NEW YORK STATE SPECIAL COMMISSION ON ATTICA

In the Matter of the Public Hearings

at

NEW YORK, NEW YORK

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

April 25, 1972
10:00 a.m.

Before:

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

Commission Members
Present:

Arthur Liman,
General Counsel

Milton Williams,
Deputy General Counsel

Judge Charles Willis,
Deputy General Counsel

Robert Potts, Jr.,
Communications Consultant

Arthur Munisteri,
Deputy General Counsel

Robert Sackett,
Deputy General Counsel

Henry Rossbacher,
Deputy General Counsel

Mr. McKay: This is the morning session of the tenth day of the public hearings before the New York State Special Commission on Attica.

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

Mr. Liman: Today we are going to have a more detailed exploration of the assault plans of the State Police and the method in which they were carried out.
State Police appearing today, but to 1574
begin with, a member of my staff, Mr. Andrew
Liddle, is going to make a presentation based on
our study of the documents and on our inter-
view of the witnesses, of what the assault plan
was, the theory, and, Mr. Liddle, if you can
start.

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

     MR. LIDDLE: Thank you, Mr. Liman.

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

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

     The State Police are basically a semi-
military organization, consisting of approximately
3500 men, twelve of whom are black, who are sta-
tioned in various areas of the State, are broken down into nine troops, centrally located. They are broken down into an uniform force and a BCI force, being the detective division of the State Police.

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

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

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

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

At the time of the initial training, they are also afforded some fourteen hours of crowd control, which consists of basically moving and
controlling crowds in a non-confined area.

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

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

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

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

Basically, the manual which the State Police go by, the administrative manual, states that a member may draw his fire arm or may fire a fire arm at another person after he has exhausted
all other reasonable means; when a member reasonably believes such action is necessary to:

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

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

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

MR. LIMAN: That comes from the Police Manual?

MR. LIDDLE: That comes from the State Police Manual.
Also in the State Police Manual, it states that a member shall not fire warning shots.

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

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

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

A brief breakdown of the State Police at Attica:

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

The command structure at Attica was basically the troop in which the facility is located; it is commanded by a major and the major was in charge of the group at that particular
facility due to the fact that the facility was within his troop area.

The State Police basically arrived on Thursday, which was the 9th of September. They had been working twelve-hour shifts at the facility up to the time of the retaking and on the morning of the retaking the night shift was held over.

So, by and large, the entire complement was present with one shift having worked a twelve-hour tour previously.

MR. LIMAN: Let me interrupt one moment, Mr. Liddle.

When State Troopers practiced firearms at the range, instructions are read to them. Do you have the instruction that is read with respect to when they should shoot?

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

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

MR. LIMAN: Is there a rule there
that if you are going to draw your weapon to shoot, you should be prepared to shoot to kill?

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

MR. LIMAN: Go ahead.

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

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

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

There were three basic forces that the State Police were broken down into, namely, a perimeter force, which I will describe, the main force for the retaking of the prison, and a reserve
It should be noted here that at the time of the drawing of the plans, there were no hostages on the catwalks. The plans were for retaking of D-yard.

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

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

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

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

They were responsible for preventing any
inmates that were coming out of the prison at the time of the retaking of gaining access to the tower house area or for taking any inmates into custody that did come out into that particular area.

There was a fence detail that was located along this wire fence. This consisted of approximately 65 men who were lined up in this fashion. They were armed with shotguns, handguns, and were responsible for maintaining security, preventing any inmates that may come out of the school area or the auditorium area from gaining access to the Administration Building.

It should be noted here that this perimeter force was disarmed of most of their shotguns, who were given to an assault force or the force that went into aid in the retaking. These men also subsequently did go inside the prison and the National Guard did take up their positions out here. They went in as a reserve force.

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

Actually, these were the only two blocks from which the State authorities had control at...
There were basically three details on each block, and I will go into these three details and describe them as briefly as I can.

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

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

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

MR. LIDDLE: That's correct.

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

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

MR. LIDDLE: They were placed in this position with the thought in mind that they could provide covering fire for the forces coming
out on the catwalks and that any over-
run of fire would be directed into B-yard in the
event that they had to use their weapons, as
opposed to being over here and having the over-
run of fire being directed into D-yard.

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

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

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

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

Their objective was to come out the top
of A-block catwalk, swing to the right around Times Square, go down D catwalk and secure this catwalk.

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

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

They also had a complement of three gas dispersal units provided by the National Guard, similar to flame throwers, but instead of throwing flame, they dispersed gas.

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

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

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

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

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

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

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

The same situation prevailed over on C-block.

There was a six-man -- or to be a six-
man detail of .270 riflemen on top of the block, on top of the roof, were to provide covering fire for the assault force that was to go in on A-block -- or on C-block.

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

These men were also armed with .270 rifles.

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

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

MR. LIMAN: So that we are now -- to
be perfectly clear, when they did that and the group that was coming out from A-block accomplished its mission, you would have troopers who were now ringing D-block, troopers who had come out on A catwalk who would be along the D catwalk, and troopers who were coming out from C catwalk who would be along B catwalk and they would be ringing D-yard and they would be bringing gun cover?

MR. LIDDLE: That's right.

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

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

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

We had the same details in the tunnels.

We had a twenty-man group that was to go down the inside of C-block tunnel, swing to the right into C-yard, assist in securing this yard. Ten men were to swing out to the left and secure B-yard.
There also was a group of five officers who were to go down to Times Square and link up with the other five-man group that had come in from A-block.

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

There was a twenty-five man rescue team also to come out A-block on the top of the catwalk behind the initial force that was to retake the prison.

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

These men were also accompanied by two correctional officers who were to aid in identifying hostages that they counted. The plan was for the detail to come out on top of the catwalk behind the initial group that was retaking the prison, to place ladders down in these areas, to go down the ladders and to proceed to the hostage
area, which we have determined to be roughly in this location.

These men were also armed with shotguns and their issued sidearms.

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

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

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

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

Initially, there were eight hostages placed on the catwalks, with prisoners behind them with instruments at their throats. The hostages were initially located in these areas where I am placing the pins. They remained in these positions for a period of time and just prior to the dropping of the gas we have deter-
mined that these two hostages on B catwalk were removed, taken over behind this barricade in approximately this position. These two hostages were put together on a seat, sat down on a seat. These four hostages remained in the position that I indicated here.

This is the picture just prior to the gas drop.

MR. LIMAN: Thank you, Mr. Liddle.

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

We will also be hearing from one of the hostages who was on the catwalk where one of those red pins is now, as well as from the correc-
tion officer who witnessed various aspects of the police action.

I now call Major Monahan.

JOHN MONAHAN, having been duly sworn by Mr. McKay, was examined and testified as follows:

EXAMINATION BY MR. LIMAN:

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

A Yes, sir.

Q How long were you in the State Police?


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

A That's correct, sir.

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

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

Q When did you become a major?

A I've brought the dates, Mr. Liman, because
the last time we spoke I didn't have them.

Do you want the exact dates on any --

Q Yes.

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

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

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

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

A Yes, sir.

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

A I have gone to our academy. I have gone to a number of command management schools. I have gone to AMA schools. I have gone to Harvard Homicide Semi-
I have attended the FBI Academy in Washington.

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

I had made a familiarization visit to it.

For what purpose was that?

Familiarization.

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

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

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

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

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

Who called you?

Superintendent Mancusi.

Did he make any request of you at the time?

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

Did he give you any idea of what the dimen-
sion of the take-over was?

A No, sir.

He said there were hostages involved. However, he did not have any specific figures at this time.

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

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

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

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

A I immediately notified our division headquarters in Albany. I also alerted other supervisory personnel in the troop and instructed them to mobilize as many people as possible and have them respond immediately to the Attica facility.

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

A No, sir.

Just the response that I would be en route.

Q When did you arrive at Attica?
A  Approximately ten a.m.
Q  Were you then given a briefing on the situ-
A  I met Superintendent Mancusi and discussed
the matter with him and was given a brief picture of
the conditions that existed.
Q  And the conditions that existed at that
time were that virtually all of the prison, with the
exception of parts of C-block and the Administration
Building, were under the control of inmates?
A  Basically, the whole installation, sir,
with the exception of the Administration Building, was
under the control of the inmates.
Q  Was there any decision made at that time
with respect to attempting to retake the prison?
A  Shortly after my arrival we received a
call, the source of which I am not sure, that there
was a fire in the E-block building and that there
were people in the building.

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

Once he arrived in there, aided by correc-
tion officers, they were able to retake the E-block
section and continue on into the C-block area.

Q  Did they meet any resistance in the efforts to retake C and E?
A  None that was reported to me, sir.
Q  And they succeeded in retaking E-block and C-block by what time?
A  Could we have one stipulation here, Mr. Liman?

Everything now I would like to, rather than repeating to the best of my knowledge, can we stipulate that all of my answers are to the best of my knowledge and recollection?

Q  Yes. I know you don't have a log or anything that would give an exact time. All I am asking of you is your best recollection of about what hour C-block and E-block had been retaken.
A  I believe C and E and also A were retaken by approximately eleven a.m.
Q  Who was in charge of the retaking effort; the State Police or the correction officers?
A  I think it was a joint effort, sir. We had mutual personnel going.
Q  Was resistance met at all in retaking A-block?
A  No physical resistance, to my knowledge. There were quite a few verbal exchanges between some of the people at the gate and some of the inmates in the tunnel.

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

A  Yes, sir.

Q  -- or exchanges of fire or assault?

A  Yes, sir.

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

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

Therefore, I did not think that it was feasible, based on the information available, that there were in the neighborhood of in excess of 1200 inmates confined in the yard, to attempt to field a skeleton force at this time. I didn't think we had sufficient personnel available to accomplish a complete retake-over and provide security.
Q  How many men did you want before  
you attempted to retake the institution?  

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

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

A  Just our issued weapons.  

Q  And your issued weapons are what?  

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

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

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

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

A  My supervisory personnel.  

Q  Who are they?
Captains and lieutenants who were at the scene.

Q Your subordinates?
A Yes.

Q At what point did you have sufficient men, the 350 men, to retake the institution?
A I believe around five p.m.
Q That's on Thursday, September 9?
A Yes, sir.

Q When you had sufficient manpower, did you inform the correction officials?
A The correction officials were constantly being informed of what we had in the line of personnel. I didn't give them any specific figure of 350, to my knowledge.

Q But did you tell him that you had enough men to go in if they wanted you to?
A I believe I did, sir. I believe I made it known to him. Exactly whom I told, I don't know.

Q Who were you reporting to at this point in the Correction Department?
A At five p.m. there were a number of people there, including the Commissioner and his assistant, Mr. Dunbar, in addition to Superintendent Mancusi and his assistant.
Q What were you told when you reported that you had sufficient forces there?
A That negotiations had been commenced.
Q I'm sorry. You'll have to speak up.
A That negotiations had been commenced.
Q Were you consulted on a decision to negotiate?
A No, sir.
Q Were you consulted on Commissioner Oswald's decision to go into the yard?
A No, sir.
Q Did you voice any objections to either of these strategies?
A I didn't think that I enjoyed that latitude, sir. A correctional facility comes under Correction. I had no voice in the operation of it.
Q Did you have an opinion at the time as to whether the passage of time would make the task of retaking more difficult if it became necessary to go in with force?
A Yes, sir.
Q What was your opinion at the time?
A I thought the time would be a detriment to us. I felt that the initial take-over had resulted in confusion and disorganization within the instal-
lation and as time passed, I felt that
the disorganized aspect of it was corrected.

Q But you did not express these views to anybody in the Correction Department; am I correct?
A No, sir. Not to my knowledge.

Q And nobody solicited your opinion on that subject?
A No, sir.

Q What was the chain of command in the State Police for this operation at Attica?
A Initially, when I responded, I was in command. I was the major in charge of the troop.

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

Q Who were they?
A The then Chief Inspector Miller, who is now the First Deputy Superintendent, would be the man in charge under our organizational structure, and the Deputy Chief Inspector Quick, who is now an assistant deputy superintendent, I believe.

Q Were they giving you instructions as to what you should do?
A Upon arrival, I briefed the then Chief
Inspector with the conditions that existed and from there on in, every movement of the State Police, including the plans and whatever, were discussed with him before being implemented.

Q Who was the Superintendent of the State Police at that time?
A William Curwin.

Q Was Mr. Curwin on the scene at that time?
A Not to my knowledge.

Q Where was Mr. Curwin?
A I have no idea.

Q Did you speak to Mr. Curwin?
A During the period of the night through the 13th?
Q Yes.
A On a couple of occasions, sure.

Q Whose decision was it to retake the institution? Who had the responsibility to make the decision to retake the institution?
A The Commissioner.

Q Which Commissioner?
A Oswald.

Q The Correctional Department's decision was -- the Correctional Department had the responsibility to decide to retake, rather than the Police Department?
In other words, it was a correctional facility.

As far as the determination to negotiate this was not a State Police function. We were there to provide the necessary service to restore this facility to lawful control if and when we were requested to do so.

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

A The State Police's responsibility.

Q And who in the State Police took the responsibility for actually drawing up the plans for the police assault we have heard Mr. Liddle describe?

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

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

A Very accurate, sir.

Q When did you first draw up these plans?

A I believe we started working on them on Friday.

Q Was there an evolutionary process in the plan? Did it develop as the days went by from one
thing into another?

A Definitely.

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

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

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

A The inmates, yes, sir.

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

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

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

A Yes, sir.

In addition to this, when they initially erected them, they were very crowded and consisted basically of benches and whatever. However, as the
time went on, they became more sophisticated

in that they acquired a chain fence someplace which
they had strung from rail to rail and a person who
was identified to us by correctional officers as
having worked as an electrician within the facility
was observed wiring these fences up.

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

Q  What did you provide for that?

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

However, I don't recall getting a clear-cut answer as to the possibility of emergency gene-
rators or areas being passed by electricians. So,
we availed ourselves of emergency equipment from a
utility company, bolt cutters, rubber gloves, et cetera.
In addition to this, during the build-up, mattresses
and other material was also being utilized in the
barricade area, and being soaked with some kind of liquids, which we, not knowing exactly what they were, and here again, rumors, I don't know the source, but the thought that they were inflammables. We knew that the inmates had access to inflammables in some areas.

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

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

Q I take it from your testimony that you understood that the purpose of the barricades was to provide an obstacle to any police force that would come out of either A-block or C-block and try to retake the yard?

A That was my impression, yes, sir.

Q Now, is it fair to say that in any kind of
operation like this intelligence plays an important role?

A    Yes, sir.

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

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

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

The barricades, in addition to being barricades and possibly being wired and electrified, they eventually inserted sharpened sticks in them so that you could conceivably become impaled upon them trying to go through.

Q    How did you know that?

A    Pardon?

Q    Did you know that in advance?

A    Know what in advance?

Q    What you described at the barricades.

A    You could see them, sir.
In addition to that set-up, an ob-
servation team on top of the C-block roof -- however,
the -- for surveillance purposes of the yard.

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

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

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

Q Could you keep your voice up?

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

A Binoculars.

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

A None, to my knowledge, sir.

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

A I believe there was some conversation or
discussion about it; I don't recall participating in
it. I recall hearing something about it later.
Q  Do you know whether the State Police has such equipment available to it?
A  Not to my knowledge.
Q  What about various uses of telescopes and telescopic lenses; did the State Police have them available?
A  Some of our camera equipment has some of it available.
Q  Were there also a number of rumor going on at that time while you were at the facility as to what was going on in the yard?
A  Yes. It was rife with rumor.
Q  What means did you have of making a determination as to whether the rumor were factual?
A  It depended on what the rumor was.
Q  What kind of rumors were you hearing?
A  Well, for example, we would get rumors that they were going -- there was obviously an effort made to break from one area into another, and if you checked -- like, there was talk at one time, as I recall, in the B-block at this end, that they were going to break out of this C-block and come into B-block.
However, we had checked with our own people down there and they were experiencing no problems.
Q Were there also rumor about acts of violence or atrocities by people in the yard?
A Yes, sir.
Q What kinds of rumors were going around about that?
A Various kinds, sir. Rumors of attacks, atrocities.
Q What means were there of verifying those stories?
A Very limited, at that time.
Q Where were these rumors coming from?
A I have no idea.
Q But they were reaching the command post?
A Yes.
Q There was a lot of discussion in the Press about the role of Captain Williams. He was described as the commander of the police operation.
Is that an accurate description of his role, would you say?
A No, sir. It is very erroneous.
Q What was Captain Williams' position?
A Captain Williams was the man who was left at the command post, and the determination to leave him there was based on his ability -- he has a well-modulated voice. He is not prone to excitement, and
I felt that it would be beneficial to have a man with this type background and ability in an area that would necessitate the relaying of orders.

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

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

Q Was Captain Williams in the BCI?

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

Q Which was the Detective Force of Troop A?

A Yes.

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

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

Q Was it known how many projectiles they had obtained?

A Not to my knowledge, sir. No.

Q In preparing your plans and in reviewing them with your superiors, what consideration was given to the use of non-lethal force in subduing this
uprising and retaking the institution?

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

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

Q Was any consideration given to going in with tear gas and night sticks, but not with guns?
A Not to my knowledge.

Q Was any consideration given to rubber bullets? We read about them in Ireland.
A Not to my knowledge, sir.

Q Is there any reason why consideration wasn't given to these methods?
A Number one, to my knowledge, I don't think we have rubber bullets.

Number two: I think that we have a responsibility to our own people also. We were confronted --

Q By your own people, you mean the State Police?
A I'm talking about our State Police personnel
that we asked to go in and restore this facility to lawful control, and I personally would not ask any of my men to go in and be confronted with an excess of 1200 people without being properly armed, as described by the New York State Police.

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

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

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

A I don't exactly understand the question.

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

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

We have shot-guns available, and any time you feel a force that is going into a situation, then
I think it's incumbent upon whomever is making the plans to provide the people with the means that you are provided with.

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

A Yes, sir.

Q What kind of ammunition were the troopers issued?

A For the shot-guns, sir?

Q Yes.

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

Q Possibly some slugs?

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

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

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

Q Each of these pellets, I take it, is lethal
in its capability?

A Definitely.

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

A Yes, sir.

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

A I believe so, sir.

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

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

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

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

A I would say that the distance involved would
definitely have a bearing.

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

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

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

A Not to my knowledge.

Q Is there somebody in the State Police structure who makes the decision as to what kind of ammunition should be issued to the State Police and what the rationale is of the particular issues?

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

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

A That's correct, sir.

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

A I think it was unique, yes, sir.

Q Was there anybody in the State Police organi-
zation who raised with you the possibility that given the uniqueness of the problem, that perhaps they could requisition or obtain some other kinds of ammunition?

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

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

A  It depends on the range, sir.

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

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

Q  More readily?

A  Yes, sir.

Q  Would it cause lethal injuries?

A  I don't know, sir. It would depend on what portion of the body was struck by it. You are getting a big load going out in a number six. You are dealing with a nine -- I don't have any idea of a six, but it is many, many times more in excess of nine.
Q Were you aware of the National Guard's plan of operation Sky Hook?
A Not by name.
Q Are you aware that the National Guard had restrictions against using the type of shot of the double-0 shot?
A No, sir.
Q Was General O'Hara on the scene?
A Yes, sir.
Q Did you discuss your plans with General O'Hara?
A I believe he was consulted.
Q Now, General O'Hara had been the commander of the National Guard; am I correct?
A I believe so, sir.
Q In discussing the plans, was there any discussion with General O'Hara of the type of ammunition that was being used?
A I doubt it. I think we just used what had been provided.
Q Whose decision would it be as to whether to equip a trooper with double-0 shot or a rifled slug?
A I said that I thought that we had both there. I was under the impression that they were all
equipped with buck-shot.

Q Who's decision was it to use the .270 rifles?
A In part of the planning, I probably had a hand in it. Who specifically decided it, I don't know.

Q Does the State Police have available to it any other forms of high-powered rifles than the .270?
A No, sir.
We did have some .30/.30's, and I believe some .06's, but they were phased out and replaced with the .270's.

Q Were you aware of the characteristic of the wound caused by the .270?
A I'm sorry. I didn't --
Q Are you aware of the characteristics of the wounds caused by a .270?
A I don't understand that question, but here again, it would depend on what part of the body was struck by a .270.

Q Were you familiar with the types of bullets that were issued for the .270?
A I don't follow you, sir.
Q Do you know whether the ammunition issued for the .270 disintegrated on impact?
A No, I do not.
Q. They spread within the body; they muchroomed?

A. I do not know that either.

Q. Do you know whether it was steel jacketed?

A. No, I don't.

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

Q. And again, these decisions as to what kind of ammunition should be used, whether it should be steel jacketed, versus silver tip, were all made essentially by way of procurement policy rather than for the situation which was confronting you at Attica; you used what you had?

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

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

A. Not to my knowledge, no, sir.

Q. Was there an assault planned for Sunday?

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

Q. Were they in fact placed on alert?

A. Yes, sir.

Q. Were you told by somebody that there might be
occasion for your forces to attempt to retake the institution on Sunday?

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

Q  But this would have been from a civilian source?

A  No. It would have come from correction.

Q  By civilian, I mean from the Correction Department.

A  Yes, sir.

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

A  I believe it was Sunday evening.

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

A  Yes, sir.

Q  Who was present at the meeting, if you recall?

A  I don't recall exactly.

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

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

Here again, there were so many meetings,
and so much activity going on where people would participate to a degree and then go off onto some other area. To specify X number of people as individuals who actually participated in this, I couldn't do that.

Q Major, had you been told that the inmates had threatened to kill the hostages if the State Police moved in?
A Yes, sir.
Q Now, the hostages at that time were more or less in the center of D-yard.
A To the best of our intelligence, we believe that they were all in the center of D-yard, yes, sir.
Q How long did you estimate that it would take for your troops coming out of C and A-blocks, to reach the hostage circle?
A I didn't evaluate any time, because I didn't know exactly what they were going to be confronted with at these barricades.
Q But even if things went well, was it assumed that it would take several minutes?
A I can't give you a period of time, Mr. Liman. Our objective was to reach them as rapidly as possible and protect them.
Q Was there anything in your plan that would
have protected the hostages in the circle in the yard, which was where they were on Sunday, if the inmates were determined to cut their throats?

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

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

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

Q   Yes, sure.

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

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

A   Oh, I doubt it.

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

A   To try to reach them prior to this happening.

Q   Was it, therefore, the assumption that the inmates would not make an effort to cut throats at
the outset of your police action?

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

An assumption on whose part?

Q  On the part of the planners of this action.

A  I don't know what the assumptions were.

Q  What was your assumption, sir?

A  I was hoping that we could rescue the hostages without them all being killed.

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

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

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

A  As we were going in?

Q  Yes, sir.

A  No, sir.

I don't -- and maybe I am anticipating your questions. If you are getting at the scope equipment people, if they were going to be doing any shooting
into that yard, the answer is no.

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

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

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

A No, sir.

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

A Just the good Lord.

Q Right.

Well, when was the decision made to use gas
as the first step in the assault process?

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

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

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

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

A Tear gas. Utilizing tear gas projectile guns, and also canisters.

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

A Yes. Either fire it from a projectile gun or throw it.
Q Am I also correct that somebody in 1628
the National Guard suggested that they could provide
a helicopter with C.S. gas?
   A Yes, sir.
Q And you did not have either C.S. gas or a
helicopter in the State Police equipped to disperse
that gas?
   A No. We had a helicopter, but not equipped
to handle this type gas cannister.
Q Were you familiar with the properties of
C.S. gas?
   A No, sir. Not prior to the decision to use
it at Attica.
Q Before the decision -- who made the decision
that C.S. gas should be used?

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

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

A Yes, sir.

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

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

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

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

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

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

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

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

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

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

A Prior to?

Q Yes.

A No, sir.

Q You asked prior to.

Did you have a communication afterward?

A Yes, sir.

Q What was the communication?

A Telephone.

Q What was the nature of the conversation?

A He spoke to me.

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

A Yes, sir.

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

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