it became apparent to me that our outer perimeter of the
9 trooper group that we had sent into the A-tunnel and then
10 go out into the yard--they had formed a perimeter by the
11 door and they were too tight, because as the inmates were
12 trying to comply with our instructions and effect their
13 exit from the D-yard into the A-yard, they were--I
14 believe there were a couple of steps there and some of
15 them were falling down and it was becoming quite a jam
16 in the doorway and I was concerned there that we were
17 going to experience some injuries and/or possible
18 deaths with suffocation and trampling.

19 I tried to attract the attention of the officer
20 in charge in the yard. However, with the gas mask I
21 was unable to do so.

22 Here again, utilizing the helicopter I had them
23 contact the helicopter and he issued instructions to
24 widen the perimeter which they did and that eliminated
25 the problem.

1 Q In other words, you could not 1657

2 communicate with the officers because of the gas masks?

3 A In other words, I could not make myself
4 understood from the top of the tunnel down into the
5 yard.

6 So, once I saw that this was cleared up, I then
7 exited the area--

8 Q Before that?

9 A Right.

10 Q Did you see any firing from a catwalk, sir?

11 A No.

12 Q Did you see any firing in the yard?

13 A I did not.

14 Q According--

15 A I heard firing. I didn't see any.

16 Q According to the log that was kept by the
17 superintendent of the radio messages, at 9:52 you gave
18 a cease-fire order.

19 Do you recall giving that?

20 A I don't recall, but I believe I did, sir.

21 Q What was the occasion for giving a cease-fire
22 order?

23 A Because there were shots coming from over
24 on the right-hand side of me that I couldn't account for.

25 Q When you say you couldn't account for them--

1 that means the A-block right over here.

1658

2 When you say you couldn't account for them, do
3 you mean that you couldn't--

4 A I couldn't attribute them to any detail
5 that we had.

6 Q Did you see any inmate resistance, other
7 than that projectile coming out from the barricade
8 that you testified to; did you see any affects of
9 inmates assaulting people or resisting surrender?

10 A No, sir. Because, as I told you, as soon as
11 I told you I left the one area and this necessitates
12 going out through A-cell area--I don't know if the
13 Commission will be able to follow my description.

14 Q They have been through the prison a number
15 of times.

16 A When you come out, there is an area where
17 it is wall instead of window area and coming out there
18 were people ahead of me.

19 Q I understand that during that period that it
20 took for you to get from the window to where you were
21 originally positioned before the drop to the exit onto
22 the catwalk, you did not have visibility, but the
23 firing continued even after you were out on the catwalk
24 and I was asking whether during that period where you did
25 have visibility and you did hear firing you saw any acts

1 of inmate resistance?

1659

2 A No, sir. The people who were down on the
3 tunnel roof were down as I got to them. In other
4 words, I saw no one crumble or go down.

5 Q Did you look when you got out in the
6 hostage area at all; did you try to pick out the hostage
7 area in the yard?

8 A Yes, sir.

9 Q Could you see what was going on there?

10 A I told you I saw them starting to comply
11 with our instructions and try to exit the yard and they
12 were experiencing difficulty.

13 Q You mean they were experiencing difficulties
14 going through the door?

15 A Trying to--

16 Q What about in the center of the yard where
17 the hostages were; did your eye catch that area?

18 A Not specifically. I looked the whole area
19 over trying to see what we were confronted with.

20 Q Did you see people getting hit--

21 A No, sir.

22 Q By bullets?

23 A No, sir.

24 Q And you not only couldn't account for where
25 the firing was coming from, but I take it you couldn't

1 account for what people were firing at them? 1660

2 A That's true.

3 Q How long did the firing last?

4 A I have heard various estimates. I believe--
5 and here again, it's just information that has been
6 provided to me, that the initial firing--when I say
7 the initial firing--ceased inside of four minutes.
8 There was firing afterwards when they took B and Z-block,
9 but I believe that this firing was tear gas.

10 Q Major, you now know that correction officers
11 did participate in firing. You have heard that?

12 A I have heard that.

13 Q And you have also, I assume, that some of them
14 inflicted lethal injuries by participating in firing
15 from the roofs and where your men were stationed and
16 also from the third floor of A-block. Were you aware
17 that correction officers were going to participate in
18 the .270 team or in the firing from the windows of
19 A-block?

20 A No, sir. My understanding was that the
21 only participation would be the two officers who
22 accompanied our 25-man group into the yard.
23
24
25

1
2 the correction officers to participate in any of these
3 other details?

4 A No, sir.

5 Q Would you have gone out on that catwalk if
6 you thought correction officers were going to be firing?

7 A I was contemplating retirement. I definitely
8 wouldn't have gone out there.

9 Q You wouldn't have gone out there?

10 A No, sir. Not in that particular position.

11 Q Can you explain how it could have happened
12 with all of these instructions that correction offi-
13 cers could have gotten in on this action?

14 A No, sir.

15 Q Who was responsible for making sure that
16 only the people who were supposed to participate in
17 the assault were in a position to do so?

18 A Well, as I said there were 189 people, I
19 believe, committed to go into the yard. We could
20 not--here again getting back to a division of com-
21 mand or a division of responsibility, we could not
22 exclude correction from their own facility. We had
23 requested that they not be used; that they not ac-
24 company us other than two and that once the facility
25 was restored to lawful control, then they were to

1 provide custodial search and confine-
2 ments.

3 Q In fact, on the morning of September 13,
4 1971 you signed an agreement, did you not, and which
5 I can read--

6 A Sure.

7 Q "In order to clarify the orders concerning
8 command, a joint operation is being carried out at
9 the Attica Correctional Facility by the Department of
10 Correctional Services and the state police. In the
11 event of a need for a custodial division, command re-
12 mains with the correctional employees. Whereas if a
13 need for command of police matters, such as an assault
14 thrust, the command will rest with the state police.
15 Each agency will fully cooperate with each other at
16 all times."

17 So that you were to be in command of the
18 assault and correction in command of custodial functions?

19 A Right.

20 However, the A block area, in my opinion,
21 was not within the perview of this instruction, in that
22 the assault thrust or the action to retake the facility
23 was launched from there and went out into the yard.
24 Anything in these blocks would, of necessity, have to
25 be of a custodial aspect.

1
2 that that custodial aspect would have included firing
3 guns as part of this assault?

4 A No. Maybe I didn't make myself clear.

5 In fact, I thought it was a complete and
6 separate operation. In fact, as I said before, we
7 had requested and had been assured that the only two
8 participants from correction or had been part of the
9 police action were the two who were assigned to us.

10 Q Did you see the lieutenant down in the yard,
11 Lieutenant Christian?

12 A No, I didn't.

13 Q You didn't?

14 A I didn't see him.

15 Q Did you see him in the yard?

16 A No. In fact, one of the reasons why I left
17 the area and went back to the so-called command post
18 was an attempt to evaluate our position and in keeping
19 with this, I did issue instructions out there that the
20 groups on the two tunnel routes going toward B and D
21 were to refrain from attempting to take B and D until
22 we had completely cleared up this congested area and
23 restored a little more semblance of order.

24 Q Did you witness the process of stripping in-
25 mates in A yard?

1 A I saw some inmates being
2 stripped in the yard. I wasn't in the yard.

3 Q Was that during the early part of the morning
4 before you returned to the command post or did you come
5 out again?

6 A I came out again afterwards, Mr. Liman. I
7 was in and out on a few occasions, but--

8 Q Did you see any inmates being mishandled in
9 that yard?

10 A I did not, sir.

11 Q Did you see any clubs being used?

12 A When I say mishandled--I saw inmates spread
13 eagle on the ground, lying down, and then I saw in-
14 mates being taken to another area and being stripped,
15 but seeing anyone struck, no.

16 Q Now, the ones spread eagle, did you see any
17 shotgun shells or footballs on them?

18 A On the individuals?

19 Q Yes.

20 A No, sir.

21 Q Would it have been a proper method to restrain
22 a man, to put a shotgun shell on him?

23 A I don't know exactly what you are getting at,
24 sir, but I wouldn't consider it as such.

25 Q And you did not see that in your--in the time

1 that you spent out there?

2 A No, sir.

3 Q How much time, all told, Major, would you say
4 you spent overlooking A yard that day?

5 A I don't think that I spent any concentrated
6 time overlooking A yard.

7 Q In totality, 10, 15 minutes?

8 A No. I couldn't give you a figure because my
9 purpose in going out--after I had gone back in I came
10 back out and I had to go across that tunnel roofing
11 and because then I wanted to check on the conditions
12 of B and D and the yard area where they were stripping
13 these people and then bringing them in underneath. I
14 didn't pay that much attention to it.

15 Q Did you actually get inside the tunnel at all
16 that day?

17 A In the tunnel itself in A yard?

18 Q Yes.

19 A No. I utilized the roof to get in and out.
20 There was too much congestion out there.

21 Q Were you ever in the HBZ area?

22 A No.

23 Q The hospital?

24 A I have never been in the HBZ area.

25 Q Whose decision was it to use troopers to help

1 put the inmates back in their cells

2 in A block itself?

3 A I have no idea, sir.

4 Q Did you know that troopers were being used
5 for that function?

6 A No, sir.

7 Q Did you know that troopers who had been out
8 in the yard and who had seen the blood and gore were
9 being used for these duties?

10 A No, sir.

11 Q You mentioned, Major, that it was a considera-
12 tion on your mind that correction officers had been
13 affected by the death of Quinn or could have been af-
14 fected by the death of Officer Quinn and, therefore,
15 should not be used for the assault.

16 When this was discussed, was there any discus-
17 sion raised by the Correction Department or anybody else
18 there that perhaps the same strains would make them un-
19 fit for really returning these inmates to the cell,
20 psychologically unfit?

21 A I didn't engage in any such discussion.

22 Q Did you hear reports of slashed throats that
23 they; that inmates had slashed the throats and killed
24 the hostages?

25 A Yes, sir.

1 Q Where did those reports ori-
2 ginate, sir?

3 A I have no idea, sir.

4 Q They were given a good deal of currency that
5 day; am I correct?

6 A (Witness nodded his head in the affirmative.)

7 Q Was it your understanding, Major, that that
8 was the cause of death of the hostages that day?

9 A No, sir, I would not, Mr. Liman. Here again,
10 having spent the number of years in law enforcement that
11 I have, I would not hazard a guess on the cause of death
12 on any of them.

13 Q And you would not have released--

14 A No, sir.

15 Q To the press or to correction officers or any
16 of the others such information also, I take it?

17 A No, sir.

18 Q Did you also hear the report of castration?

19 A Yes, sir.

20 Q When you returned to the command post was there
21 any discussion that you overheard, Major, that perhaps
22 with all of these stories going out that there has to
23 be some need to take some extra steps to prevent re-
24 prisals against some inmates?

25 A I don't recall, Mr. Liman, exactly what time

1 I became aware of these stories

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2 about the throats or castrations, et cetera, but I know
3 of no--I had no conversations with anyone about it.

4 Q We now know what the toll was day and I take
5 it from your observations--because of the fact that you
6 had a period of limited visibility, no visibility and
7 then you went out on the catwalk, but whatever your ob-
8 servations were, you cannot account for all of the
9 firing that took place that day?

10 A No, sir.

11 Q Now, knowing what the toll was, I ask you to
12 give me a professional opinion as to whether you think
13 it would have been less if the action had been taken
14 the first day.

15 A All I can say is, based on my personal opinion,
16 that I am confident that we could have regained control
17 of the facility on the first day. Whether doing so
18 would have resulted in the death of all the hostages or
19 the death of no one is something that--it didn't hap-
20 pen, so it's clearly conjecture.

21 Q Do you think that the toll would have been less
22 if you had taken the chance of going in without guns
23 and engaged in hand to hand combat?

24 A I personally would not advocate that, sir.

25 Q And you would not have advocated it for the

1 reasons that you stated before,

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2 which were what, sir? Just to conclude.

3 A I have a responsibility to my own people.
4 They are issued equipment and I do not think that it is
5 within my jurisdiction to send them into an area that
6 is being illegally held without being properly equipped.

7 MR. LIMAN: Thank you. I have no further
8 questions.

9 MR. McKAY: Major Monahan, several mem-
10 bers of the Commission will have questions. I
11 would like to start with one on my own part just
12 for clarification.

13 I'm interested in having it made clear
14 to me, at least, what the armament was that the
15 members of the principal assault teams have who
16 went out from a long A catwalk and C catwalk.

17 As I understand it, there were about 10
18 who went in the barricade removal party first and
19 then about 30 who were the major assault team and
20 then a rescue group that followed them, making a
21 total of 50 or 60 men going out each of the cat-
22 walks. Do I understand that all of each of these
23 groups had hand guns?

24 THE WITNESS: Every trooper out there,
25 sir, either did or should have had a hand gun.

1
2 those who were in the barricade removal squad
3 would not have had any other armament except what
4 they needed to cut the wire and to protect--to
5 remove the barricade?

6 THE WITNESS: Just their hand guns, sir.

7 MR. McKAY: The major assault force, the
8 30 or so, then had in addition--all of them had
9 one shotgun?

10 THE WITNESS: I don't know whether they
11 all were equipped with shotguns or not. I don't
12 know if we had enough.

13 MR. McKAY: What other alternative was
14 there?

15 THE WITNESS: I don't follow you, Dean.

16 MR. McKAY: You mean they would have had
17 the hand gun in any event and then as many shot-
18 guns as there were, they would have been issued?

19 THE WITNESS: Yes, sir.

20 MR. McKAY: Was there any other choice
21 that any of them could have had?

22 THE WITNESS: Well, there were, I be-
23 live, in each group, and I think someone previously
24 mentioned it, three individuals equipped with
25 gas throwers. I don't know the exact descriptive

2 flame throwers, but they do throw out quite a gas dis-
3 bursal.

4 MR. MCKAY: I thought I heard it one
5 time, perhaps in Mr. Little's presentation, that
6 there could have been some choice by the individual
7 members as to what they could have taken, but was
8 that a choice as to which shotgun they could take?

9 THE WITNESS: Basically, Dean, we only
10 had one type of shotgun. In other words, we
11 don't have multiple types.

12 MR. MCKAY: And none of them had rifles?

13 THE WITNESS: No, sir. Not, at least,
14 to my knowledge. They shouldn't have been equipped
15 with rifles and I don't think anyone of them was.

16 MR. MCKAY: Mrs. Wadsworth.

17 MRS. WADSWORTH: Major Monahan, my ques-
18 tion is about the assault plan. You were ready,
19 as I understand it, by Sunday night to go in.
20 You could have gone in. Your plan was together.
21 Then the briefing was at 7:00 a.m. on Monday morn-
22 ing.

23 You could not at that time have anti-
24 cipated the hostages on the catwalk?

25 THE WITNESS: No m'am.

1
2 fore, did that mean a major change in plan at the
3 very last minute after you had been ready since
4 Sunday? Did this make for any change in the way
5 you went in?

6 THE WITNESS: Not for the way we went in.
7 Actually, we had considered and had established
8 the two teams in the event that the 27 people that
9 we put down in the yard were overcome or attacked;
10 that conceivably we could have had utilized these
11 people in an effort to effect their rescue.

12 MRS. WADSWORTH: And you didn't need to
13 reach the head of the various teams and get the
14 news out?

15 THE WITNESS: No, sir. Because the
16 only people that would have been affected would
17 have been--in this particular last minute change
18 would have been the two teams involved.

19 MRS. WADSWORTH: And my other question
20 is in the area of the use of gas. I think there
21 is a great deal of public interest in this issue
22 and a great deal of speculation about alternatives.
23 I think I understand what gas was available to
24 the troopers and then there was a National Guard
25 and the helicopter. Is there anywhere in the

1 military, anywhere, any other

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2 kind of gas, any other kind of alternative which
3 works more quickly, holds longer, has other pro-
4 perties; is there any other possibility of an
5 alternative of the use of the gas?

6 THE WITNESS: It's a possibility, but
7 not to my knowledge. I know of none.

8 MRS. WADSWORTH: I think the public is
9 very interested in this.

10 THE WITNESS: And I can readily under-
11 stand their interest in it. I am very interested
12 in it myself, but I personally am not aware of
13 any gas that conceivably would be more effective
14 and this allegedly was to be.

15 MRS. WADSWORTH: Thank you, Major.

16 MR. MCKAY: Mr. Wilbanks.

17 MR. WILBANKS: Major Monahan, in response
18 to Mr. Liman, you responded that the controls over
19 the individual police officers control over deadly
20 force was by training. As far as my understanding
21 goes, the New York City Police Department, for
22 example, has a series of filmed incidents depict-
23 ing a criminal act in which an officer might use
24 his gun and each person in the class is given,
25 for example, a toy gun and as the figure approaches

1 they are told to fire when they

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2 think the law allows them to fire and then as soon
3 as one individual fires they stop the film and the
4 entire class discusses why that officer used force
5 in that particular situation.

6 They found that there is disparity among
7 men as to when they think it is proper to fire.

8 My question is really this: is there a
9 way in which in this training of state police of-
10 ficers they can practice the applications of the
11 principals of law to real life situations? Do you
12 see what I'm getting at?

13 THE WITNESS: Yes, sir. In fact, I have
14 had an opportunity to--I am aware of the film that
15 you are referring to. In addition to this, I am
16 also aware of a training program that the FBI has
17 as Quantico (phonetic), where instead of a film
18 they have people, or silhouettes of people come
19 up and here again you reenact what situations
20 they wish to project.

21 I am confident in my own mind that our
22 training people are aware of this. Whether we
23 utilize it or we don't, I don't know. I have per-
24 sonally never been assigned to our training unit
25 and this is not something that has been in exist-

1 ence for years, to my knowledge.

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2 MR. WILBANKS: So you don't know whether
3 the persons on the roof with the .270 and those
4 that went into the yard had actually practiced
5 when to use the weapons--in addition to practicing
6 how to use the weapons?

7 THE WITNESS: You mean the simulated
8 incidents?

9 MR. WILBANKS: Yes, sir.

10 In other words, the application of prin-
11 ciples of law; you are not aware that these per-
12 sons had received that training?

13 THE WITNESS: I couldn't answer you, sir,
14 one way or the other. To my knowledge, I am not
15 that aware of it.

16 MR. McKAY: Mrs. Guerrero.

17 MRS. GUERRERO: Major Monahan, I'm in-
18 terested in Mrs. Wadsworth's question about gasses
19 used, and you said that you were also interested
20 in having--or rather using gasses that would make
21 the people immobile, as it were, and without so
22 terrible effects after so that they don't have to
23 be killed.

24 THE WITNESS: Yes, m'am.

25 MRS. GUERRERO: Aren't you insisting now

1 that you have that alternative
2 in any event that might happen, and it could hap-
3 pen, if you know, any time?

4 THE WITNESS: I'm sorry. I don't just
5 understand your question.

6 MRS. GUERRERO: Aren't you assisting
7 with the authorities, whoever is the powers that
8 give you this--that you should have this alter-
9 native should anything happen tomorrow or within
10 a week or a month in any prison or a riot or the
11 streets that you have this alternative so that
12 neither your men or anybody who is rioting would
13 be killed?

14 THE WITNESS: I would hope, m'am, that
15 if there is such a gas available, and God forbid
16 again if they have a recurrence of this tragedy,
17 that this gas would be made available if there
18 is such a gas in existence.

19 MRS. GUERRERO: The point is that it
20 seems to us through listening to an awful lot
21 of people that the whole thing was very badly
22 organized, the assault. I mean, the whole thing.
23 As you yourself said, different people--talking
24 about with authority, you do this and you said
25 something and as you said before, you told them

1 what to do and they you don't

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2 know, somebody else claims that they told them
3 what to do, you know, assaulting people and so--
4 something that should be already in your arsenal
5 as it were, in case something happens.

6 The next question that I have is you
7 said that Mr. Oswald, who is the commissioner,
8 had authority to give this signal to take the
9 prison by force; right?

10 THE WITNESS: Yes, m'am.

11 MRS. GUERRERO: But do you think he can
12 do that without higher authority telling him to
13 go ahead?

14 THE WITNESS: I don't know the limita-
15 tions on Commissioner Oswald's authority.

16 MRS. GUERRERO: I see. Thank you.

17 MR. McKAY: Mr. Marshall.

18 MR. MARSHALL: Major, you came out to-
19 wards Times Square and then turned right and
20 overlooked D yard. And you spoke of seeing the
21 inmates, then, complying with the instructions
22 from the helicopter in trying to come back A
23 yard and a jam-up.

24 Do I understand, though, that you saw
25 no resistance in D yard at that time?

1
2 sonally did not observe any activity other than
3 these people trying to comply and come toward the
4 door at this time.

5 MR. MARSHALL: Thank you. That's all I
6 wanted to ask.

7 MR. MCKAY: Bishop Broderick.

8 BISHOP BRODERICK: Major, do I under-
9 stand you to say that on the first day at about
10 5:00 in the afternoon you had what you considered
11 to be a sufficient number of men to go in, about
12 350 or so?

13 THE WITNESS: That's correct.

14 BISHOP BRODERICK: But it wasn't within
15 your confidence to make this decision; was it?

16 THE WITNESS: No.

17 MR. MCKAY: Mr. Carter.

18 MR. CARTER: I have a few questions I
19 would like clarified.

20 As I understand, only two correction
21 officers were supposed to go in with the assault
22 team, that is the police taking over. Do you
23 know why this understanding was not enforced?

24 THE WITNESS: I believe, Mr. Carter,
25 that they are the only two that did go in.

1
2 the only two that did go in?

3 THE WITNESS: With the initial group,
4 yes, sir.

5 MR. CARTER: Then let me ask the ques-
6 tion another way.

7 You said that it was contemplated that
8 only the state police would use any fire arms in
9 the assault.

10 THE WITNESS: Yes, sir.

11 MR. CARTER: But correctional officers
12 did in fact use fire arms?

13 THE WITNESS: Yes, sir, but it is my
14 understanding that this use of fire arms originated
15 from the A block cell block area, not as the re-
16 sult of them accompanying our people out into
17 the yard.

18 MR. CARTER: I don't--it wasn't a
19 technicality, was it?

20 I mean, the understanding was that the
21 state police were supposed to be the only force
22 that was to use fire arms and to take over the
23 prison without regard to where the fire arm was
24 going to be used? In other words, it wasn't con-
25 templated that the correction officers were to

1 take part in anything that was

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2 necessary?

3 THE WITNESS: That was my understanding,
4 sir.

5 MR. CARTER: Now that I asked the ques-
6 tion, why was this understanding not enforced?

7 THE WITNESS: I don't know, sir.

8 MR. CARTER: Could it have been enforced?

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10 (Continued on page 1681.)

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1
2 know.

3 MR. CARTER: Was it in the plan that other
4 than state troopers would participate? I mean,
5 there was the mention of sheriffs. Was it contem-
6 plated that they would participate in any shoot-
7 ing that was necessary?

8 THE WITNESS: No, sir. Maybe I didn't
9 make myself clear, Mr. Carter. The outer peri-
10 meter--there were other law enforcement agencies
11 present: correction, sheriff or whatever, but the
12 group that was assigned to go inside the yard
13 areas, to go into D yard was to be exclusively
14 state police, with the exception of the two cor-
15 rection officers. The others were to be out on
16 the outer perimeter and then if the retaking was
17 successful, they were to be utilized for custo-
18 dial purposes.

19 MR. CARTER: I am now talking about
20 the sheriffs' people who were in the state police.
21 Was it contemplated that any sheriff, whether
22 out on the perimeter or whatnot, would participate
23 in any shooting that would be necessary?

24 THE WITNESS: No, sir.

25 MR. CARTER: Why was this not enforced?

1 THE WITNESS: I don't

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2 know, sir.

3 MR. CARTER: Did you--did I understand
4 you to say in answer to a question from Mr. Liman
5 that there were rumors of atrocities--

6 THE WITNESS: Yes, sir.

7 MR. CARTER: Prior to the assault?

8 THE WITNESS: I believe the ones that
9 Mr. Liman talked to me about were following the
10 assault--

11 MR. LIMAN: I asked you also before
12 whether there were rumors going around the in-
13 stitution about acts of violence and atrocities
14 and you said yes.

15 THE WITNESS: Yes, sir.

16 MR. CARTER: Were these rumors of
17 atrocities--did they involve rumors of castra-
18 tion?

19 THE WITNESS: I believe there was one,
20 sir.

21 MR. CARTER: I understand in answer to
22 a question of Mr. Liman that you did not hear in
23 your mingling with your troops any racial slurs.

24 THE WITNESS: I personally did not, sir.

25 MR. CARTER: Did you notice any racial

1 animosity arising; that is

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2 anti-black feeling, anti-Puerto Rican feeling?

3 THE WITNESS: I don't feel that I would
4 be in a position, Mr. Carter, to give you an an-
5 swer to that because I left the area up there the
6 12th of November. I went on terminal leave and
7 retirement. To my knowledge I have had no con-
8 tact with anyone within the state police that
9 would reflect any racial tensions.

10 MR. CARTER: I am only talking now about
11 the days before the assault, not afterwards. When
12 you mingled with your men, were these rumors around?

13 THE WITNESS: No.

14 MR. CARTER: You heard none?

15 THE WITNESS: No, sir.

16 MR. CARTER: Am I also correct that
17 after the assault you saw no reprisals enforced
18 by anyone against any individual?

19 THE WITNESS: I personally did not, sir.

20 MR. MCKAY: Mr. Henix.

21 MR. HENIX: Major Monahan, isn't it
22 true that in the police manual that individual
23 members alone are responsible for his acts?

24 THE WITNESS: I didn't hear you, Mr.
25 Henix.

1
2 police manual, does it say that individual mem-
3 bers alone are responsible for their acts?

4 THE WITNESS: It's possible. I don't
5 know just what you are quoting from.

6 MR. HENIX: Here is a quote from the
7 manual of fire arms use.

8 "In considering the use of fire arms,
9 members must keep in mind that the individual mem-
10 ber alone is responsible for his act and that he
11 may be required to justify them in a Court of law."

12 THE WITNESS: That is an excerpt from
13 our rules and regulations, I would be in accord
14 with it.

15 MR. HENIX: In view of this--I guess
16 you could call this part of the manual of what a
17 man has to be aware of in order to be a state
18 trooper. How can this be enforced if shotguns
19 issued without serial numbers aren't kept? Like
20 the--the rifles issued without a count. How would
21 it be possible to enforce this law within your
22 own regiment?

23 THE WITNESS: I couldn't answer that.

24 MR. HENIX: The third part of it: if
25 gas masks were not presented for identification,

1 wouldn't that have also con-

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2 fused the issue in view of these figures 111-57
3 fire arm use, wouldn't gas masks make it also
4 that much more difficult to identify who the
5 person is or the persons are that are using wea-
6 pons?

7 THE WITNESS: I don't understand exactly
8 what you are getting at, sir.

9 With the exception of hand guns, I
10 would say no.

11 MR. HENIX: I think it spells out pretty
12 positively that any fire arm that is used--and
13 there were a variety of fire arms used, no con-
14 sideration was given to this fact?

15 THE WITNESS: When I say with the excep-
16 tion of hand guns, I don't know how you would re-
17 late an individual to a given weapon other than
18 the issued side arm.

19 MR. HENIX: But it says fire arms.
20 Wouldn't you consider a shot gun a fire arm?

21 THE WITNESS: Mr. Henix, I am not ques-
22 tioning you, sir.

23 MR. HENIX: Okay. I will go on from
24 there.

25 I would like to know in reference to

1 this assault if gas was dropped
2 and the troopers were using gas masks, is there
3 any particular reason for them using gas masks?

4 THE WITNESS: Definitely. To assure
5 that they would be able to function because with-
6 out the masks they would be vulnerable to the
7 effects of the gas the same as anyone else.

8 MR. HENIX: I understand this was a new
9 gas in a sense, the first time tried.

10 THE WITNESS: That I couldn't say one
11 way or the other.

12 MR. HENIX: In this type of situation,
13 anyway, used on American citizens. It might have
14 been used in foreign countries and all of that--

15 MR. LIMAN: Mr. Henix, I think that gas
16 has been used. Obviously, I don't think it has
17 been used in a situation like this, but this is
18 a regular issue, it is my understanding, of the
19 National Guard.

20 MR. HENIX: Okay.

21 The reason for asking this question is
22 that if considerations were given to the troopers
23 as to the effect of the gas, what do you think
24 the effects of the gas would have been to a per-
25 son without the gas masks? How do you think they

1 would have responded to this

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2 gas? Had you any idea?

3 A It was my understanding that it possibly
4 temporarily disabled them and enabled them to capitu-
5 late.

6 MR. HENIX: At this same time the gas
7 was dropped, my understanding is almost simul-
8 taneously there was a lot of firing. With this
9 gas, wouldn't that confuse the visibility of those
10 --the sharpshooters?

11 THE WITNESS: I could not answer that
12 because I don't know exactly the relationship of
13 the gas cloud as to any given targets or the po-
14 sition from which any shots were directed.

15 MR. HENIX: I understand the helicopter
16 circled the yard and dropped gas all over the
17 place.

18 THE WITNESS: The gas, Mr. Henix, was
19 not that instantaneously effective.

20 MR. HENIX: So you feel that the visi-
21 bility was good; that in your planning or in the
22 planning of those who were responsible for it,
23 they never took into consideration the fact that
24 the gas would make it more difficult, like you
25 know, if you muddy up the water, you can't see to

1 the bottom as easily, they
2 didn't take into consideration the possibility
3 that they could create some type of confusion?

4 THE WITNESS: It wasn't discussed with
5 me, sir.

6 MR. HENIX: One of the things you did
7 say--you said that had you known that correction
8 officers were going to participate, other than
9 two guys, to direct the state troopers that you
10 would have been more cautious.

11 THE WITNESS: I don't think I said that,
12 Mr. Henix.

13 MR. HENIX: That was the implication.

14 THE WITNESS: I believe what I said or
15 tried to project was that if there was any indis-
16 criminate discharge of fire arms that I would not
17 voluntarily have been in the line of fire knowingly.

18 MR. HENIX: Which in this particular
19 incident it would have had to come from correctional
20 officers in as much as they weren't supposed to be
21 involved?

22 THE WITNESS: I couldn't say who did the
23 firing. There were people there other than cor-
24 rectional people, I believe.

25 MR. HENIX: The reason for asking that

1 question is I was in reference

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2 to one of the questions that was posed, asking
3 you were you aware of the attitude of the state
4 troopers and I would like to ask you were you
5 aware of the attitude of the correctional offi-
6 cers being there for that period of time, the
7 fact that they had loved once?

8 THE WITNESS: Yes. I believe I an-
9 swered that, sir. I believe that I stated that
10 I thought that Officer Quinn's death had a very,
11 very adverse effect on them.

12 MR. HENIX: But it didn't affect your
13 troopers?

14 THE WITNESS: Not in the same vein, no,
15 sir.

16 MR. HENIX: But it did affect the cor-
17 rectional officers?

18 THE WITNESS: You are getting into a
19 little comradeship. They lost one of their own
20 and I think when you lose one of your own, it is
21 a little more meaningful than another agency.

22 MR. HENIX: That's why I asked the
23 question, because I know if it was me I would
24 have been affected by it and I would expect any-
25 one in charge to take that into consideration

1 and say, "We really don't want

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2 these guys in there period now," just because of
3 the attitude that I would be aware of. This is
4 the reason I asked the question.

5 THE WITNESS: This is the reason that
6 I took it with exception of two, but I could not
7 exclude them from the facility.

8 MR. HENIX: I only have one more ques-
9 tion to ask you, Major, and that is if you had
10 it to do all over again--now, this is hindsight,
11 of course, but if you had it to do all over again,
12 what corrections would you make, if any, in re-
13 ference to this assault?

14 THE WITNESS: I don't think I can answer
15 that, Mr. Henix, because I think you would have to
16 analyze each situation as it arose and make your
17 plans accordingly.

18 MR. HENIX: But wouldn't that be a re-
19 sponsibility of authority, being a major, that you
20 would have to analyze all situations?

21 THE WITNESS: I did analyze what I was
22 confronted with.

23 MR. HENIX: I'm saying in retrospect now.
24 You know, we have films. We have a lot of things
25 that document what actually did happen.

1
2 looking back, a lot of discussions have been given
3 to conditions that existed and what the inmates
4 were all about, the rumors, the things that were
5 deceptive, you know, and really wasn't true at all,
6 like castration and things of that type. In retro-
7 spect now, would you have assaulted the prisoners
8 the same way or would you have made some adjust-
9 ments?

10 THE WITNESS: I don't consider, sir,
11 that I assaulted any prisoners. I said that we
12 launched a police action.

13 MR. HENIX: I'm saying the prison it-
14 self, you know, to retake the prison.

15 THE WITNESS: Well, if we assaulted the
16 prison, then we would have to assault the inmates
17 and I don't consider that we assaulted them. I
18 think that we were the force or the entity that
19 was used to restore that facility to control.

20 MR. HENIX: Okay. Thank you.

21 MR. LIMAN: Mr. Jamalkowski.

22 MR. McKAY: I'm sorry. Major Monahan
23 has an opportunity to make a statement.

24 I think you know our practice, Major,
25 to let each witness make a statement if he wishes.

1
2 brief statement before that on the question that
3 might have arisen by a statement of one of the
4 members of the Commission speaking a little earlier.

5 There might have been an implication
6 that the Commission had made a judgment on one
7 aspect of the whole matter that is before us.
8 I just want to make it clear to you and anyone
9 else that is listening that the Commission has
10 not made judgment on any matter. Our purpose
11 in the public hearing is to get the information
12 available to us to the public and we will at a
13 later time make a determination to the public.

14 Major, is there a statement you would
15 like to make for us?

16 THE WITNESS: There are two areas that
17 I would like to touch on.

18 As I stated before, during the course
19 of my career in law enforcement, I have been ex-
20 posed to death in many forms. I consider any loss
21 of life, whether it be a single loss or a multiple
22 loss, a tragedy, and I hope that this country
23 never experiences another one.

24 And then secondly, in fairness to the
25 governor of the State of New York, Nelson Rocke-

1 feller, I personally feel that

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2 he is being--not by the Commission, I personally
3 feel that he is being unjustifiably criticized
4 in that there has been a number of attempts to
5 relate raw way, the Tombs, Riker's Island, et
6 cetera with Attica and you did not have a parallel
7 of the circumstances at all of these facilities.
8 Once the correction officer died, I think the
9 governor of the State of New York was powerless
10 to concede to the one command and his arrival at
11 Attica I personally don't believe would have
12 accomplished anything.

13 MR. MCKAY: Thank you, Major Monahan
14 for your statement and being with us.

15 THE WITNESS: Thank you very much for
16 your consideration.

17 MR. LIMAN: We are so pressed for time
18 that I think that perhaps if we could start just
19 with the background questions to Mr. Jamalkowski
20 and continue with him after lunch--every moment
21 in this jam packed day counts.

22 MR. MCKAY: Yes.

23 C A R L J A M A L K O W S K I, called as a witness
24 after having been sworn by Mr. McKay, testified
25 as follows:

1
2 Q Mr. Jamalkowski, will you state your full
3 name, please?

4 A Carl Chester Jamalkowski.

5 Q How old are you, please?

6 A 37.

7 Q Are you married?

8 A Yes.

9 Q Do you have any children?

10 A Three.

11 Q Where do you live, sir?

12 A Batavia, New York.

13 Q Do you have any relatives that work for the
14 Department of Corrections?

15 A I have two brothers.

16 Q Are they stationed at Attica, sir?

17 A Yes.

18 Q Did you have military service, Mr. Jamalkowski?

19 A Three years.

20 Q When were you appointed a correction officer?

21 A January 1, 1959.

22 Q Were you appointed at Attica?

23 A No. At Sing Sing.

24 Q How long did you serve there?

25 A I believe it is about August 13 of '59.

1 Q Were you then transferred to

2 Attica?

3 A Yes.

4 Q Have you been there ever since, sir?

5 A Yes.

6 Q During the disturbance at Attica were you on
7 duty during those days?

8 A I was on vacation and day off at the same time,
9 so I was away from the place.

10 Q I beg your pardon?

11 A I was on vacation plus it was my regular day
12 off. I would have been off either way.

13 Q Were you called back that day?

14 A No. I found out by the news media.

15 Q During the day you were on, did you work on
16 12 hour shifts every day?

17 A With the exception of the first night when I
18 came in, when I found out, from the next night on I
19 did. That night I was told to go home at 8:00.

20 Q On the evening, Sunday eveing, did you work
21 that evening?

22 A Yes.

23 Q How long did you work?

24 A Sunday evening?

25 Q Yes, sir.

1 A I came in at 8:00 that
2 night and I was on duty until about possibly 3:00 the
3 next afternoon.

4 Q Did you do a regular 12 hour shift coming off
5 your shift at 8:00 a.m. that morning?

6 I'm sorry, regular 12 hour shift working from
7 8:00 to 8:00 and then coming off duty and then being
8 held over.

9 A Are you getting to the morning now?

10 Q Yes, sir.

11 A Monday morning at about 8:00 or 8:10 we were
12 told to go in the visiting room.

13 Q Is this the 12 hour shift, the shift coming off,
14 the one that had been there overnight?

15 A Yes.

16 Q I take it you were assigned to the visiting
17 room?

18 What were your instructions?

19 A Well, we were told--when roll call was called
20 we were told to hang around the floor area. This would
21 be the administration area and then someone said, "Go
22 to the visiting room area." So, we cleared the area.

23 Q Were you given orders in the visiting room?

24 A No. There was one point that I remember when
25 once we got in there one lieutenant said if anyone is

1 squeamish, let them know before

2 things start.

3 Q Did anyone let the lieutenant know?

4 A Not to my knowledge.

5 Q How long were you in the visiting room
6 actually?

7 A I believe I entered it about 8:10. I believe
8 about quarter to nine I got fidgety. There were too
9 many things going on that affected me and I felt, "Let
10 me see what's happening."

11 Q What did you do then?

12 A I walked out of the visiting room. I got a
13 drink of water and I figured, "Let me walk to the A
14 block and see what's happening."

15 There was a lot of confusion going on at this
16 time. The gate on that particular side of A block was
17 open. I walked in just to say hi, what's going on,
18 something like that and the lieutenant called my name,
19 Lieutenant Brooks, and I said, "Oh, the jig's up. I
20 have to go back to the visiting room," and he said,
21 "Can you fix generators?"

22 And I said, "No, I can't," but I said, "I
23 will find you someone who can."

24 I then went back to the visiting room and I
25 announced that we needed a generator man or someone who

1 knew something about it and I found

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2 three officers who were familiar with it and I brought
3 them back into A block.

4 They went to the left with Lieutenant Brooks.
5 I went to the right and upstairs on the third floor.

6 Q You went up to the third floor, the top floor
7 on the gallery?

8 A Yes.

9 Q Who did you find up there?

10 A There was possibly two troopers and possibly
11 10 to 12 officers. I don't think I recognized any of
12 the officers. I think they were brought in from other
13 institutions for this emergency.

14 Q Was there anyone else on the third floor at
15 that time?

16 A Yes. General O'Hara.

17 Q I understand that you had worked on the front
18 gate in the administration building during--

19 A He was on the rear gate of the administration
20 building.

21 In other words, to leave the administration
22 floor to go to A block you had to go through me.

23 Q As part of your duties, did you find during
24 the four days that you had to take phone calls and lo-
25 cate people?

1 A Yes. There is a lobby phone.

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2 We call it the lobby phone and someone said, "Do you
3 know where General O'Hara is?" And it got to be a
4 common thing and I figured I better start doing some-
5 thing right now, so I made out a piece of paper and
6 people whose names that were thrown to me--or I asked
7 people who was so and so and when they come by me so
8 I knew who they were, part of my job was to recognize
9 people and so on and so forth. And I started making
10 a checklist of various people who I noticed I was
11 getting phone calls for so I would know if they were
12 in A block or upstairs or if they were toward the
13 PKs office or wherever they may be.

14 Q As a result, I take it, you became personally
15 familiar both by name and face with people like O'Hara
16 and General Baker and Commissioner Oswald?

17 A Plus the Committee. Kenyat (phonetic), too
18 and Bobby Seale, Kunstler. Just about anybody--any-
19 body who went through there had to come to me.

20 Q You are certain it was General O'Hara on the
21 third floor?

22 A General O'Hara has very distinguishing fea-
23 tures. You cannot miss this man. He has very bright
24 eyes. They are almost shiny. He is kind of dapper,
25 I would say.

man, I would say at this time we have no further questions and we will resume after lunch.

MR. CARTER: We are adjourned until 1:00--
2:00.

(Luncheon recess taken at 12:43 p.m.)

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