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NEW YORK STATE SPECIAL COMMISSION ON ATTICA

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In the Matter of the :

Public Hearings :

at :

NEW YORK, NEW YORK :

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

April 24, 1972,
10:30 a.m.

Before:

ROBERT B. McKAY, Chairman,
MOST REV. EDWIN BRODERICK,
ROBERT L. CARTER,
MRS. AMALIA GUERRERO,
AMOS HENIX,
BURKE MARSHALL,
WALTER N. ROTHSCHILD, JR.,
MRS. DOROTHY WADSWORTH,
WILLIAM WILBANKS,

Commission Members

ARTHUR LIMAN,
General Counsel

MILTON WILLIAMS,
Deputy General Counsel

JUDGE CHARLES WILLIS,
Deputy General Counsel

ARTHUR MUNISTERI,
Deputy General Counsel

ROBERT POTTS, JR.,
Communications Consultant

DAVID ADDISON,
Deputy General Counsel

STEVEN ROSENFELD,
Deputy General Counsel

oOo

MR. MC KAY: This is the morning session of the ninth day of hearings before the public of the New York State Special Commission on Attica.

Mr. Liman, will you introduce our first witness.

MR. LIMAN: Yes. Our first witness is Lt. Robert Curtis.

MR. MC KAY: Lt. Curtis, will you stand and be sworn.

R O B E R T T. C U R T I S, called as a witness, being first duly sworn by Mr. McKay, testified as follows:

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1
2 MR. BENENSON: For the record, Lt.

3 Curtis is represented by Counsel Marc K. Benenson
4 from the firm of Murray A. Gordon.

5 EXAMINATION BY MR. LIMAN:

6 Q Lieutenant, would you state your full name
7 for the record.

8 A Robert T. Curtis.

9 Q And what is your occupation?

10 A I am a correction lieutenant.

11 Q How long have you been in the Department of
12 Correctional Services?

13 A Approximately 23 years. I started in October
14 of 1949.

15 Q How long have you been a lieutenant?

16 A Approximately three years.

17 Q How many of the 23 years have you spent at
18 Attica?

19 A Approximately 21 of the 23.

20 Q Now, in September of 1971, how many lieutenants
21 were there at Attica?

22 A At that time there were actually five lieuten-
23 ants.

24 Q And how many were actually on duty working?

25 A Two.

1 Q And the two were yourself and

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2 Lt. Maroni?

3 A That is correct.

4 Q You were the second lieutenant in the yard on
5 Thursday, September 8th, am I correct?

6 A That is correct.

7 Q I mean on Wednesday, September 8th. And would
8 you tell us what brought you to the yard, to A-yard that
9 day?

10 A Well, I was going through the corridor from
11 Times Square to A-block to pick up some forms that I
12 needed when I noticed some inmates and some employees
13 looking out the window into A-yard and I looked out into
14 the yard also to see what had their attention and at
15 that time I saw Lt. Maroni being followed by a large
16 group of inmates.

17 Q And how did you react to that situation?

18 A I realized that there was some kind of a problem
19 out there and I immediately went to the yard door and
20 went out into the yard.

21 Q What did you do when you were in the yard?

22 A Well, as I went into the yard, Lt. Maroni was
23 apparently talking to an inmate who kept backing away
24 from him and this large crowd of inmates was surrounding
25 Lt. Maroni and following. They were moving towards the

1 center of the yard.

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2 I made an attempt to circle the crowd and get
3 between Lt. Maroni and the inmate that he appeared to
4 be intent on talking to.

5 Q Was this a black inmate?

6 A Yes, he was.

7 Q Did you manage to position yourself so that
8 you were able to get behind the inmate?

9 A Yes. I got beyond both Lt. Maroni and the in-
10 mate and actually blocked him from moving away any
11 further.

12 Q What happened then?

13 A Well, at that time the inmate turned to me
14 and I began to talk to him.

15 Q What was the inmate saying to you, as you re-
16 call it, and what did you say to him?

17 A Actually, I can't actually recall exact words,
18 but I addressed myself to the inmate. "What's the
19 trouble here, what's the problem?", something of this
20 sort, and he began a tirade about "I'm not going in out
21 of the yard. This is my recreation."

22 I had no idea what had taken place.

23 Q You did not know what had happened before you
24 you got into the yard?

25 A No.

1 Q You did not see any employees 1283

2 trown in the direction of the lieutenant?

3 A No. I saw no employees. I had no idea of
4 what the problem was, only that there was a problem and
5 it was creating quite a crowd.

6 Q The inmate told you that he did not want to
7 go inside. Did he or any of the other people in that
8 circle express fear that he would be beaten, if he went
9 inside?

10 A As we talked, there were remarks made from
11 people in the crowd about "You're not going to beat
12 our brother," and "If you want to stay out here, Brother,
13 we're with you all the way," this type of thing.

14 Q Did you try to induce the inmate to go inside?

15 A Yes, I did. I talked to him for several
16 minutes in an attempt to persuade him. At one point
17 I asked him if he was trying to create a situation that
18 was building around--I said "Take a look around you and
19 see what's happening."

20 Q What was happening around you?

21 A More and more inmates were coming around and,
22 of course, they were commenting. Some were shouting.
23 There was quite a bit of hostility began to build up in
24 the crowd.

25 Q What did he say when you asked him whether he

1 was trying to provoke this?

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2 A He did not care.

3 Q What did you do after you had attempted to
4 induce him to go inside?

5 A After I had made several attempts to persuade
6 him to come in out of the yard and talk about it in the
7 corridor, and at this time I still don't know what the
8 problem was. I looked over at Lt. Maroni and he was
9 probably 10 or 15 feet away, and I said, "We aren't
10 getting anywhere, let's let it lay."

11 With that, both Lt. Maroni and I walked through
12 the crowd and walked towards the yard door.

13 Q Had there been situations previously at Attica
14 where you had to back off and not take an inmate inside
15 or to keep him when you wanted to take him?

16 A I had never been in a situation like this in
17 all my years as a correction officer.

18 Q This is the first time you had to back off like
19 this?

20 A Absolutely.

21 Q Did you observe the captain of the football
22 team, the white inmate from Five Company doing anything?

23 A Well, there was one time in that crowd when I
24 did see an inmate attempt to throw himself at--rush at
25 Lt. Maroni, and this man was actually blocked by foot-

1 ball players in uniform. And he was kept from-- 1285

2 Q Was the man who was doing this also in football
3 uniform?

4 A No.

5 Q So you did not see anybody in football attire
6 attempting to do anything?

7 A No.

8 Q After you and Lt. Maroni retreated and walked
9 away from the crowd, what did you do?

10 A Lt. Maroni went on into the corridor and I
11 stopped at the yard platform to observe the yard. While
12 I was on the platform, the crowd disintegrated, broke
13 up and went about their normal routine.

14 Q Did you have any conversations with any inmates
15 while you were on the platform? The platform is near the
16 door to A-tunnel, am I correct?

17 A That's correct. Just outside the door.

18 Q Did you have any conversations with any of the
19 inmates while you were on the platform?

20 A Yes. Well, several inmates came up to the
21 platform and said, "Lieutenant, can we have a word with
22 you?" With that, I left the platform, went down to the
23 sidewalk where the inmates were and began to talk with
24 them.

25 Their conversation was about the incident and

leave the yard and this was the first that I knew that there were two inmates.

They talked about the fact that they were afraid that these inmates would be beaten, if they left the yard, and I assured them that they wouldn't be beaten, that we did not do this type of thing at Attica, and we talked for quite a while about, I'd say several minutes, and I told them that I had been in Attica since 1949 and that at no time did I ever see an inmate taken out of the yard and actually beaten.

I pointed out to them that the inmates who had refused to leave the yard were in violation of the rules and that they were going to have to appear before an Adjustment Committee to answer for their actions, and I told these inmates that if they had any influence over the two inmates in violation, I urged them to persuade them to leave the yard.

Q Did that work?

A No. As we talked by twos and threes, inmates began to drift around and we were again forming a large group. And this, I did not want, so I bowed out about this time.

Q Did you report the incident at all to the superintendent, Mr. Mancusi or his deputy, Mr. Vincent?

1 vicinity of the messhalls, and after supper 1288

2 I returned, after the inmates had all left the messhall
3 and returned to their cells, my post is at Times Square
4 until such time as the count is taken, and after the
5 count is taken, then I report to the administration
6 building and fill out the necessary forms for the day.

7 Q Did you then start working toward the administra-
8 tion building, towards A-block?

9 A After the count had been taken, I did. I left
10 Times Square and went towards the administration, came
11 into A-block.

12 Q What did you see when you got into A-block?

13 A Just as I got into A-block, Lt. Maroni was
14 coming off the north side of the block. He was coming
15 into the hall...

16 Q Where Three Company was?

17 A Yes. That's the north side of the block. And
18 they had an inmate who they were actually carrying. They
19 had officers on each leg and I believe on each arm, and
20 the man was struggling.

21 Q Up to that point, did you know that inmates
22 were going to be taken to HBZ that night?

23 A No, I had no contact with any other super-
24 visor.

25 Q And you had not been informed of that, that

1 vicinity of the messhalls, and after supper 1288

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3 and returned to their cells, my post is at Times Square
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19 had officers on each leg and I believe on each arm, and
20 the man was struggling.

21 Q Up to that point, did you know that inmates
22 were going to be taken to HBZ that night?

23 A No, I had no contact with any other super-
24 visor.

25 Q And you had not been informed of that, that

1 any decision had been made to take any inmate 1289

2 to HB ? You saw Lt. Maroni and the officers he was
3 with carrying this inmate toward HBZ. What did you do
4 after that? Did you first inquire where they were taking
5 him?

6 A Well, there were other officers in the hall,
7 there were officers coming through the corridor towards
8 the administration building with their counts and there
9 was a sergeant in the hall. And the sergeant told me
10 that he had a man that he had orders to take from Five
11 Company and take him to HBZ.

12 Q What did you do then?

13 A I discussed--we could hear quite a bit of
14 racket, shouting coming from the north side of the
15 block.

16 Q From the direction of Three Company where the
17 other inmate had been removed from?

18 A That's right. And I had a conference with the
19 sergeant and I said to him, "Let's see, if you got to
20 take a man out, let's see if we can't get him out with-
21 out having to go in and drag him out."

22 Q What did you do toward that end?

23 A I instructed the sergeant to take two officers
24 down to the man's cell with him and try to persuade the
25 man to come out of the cell. I had halted other officers

1 that were coming through the block on their 1290
2 way to the administration building and had them stand
3 by. I gave an order that, for everyone to put down
4 their sticks, put the sticks away. And I gave that
5 order because there had been reference to the officers
6 and their sticks in the yard previously in that after-
7 noon.

8 Q Officers using their sticks, is that what you
9 are referring to?

10 A There was resentment toward the stick.

11 Q So you told the officers to put their sticks
12 down and then what happened?

13 A Well, the sergeant and two officers went down
14 the gallery--

15 Q This is Five Company?

16 A On Five Company. I stood at the head end of
17 the company, just at the end, and when the sergeant
18 gave the signal to open the cell, I instructed the
19 officers on the locking system to hit the cell.

20 Q What do you mean by "hit the cell"?

21 A Well, we open our cell doors with a lever.
22 A man pulls down on the lever and the individual cell
23 door opens.

24 Q What happened then?

25 A As soon as the door was opened, I saw articles

1 being come flying out of the cell.

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2 Q What kinds of articles?

3 A Well, I would say cans, books, pieces of wood;
4 and with that, I saw the two officers rush into the cell,
5 and when I saw that, I called down to the foot of the
6 stairs where officers were standing and said "I need
7 some more help up here," and with that I would say at
8 least a half dozen officers came up and started down that
9 gallery.

10 Q What happened at that point?

11 A By the time they reached the cell where the
12 problem was, the officers who had gone into the cell
13 came out of the cell with the inmate and they had him by
14 each arm and they began to escort him off the gallery.
15 The other officers fell in behind this and at this point
16 the inmates, the other inmates on the gallery who were
17 locked in their cells began throwing all kinds of arti-
18 cles out at the officers: cans, jars.

19 Q Was anybody struck?

20 A As the officers came off the gallery, there
21 was one officer who went by me who was bleeding quite
22 profusely from the area of the cheekbone, it appeared
23 to me. There was quite a bit of blood there. I in-
24 structed this man to get over to the hospital immedi-
25 ately.

1 Q Was the inmate who was being taken
2 out--he was a white inmate, am I correct?

3 A Yes, he was.

4 Q Was he hollering when he came down the gallery?

5 A As he approached me, he said to me, "What
6 are you truing to do to me?"

7 Q Did you know what he as being taken to the box
8 for?

9 A No, I did not.

10 Q What was your assumption?

11 A I made an assumption that he was one of the
12 people who had been involved in the sparring or the fight
13 in the yard.

14 Q And am I correct that you did not know at that
15 time that the two inmates who had been involved in the
16 sparring were two black inmates?

17 A No, I did not know that.

18 Q You were not able to give this inmate an
19 explanation of what he as being taken to HBZ for?

20 A That is correct.

21 Q Was he struggling by the time he got to where
22 you were?

23 A Well, he was trying to hold back and, of
24 course, the officers had him by each arm and they were
25 hurrying him along.

1 Q Did you follow him to HBZ? 1293

2 A No, I did not. I followed down to the--into
3 the A-block hall and I immediately went down to the
4 administration building and informed the deputy superin-
5 tendent as to exactly what had taken place.

6 Q The deputy superintendent was Mr. Vincent?

7 A That is correct.

8 Q You told him there had been this commotion
9 on Five Company?

10 A Right.

11 Q And that officer had been struck by a flying
12 object?

13 A That is correct.

14 Q What else was said in the conversation with
15 the deputy superintendent?

16 A Well, I had to call the deputy superintendent
17 out of a labor-management meeting that was in progress
18 and after I informed him that we had an ugly situation
19 on Five Company, he stepped back into the meeting and he
20 called the superintendent out.

21 Q So, now, you were talking both to Mr. Vicent
22 and Mr. Mancusi?

23 A That is correct. I repeated to Mr. Mancusi
24 what I had to the deputy superintendent and he stepped
25 back into the room and said, "I've got to call this

1 meeting off, we have an accute emergency. I 1294

2 need all my staff.

3 Q What was your conversation then with Mr.
4 Mancusi and Mr. Vincent?

5 A Well, they asked questions about the frame of
6 mind that the inmates were in and this type of thing.

7 Q What did you tell them?

8 A I told him that they were highly agitated and
9 very hostile at this point.

10 I fully expected them to start breaking up
11 their cells. It was a good possibility, the frame of
12 mind that they were in.

13 Q Did you make any requests, did you discuss any
14 precautions that could be taken?

15 A Well, by this time it was past time for the
16 day shift to go home and normal procedure in the block
17 is immediately after the day shift leaves, the second
18 shift makes a round of the block.

19 Q What time would that have been, approximately?

20 A That would have been somewhere around 10 minutes
21 after 6:00. And I was concerned about what would happen
22 to the officer when he attempted to make a round on Five
23 Company. We had already had one officer hurt on that
24 gallery and there was a possibility that the next of-
25 ficer that went down would be, would meet the same type

1 of thing, that objects would be thrown at him.

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2 So I got permission and I went up into A block
3 while this officer made his round. I made the round with-
4 out any problem. There were some verbal remarks made
5 while he was on the gallery. There was no objects
6 thrown.

7 Q Did he report the verbal remarks to you?

8 A "We will burn this place down in the morning."
9 This type of thing.

10 Q You then reported all of this to the super-
11 intendent, the deputy superintendent?

12 A After the round was made, I went back down
13 to the administration building and the officials were
14 all in a group and I reported the situation as I saw
15 it at this time.

16 Q Were you concerned?

17 A I was very concerned.

18 Q Were any discussions had of precautions to be
19 taken?

20 A The superintendent asked the question, "What
21 kind of shape are we going to be in in the morning?"
22 And I went and got the supervisory chart and I read off
23 to him exactly what supervisors were to be on duty in
24 the morning.

25 Q And what was then discussed?

1 A Someone said, "I can't recall who, 1296

2 but someone said, "Well, there isn't much we can do
3 here now, everything seems to be quiet. Let the men
4 go home."

5 At this point I made the request to bring this,
6 bring our late shift in at 7:00 the next morning.

7 Q So that you would have augmented forces?

8 A As a backup force, right. Or as a reserve.

9 Q Who did you make this request to?

10 A To the deputy superintendent.

11 Q What was his reply?

12 A His reply was, "Who the hell is going to pay
13 the overtime?"

14 Q When that request was turned down, did you
15 make any other suggestions as to security precautions?

16 A When I had been told no to this, I made the
17 request to feed Three and Five Company in their cells
18 in the morning.

19 Q What did the deputy superintendent reply to
20 that?

21 A Again, his reply was negative.

22 Q You then went home that evening, I take it?

23 A That's correct.

24 Q Did you expect any trouble the next day?

25 A I was very apprehensive about the next day.

with other officers?

A I went out for a short time with two officers I had known a good long time and I told them that I was awfully afraid we were going to have big trouble in the morning.

Q You reported for duty that morning?

A At 7:00, that's correct.

Q Did you participate in the roll call and briefing of the officers on duty that morning?

A Sgt. English was the duty officer. He is the man who actually called roll. And when he was ready to call roll, I told him that I wanted to address the shift before roll call.

Q That was not usual procedure for you to address the shift, am I correct?

A No.

Q What did you say to the shift when you addressed them?

A Well, this shift had no knowledge of what had taken place the previous afternoon. They had been off, gone off duty prior to the events in A-yard, so I went before the roll call and I told them that an ugly situation had developed in A-yard on the previous afternoon and that they were to use their most conservative judgment.

1 ment in their dealings with the inmates that 1298
2 morning and to back away from any attempt that an inmate
3 might make to provoke any confrontation or situation,
4 and I also instructed the men on the gates to be ready
5 to button up, to lock the gates at the first sign of
6 any trouble.

7 Q Did you arrange for any other precautions to
8 be taken that morning?

9 A There wasn't too much we could do, because our
10 officers all had assignments and we did manage to, Sgt.
11 English did manage to come up with an officer who we
12 assigned with a gas gun in the hospital corridor behind
13 A-mess company.

14 Q Was it normal to position an officer there with
15 a gas gun?

16 A Not at this time, no.

17 Q Did you observe the first breakfast that morn-
18 ing?

19 A There was only one sergeant available for mess-
20 hall duty that morning, so I substituted for the second
21 sergeant. I covered B-mess and the other sergeant
22 covered A-messhall while the inmates were fed.

23 Q Your normal assignment would not have been to
24 cover a mess, but you had to substitute for a sergeant
25 because he wasn't available?

1 A That is correct.

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2 Q Was anything unusual in the mess that morning?

3 A Not that I could observe.

4 Q Was it quiet?

5 A The messhall that I was in, B-messhall ran in
6 a normal manner. The men came in and ate their break-
7 fast and left. While we were in the messhall, Deputy
8 Pfail came through the messhall to assess the tone of
9 things.

10 Q Had a decision been made the night before to
11 keeplock the inmate who had thrown the can that hit the
12 officer in Five Company?

13 A Yes. That was one of the instructions that
14 I had from the Supt. Mancusi, was that I was to secure
15 statements from every officer who was on Five Company and
16 who had witnessed the events that had taken place there
17 and they were to make their reports before they went off-
18 duty.

19 Q Five Company was to go to second breakfast
20 that day. How, physically, is an inmate kept in his cell
21 when the others are allowed out? What is the mechanism?

22 A Because his cell door is locked and there is a
23 red tag that's hung on that lever so that the officer
24 won't accidentally pull the lever.

25 Q So that the officer would pull the levers re-

1 leasing everybody else's cell, but he would not 1300

2 leasing the inmate's cell, the inmate who is being
3 keeplocked?

4 A That is correct. Each cell is opened indi-
5 vidually.

6 Q What time, approximately, was the first break-
7 fast concluded that morning?

8 A That would be approximately 8:00 o'clock.

9 Q What did you do after you were finished with
10 that assignment?

11 A I had a lot of reports to fill out. I had
12 never gotten into any paperwork at all, so I went to
13 the administration building to attempt to fill out some
14 of the necessary forms and also there were---when I came
15 in that morning, there were reports from the second
16 shift supervisor that he had gotten from the officers on
17 A-block and also the officers who had been on Five Com-
18 pany the previous day, the late shift officers, the re-
19 ports they had written. Those were all in an envelope
20 in my locker. I hadn't had an opportunity to read any
21 of them.

22 Q While you were attending to that business,
23 what happened?

24 A Well, I was in an office directly behind the
25 sergeant's office and the superintendent came in and he

1 asked how things were going. And we talked 1301
2 there for a few minutes about the situation the previous
3 afternoon and things had gone all right for first break-
4 fast and that second breakfast was now in progress. And
5 at about this time Sgt. English came in and reported
6 that the hall captain in A-block had just called and
7 reported that the inmates on Five Company had taken a
8 keeplocked inmate out of his cell.

9 Q They could do that by just pushing the lever
10 as they walked by, the lever that would control the
11 cell of the inmate?

12 A Just reaching in and pulling down on the lever,
13 that is correct.

14 Q When you got the report that the inmate who
15 was supposed to be keeplocked had been released, what
16 did you do?

17 A The superintendent said "Get up there and see
18 what's going on. And I immediately left for A-block.
19 When I came into the block, the hall captain informed
20 me that the officer who had taken Five Company to break-
21 fast reported, as he came down the stairs, that some
22 inmates had let out a keeplocked inmate and he was in
23 the company going to breakfast.

24 The officer was alone with the company, he had
25 no way to stop this.

1 Q What did you do after that point? 1302

2 A The hall captain also informed me that he had
3 an officer checking the gallery then to be certain that
4 the report from the officer on Five Company was correct
5 and at that time I went up to Five Company and I met
6 this officer as he came off the gallery and he assured
7 me that the keeplocked inmate was not in his cell.

8 Q At that point, what did you do?

9 A I went back to the administration building to
10 report to the superintendent what I had learned. When
11 I got to the administration building, the superintendent
12 was not where I had left him, so I went to the deputy
13 superintendent's office expecting to find him there and
14 he wasn't there, but our assistant deputy superintendent
15 was, and I informed him as to what had taken place.

16 Q What decision was made?

17 A He said to me, "Get up there and get that com-
18 pany back in their cells. Don't let them get into the
19 yard."

20 Q You had given instructions previously that
21 there were not to be provocative acts to inmates given
22 the tenseness of the situation. Were you fearful that
23 this decision to take the inmates back to their cells
24 rather than let them out in the yard would create a
25 disturbance?

1 A I did not like the thought of it. 1303

2 Q Incidentally, was it unusual to have a situa-
3 tion in which inmates released another inmate from
4 keeplock?

5 A To the best of my knowledge, I have no recol-
6 lection of this happening previously in Attica.

7 Q What did you do after the--I take it that was
8 Mr. Pfail, the assistant deputy superintendent who said
9 to get the company back in their cells. What did you
10 do after he told you that 's what he wanted to be done?

11 A I glanced at the clock and I realized either
12 the company was back or at least on their way back from
13 breakfast. I picked up the telephone and I called A-
14 block and I instructed the hall captain to notify the
15 yard--I had no way of notifying the yard myself. There
16 was an intercom between A-block and the yard--

17 Q There was no direct communication from the ad-
18 ministration building to the yard, itself?

19 A That is correct.

20 Q So that the only way you could communicate with
21 A-yard was to call A-block and have A-block talk through
22 the intercom to the officer on duty in A-yard; is that
23 correct?

24 A That's correct.

25 Q What orders did you give to the officer on

2 A I instructed the hall captain to notify the
3 man in the yard to lock the yard door and remain on the
4 outside, that is, the yard side. And then I called Times
5 Square and I instructed Officer Quinn that as soon as the
6 companies had cleared the square on the way back from
7 breakfast, he was to secure the square.

8 Q That meant lock the door, lock the gate?

9 A Lock all four gates, that is correct.

10 Q Was that unusual, also?

11 A Yes, it was. Before first breakfast, I had
12 given Quinn specific instructions for first breakfast
13 the same way.

14 Q Lieutenant, were you able to communicate with
15 the officer who was escorting Five Company back to tell
16 him that the company would not be going into the yard
17 as usual?

18 A There was no way for me to contact him at all,
19 no.

20 Q So that he would have normally expected that
21 he would take the company to the door of A-yard and then
22 exit into A-yard with that company?

23 A Normal procedure would be for the company to
24 go into the yard, if the yard was open, that's correct.

25 Q What did you do after you had given instruc-

1 tions to have the gate at Times Square secured 1305

2 and to have the door locked from the outside, A-door
3 locked from the yard side?

4 A As soon as I made those two phone calls, I
5 left the administration building and proceeded to A-
6 block. I intended to meet the company and talk with
7 them.

8 Q What happened?

9 A Well, as I got to A-block, there was an of-
10 ficer who was assigned to A-block gate. He has the keys
11 that control the gates. He was standing on the side
12 of the gate between A-block and the administration
13 building. And I could look down the corridor and I
14 could see that there was a company standing at A-yard
15 door and A-yard door was locked. The Times Square
16 gates were at least closed behind.

17 At this time I took my--my keys off--I have a
18 ring of keys that allowed me to go to most areas of the
19 institution and I took this ring of keys off. I handed
20 it to the officer at A-gate, gave him instructions to let
21 me through, lock the gate and then not unlock it again,
22 regardless of what took place.

23 Q Did you then walk toward A-door, A-yard door?

24 A I went across A-hall and as I crossed the hall,
25 the officer who had taken Five Company to breakfast was

2 by himself.

3 Q Was the company standing at the door?

4 A The company was still at A-yard door.

5 Q Were they quiet?

6 A As far as I could see, they just stood there.

7 Q Had any attempt been made, so far as you could
8 see, to strike the officer who had been accompanying
9 them?

10 A No. I met the officer right at, where the
11 tunnel and A-block join. And I was in a hurry. I
12 said to him, "Stay here, I know what it's about, I will
13 take care of it."

14 Q Did you then walk down toward the door?

15 A I went down to A-yard door to where the company
16 was standing.

17 I had intended to address the company and tell
18 them to go up on the gallery and we would hash out the
19 problem. In order to address them, I intended to take
20 a position about a third of the way from the front of the
21 company so that everybody could--in the company could
22 hear me.

23 As I went by the first men in the company, I
24 heard someone say, "You no good mother," and with that
25 I was struck in the temple.

1 Q With a fist?

1307

2 A Apparently with a fist. They drove me up
3 against the wall, or the yard door. With that, any
4 number of inmates broke ranks and began pounding at me or
5 punching at me.

6 Q Continue.

7 A Well, all I could do is put my arms up and
8 attempt to ward off the blows, and it seemed like for-
9 ever, and all of a sudden I heard a voice that I recogniz-
10 ed as the A-block hall captain's, shouting, "Cut that
11 out, leave that man alone." And I was down on one knee
12 and somebody got an arm under my armpit and raised me
13 back to my feet, either turned me or I turned towards
14 A-block and began running.

15 As I began running, I found there was an of-
16 ficer on each side of me. I looked over my shoulder and
17 we were probably 20 feet down the corridor by this
18 time and the men in the company stood in a group right
19 there watching us run. This was only the front end of
20 this company. The back end of the company still stood
21 in a formation and the company behind apparently was in
22 formation.

23 And as I looked, these men broke and began
24 to chase after us. I ran into the block and I ran
25 for the telephone and as I reached for the telephone,

1 somebody took that desk and just flipped it

1308

2 upside down.

3 Q Where did you go then?

4 A A man came at me with a stick, probably the
5 length of that pointer, menacing me with it, and I
6 scooted away from him and I ran towards the door onto
7 the north side of A-block.

8 I ran through the door and ran to One Company,
9 the end gate was open.

10 Q That's the first floor of A-block?

11 A Yes. But on the administration building side,
12 that's correct.

13 Another officer followed me onto the company
14 and the hall captain was the third officer who ran onto
15 the company. And as he ran on, he made a pass at the
16 end gate and I was waiting and between the two of us
17 we managed to slam the end gate shut.

18 Q So you now had the gate locked?

19 A That's correct.

20 Q What did you do at that point?

21 A There were inmates on the other side of the
22 gate that had chased us. Of course, they were blocked.
23 We went down the gallery and we went into the first
24 open cell that we found, closed the gate and began to
25 barricade the door.

1 Q The three officers in there? 1309

2 A That's correct.

3 Q Did you have any way of communicating with the
4 administration building?

5 A No, we did not have any way of communicating
6 with anybody but ourselves.

7 Q Were you expecting the other correction of-
8 ficers or state police to come in and rescue you and so
9 forth?

10 A Not at that point. I knew that the officer
11 that I had given my keys to was stationed just outside
12 the gate and I knew that he would, had observed anything
13 that had taken place and would sound an alarm.

14 Q Did you ultimately hear the powerhouse whistle
15 going off?

16 A Well, we were in that cell for, oh, it seemed
17 like 10, 15 minutes before they began to blow, actually
18 began to blow the powerhouse whistle.

19 Q How long were you in that cell all told?

20 A I would estimate somewhere between two and
21 three hours.

22 Q What happened during that period?

23 A Well, immediately after we ran down the gallery
24 and barricaded ourselves in, there were some inmates pound-
25 ing on the lockbox, attempting to get it open to get on-

1 to the gallery, and after several minutes of this 1310

2 I heard an inmate shout, "The hell with them, we can

3 get them later."

4 With that, he called out "Squad No. 1, go to
5 your area. Squad No. 2, go to your area." And about
6 this time we began to hear glass breakage and began to
7 hear inmates running on the galleries above us and be-
8 hind us.

9 Q They were unable to get in?

10 A They were unable to get onto the gallery that
11 we were on.

12 Q What happened next?

13 A Well, then, all of a sudden I heard a report
14 of a gas gun or a gas grenade going off and it sounded
15 like it was out in the hall, and you could hear inmates
16 holler, "Gas."

17 And with that the block became quiet. Every-
18 body left.

19 Q What was the next action?

20 A The next action was an inmate came up the
21 gallery. He apparently had been in his cell with his
22 cell open when we ran on. And he came up the gallery
23 and he went past us. He came back with a mop and he
24 began to mop the floor. We had left quite a bit of
25 blood between--when we ran onto the gallery, between

1 the end of the gallery and the cell.

1311

2 He mopped up all this blood and then he came
3 back to the cell and he said, "I cleaned up the blood
4 on the gallery." He said, "Be quiet, maybe they will
5 forget that you are in here."

6 Q When did the inmates start trying to come back
7 a fter that?

8 A Well, that was quite a while later. The
9 whistle was blowing. We could hear sirens from
10 police agencies or sheriffs' departments as they came up
11 to the prison. We knew that the alarm was out and that
12 help was being marshalled and we were going to get out
13 of there any time, so we thought.

14 Q You were very close to safety in the place where
15 you were? Did you actually see out through the corner
16 to where the gates were, outside?

17 A No. But we could see the administration build-
18 ing and the visiting room directly across from where we
19 were barricaded in , and there was an officer looking
20 out the window in that administration building, directly
21 across from us.

22 Q Did you attract his attention?

23 A We made every attempt to attract his attention,
24 I can assure you. There was a hundred-watt bulb in that
25 cell and I kept flicking the light on and off. I had one

1 of the officers take off his blue shirt and 1312
2 wave it in the front of the cell in an attempt to at-
3 tract his attention, but apparently he couldn't see
4 into where we were.

5 Q Following that, what happened?

6 A Well, from time to time this inmate who had
7 mopped the gallery would go to the head-end of the gal-
8 lery and he would come back and tell us what was taking
9 place.

10 At one time he came back and he told us that
11 the inmates had taken over D-block and B-block. They
12 were into the shop. A little later he came back and he
13 said they were burning the school, they were burning
14 the state shop, they were burning the chapel. And then
15 a little while later he came back and he said "They're
16 headed back this way. You better get ready."

17 When he said this, I had my wallet and I took
18 my wallet out of my pocket and I handed it to him and
19 I said, "Here, take care of this for me." He took the
20 wallet. He said "It will be safe with me," and he left.
21 He went back to the vicinity that he came from original-
22 ly, and that was the last I saw of him.

23 Q Your wallet was ultimately returned to you,
24 you told me.

25 A That's correct. I have it in my pocket now.

1 Q It got past, via the channel you 1313

2 gave it to, an inmate, ultimately to the minister who
3 came into the yard and back to you after this was all
4 over; is that correct?

5 A Somehow this inmate got the wallet to our
6 institution chaplain.

7 Q This inmate is dead. We are not going to men-
8 tion the names of any other, any living inmates, but
9 the inmate to whom you gave your wallet was Barry
10 Schwartz, am I correct?

11 A That is correct.

12 Q He said that the inmates were coming back and
13 what happened then?

14 A Well, you could actually hear them come into
15 the block. By this time they had keys. They were up
16 on the other galleries opening cells and hollering,
17 "Everybody out, everybody over to D-yard." They made
18 an attempt to open the lockbox on the gallery that we
19 were on, but apparently the keyhole had been battered.
20 We could hear them cursing that they couldn't get the
21 key in the keyhole, but they finally did. And they
22 began opening this individual cell doors and when they
23 would hit the lever in the cell that they were in, the
24 lever wouldn't stay down when they hit it, because we had
25 the door wired and barricaded, so that it wouldn't open.

1 Q So that each time they pulled down on 1314
2 that lever, it went back up and the man who was pulling
3 the levers assumed that the lever was broken.

4 And about this time a group of inmates, I would
5 say at least six, came down that gallery and this is
6 when they saw us in the cell.

7 Q Then what happened?

8 A Well, a man stepped up with a gas gun and he
9 laid it on the bars and he said, "Come out of there or
10 I'll gas you."

11 I said, "Go right ahead, I like gas." So, with
12 that, two more inmates stepped up and they had gallon
13 jugs, the wide-mouthed type, the type that pickles come
14 in, and they said, "We've got gas. Come on out or we'll
15 burn you out."

16 Taking a look at those bottles, I was convinced
17 they had what they said they had and in the cell, we had
18 taken the bed and put it at an angle and dropped it
19 through the cell door, so it couldn't be opened. I had
20 an officer up at the top to use his weight, so that the
21 bed couldn't be pushed up and away, and he was looking
22 right down into those jars and he spoke up and he said,
23 "Lieutenant, they've got the gas. I can see it." And that
24 was the first that they knew that that officer was up
25 there.

on the outside said to him, "You know me," he says, "We're going to take you hostage. I'll give you my word you won't be harmed."

We exchanged words there for a minute or two. They stated that they did not want to burn us out, but they would if we did not come out, so we decided we better come out.

Q Were you then taken to D-yard?

A Yes, I was.

Q Were you harmed along the route to D-yard?

A I wasn't touched. A man took me by each arm and they hurried me through the corridor out into A-yard, across A-yard and over to the D-yard, through the tunnel, into A-yard, and as we came off the steps, there were inmates there and somebody put a blindfold on me at that point.

Q What was the appearance of the yard just before you were blindfolded on Thursday?

A Well, I had an opportunity to glance around and A-yard was empty. There were no inmates in it at all but D-yard was full of inmates and they seemed to be milling around and I had an opportunity to see one of the officer's chairs right out in the center of the yard with an inmate sitting in it, and quite a group of inmates in

1 that vicinity.

1316

2 Q You were blindfolded and then taken to the
3 center of the yard, Lieutenant?

4 A My impression was that I went into the center
5 of the yard, that's correct.

6 Q Where there were other hostages?

7 A I was made to--searched and then made to sit
8 down and there were people next to me when I sat down.

9 Q You found out from conversation with them at
10 some point that there were other hostages in that yard?

11 A That's correct.

12 Q Were you allowed to keep your officer's uniform?

13 A At no time was I stripped, no.

14 Q Your blindfolds remained on until Friday night,
15 am I correct?

16 A That is correct.

17 Q During that period did you become aware that
18 negotiations were taking place?

19 A We couldn't see anything, we could hear just
20 about everything that took place in the yard.

21 Q You heard Mr. Oswald come in?

22 A They made the announcement long before he came
23 that Oswald was on the way and we heard when he came in,
24 they had what they called security and when Oswald was
25 coming, they called for security, tighten the security.

1 Oswald is coming in, this type of thing. 1317

2 Q When your blindfolds were removed on Friday
3 night, what was the appearance of the yard?

4 A Well, it looked something like a hobo jungle.
5 They had erected, by this time they had erected or were
6 erecting tents. They had broken up into groups. There
7 were cook fires going. This type of thing. Later in
8 the evening, a lot of the inmates dressed up in various
9 costumes.

10 Q What was the atmosphere, what did it appear to
11 be?

12 A On Friday night it was almost festive. The in-
13 mates were elated with their success. They were actually
14 jovial.

15 Q On Saturday evening, did the observers return,
16 do you recall that, after having been there a good part
17 of Friday night, on Saturday evening the observers re-
18 turned?

19 A Yes.

20 Q Did you hear mention then of the death of Of-
21 ficer Quinn?

22 A I'm not sure, but it almost seems like we
23 were blindfolded when the news was let out on the death
24 of Quinn. And as I remember it, it was released by an
25 inmate.

1 Q That's when you first heard it? 1318

2 A That was the first that I heard it in the yard.

3 And I can almost recall his exact words.

4 Q What did he say?

5 A It was very solemn and he said in a very deep
6 voice: "Brothers, one of the pigs is dead. They killed
7 their own pig and now they're going to blame us and now
8 it's a whole new ballgame. Ain't nobody going any
9 place."

10 Q Were there changes in the attitudes of people
11 that you perceived after that announcement of Quinn's
12 death?

13 A Well, I would say that almost a silence fell
14 over the yard and it was very solemn from then on.

15 Q Tense?

16 A Tense and moody.

17 Q After the observers left that night, was there
18 a discussion of the 28 proposals that Oswald had agreed
19 to?

20 A At various times there was discussions about
21 the proposals.

22 Q Did you overhear the discussions?

23 A Parts of them, yes.

24 Q As you recall it, what was the substance of it?

25 A Well, after the announcement was made on Quinn's

1 death, things seemed to hinge on amnesty and 1319

2 this demand for transportation to a neutral or a foreign
3 country.

4 There was some discussion from apparently groups
5 of inmates or individuals who, "Take what they had and
6 quit."

7 But every time you heard this type of thing,
8 it was shouted down or voted down.

9 Q During this period up to Monday morning, while
10 you were in the yard, were you harmed in any way?

11 A Not physically, no.

12 Q When you say "Not physically," were you threaten-
13 ed at all?

14 A We were harassed. There would be people who
15 stood behind you and made remarks about the fact that
16 you were going to be killed and this type of thing.

17 Q Was the security guard trying to give you pro-
18 tection from the other inmates who would be calling in
19 to you?

20 A Well, we had a security guard. We had what
21 they called inside security, inside of our circle and we
22 had another security guard outside of our circle and they
23 constantly told us, "We're protecting you, we're taking
24 good care of you."

25 I would like to say something on that. My own---

1 this is just my own impression. What they said 1320
2 worked two ways. They may have been protecting us, but
3 they were also preventing any group who wanted to bow out
4 of that situation from freeing us and taking us with them
5 when they went out.

6 Q Did you have the sense that there was dissension
7 in that yard?

8 A I had a feeling that not everybody in that yard
9 wanted to be there. I had a feeling that part of the in-
10 mates out in that yard were just as much a hostage as I
11 was.

12 Q What did you base that on?

13 A Well, some of it I based on observation and
14 the fact that while some of the inmates sat around the
15 negotiating table and in that vicinity others stayed just
16 as far away from it as they could.

17 Q What was the mood on Sunday in that yard?

18 A I would say it was, for the most part it was
19 solemn. Sunday morning we had--all the while we were
20 out there, from time to time one of the leaders would
21 call, he would call security alert. It was almost like a
22 drill. And when they had security alerts, they would
23 blindfold us, they would make us stand up. From time to
24 time a helicopter would come over and when the helicopter
25 came over, they would force the hostages to stand and they

1 would order everybody else down. We were being 1321
2 conditioned to this. And Sunday morning, we were made
3 to stand up. They had what they called a security
4 alert and at that time we were not blindfolded, but
5 they made the announcement, "Bandits are coming."

6 Ten or twelve inmates, I assume they were in-
7 mates, but they were costumed. They were all in black
8 and they had black masks on and they stood outside of
9 our circle and they went through some kind of what ap-
10 peared to be a ceremony.

11 While we felt that it had some significance,
12 we couldn't really--we never really knew what the sig-
13 nificance was. It had all the appearances of death.

14 Q Was there chanting?

15 A No. I can't recall any--anything--anything
16 that was said at all in the thing.

17 Q By Sunday night, had you prepared yourself for
18 the fact that there would probably be a police effort in
19 retaking the next day?

20 A By Sunday night I began to wonder if there
21 was anybody out there going to do anyhting.

22 Q Had anybody come in and talked to you,
23 Lieutenant, during that period?

24 A When you say "anybody,"--

25 Q From the outside world.

1 A No. No, there had been no one that had 1322
2 really come in to talk to us.

3 There was one evening, when the so-called ob-
4 servers were brought to the vicinity of the area that we
5 were in, they remained outside the circle and viewed us.
6 They made no attempt to come in and converse with us as
7 individuals.

8 Q What was it like Sunday night, what kind of
9 night was it?

10 A Well, late Sunday afternoon or evening it began
11 to rain. When it began to cloud up, the inmates in our
12 security group built a platform and had us sit under
13 it. This platform was probably four and a half or five
14 feet high and it was covered with boards for a roof.

15 Q It was a sort of lean-to type of structure?

16 A That's correct.

17 Q To keep the rain out?

18 A For the first two minutes.

19 Q Did you get much sleep Sunday night?

20 A It poured. It poured very hard all night long
21 and, of course, the water just ran through the cracks in
22 the boards and you might just as well have been out in
23 the rain.

24 Q What happened Monday morning?

25 A Well, Monday morning very early the yard became

1 alive. There was a lot of movement. Even Sunday 1323
2 there was activity. People were digging trenches and
3 what appeared to be foxholes and Monday morning we
4 were awakened, just made to stand up and stretch our legs
5 quite early. They built a small fire at the south end
6 of the area that we were being held in and we were allow-
7 ed three or four at a time to go up to the fire and just
8 warm our wet clothes.

9 Q After that, what happened on Monday morning?

10 A After everybody had had an opportunity to warm
11 their clothes, we were marched around our area several
12 times and they--several inmates took a count of us.

13 Q Had that been done prior--

14 A No, this was the first time that we had been
15 counted in that manner.

16 Q And then after you had been counted and all of
17 you had been accounted for, did you hear the ultimatum
18 being read?

19 A The man used the loudspeaker and he informed--
20 in fact, he read exactly what the ultimatum was that
21 Commissioner Oswald sent in. And after he read it, he
22 put it to a vote.

23 At this time the vote was to reject the ulti-
24 matum. I got the impression that the people who voted
25 were not, either were not as strong or as--not as many

1 had voted for it, but I did not hear anybody who 1324

2 voted against it.

3 Q You did not hear that much noise then, is that
4 what you are basing---

5 A It wasn't as noisy in that yard, no.

6 Q Would you tell us in your own words exactly
7 what happened to you from the moment of the ultimatum
8 until the moment that you were rescued?

9 A Well, first of all someone gave the order to
10 blindfold the hostages and after we had been blindfolded
11 for a period of time, the order was given to tie us.

12 We had had our hands tied on previous occasions
13 but they were tied very loosely. And this time when the
14 order was given to tie our hands, we were tied hand and
15 feet, both hands and feet were tied and were tied very
16 tightly.

17 After a period of time there was someone in
18 that area who was giving all the orders and he was ad-
19 dressing most of his orders to the people who were in the
20 center of that yard. He told them that the state police
21 would be coming in, that they would be coming over with
22 helicopters and that they were to be ready.

23 They assigned a man to each hostage somewhere
24 along about this time. When they tied the other hostages
25 up for a short period of time, I had been passed by or

1 passed over--maybe an oversight, I don't know. 1325

2 But anyhow, finally I heard a man say, "Tie him." And
3 with that, several inmates grabbed me and tied my hands
4 and I heard this leader say, "Here, you take him." With
5 that a man grasped me by the back of my shirt, by the
6 back of my collar.

7 Now, this man gave instructions, "Don't kill
8 these pigs until I give the word. They may only--they
9 may try to bluff us." And he told them that they would
10 be coming over with helicopters and to stand their
11 ground, don't panic, and don't kill the pigs until he
12 gives the word.

13 He heard the helicopters coming and at this
14 point Sgt. Cunningham was standing to my left and
15 one of the shop foremen was on my right and I reached my
16 arm over and fumbled and got a hold of his hand, and I
17 said, "Ed, this sounds like the big one. Good luck to
18 you." I did the same to the man on my right.

19 The helicopters came over, made several passes
20 and then pulled out and then this man who had been giving
21 the orders said, "See, we called their bluff. They got
22 no heart. We're going to win this thing yet." And there
23 was quite a cheer that went up in the yard over this.

24 And then he said--and he was using a bullhorn--
25 he said "We aren't out of this thing yet. They may be

1 back. They'll probably harass us for the next 1326
2 half hour or so. He said they may even drop some gas,
3 but", he said, "we called their bluff. They haven't got
4 any heart."

5 Within a short period of time I heard the heli-
6 copter come back and about this time I heard some explo-
7 sions, I assumed were gas grenades being dropped. I
8 heard inmates shouting, "They're dropping gas."

9 I couldn't actually smell the gas myself, nose
10 was plugged. I kept hearing these explosions, and about
11 this time I got a terrific jolt in my own back. I heard
12 an inmate, the inmate behind me holler, "They're shot-
13 ing, I'm hit."

14 This jolt on my back had knocked the wind out
15 of me and drove me to my knees. There were inmates
16 poking at me hollering, "Stand up, get up." And there
17 were other orders being issued about "Everybody down,
18 stay down. Make those hostages stand up."

19 Q There were conflicting orders about getting
20 up and getting down?

21 A Very conflicting and a lot of confusion. I
22 got up and was knocked to my feet several times. About
23 this time I made an attempt to remove my blindfold. I
24 pushed it up and when I did push it up, my first impres-
25 sion, I thought I saw four men from Mars, and in an instant

1 I realized that they were state police and they 1327
2 were wearing gas masks. They were probably 20 feet
3 outside of our circle. Directly around me and in front
4 of me were a lot of inmates crouched down and I dove
5 over these people, I rolled to this ring of benches that
6 they had around us, dove over the benches and then rolled
7 towards the state police until I got behind them. This
8 is how I got out of there.

9 Q What happened when you approached the state
10 police?

11 A When I rolled behind them, I had quite a bit
12 of difficulty in setting up. I was still tied hand and
13 foot. I sat up and I hollered at one of the troopers,
14 "Untie me." And he just reached back and gave me a push
15 and he knocked me down. And this happened two or three
16 times. Each time I would sit up, he would knock me
17 down. And I got set up and I saw an officer crawling
18 out of the circle on his belly. He didn't have a shirt
19 or an undershirt on. He would crawl and then he would
20 pound his chest and holler, "I'm an officer, don't shoot.
21 I'm an officer." He was crawling towards us.

22 I began shouting at one of the troopers, too,
23 "That's one of my men, let him come." They crawled
24 past the troopers and he jumped on me and knocked me
25 down again. And I hollered at him, "Get off of me and

1 get me untied."

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2 He said, "Stay down, you'll get shot."

3 I said, "Untie me, I got my uniform on, they're
4 not going to shot."

5 With that, he untied me.

6 Q You testified that at the time that the inmate
7 behind you stated that he had been hit, you had gotten
8 a jolt in your back. Were you hit by gunfire?

9 A At the time I didn't know what I was hit by.
10 I thought that this helicopter was tossing out gas grenades
11 and that one of them had just burst as it hit my back.
12 When I got to the hospital, I found out that I had been
13 hit by rifle fire.

14 Q In fact, you had two wounds in your back, am
15 I correct?

16 A That's correct.

17 Q After your blindfolds were removed, did you
18 see the bodies of dead hostages in the circle?

19 A Well, when I finally got untied, I got up and
20 I grabbed a hold of one of those troopers and said, "Come
21 on, I want to get my people out of there."

22 He followed me and I went around trying to
23 locate hostages and pull them out. I saw several of
24 our people who appeared to be dead to me. I didn't touch
25 them.

1 Q At any time when the inmate was holding 1329
2 you on that Monday morning, the inmate behind you, did
3 he give anything pressed up against you?

4 A The only thing I felt from this man was his
5 grip on my shoulder and this part of his arm as he
6 pushed against my back.

7 Q You did not feel any metal object against
8 you?

9 A I felt nothing.

10 Q Did it appear that there had been a change in
11 the security guard around you that morning?

12 A If there was, I did not notice it.

13 Q After you had gone around the circle and
14 identified other hostages, you then left the hard under
15 police escort and went to the hospital?

16 A That is correct.

17 Q Mr. Cunningham, who was next to you, was killed
18 in this--that morning?

19 A Yes, he was.

20 Q Lieutenant, based on what you observed in the
21 yard, are you of the opinion that less loss of life
22 would have occurred if the police had come in the first
23 day?

24 A Of course, this is just my opinion again. But
25 I felt that first afternoon, that first day, any time

1 up until the time Oswald came into that yard, that 1330
2 my people could have come in and got us out of there.

3 Q What did you base that on?

4 A Well, just the general attitude in the yard.
5 Up until the time that Commissioner Oswald came in there
6 and ran into the speaker group and lost the argument out
7 there, they didn't really have the support of the people
8 in that yard, or not the majority of them. There was a
9 small group out there until that time that seemed to--

10 Q You are basing this on sounds as to whether or
11 not there seemed to be support?

12 A Yes. After they ran Oswald out, then you
13 could actually sense or feel the support build. This
14 really impressed the inmates in the yard, that this group
15 that was running the show could actually do this.

16 MR. LIMAN: I have no further questions.

17 MR. MC KAY: Lieutenant Curtis, several
18 members of the Commission have questions. I am
19 going to start this morning with Mr. Henix.

20 EXAMINATION BY MR. HENIX:

21 Q I was writing as fast as I could. I might not
22 have things in the sequence in which I want them in, but
23 I will start some place.

24 At one point you said even though you had on
25 your own uniform, you were shot twice. My question is,

1 who shot you, was it the state troopers or the 1331
2 correction officers, do you have any knowledge of that?

3 A There is no way for me to know that, but I
4 would like to say that in the center of that yard there
5 were probably--there were, of course, 38 hostages and
6 probably a hundred or more inmates in a very close area,
7 probably no bigger than this area that we enclose here
8 right now. It was very compact.

9 Q But you were shot twice?

10 A That is right. I was shot twice.

11 Q And even though the area is close, I am sure,
12 when the state troopers did arrive, he constantly put
13 you down, warning you like, "Man, you ain't out of the
14 woods yet"; is this correct?

15 A I felt I was out of the woods.

16 Q He did not. These were the people that were
17 responsible for the assault. My point is, I would indi-
18 cate that they really, really intended to come in there
19 and take care of business, so to speak, really clean up
20 that mess.

21 A I never expected to come out of that yard alive,
22 anyhow.

23 Q The other question I wanted to ask you: you
24 testified to the fact that there is or was a lack of proper
25 communication throughout the administration, and the reason

1 I say that is because you were carrying out orders 1332
2 when you were taking a man to HBZ, still you had no idea
3 why you were doing it, and you were a lieutenant. How is
4 that possible?

5 A I did not have orders to take anybody to HBZ.

6 Q You had orders to take a man out of his cell,
7 if I heard you correctly.

8 A The sergeant you--you are talking about the man
9 on Five Company?

10 Q Yes.

11 A The sergeant that was present had informed me
12 that he had orders to take him out.

13 Q But you still don't know why. You were his
14 superior officer.

15 A That is correct.

16 Q I would like to ask you what officer was--the
17 name is not important, though, was in control of Five
18 Company, which is in A-block; right?

19 A I did not--

20 Q Five Company is A-block?

21 A That is correct.

22 Q What I would like to know, having seen Attica
23 and several other institutions, isn't it a part of the
24 mandatory rules that after the officers open up these
25 cells and all, that they're supposed to close up these

1 boxes so they are secure?

1333

2 A As soon as all the doors are closed, they close
3 the doors.

4 Q They are supposed to secure them?

5 A As soon as the doors are closed. It takes
6 several minutes for every man to come out onto the gal-
7 lery.

8 Q But because--I got the impression that they
9 said an inmate or some inmate opened the door and let
10 out this person who had the redtag on his lever, so
11 that he wouldn't be let out. How is that possible.

12 A Well, as I explained, there are several minutes--
13 the officer opens the individual cells and there are 42
14 cells on the gallery. And it takes several minutes for--
15 before every man is out of his cell and he closes his own
16 door and until all the levers are back up, indicating
17 that all the doors are closed, the lockbox is open.

18 Now, there are supplies that are kept in this
19 lockbox like soap, toilet paper, this type of thing, and
20 quite frequently a man will come out of his cell and he
21 will come up and ask the officer for soap or toilet paper.

22 Q So, it could have been--are you saying during
23 this interim it could have been at that time that the man
24 opened the door and let this guy out?

25 A Yes.

1 Q But in spite of the fact that the night 1334
2 before that you had left orders or you indicated that
3 there was something strange going on and security was
4 still that lax.

5 A I wouldn't say that security was lax in that
6 respect.

7 Q What would the actual precautions be, if you, as
8 a lieutenant, left orders I think with the deputy warden
9 in reference to what you experienced the night before,
10 you had left orders to tighten up security and yet still
11 there would be, right in the block of the incident there
12 would be a redtag put on and the procedures did not
13 change at all?

14 A I don't quite follow what you are getting at.

15 Q I am saying--what would be security. If I
16 had security myself and I had problems in a block and
17 I made it known to the officer in charge to be extra
18 precautionous today because of what happened the night be-
19 fore, I think it would imply, it would just follow he
20 would be very careful about allowing people, especially
21 around that area where the box was.

22 A Security would have been to keep these men lock-
23 ed in their cells that morning.

24 Q But they let them out and they could have--I'm
25 just saying in view of--it's a question, really, to ask--

1 then there was no security, actually.

1335

2 A Just our normal--

3 Q They went through the regular routine in spite
4 of the fact that you had warned them that things were
5 going to happen, at least you suspected that things were
6 going to be different that day?

7 A Right. You got to also realize that we did
8 not have spare officers.

9 Q I know. I understand the budgetary problem
10 and the fellow said "Who is going to pay these guys?"

11 The thing is I'm wondering, that wouldn't cost
12 extra money, you know, if this guy was to lock that box.
13 He would have had to do it. All he would have to say
14 is "No, you can't have any toilet paper this morning."
15 Tell him to come back.

16 A Part of our security is to be certain that all
17 of the doors are closed on that gallery before the inmates
18 leave.

19 Q Right.

20 A And in order to be certain they are closed, the
21 man watches his levers to see that they are up.

22 Q Another question here is, you said that the
23 gates on Times Square, this is where Officer Quinn, who
24 eventually died, was stationed, and I am wondering just
25 about how heavy is those gates, if you know. If you have

1 a rough idea.

1336

2 A I have no idea how heavy they are.

3 Q They weight quite a bit?

4 A That is correct.

5 Q If one of those gates fell on a dude, he would
6 be in serious trouble, he could actually die?

7 A I wouldn't want one to fall on me.

8 Q I only said that because this is--when the in-
9 mate said--in your statement here that you heard one of
10 the inmates say in a very husky voice that one of the
11 pigs was dead and he was killed by one of the pigs and
12 they're going to blame it on us, and we have also heard
13 in prior testimony that Officer Quinn was thrown out a
14 window, which, of course, we all know is impossible be-
15 cause the windows had bars on them. If he was stabbed
16 there by those inmates and they fell on him, it would
17 be a possibility he could die, isn't it?

18 A If that had happened, yes.

19 Q I don't know what happened in that incident,
20 but I'm only asking.

21 MR. LIMAN: We are under--the Commission
22 has decided that we are not going to describe at these
23 hearings the circumstances of Mr. Quinn's death be-
24 cause of the possible jeopardy to the rights of
25 persons involved in the criminal proceedings; am I

1 correct? I think that, therefore--

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2 I don't know whether Lt. Curtis has heard about the
3 circumstances since then, but I--as counsel to
4 the Commission, I would urge him not to testify as to
5 what he may have learned as to the circumstances of
6 Mr. Quinn's death.

7 BY MR. HENIX:

8 Q My question ~~was~~, it's a possibility that this
9 inmate who said that the pigs killed the pig, I guess in
10 reference to the establishment, that it ~~was~~ a possibility
11 that he actually--however, Officer Quinn died, could,
12 within the real of confusion and all, believe that this
13 officer was killed by fellow-officers or by the establish-
14 ment?

15 Not that I am saying, however, that--I am only
16 asking for, to try to give this person a certain amount
17 of consideration for the fact that he might have been say-
18 ing what he thought was true in view of the fact of this
19 inmate coming down and also Quinn died, offering you
20 all the security and protection that he could possibly
21 offer you, in this incident there could still be a ques-
22 tion of a man saying what he thought was true.

23 The possibility did exist for the inmates to
24 really believe that, whether it was true or not.

25 I would like to ask you, from the statement that

1 you heard when the inmate said "They have no 1338

2 heart, we will win yet," you did hear the 28 demands that
3 they had asked for?

4 A Yes, I did.

5 Q When they said they would win yet, what did
6 you think they meant?

7 A That they would get all of their demands.
8 That's what I thought.

9 Q When they said they would win, they did not
10 intend to do any harm to the officers?

11 A Not in that statement.

12 MR. HENIX: Thank you.

13 MR. MC KAY: Mr. Marshall.

14 EXAMINATION BY MR. MARSHALL:

15 Q Lt. Curtis, do you know what you were wounded
16 with, that is, what kind of ammunition?

17 A I know that one of the wounds was a rifle butt.

18 Q And the other?

19 A I don't know what it was. It was a metal ob-
20 ject.

21 Q Could you tell me who has authority to send a
22 man to HBZ? Does that have to be a certain rank of a
23 correction officer or any correction officer?

24 A Normally, the deputy superintendent or the
25 superintendent.

1 Q So that in the case of these two men from 1339
2 Three Company and Five Company that were sent to HBZ,
3 that must have been done on the authority of one of those
4 two?

5 A I would say so, yes.

6 Q Now, there was also an inmate that was keep-
7 locked in Company Five. That was a different inmate?

8 A Yes. That was the inmate who had thrown a
9 jar that struck--or a can, I don't know what it was, but
10 the object that struck the officer.

11 Q The previous night?

12 A That's correct.

13 Q Lieutenant, on Friday night you said that the
14 mood in the yard was that the inmates were elated with
15 their success. Could you tell me what did you mean by
16 that.

17 A Well---

18 Q The success in taking over the prison or the
19 success in negotiating with Commissioner Oswald or a
20 combination.

21 A Pretty much a combination of the fact that they
22 had been able to demand from the Commissioner and get
23 him to concede.

24 Q Now, one final question, Lieutenant. When you
25 described the events on Thursday morning, when you spoke

1 of yourself and two other officers going into 1340

2 A-block and putting yourself in a cell, I think you tes-
3 tified that you heard the inmates give orders to Squad 1,
4 "Go to your position, Squad 2 go to your position"?

5 A That's correct.

6 Q How long---what is the time interval between
7 your hearing those orders which addressed Squads, and that
8 sounds quite organized, between when that happened and when
9 the events started? How long after the event started was
10 that?

11 A Well, immedaitely after we ran onto that gallery,
12 they made an attempt to get on the gallery, also.

13 Q So, it was just a matter of minutes?

14 A That's correct.

15 MR. LIMAN: Minutes when you heard
16 those words?

17 THE WITNESS: It was only a short period
18 of time.

19 MR. MARSHALL: Thank you, Lieutenant.

20 MR. MC KAY: Mrs. Wadsworth.

21 EXAMINATION BY MRS. WADSWORTH:

22 Q Lt. Curtis, I wonder if you could help me a
23 little bit with the understanding of the structure of
24 the officer structure.

25 There is Supt. Mancusi and then Deputy Supt.

1 Vincent and Assistant Deputy Supt. Pfail. 1341

2 Are there particular assignments for each of them or
3 is this a line of authority which simply moves one to
4 the other? Do each of them have particular individual
5 responsibilities or are they all similar, but in three
6 degrees?

7 A Well, of course, our superintendent is, his
8 main function is administrator. The deputy superintend-
9 ents, they deal more with the inmates.

10 Q But would they have particular responsibilities
11 or are they similar?

12 A They are similar, but separate.

13 Q Is it the Deputy Superintendent Vincent who is
14 now at Greenhaven as superintendent?

15 A That's correct.

16 Q He has now been moved there. I thought so.

17 Had you ever before asked for additional staff
18 in this way that you did on Wednesday night when you were
19 reporting the situation, how it looked and the answer was
20 it would be difficult for the budget; is this something
21 which happened before, this request for additional staff
22 or was this a rather unusual request?

23 A It had happened to me while I was at Clinton.
24 We had a situation that developed where we did bring in
25 the shift.

1 Q But it's the exception, truly the

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2 exception to the rule when that kind of request would
3 come forth?

4 A It's unusual.

5 Q Do you think that there would have been any
6 kind of crisis preparation or any kind of pre-planning
7 which could have worked out here or each of these situa-
8 tions whenever one does come up, are they so individual
9 that no kind of real crisis pre-planning is realistic?

10 A Well, I think that we can have a general plan,
11 but you've got to tailor these plans or leave them flexible
12 enough to fit the individual circumstances.

13 Q Are you satisfied that there was enough of a
14 plan, a general plan that could be tailored upon
15 emergencies?

16 A At Attica?

17 Q Yes.

18 A I wasn't aware of any plan.

19 Q Lt. Curtis, you said that when you were report-
20 ing the state of mind of the inmates to Mancusi, that
21 you said that you thought there was a concern that maybe
22 the inmates would "break up their cells," and then later
23 you were talking about the fact that as you moved along
24 with the company and you sensed the difficulties and you
25 sensed the tension, that you stood a third of the way

1 back in the company going to reason with them. 1343

2 Are either of these, again, an unusual occur-
3 rence, do you often think the inmates are going to break
4 up their cells? Is this an unusual thing or is this,
5 again, an exception?

6 A No. This, again, is an unusual situation, but
7 it goes occur from time to time.

8 Q It does occur from time to time.

9 And would you say this reasoning with the
10 company, is this the usual way of handling things or is
11 this, again, an unusual situation?

12 A Let me state at least twice during that same
13 summer we had situations where I was required to go and
14 talk with a group or a company because they were upset.

15 Q Would this have been happening more in the
16 last six months than it was in the two years before?
17 You have been in this system 23 years, I believe.

18 A I had not run into it in previous years, no.

19 Q Lt. Curtis, another and last question. In
20 looking into some of the other correctional systems in
21 other states, it would seem, reportedly, that there was
22 more of an inflexibility. I wonder, with your experi-
23 ence, could you comment to me on whether or not you think
24 there is an over-reaction for perhaps minor infractions
25 in general that were playing close to the line a lot of

1 the time or do you think that a tight ship is 1344
2 really the best way? Do you think the flexibility that
3 had been suggested in many systems is going to be--make
4 things more difficult or do you think this is indeed the
5 way to go, to give people a sense of being an individual,
6 of restoring as much of humanness as can be done; what
7 is your experience? Would you be for or would you be
8 against this kind of flexibility?

9 A Well, I think that we have to have order or
10 discipline in our institution, in any institution
11 before the other programs can go forward, because when
12 we don't have order we have a very small minority or
13 very small group of people can disrupt, and we don't
14 have order, the programs just don't succeed.

15 MRS. WADSWORTH: Thank you very much.

16 MR. MC KAY: Mr. Wilbanks.

17 EXAMINATION BY MR. WILBANKS:

18 Q Lt. Curtis, you seem to be less than thrilled
19 over the fact that negotiations took place at all.
20 Would that be a fair statement, the fact they did not
21 come in immediately? When the observers came in, how
22 did you feel about this, that negotiations were going
23 on?

24 A In my line of work I think I have a right to
25 expect the authorities to make an attempt to restore
order as soon as COMMERCE REPORTING CO.

1 order as soon as possible.

1345

2 This has been a standard practice in correc-
3 tion and in police organizations, I would say.
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6 (continued on page 1346)
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2 that I asked Lyn Johnson, another hostage yesterday, and
3 see how he reacted to it.

4 "I spoke with some officers who were standing
5 around waiting during those four days and they said that,
6 I put the question to them in this manner. What if on
7 Saturday, the inmates had accepted those 28 or the agree-
8 ment had been completed and they had released the hos-
9 tages. You had been set free and the 28 demands would
10 have been put into force. I asked him how would you
11 feel, they said they would have mixed feelings. We
12 don't want the hostages to die and yet if inmates gain
13 these concessions under duress, some of these officers
14 said "I wouldn't have worked here any longer because I
15 would have felt like the inmates ran the institution and
16 they could get anything they wanted by taking more
17 hostages."

18 Would you react to that, how you feel about
19 that type of statement, both as a hostage and as an
20 officer?

21 Can you understand what they were saying?

22 A I don't know if I can answer your question
23 really. I know while I was a hostage, I would have
24 settled for anything to get out of there. If they wanted
25 to turn the place over to them and everybody leave, that

1 would have been all right with me. What was 1347

2 the rest of your question?

3 Q Some of the officers were saying, "We would
4 like Lt. Curtis to get out alive. We think he is a
5 nice guy and they are saying if the inmates gain these
6 concessions under duress, it will be impossible to run
7 the institution in the future because there will be a pre-
8 cedent set for anything they want or need anything, they
9 will take hostages again."

10 Can you understand that?

11 A I can understand that and very definitely this
12 would encourage them to continue with more demands.

13 Q The second question, someone has testified that
14 they felt like violent forces were gaining control over
15 non-violent forces, as Sunday approached. From your
16 relationship with the security guards around you, were
17 they more concerned by Sunday that other grounds of
18 inmates might come in and try to harm the ostage group?

19 Did you have this sense of more violent forces
20 gaining control over the security guards who were trying
21 to protect you by Sunday?

22 A No, I--well, I would say that the group that
23 was guarding us was in pretty good control. And I didn't
24 notice any change in the group.

25 Q My last question. Talking to inmates and cor-

1 rection officers, there seemed to be two basic 1348
2 theories, why do you think the riot occurred in general?

3 Inmates seemed in general to say things like
4 it's the prison conditions. It's dehumanization and
5 this kind of thing. They talked about conditions.

6 Officers in general started talking about why
7 do you think the riot occurred, there was a breakdown
8 in discipline beginning two or three years before, this
9 kind of thing.

10 There seemed to be almost entirely these two
11 different viewpoints. When you ask someone today, do
12 you think there will be a riot this summer, those that
13 take the viewpoint it's prison conditions, will indicate
14 some institutions they think will blow, that they think
15 has terrible conditions, whereas officers point out some
16 institutions, some prison in New York State which they
17 think is run too loose. They say it will be the next
18 to blow.

19 Can you give me your view as to which of these
20 two theories, the breakdown in discipline or prison
21 conditions that you would adopt or maybe neither one or
22 a combination?

23 A I'd have to go back to my answer to Mrs.
24 Wadsworth. I believe that you have to have discipline
25 and control before you can have any other type of pro-

1 gram. The other climate where you don't have
2 control or discipline, then your radicals and your
3 dissatisfied elements have a fertile ground to work in.

4 Q What about the situation in September, if we
5 were to ask you what is your view of why it occurred,
6 would you think it was primarily a breakdown in discipline
7 or primarily prison conditions? I know that is an either
8 or--

9 A It was a combination of things and I wouldn't
10 say that any one of them was primary.

11 MR. McKAY: Mr. Rothschild?

12 BY MR. ROTHSCHILD:

13 Q Lt. Curtis, two questions, both of which were
14 engendered by the other questions actually.

15 On Mr. Wilbank's question and I think in your
16 own testimony and that of many others, there is a feeling
17 in your line of work as you say you have a right to, if
18 you are taken hostage, to have an attempt made immediately
19 to recapture.

20 Going the other end of that all the way to the
21 other side of that question, some of the observers, a
22 variety of people who testified before us, without taking
23 issue with that point, say that was not done in point of
24 fact and therefore it dragged on through the weekend and
25 we got to Monday. There were a number of people who said

1 that having gone that far, they felt that there 1350
2 was an opportunity to gain the--regain the yard peace-
3 ably without loss of life to hostages or inmates.

4 That there was nothing to lose by extending that
5 time further, having done what they did up until Monday.

6 Have you any comment on that at all from the
7 standpoint of a fellow who is sitting in the middle?

8 A Yes, because I was the forgotten man out there
9 along with 37 others. Over this period of time we began
10 to break down. I don't like to admit it but we did. We
11 had some people who were injured out in that yard, severely
12 injured, what I would consider severely injured. Broken
13 bones.

14 We had one man who was running a very high
15 fever and being exposed to the elements for 24 hours a
16 day. We were breaking down physically.

17 Q So you think that--but the other side of that
18 argument we heard is that a number of hostages were in
19 fact, lives were lost in the retaking as well as a number
20 of inmates, that more time might have avoided that, this
21 is the counterpart. If you think that is not a rele-
22 vant consideration, I mean under the circumstances, ob-
23 viously it's relevant.

24 A This argument can go on for years.

25 Q You think the sooner the better?

1 A They have exhausted all of their means. 1351
2 That is all I can say. They have tried everything
3 that they know. And hadn't been able to reach--

4 Q Speaking as a hostage and correction officer,
5 you are glad they came in Monday and wished they came
6 in sooner?

7 A Yes, wished they came in sooner.

8 Q Let me ask you another question. In response
9 to Mr. Marshall about the question of--

10 MR. LIMAN: Would you move your mike in
11 answering the question.

12 Q In the first squad, second squad, third squad
13 business, at the time you were in A-block and you heard
14 the orders downstairs, one question. Is squad used as
15 a synonym for company? Could they have been talking
16 about first company, third company?

17 A This was the first time and the only time I
18 had ever heard that.

19 Q Do you think this was a new organization as it
20 were?

21 A This was the impression that I got at the time.

22 MR. MCKAY: Mr. Liman has a question.

23 MR. LIMAN: First the reporter has to
24 change his tape.

25 BY MR. LIMAN:

1 Q I want to be sure that we have a clear 1352

2 record on the use of terms. You used the word radicals
3 in answer to one of the questions from the Commission and
4 I wonder if you would give us the sense in which you used
5 the word radicals.

6 A Well, we have various types of individuals in
7 our institution. Some of them really don't go along with
8 our system of Government. Others challenge the authority
9 of the institution itself. They challenge the rules.
10 They attempt to change them. This is what I meant by
11 radical.

12 Q Would you include in that category people, for
13 example, who would organize or participate in a sit-down
14 strike?

15 A I might.

16 Q Your definition of radical, therefore, would
17 not limit it to people who would engage in violence, it
18 would include people who would engage in disobedience of
19 rules as a means of attaining an end?

20 Q Possibly--sometimes my use of the words isn't
21 the best. I probably mean people who were non-conformists.

22 Q The other thing is that you did not know at the
23 time why the inmate from five company was being taken to
24 the box, Lieutenant. Have you ever found out?

25 A Not really. Not officially, no.

1 Q All you have is rumor or hearsay? 1353

2 A Right. Second hand information.

3 MR. McKAY: Lt. Curtis, all my questions
4 have been asked save one. I will try that one now.

5 BY MR. McKAY:

6 Q You said that until Oswald came into the yard
7 for the first, you thought, unsuccessful negotiations,
8 my people, was your expression, could have come in and
9 gotten you out. Whom did you mean by "my people"? Do you
10 mean the correction officers?

11 A The correction officers.

12 Q The correction officers alone without the State
13 Troopers?

14 A They could have done the job by themselves.

15 Q If that had happened, what kind of force would
16 you anticipate they would use or would they have come in
17 unarmed?

18 A They would have come in with clubs.

19 Q You thought that would have been sufficient,
20 at least for a few hours on the first day?

21 A That is correct.

22 MR. McKAY: Thank you.

23 THE WITNESS: They would have also used
24 gas.

25 MR. McKAY: Yes. But not lethal force.

1 THE WITNESS: Tear gas.

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2 MR. McKAY: I neglected Mrs. Guerrero
3 who has a question also.

4 BY MRS. GUERRERO:

5 Q I wasn't going to ask any questions. Right
6 now I want to ask you, Lt. Curtis, how long have you been--
7 I wasn't here at the very beginning, how long have you
8 been in the department?

9 A 23 years.

10 Q Do you believe then that institution, Attica
11 as well as the other institutions in New York State are
12 fun properly and that nothing should be changed?

13 A No, I wouldn't say that nothing should be
14 changed. A lot can be and should be and can be changed.

15 Q To change making the inmates feel a little bit
16 more--I mean a little bit more like men, as they keep on
17 saying they are not treated as men, that they don't have
18 any humanity. They are there because they have committed
19 a crime. But they also should be treated as men, don't
20 you believe that?

21 A Yes, I do.

22 MRS. GUERRERO: Thank you.

23 MR. McKAY: Lt. Curtis, I think you know
24 under our procedures you are now entitled to make, if
25 you wish, a statement on your own that may or may not

1 bear on the questions that have been asked you. 1355

2 Is there something you would like to tell us?

3 THE WITNESS: No, I don't think I will
4 make a statement.

5 MR. McKAY: Thank you. You have been very
6 helpful this morning. We appreciate very much your
7 being here.

8 (Whereupon, the witness was excused.)

9 MR. LIMAN: Capt. Wald.

10 MR. McKAY: Capt. Wald, will you remain
11 standing to be sworn.

12 C A P T. F R A N K W A L D, called as a
13 witness, being first duly sworn by Mr. McKay, testi-
14 fied as follows:

15 BY MR. LIMAN:

16 Q Would you state your full name for the record?

17 A Franklin J. Wald. Correction captain, retired.

18 Q When did you retire, Captain?

19 A Close of business March 29, 1972.

20 Q How old are you, Captain?

21 A I will be 62 in July.

22 Q How many years did you put in in the Department
23 of Correctional Services?

24 A Pretty well in my 36th year.

25 Q How many of those years did you spend in Attica?