

2:00 P.M.

C A R L C. J A M A L K O W S K I, resumed

the stand and testified further as follows:

MR. CARTER: We will begin the afternoon session of these Attica hearings.

Mr. Rossbacher, you were questioning the witness. Will you continue, please?

MR. ROSSBACHER: Briefly, we established that Officer Jamalkowski was on duty on the morning of the 13th. Early on that morning, approximately 8:30 to 8:45, he went to the third floor of A-block and while he was up there we had established that General O'Hara was there also.

BY MR. ROSSBACHER:

Q When you went up to the third floor, how many people were there, Officer Jamalkowski?

A I would say between 10 and 15 officers, General O'Hara, possibly two, three troopers. The troopers were more toward the, off the gallery. There was a window area just off the gallery. They were at the head of the gallery and the officers were dispersed along the gallery.

Q That would be along the cell row?

A Right. Along the windows.

1 Q Does the third floor have a view of 1702
2 the yard and the D-yard also?

3 A D-area would be cut off by the top of the
4 tunnel. A-yard was a full view. Parts of B-yard and
5 parts of A. You have parts of every yard. A-block I
6 believe would be full.

7 Q Would you tell us what you observed when you
8 first went up there, please?

9 A First of all, I looked for a good spot. I was
10 a little tired. And there was a mattress stretched out--
11 there is a window bar that goes all the way across. All
12 the windows are on a crank. There was a mattress over
13 one of these cranks. About 17 or 18 cell had a good
14 field of vision. It was comfortable. You could lean on
15 something soft. And I would say the time would approxi-
16 mately be about five to nine and I noticed, I was look-
17 ing down below and there was some talk going on between--
18 I can't say between, because it was going on mostly by the
19 inmates in back of the barricade to the troopers who were
20 at the--oh, the top floor, which would lead to the top of
21 the tunnel. They were daring them to come in.

22 Q What was--

23 A The words used I cannot use here.

24 Mother something is very prevalent. There was
25 a lot of daring.

1 Q These were words coming from--

2 A From the inmates to the troopers.

3 Q You could hear them clearly?

4 A They were shouts. You couldn't miss them.

5 Q All right, the troopers and the correction
6 officers that you described on the gallery, were they
7 armed?

8 A Some were, I believe.

9 Q Did they have gas masks?

10 A No, because when I got up there, I said any
11 gas masks loose. Someone said, "What the hell is that?
12 I haven't got one myself."

13 Q Did you have a gas mask?

14 A No.

15 Q Were you armed?

16 A No.

17 Q Were you armed at any time during this day?

18 A No, I didn't have a club even.

19 Q You tell us you observed banter coming from
20 the inmates, dares coming from the inmates up to the troop-
21 ers and the officers?

22 A Basically on the top floor, where the top tunnel
23 meets A-block, some troopers were stationed there. This
24 I know when I first came to the block, that they were
25 down below and up above, waiting for the word to move in.

1 Q At any time, did you observe an inmate
2 which you took to be the negotiating committee come to
3 A-block?

4 A Yeah, I believe right about this same time, four
5 men crossed from D through A-yard and into A-tunnel,
6 towards A-block. There might have been two guards and two
7 negotiators, whatever it was, I don't know, but I be-
8 lieve it was four. Now, as they approached the door-
9 way, to get into that tunnel, there was a man on top.
10 He seemed to be a general or something. He had a
11 scimitar, a home made sword. It had a curve to it. It
12 was quite long, three, four feet, I don't know. A good
13 looking thing. And he shouted from down below and he
14 told me, "All or nothing." And they went in.

15 Now, from my understanding of it, the attack
16 or the coming in of the troopers was supposed to be at
17 nine o'clock. And I noticed when these inmates came in,
18 someone near me--I walked back in the gallery or some-
19 thing and the trooper said, "You have a half hour. They
20 claim that they are right in the middle of a discussion
21 whether they should capitulate or not." And they
22 needed a little more time. I think they were granted
23 another half hour. This is my understanding. And the
24 negotiating team went back into D-yard. I believe it
25 was 9:25. I remember I looked at my watch because I

1 figured a half hour is almost up and I looked 1705
2 and it was 9:25.

3 I started to see a little commotion in D-
4 tunnel going towards Times Square. There was quite a
5 few people, movement. I could see through the windows.
6 And, of course, you could only go so far and you can't
7 see anything any more. On top of Times Square there
8 is a little building. Plus attached to this building
9 there is a cyclone fence built like half a house, but
10 it's hollow. Cyclone. And it's covered by canvas
11 sheets. You can't tell what is behind there.

12 The next I knew, an inmate came out and it
13 looked like the show of shows or something. He started
14 pulling back these different sheets, canvases, baring
15 this area. It would be on this side of the Times Square
16 primarily. It extends toward C and around a little bit.
17 Right in that area.

18 The next thing I see hostages. I see people
19 blindfolded, bound, being led out. The situation as I
20 see it, on my side, which would be A-block side of that
21 tunnel, A-block side of Times Square, there were three
22 hostages. One, oh, approximately 15, 20 feet from the
23 top of Times Square toward A and two others, oh, possibly
24 another 30, 40 feet, almost side by side, but about ten
25 feet apart.

2 out there, this general with the sword, if that is the
3 term I can use, starts talking to the troopers.

4 "You come, you're the first to get it."

5 And there was a little banter and that kind of
6 talking. As far as I could see, the troopers weren't
7 answering. I think they could anticipate coming in
8 and there was no answer. They were just quiet, re-
9 served.

10 I think the general gets a bright idea. He
11 wants to make this more effective. So he walks back and
12 speaks to the guards and the hostages. I believe there
13 were on the two front hostages, there were three in-
14 mates. I remember the one on my right. I remember a man
15 ducking down behind with a spear to his back and he arched
16 his back. He must have pricked him a little bit. He
17 arched his back. One went for his throat and one went
18 for the side. Making it difficult--I imagine they
19 figured the sharpshooters might pick him up, if there
20 was one, he could be easy picked off in three directions,
21 it could be done very easily.

22 Anyways, the general walks up to the first
23 hostage on the right and he says, "Tell them you don't
24 want to die."

25 And the officer doesn't say anything, or the

2 So the next thing, his head is jerked back and
3 a knife is applied to his throat. And he's got a frog
4 in his throat the same as I got now. Then he says, "I
5 don't want to die," but it doesn't come out very good.

6 Q What happened then?

7 A Well, then more pressure is applied. His head
8 is jerked back further. He is goaded. He starts scream-
9 ing. The man next to him is goaded. He starts screaming.

10 Q What are they screaming?

11 A "I don't want to die."

12 Q You could hear all of this clearly?

13 A Right down to here (witness indicating mid-
14 section).

15 Q I take it that the troopers are waiting to go
16 out and the officers all along the gallery could all hear
17 it?

18 A You can't miss it.

19 Q How long is this before the actual entry into
20 the, under the catwalks by the state troopers?

21 A Well, there was shooting first.

22 Q Within how long--

23 A I would say the time the--where the knives were
24 applied to the throats and the people were made to say,
25 "I don't want to die," I imagine that would be about 9:40.

1 It's very close, in that area, within minutes. 1708

2 Q The assault, I believe, started at 9:45?

3 A 9:45, 9:46.

4 Q At this time I understand that you had a con-
5 versation with General O'Hara. Would you tell us about
6 that?

7 A I had some before this. When I first got up
8 there, like I say, I leaned on this mattress and I looked
9 and I seen who was with me. And I asked him, you know,
10 I says, "What is happening? Are those the helicopters
11 that is going to drop the gas?"

12 There were two whitish colored helicopters
13 circling over the yards. One going off in this direction,
14 one coming in close and up and back.

15 I asked him, I says, "Is one of this going to
16 drop the gas?"

17 He says, "No."

18 I says, "Well, which, how is it going to be
19 done?"

20 He said, "It will be an OD one, an Army type will
21 come over and drop the gas in D-yard." This is earlier.

22 I bypassed this. Now, as time gets closer,
23 actually it's past the half hour they have given them.
24 Someone is trying to call the general on his--he is re-
25 ceiving but he's having it difficult sending.

2 button but nothing is happening. He can receive but he
3 cannot send and I guess the helicopter, the OD heli-
4 copter is ready to go. There has been a call from the
5 power house. They want to know, they have the instruc-
6 tion to shut the power off at a given time and the next
7 thing I knew a trooper came down, I believe a corporal
8 came off the head of the gallery, came down to where we
9 were, 17, 18 cells.

10 He said, "General, we have been trying to get
11 you."

12 He said, "I know, my set won't send."

13 He said, "Use mine."

14 I believe he got in touch with the helicopter
15 pilot, the OD one, the gas drop. He told him to drop
16 the D thing--change it. Coming over A and drop the
17 gas over Times Square where the hostages are being held.

18 Q You understood the Army helicopter was to come
19 over D originally?

20 A That is my understanding.

21 Well, anyways, apparently they get the message
22 and they say okay. Then I believe there is a call to the
23 power house to hang on and they will cut the power in just
24 a minute. He wants to get definite word. I think it's
25 about 9:44, about two minutes before the attack actually

1 started. I noticed the lights went off.

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2 I heard him give the command, "Shut the power."

3 I noticed there is lights on the inside of the building
4 on top, above the third floor all the way around, I
5 noticed the lights went off. I don't know whether the
6 inmates seen it. I looked to my left and I see a head
7 pop up on C-block and I knew the sharpshooters were set
8 up. And all of a sudden the OD helicopter come over
9 my shoulder, over the top of A-block and they headed
10 directly for Times Square and they hovered there for a
11 second and the gas started coming out.

12 Now, at this point I am looking up and down
13 trying to see what they are going to do to the hostages.

14 Q How did the gas come out?

15 A It oozed.

16 MR. CARTER: May I interrupt at this time
17 to make our--what has been our usual daily two
18 o'clock announcement.

19 We have received a bomb threat. We in-
20 tend to stay. We think that the building has been
21 secured but I want to make the announcement in the
22 event that anyone here wants to leave.

23 MR. LIMAN: We have had them every day
24 since these hearings have begun at this hour.

25 MR. CARTER: Sorry for the interruption.

1 Q Are you willing to stay, Officer?

2 A Yeah, why not.

3 Q Okay. Would you go on, please.

4 The helicopter was coming over and the gas
5 started--

6 Q He was just above the, if you can draw a triangle
7 between the three inmates--three hostages on my side,
8 he is right above them. Maybe he went more to Times
9 Square. Maybe 50 to 70 feet up over their heads and I
10 seen the gas coming out. I looked back down and whoever
11 has the hostage on my left in front two, I see his arm
12 come across the guy's throat.

13 Now, I cannot say he cut the throat. All I
14 know is, I see the movement of the hand. I knew the
15 man had a weapon in that hand.

16 Q Did you believe that the hostage's throat was
17 being cut?

18 A I had some awful premonitions. Anyway, it
19 amazed me because I thought this gas would shoot out
20 like you would have a fire nozzle shooting water and it
21 oozed. About the same time I saw that hand go across that
22 throat, the firing began. And the next thing I knew,
23 every inmate, hostage went down, whether hit or not, they
24 went down. There was a lot of crawling. The hostages
25 were down underneath the inmates and a second wave of fire

1 come into them while they were down.

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2
3 Now, I knew that when this started that the
4 action coming from below A-block, below the tunnel
5 and on top of it. So I revert back--I think there is an
6 object being tossed at that time catching my attention
7 from behind the first barricade over toward A-block. It
8 might be a bottle. I can't say what it was but it was
9 an object in the air. In that direction toward A.
10 The next thing I know, someone fired a, I have to say a
11 deer slug because I seen a table move in the barricade.
12 Then I see a wire cutter man come out. It's a trooper
13 and he has a pair of wire cutters. There is wire strung
14 in front of that barricade. I see this and I get
15 gassed out.

16 Q When the inmates went down and the hostages went
17 down in the first wave of firing, after that first wave
18 was there any movement of either the inmates or the
19 hostages on top of the tunnel?

20 A They were on top of the hostages. In fact it
21 looked to me, to be honest, my interpretation they were
22 still trying to get them. This was my feeling.

23 Q Then there was a second wave of firing?

24 A Right. As they were down.

25 Q Did you have occasion to look down the gallery
and see whether anyone in A-block was firing?

1 A No, the action is out there. I am 1713
2 concerned about those hostages.

3 Q Could you hear whether or not anyone on your
4 gallery was firing?

5 A My concentration is, my wife says, watch the
6 football game, nothing. You could be beside me, forget
7 it. My concentration is so grest, if I am looking at
8 something I want to be looking at, I can't hear you.

9 Q Did you know what orders the men on the
10 gllery had been given?

11 A I remember one part of my conversation with
12 General O'Hara when I got up there, somewhere along
13 in the conversation, he looks at me and he says, "Your
14 men understand they are not supposed to fire unless the
15 inmates overrun into A-block yard, we lose control of
16 them."

17 And I told him, I says, "Look, I haven't got
18 a weapon. I am just an observer. I am just up here on
19 my own. I don't know what orders have been given these
20 men."

21 Q What was the effect of the gas on you?

22 A I g9t quite a whiff and it doubled me over.
23 I started to retch a little bit. I didn't throw up.
24 I had the feeling I might. And I couldn't see except--
25 I know from prior training, the best thing to do is hold

1 your breath and get the hell out of there.

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2 Q Is that what you did?

3 A Yeah .

4 Q Where did you go?

5 A I moved along as fast as I knew how. I get
6 glimpses of things and I made my way off the gallery,
7 downstairs and I cleared a little bit down the stairs,
8 there was a couple of air pockets where your vision
9 could clear somewhat and then down below is a little
10 clearer yet and way back to the front, back to the
11 administration floor.

12 Q What did you do then?

13 A I remember there was a shortage of gas masks and
14 when I got relieved over these days, it was the same man
15 relieving the same man for 12 hours. Just two men. And
16 the first day we had been given gas masks on a priority
17 fearing we had the essential gate. In case something
18 should happen, we had the essential gate. They thought
19 the person on that gates should have a gas mask. I kept
20 it in the drawer and my relief knew it was in the drawer,
21 as far as I knew. It was for both of us. When I got
22 back down front, I cleared. I said I wonder if that
23 stupid mask is in that drawer.

24 I opened the drawer and there it was. So I
25 figured, well, I know there is a hell of a shortage,

1 maybe I can go back to A-block and give it to 1715
2 somebody who can use it. Who knows, maybe I can be
3 useful. I go back to A and I am amazed. I see no
4 one. I can see all the way down the tunnels. I can
5 see the top of the balcony and a little bit beyond.

6 The place is deserted. It doesn't make sense
7 to me. I don't know which way this battle has gone. And
8 I catch a glimpse of something to my left on the stair-
9 ay and I see it's an officer. He has a tommy-gun. And I
10 can't understand why he is not covering that tunnel going
11 straight down in case something should backfire.

12 I imagine he is the reserve for that area.

13 Q There were no troopers there?

14 A There was one officer, period. And me. I
15 come on the scene.

16 So I told him, I said "What the hell are you
17 doing over here? Aren't you supposed to be covering
18 the other area?" It sounded stupid to me. He said,
19 "There's a damn inmate over here." I look and I see there
20 is an inmate laying down by--off toward the yard area
21 by the lock box. So I approached the inmate and I
22 said "Can you talk?" He said "Yes." I says, "Are you
23 wounded?" He said, "In the stomach, in the back." I
24 see no blood in the area. I grabbed his shirt and I
25 peeled it back to his neck. I saw what might have been a

1 graze wound, oh, on his muscle in back here. 1716

2 But nothing that penetrated. This might have been a
3 little scar. There was no blood in the area. If I'm
4 going to go on top of the tunnel, whatever I'm going to
5 do next, I have to leave this officer alone. He is in
6 a bad spot. If someone should happen to come back from
7 the tunnel, top or bottom, where he should cover, he is
8 in a bad spot.

9 His attention might be diverted and this man
10 might jump and take the tommy-gun and all hell will break
11 loose.

12 Q What did you do?

13 A I did what my instinct told me. I told the man
14 "Can you move?" He said "Yes." I said, "Do you know
15 where the officers' john is out there in the hallway?"
16 He said yes. And I says, "Now, when I tell you to move,
17 you move on your hands and knees and you go into that john
18 and park your head right next to it and don't look
19 back"and I grabbed him by the collar, figuring if I lost
20 control of him, then the officer with the gun has a chance
21 anyways.

22 Q You put him by the john, I take it?

23 A He moved pretty fast. If he was wounded,
24 he almost passed me up.

25 Q Where did you--

1 A I was satisfied the officer had a little 1717
2
3 better chance and I went on top the tunnel and I see
4 the trooper, somebody, and he has two hostages, I guess,
5 taking them off to A-block, off the top of the tunnel.
6 This is about, from about 30, 50 feet out from the tunnel
7 and I see these two men approaching me. They both got
8 coveralls on. They talk to me and it doesn't register.
9 Just as they get by me, I say to myself, "Gee, that is
10 Mitchell and Wright."

11 Q These were hostages?

12 A Yes. I should know these people and I didn't
13 recognize them. As I turned, I see Mitchell had part
14 of his coveralls was torn off in back. There was an
15 area that was uncovered and I saw a hole, a black hole,
16 no blood, just a black hole, maybe three, four inches
17 above his belt, three inches from his spine. It struck me
18 curious, why is there no blood if he has a hole there.
19 But he was already being led off. That was beyond my--
20 what I was going to do next or whatever was going to
21 happen. So I looked to see where everybody was and
22 most of the advance party were already swung around the
23 top of the tunnel toward D and toward B.

24 In other words, they had it sort of ringed in.
25 I see there was an officer on my left looking down at
 a body so I hit Times Square and took a left going towards

1 C-block and I see this officer. He is examining 1718
2 this body and I asked him, I said, "What is happening?"
3 He said, "I think it's one of ours." The man was dead.
4 So I told him, I says, "George," I says, "The man is
5 dead. Let's get some live ones off. He can be picked
6 up later. Let's get some live ones out of here."

7 So apparently next I walked toward Times
8 Square and I take a fast look at the yard.

9 Q What did you see there?

10 A I see inmates crawling, like this or what have
11 you. I also see inmates, it astounds me, with all the
12 shooting, there is inmates walking around, kicking the
13 ground like they are mad at something. There is very few
14 of these. The basic majority, they are complying. There
15 is a helicopter telling them, do this. It amazed me,
16 there is a little pocket, oh--

17 Q Did you see any shooting from the catwalk?

18 A I hear sporadic shooting but I don't know where
19 it's coming from or anything. I can't judge the thing.

20 Q Do you have any idea how long this is after
21 the assault started?

22 A I imagine I left, the time I left from being
23 gassed out, hitting the front, coming back to A-block, I
24 don't think more than two minutes have elapsed. I can
25 move pretty fast if I have to. Probably another minute

2 a half minutes to the top of the tunnel. It has to be
3 because I believe Mitchell was one of the hostages on
4 A-block side, for me to see him get off, the time can't
5 be that long.

6 Q What did you do then?

7 A I took a fast glimpse of the yard, I'm drawn
8 to this. I guess anybody would be. I looked down and
9 see what the situation is going on. The next thing I know,
10 Pappy Wald popped out of somewhere. I have no idea.
11 There is a trooper and another guard there and he says,
12 help get this man off. I grabbed one arm, the other
13 officer was on the other arm and we helped take Pappy
14 Wald off. He seemed to recognize me. I said, "How are
15 you doing?" He seemed to recognize me.

16 Q You took him down front, is that it?

17 A Yes. Took him off the top tunnel to A-block,
18 put him on the grass where the air was a little clear.
19 Somebody else took care of him from there.

20 I go back into the administration building and
21 I run into Rus Syracuse. He is taking a tabulation of
22 hostages.

23 Q He is a correction officer trying to--

24 A He works out of the PK office. Apparently he
25 was appointed by someone to take a roll call of the hos-

2 tages, they were taken out of this area or had 1720
3 gotten out. So I had a little conversation with him. I
4 said, "George up there thinks there is a dead one."
5 And he says, "Well, get him the hell off of that. We
6 have to have a body count so we know who exactly is miss-
7 ing and we will look for that individual person. He
8 might be in a cell or some place.

9 Q What did you do then?

10 A I go back into A-block. I run into Lt. Brooks,
11 he was gassed out, he didn't have a mask. He was
12 retching and his eyes were puffed up. I helped him
13 back out first, put him back on the grass and went back
14 on top the tunnel.

15 Q What did you do there?

16 A I headed for the body. I saw George, the
17 other officer up there and another officer came along.
18 We put this body on a stretcher. Found a stretcher
19 somewhere.

20 Q Did you take the body out then?

21 A We went toward Times Square. I wasn't sure
22 if it was one of theirs. If it was a dead person, it
23 didn't actually make any difference to me at this point.
24 A dead man is a dead man. You can't help him any more.
25 But for reasons--I saw an officer who I thought might
know something about this man on the other side of this

cyclone fencing so I called him over. I said,

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"Is this one of ours?" And I could see he visibly got distraught.

Q The officer was distraught?

A Yeah. Hiw eyes showed. His emotion showed.

Q Did he identify the man as a hostage?

A He just nodded.

Q I said, "Are you sure?"

A He nodded again.

Q Was this man armed?

A Yes, he had a tommy-gun.

Q Then what did you do, did you take the man out?

A Took the man out.

Q Did you return back in then?

A Yeah, I went back and I found this same lieutenant, the brave old soul. I think he was in charge of A-block before things started and luck would have it the man didn't have a mask. I think he was trying to do his duty in the worst way and he kept getting gassed out.

Q Did he get sick again?

A Yes, I took him back out again and put him on the grass,

Q Did you return then, Officer Jamalkowski, into the yard?

2 I go back on top. Now, as I come to Times Square, I have
3 to swing out a little bit because of the cyclone area
4 and as I swing I heard this gas gun and as luck would
5 have it I see this projectile coming out of B-block and
6 it's--what happens is two troopers almost get it above the
7 C-yard door. This thing come by chest high like this.

8 Q You saw the projectile?

9 A I watched it. It has the same speed as a
10 bullet. You can watch it if you catch it. I tried to
11 trace it back. I realize I saw it in the area and I
12 should know. It has a certain trajectory and I should
13 find where it came from. All of a sudden I see an in-
14 mate about 16 cells on this second floor of B-block and
15 he is doing a jitterbug. I don't understand what he is
16 trying to do. There is bricks between the windows where
17 you can't see and where you can see. He keeps dancing
18 out and dancing back. Dancing out and dancing back.

19 All of a sudden I see the gun in his hand. I
20 said what the hell are you doing now. Somebody is going
21 to get it. Maybe I am the guy that saw this guy fire.

22 Q Did you then notify the troopers he was there?

23 A I went on that side of Times Square, because
24 they are facing the yard. My gask mask is off. I think
25 I actually tried to borrow a weapon at one point. And

1 this tropper would not hand his weapon over.

1723

2 Q I take it you succeeded--

3 A I tell them, there is a guy shooting a gas
4 grenade gun, projectiles from the second floor, about
5 16 cells down. And he said find somebody with a radio
6 and tell them. I looked, came back toward A-block side,
7 I found this man with the radio and I told him, I said,
8 "There is an inmate." I pointed to the area where he
9 was shooting projectiles from. Then I figured, gee,
10 maybe this guy, they still got their backs to this guy.
11 If this guy is smart he can get a little closer and at
12 close range you can't miss, so I started to tap guys, hey,
13 keep your eye behind you, there's a guy with a gas gun.

14 At this same time, I don't know why but I seen
15 another gas gun being fired from D. I said what the
16 hell is this, I got to be the only guy to see two gas
17 guns fired? Another inmate fired a gas gun from just
18 off the gallery on D-block.

19 Q You saw the inmate, I take it?

20 A There was an inmate. I did.

21 Q Did you see the projectile?

22 A Yes.

23 Q Did you have your mask off, did you get gassed
24 or what happened?

25 A At this point, there were troopers with this

1 flame thrower outfit on the back. I didn't know 1724
2 they had gas in it. I actually thought they were flame
3 throwers. I guess every so often they are spraying.
4 The next thing I'm gassed. I am caught without my mask
5 on. I tried to find A-block--excuse me, that is dis-
6 rupting me a little bit.
7

8 I tried to head back for A-block because I am
9 gassed and it was a little more serious this time. I
10 got too much. I tried to head back for A-block and I
11 find myself in the block and I tried to find a balcony,
12 in A-block. I couldn't see too well but there is no
13 balcony and I am feeling for this thing and the guys
14 said what the hell are you looking for. I said I am
15 looking for the balcony. You are in C, you dummy. So
16 I tried to clear myself back out, I guess, I don't
17 know, I am a little sick. I got a little too much gas
18 that time. And I figured I better get out of here. I
19 am no use to anybody at this point.

20 Q Are you upset at this point too?

21 A I don't know. I think I'm calm.

22 Q So then you go out A and go out front of the
23 administration building?

24 A Well, there is a little bit of firing going on.
25 There is a little something going on extra here. As I
come to Times Square to make the turn to go right, I

clear. My eyes start focusing, I'm a little sick 1725

inside from the gas. My eyes cleared a little bit. And there is something going on to my left. There is about six troopers lined up and they are firing into B-block. It's a small war.

Q They are firing shotguns, not just tear gas guns?

A It sounded like a lot of gun to me. It's like a war. It lasted maybe a minute, but it looks like open warfare. They are after somebody in there. I found out later that they did find a gas gun in that area and they did find a body. Apparently they have shot this man who shot at them.

Q After you see this, do you go out then?

A No, I think at this point I am out of the tunnel. I wind up in, as I get down the floor, I met Syracuse or somebody says can you identify any of these bodies so we can make sure. I think he tells me we got them all out by now, all the hostages are out. It makes me feel good. I go outside and the bodies--

Q These are the bodies of hostages?

A Yes. I look down and I recognize Cunningham, Ron Warner. There is someone I don't recognize. There are other officers looking around and saying, that is so and so. At this point, there is a civilian that was

2 in the food tent. There was a food tent set up 1726

3 inside the prison. The Lions Club had set up a food
4 tent. As luck would have it there is a guy whose father
5 is dead there. He has been a hostage. He has been
6 killed. Then the next thing I know, he said my father.

7 Q What did you do.

8 I take it at that time you are out and there is
9 no firing going on? It was relatively calm in the yard?

10 A I grabbed this boy--I don't know whether he is
11 an adult, he is in his 20s. He starts to lose control
12 of himself. He said his father died there, a hostage.
13 And I grabbed him, I tried to say something to him.
14 Calm him down. He comes back out of it good and right
15 about there I think I lost my composure. I look up and
16 I see possibly Oswald, Mancusi on the second floor of
17 the warden's office.

18 Q Were you angry at this time?

19 A Yes.

20 Q Who were you angry at?

21 A Whoever is responsible for waiting this long.
22 I thought the whole thing was, should have been done the
23 first day.

24 Q What did you do then?

25 A I throw my gas mask, I want them to see me
throw it. I just throw it and I left. I had had it.

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cuperation. As I was ready to leave the front gate I ran into Holly Chase. He is the union president or whatever he is. And he says, "Carl, where are you going?" I says, "Home." I says, "I have had it."

He says, "Come on, you are tougher than that." He says, "Look," he says, "I have to be another place. Keep the reporters on one side of the road." He said "There is some on this side already, but once they leave," he says, "They don't come back."

Q Carl, as I understand it, you stayed out there on the road keeping the reporters on the other side for a couple hours until about 2:30?

A A couple four hours.

Q Then did you go home?

A Yes.

Q Were you in emotional control at that time?

A Yeah, I have more emotional control then than I do now. It's been my habit, I guess, I have been in other riots, not in prison, but in other places and I find that usually when I am in a situation where I am involved int it, I get very calm. I do what I have to do but later on, there is a letdown. There is--it's a breaking down, you see. I realize it's going to happen to me, I feel it coming on. So I don't got the right

2 cried.

3 Q Carl, if they had asked you as part of your
4 duties to rehouse the inmates immediately after the
5 retaking, do you think you could have done it un-
6 emotionally and professionally, given what you had seen,
7 what you had been through?

8 A I think possibly I could unless somebody wise-
9 cracked or something. Then I think my emotions would
10 let go. I mean, I would have to do something. I would
11 have to hit somebody.

12 Q Let me ask you this: Do you believe that the
13 Department of Corrections should negotiate with inmates
14 who hold hostages?

15 A No.

16 Q Why not?

17 A Let's put it this way. We are the officers in
18 blue. We put our lives on the line. Now, I can remember
19 times working in D-block which was my block, back before
20 the riot started. On a Sunday morning 500 men would be
21 open in that block. There would be six, seven officers.
22 What the hell is going to stop these inmates from taking
23 his place over at any time, any place, anywhere. The
24 odds are 500 to six. You have no gun. And they have to
25 come out, the people that expect you to rehabilitate the

1 men, they expect you to have a close association 1729
2 with the men. The men coming down for pills, what have
3 you. There are six of you. One is over there, one is
4 over there. We are all alone basically. What's to
5 stop one man, two men with a weapon, five men, it's a
6 situation that is in the prison. You can't avoid it.
7

8 Q Does it make your job unworkable?

9 A As long as there is a man on top that believes
10 a hostage is negotiable, yes, it does. Now, I think the
11 men themselves have some right to say about this. We
12 realize that if someone says, look, if hostages are
13 taken, we are coming in and we're coming in firing.
14 I know if I were caught in that mess, I would rather
15 take the bullet the first day than die four days later
16 after being brutalized or sexually abused or what have
17 you. I don't want to go through this strain. Settle
18 it the first day.

19 MR. ROSSBACHER: I have no further ques-
20 tions.

21 MR. CARTER: Questions by the Commission.

22 Bishop Broderick, do you have questions?

23 BY BISHOP BRODERICK:

24 Q Officer, I have an observation and a question.
25 I am not too sure on that day precisely what your as-
signment was. I hear you saying you are the officer in

2
3 A No. There is a gate leading from the ad-
4 ministration floor toward A-block.

5 Q But whatever your assignment was, you became
6 somewhat of a roving ambassador, didn't you?

7 A You have to be there to realize the strain--

8 Q I am not faulting you for not--

9 A Actually, all the man said when we got off
10 the floor was, we have to clear this area, go to the
11 visiting room. It's not really a direct order.

12 Q My question is then: What were the guards sup-
13 posed to be doing when the troopers were trying to get
14 back the facility?

15 A I would say stand by.

16 Q Well, were others doing what you did, namely
17 roving around?

18 A I believe there was one other officer. We were
19 unarmed. I don't think either one of us had a stick or
20 anything.

21 Q Actually, you had no assignment then?

22 A No.

23 Q You were just standing by?

24 A Yes.

25 BISHOP BRODERICK: Thank you.

MR. CARTER: Mr. Henix.

BY MR. HENIX:

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Q I only have a few questions.

One of my questions is, you mentioned epithets
made by inmates against troopers.

A Yes, sir.

(Continued on page 1731.)

2 Were any of these epithets made in return towards
3 the inmates, given the strain and stress and being
4 attacked verbally?

5 A Yes, sir. I probably said something, too.

6 When they made those hostages scream, "I
7 don't want to die," that affected every man, I think
8 possibly the inmates set up an emotional thing right
9 there that might have cost them more lives if they
10 had gone without this.

11 If they had the knives there without going
12 through this little procedure forcing these two men
13 to say, "I don't want to die," that's unbearable,
14 waiting four days and seeing an officer get to this
15 point where he has to cry.

16 Q Would you say that had anything at all to
17 do with why, given the fact that you were seeing
18 these things, you asked the trooper for his gun even
19 though you had pointed out where this person was
20 located and was--

21 A Let's put it this way to you: When you are
22 in a given situation you make up your mind in a hurry.
23 This is a delicate situation, this man firing two
24 troopers almost got hit already.

25 Actually, it's a battle line drawn. It's

2 think that's pretty evident. If I know exactly where
3 this man, I know exactly where he is. Isn't it part
4 of my duty now if I know where the man is, I know he
5 has a gas gun, I know he has already shot and I know
6 he almost hit two men.

7 By the time this guy finds that window or
8 something or whatever have you, the guy may hide
9 behind a pole. I know where he is. I'm probably the
10 only guy that knows where he is. What the hell would
11 you have done?

12 I am taking into consideration all the
13 factors that you brought forth. What I am really
14 looking at is, which I think is pretty evident to this
15 Commission and also the people that's viewing these
16 hearings you are an emotional person.

17 Aftermath, sir. Aftermath. Aftermath.

18 Q Aftermath.

19 A I feel for those officers that died. I
20 feel for the inmates that died, too.

21 Q Because you didn't want to break up, you
22 heard the officer cry, "I don't want to die. I don't
23 want to die."

24 I guess you would probably have been just
25 as emotionally upset if you heard inmates say that.

1
2 that you are an emotional person and you had already
3 witnessed this, do you feel this was an emotional,
4 could it possibly have been more of an emotional
5 decision than it was an intelligent decision on your
6 part, knowing that the trooper couldn't give you the
7 gun or he would have been out of line to have given
8 you the gun?

9 A He probably would have been out of line to
10 give me that gun. This is true.

11 Q He didn't give it to you.

12 A I imagine it's the same thing. Do not lose
13 your weapon.

14 Q So he really couldn't?

15 A But I did what he directed me to. I went
16 and found the radioman.

17 Q When you spoke of the meeting of the officer,
18 that was killed--and the effect--

19 A That was a civilian, sir.

20 Q (continuing) --that it really had on you,
21 that was the last straw?

22 A I think this was probably just my calm had
23 come over and I think this was my letdown. It hurt
24 me to see this kid see his father down there. It hurt
25 me that all these people had to die that way, whether

1 white, black, inmates, hostages. I do not 1734

2 believe it should have happened that way.

3 Q I agree, a lot of sons lost their fathers.

4 My point is: In view of the fact that you
5 had seen this and you were very upset about it, I'm
6 wondering if you were able then or did you know at
7 that time that this child's father was killed by
8 troopers?

9 A No, I couldn't say either way.

10 Q You had no idea if this was true?

11 A No.

12 Q At that time were you--

13 A I knew what hostage on top of the tunnel,
14 I took over the dead one, I knew he had a bullet in
15 the head, this I did know.

16 Q At that point you were unaware, you were
17 under the assumption that some inmates had perhaps
18 killed--

19 A I had no such assumption.

20 Q You didn't have any idea who killed him?

21 A It could have been either way.

22 MR. HENIX: Thank you.

23 BY MR. CARTER:

24 Q I have one or two questions.

25 You made the statement that the women hear-

1 ing the hostages say, "I don't want to die," 1735

2 that if they hadn't heard that statement, there might
3 have been fewer people killed.

4 Am I to understand that that made the State
5 troopers or whoever more savage?

6 A I think it possibly made them believe it
7 was more important to eradicate every supposed execu-
8 tioner. It was very serious. Their throats were
9 going to be cut. I think it brought it more out in the
10 open.

11 If he had any doubts before, now it was
12 clear, these men are serious.

13 Q One other question: I am very curious as to
14 why you stated the fact that you would not want to
15 be held, if you were held hostage, that you wouldn't
16 want to go through the business of sexual abuse and
17 things of that kind?

18 A There is that possibility.

19 Q There is no evidence that any of these
20 hostages were sexually abused.

21 A I said the possibility of it.

22 Q Why do you think that possibility exists?

23 A Let's face it, we had some men who already
24 had been beaten up and tossed in the yard naked.
25 This is true.

1
2 one man was dead, Quinn.

3 We had another man who was close, Jennings,
4 he was losing blood faster than they could put it in
5 him. He was a close call, he came out of it, God
6 bless him.

7 We had evidence a lot of men were beaten
8 up. The ones we had gotten out already.

9 Q Yes, I understand that.

10 A That sets up a precedent. It says, "Hey,
11 these guys are serious. It isn't just grabbing and
12 holding. A little beating going on and a little this
13 and a little that."

14 Plus we do know some of these men that came
15 out had gone through a gantlet. Somebody is playing
16 games back in there with officers and I am an officer
17 and I don't like it. Most of these guys are average
18 Joes.

19 Q I understand that. That's not really,
20 that doesn't really respond to my question, but I
21 will let it go.

22 A Let's put it this way, sir: Let's suppose
23 the first kidnapping in the United States. I know this
24 would be much harder, but supposing that first man
25 ever paid ransom.

1 Q Captain, I merely was trying to 1737

2 find out from you as to what I thought was a relatively
3 simple question and that was why did you think that if
4 you were caught that you--that there was a question of
5 sexual abuse. That's all I asked.

6 A There was a rumor at that point during the
7 thing that there was sexual abuse. There was a rumor.

8 Q A rumor which has since been, of course,
9 dissipated?

10 A I believe it has. It doesn't make the
11 possibility it couldn't happen the next time around.

12 Q Captain, as you know, your custom is, you
13 may make a statement of your own if you care to with-
14 out responding to any questions at all.

15 If you care to make a statement at this
16 time, you are welcome to do so.

17 A I don't know as I care to make a statement.
18 I think I would like to present a fact as far as I am
19 concerned.

20 There is one man in this State and if you
21 know the man, I don't know if you know John Selker.
22 Every so often in this business you see a man who
23 is worth his weight in gold. He is good for inmates,
24 he is good for the officers.

25 He is just one example person I think in my

1 heart it would be good for us, good for the 1738
2 inmates, a man is firm, he is fair. He can be as
3 stern as rock when he has to be. He has every
4 quality a leader should have, intelligence, knowing
5 the right thing at the right time and now he is out
6 of correction.

7 He just retired as a warden at Greenhaven,
8 I believe. This man is going to be lost. He would
9 be one of the best commissioners the State ever had
10 and I hate to see the man go that way.

11 If that's a statement, that's my statement.

12 MR. CARTER: Thank you very much. I
13 understand, I have been told that I have promoted
14 you.

15 THE WITNESS: That's all right. I still
16 get paid the same.

17 (The witness was excused.)

18 MR. LIMAN: Ronald Kozlowski.

19 R O N A L D T. K O Z L O W S K I, called
20 as a witness, being first duly sworn by Mr.
21 Carter, was examined and testified as follows:

22 EXAMINATION BY MR. LIMAN:

23 Q Would you state your full name, for the
24 record.

25 A Ronald Thomas Kozlowski.

1 Q What is your occupation?

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2 A I am senior account clerk at the Attica
3 Correctional Facility.

4 Q Where do you work?

5 A In the metal shops.

6 Q What is your job?

7 A I am senior account clerk, I handle all cost
8 accounting and records pertaining to the metal and
9 everything.

10 Q Did you report for work on September 9th?

11 A Yes, I did.

12 Q And were you taken hostage in the metal shop?

13 A Yes, I was.

14 Q You were brought out to D-yard?

15 A Yes, I was.

16 Q Were you molested or harmed in D-yard up to
17 Monday morning?

18 A No, I was not.

19 Q Mr. Kozlowski, I would like you to tell us,
20 in your own words, what happened from the moment the
21 ultimatum was read on Monday morning until the moment
22 that you ultimately left the prison.

23 A Well, come Monday morning there was a sort
24 of confusion more or less. At the negotiating table
25 I received a letter of the demands that were going to

1 be granted and these, in turn, were refused 1740
2 and that's when they started more or less taking
3 positions and singling out some of us hostages to
4 move us somewhere where we could be seen more clearly
5 by the State Police.

6 Q Were you blindfolded?

7 A Yes, we were blindfolded Monday morning.

8 Q You said they started singling out hostages
9 so that they could be more clearly seen by the State
10 Police.

11 Were you told that that was the purpose of
12 the people being singled out?

13 A Yes, sir.

14 Q Were you one of those singled out?

15 A Yes, I was.

16 Q How many were in the group who were singled
17 out?

18 A I have no idea. We were blindfolded by
19 then and a lot of us, we had our hands tied behind us
20 and they were going to start tying feet and it was just
21 a matter of those whose feet weren't tied yet.

22 Q Your feet were not tied?

23 A No.

24 Q So you were selected?

25 A Right.

1 Q What happened?

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2 A They took us from the hostage area to the
3 edge of like a pit, a hole in the ground. You could
4 smell gasoline.

5 They said no more than the first shot was
6 fired if anybody was hurt that they were going to burn
7 us.

8 And then from the back of the crowd more or
9 less, somebody said, "This isn't going to work because
10 they are not going to be able to see us." The idea
11 arose to take us to the top of the catwalk where we
12 would be more readily visible.

13 Q Were you then taken up to the catwalk?

14 A Right.

15 Q You went up the staircase?

16 A Right. It was more or less like a ladder.
17 It was a steep stairway.

18 Q Like the type of stairway they have in Times
19 Square?

20 A Right.

21 Q What happened to you when you emerged from
22 the stairwell?

23 A We got to the top of the stairway and went
24 outside and walked down the catwalk about, oh, ten,
25 12 feet, probably.

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Q What happened then? 1742

A Then I had one man assigned to me to guard me, more or less to make sure I don't get away.

Q Continued on with your narrative of what happened.

A From there he held me with a blunt instrument like--I don't know whether it was a night stick or a two by four or what. Held it in the small of my back and arched my back.

Then he held something to my throat. At that point all I could feel was like the back of his thumb against my throat.

We stood there for a while and then he slid over a crate and had me sit down and he gave me a cigarette and I had just taken one or two drags off the cigarette and this other person come along and took it out of my mouth and told us he did not want us smoking up there.

Then we just sat there and then come the time, they were asking, are you nervous. Yeah, I was a little scared, naturally. And he gave me a Tums and he says, "Well, this will do for you now. In a little while it will be all over with anyhow."

While I had the Tums in my mouth, the one behind me started to comb my hair, he told me he wanted

2
3 Then he more or less slid the crate away
4 and had us stand up again because the sound of the
5 helicopters were coming into the, you could hear them
6 coming and he was more or less down behind me, turning
7 me and using me like a shield, more or less keeping
8 me in between him and the helicopter all the time that
9 it was hovering in there.

10 Then the helicopter seemed to have got louder
11 and louder like it was getting lower and lower. Then
12 there was just the smell of gas, the shots.

13 I was caught, we hit the ground and lay
14 there until the shooting more or less, you know,
15 stopped.

16 I was grabbed by the arm by a trooper and
17 escorted out.

18 Q Did anything happen to you while you were,
19 after you heard the shots?

20 A My throat was cut.

21 Q Would you show us the motion that you were
22 in, let Mr. Addison take the position that you were
23 in and you play the other role of the person who was
24 behind you.

25 Were you seated or were you standing?

A At that time that the gas and firing and

1 everything came?

1744

2 Q Yes.

3 A I was standing at that time.

4 Q What position?

5 A I was held back arched, hand about like this.
6 He had me like this. As the helicopter was hovering
7 and getting closer, he more or less, you know, used
8 me as a shield, facing me and everything.

9 Then as everything came up, he got me and
10 came out and did cut me.

11 Q You said the instrument was originally a
12 blunt instrument.

13 Was there any change in instruments?

14 A Not as far as the one that was held at my
15 back. But--

16 Q Sit down.

17 A While I was seated this one man that come
18 over, I don't know what he was, but he kept going
19 back and forth from hostage to hostage and he said,
20 "You can't do a very good job with what you got there."
21 He says, "Here, try this."

22 And then every time, you know, the chopper
23 came over, and when he did bring it up, it wasn't the
24 back of his thumb. It was a blade of something. I
25 couldn't tell what, but it did leave little scratches

1 all over every time he brought it up. It 1745

2 left scratches on my neck.

3 Q How big a scar did you get out of this, do
4 you have it still?

5 A Oh, yes.

6 Q Can I see it?

7 A The worst part of it was right here (pointing
8 to neck). And it went all the way around into the
9 thin line in the back and around up and you could still
10 see part of it into the hairline.

11 Q What was the sequence, you heard shooting
12 and then you felt yourself being cut.

13 How much time intervened between the time
14 you heard the shooting and you heard, you felt the
15 cutting?

16 A Not very much at all. There is the gas, the
17 shooting, the cut. Just simultaneously about, very
18 close together.

19 Q Did you feel anything happen to the man who
20 was at your throat?

21 A Well, when the shooting started, it felt
22 like his chest hit my back like in a jerking motion,
23 like maybe he did get shot or whatever. That's when
24 he fell. That's when I fell.

25 Q You were taken out through one of the blocks

and into the hospital; am I correct?

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2 A Right. I went out through C-block, more or
3 less out in front of the reception building and out
4 to an ambulance and taken to Warsaw.

5 Q You did not pass through the Administration
6 Building area?

7 A No, I did not.

8 Q So nobody whose view was simply of the
9 Administration Building could have seen the condition
10 of your throat?

11 A No.

12 MR. LIMAN: I have no further questions.

13 MR. CARTER: Any questions?

14 MRS. WADSWORTH: Yes.

15 BY MRS. WADSWORTH:

16 Q I think you are in a different position than
17 almost anyone as far as viewing the whole Attica
18 situation of what life is like in a correctional
19 facility.

20 I assume you are in and out every day, I
21 assume you are working five days a week in the facility,
22 but not really a part of it as it were.

23 A Right.

24 Q Would you comment for me how you feel the
25 climate is. Let's go back six months ago. How you

1 feel it is --is life there as you see it from 1747
2 your very initial viewpoint, really. Was it dull, is
3 it hostile, is it endless?

4 How do you feel as you go in and out every
5 day?

6 A To me it's dull. I work way in the back.
7 I have nothing to do at all with the rest of the
8 institution and to me it just doesn't--I don't know,
9 it's--I don't know how to describe it.

10 It's not really enlightening, if you want
11 to call it that. It's just--they live. That's about
12 it.

13 MRS. WADSWORTH: Thank you.

14 MR. CARTER: Mr. Kozlowski, if you want
15 to make a statement at this time, there will be
16 no further questions for you.

17 If you care to make any statement of
18 any kind, you are free to do so.

19 THE WITNESS: Not really. Anything
20 that was--except there still could be some
21 security changes made and set up in the institu-
22 tion. And--it's mostly just the security.

23 I mean, it can be made better. There
24 is no way out of our office, for instance. Just
25 for the general welfare of everybody, really.

2 MR. CARTER: Thank you very much.

3 (The witness was excused.)

4 MR. LIMAN: Capt. Malovich.

5 ANTHONY MALOVICH, called as a
6 witness, being first duly sworn by Mr. Carter,
7 was examined and testified as follows:

8 EXAMINATION BY MR. LIMAN:

9 Q Captain, would you state your full name,
10 for the record.

11 A My full name is Anthony Thomas Malovich. I
12 am a captain in the New York State Police.

13 Q How long have you been a member of the New
14 York State Police?

15 A Fifteen years on July the 18th of this year.

16 Q How long have you been a captain?

17 A Since January 15th of 1970.

18 Q What troop are you assigned to?

19 A Troop A at Batavia.

20 Q Were you also in the armed services before
21 you became a trooper?

22 A Yes, sir. I served three years in the
23 United States Marine Corps.

24 Q Did you see combat?

25 A In the Korean Conflict, I served 14 months
