after I had come out at 10:00 in the afternoon. Looking back on it you don't really realize how emotionally involved you become with something until you consider what you say in the circumstances and I was asked to get together a group of National Guardsmen to go up on the catwalks, which I was never up on, to remove the bodies from there and I am afraid my response would not bear repetition either; that they had created the bodies, they could bloody well remove them. I was not particularly happy with the circumstances at that time.

MR. LIMAN: No, Doctor, before you conclude your testimony and the questions are asked of you by the Commission, I thought that we would put on members of the National Guard now to tell of their experiences and then the Commission can address their questions to each of you and everybody would have a right to make a statement.

THE WITNESS: Certainly, sir.

MR. McKAY: Will you remain standing to be sworn.

Do I understand correctly that we have Mr. O'Day, Mr. Futterman and Mr. Dill?

MR. LIMAN: Yes.

LOUIS FUTTERMAN, RONALD DILL, and JAMES O'DAY, having
MR. LIMAN: For the record, would each of you please state your name? Start with you, Mr. Futterman.

MR. FUTTERMAN: Mark Louis Futterman.

MR. DILL: Ronald Dill.

MR. O'DAY: James O'Day.

MR. LIMAN: Mr. Futterman, where do you live, in the Buffalo area?

MR. FUTTERMAN: Yes, sir.

MR. LIMAN: Is that also true of Messrs. Dill and O'Day?

MR. DILL: Yes, sir.

MR. O'DAY: Yes, sir.

MR. LIMAN: Your ages?

MR. O'DAY: 25.

MR. DILL: 21.

MR. FUTTERMAN: 27.

MR. LIMAN: Starting with seniority, Mr. Futterman, you are attached to the National Guard; am I correct?

MR. FUTTERMAN: Yes, that's right.

MR. LIMAN: What is your position in the National Guard?
MR. FUTTERMAN: At the time of the Attica incident, I was in C company of the 50th medical battalion and I was the section sergeant for the ambulance platoon. I was the ambulance platoon sergeant.

MR. LIMAN: Mr. Dill?

MR. DILL: At the time of Attica--I am a specialist for. I am a medical corpsman.

MR. LIMAN: And Mr. O'Day?

MR. O'DAY: At the time I was a private first class in the 152 engineers, company B.

MR. LIMAN: Mr. O'Day, you were called upon to assist in the evacuation and care of the wounded on that day; am I correct?

MR. O'DAY: Yes, sir.

MR. LIMAN: Even though that is not part of your normal duties in the National Guard, except as first aid?

MR. O'DAY: Yes, sir.

MR. LIMAN: Now, Mr. Futterman, are you involved in the medical field in any way?

MR. FUTTERMAN: Yes, I am in my second year of nursing school.

MR. LIMAN: Mr. Dill, do you work in the medical field?
MR. DILL: Yes, I do.

This year I will be graduating from Erie Community College as a medical technician.

MR. LIMAN: Mr. O'Day?

MR. O'DAY: No, sir. I am a student at the Conitious (phonetic) College, but I have taught regents biology.

MR. LIMAN: Mr. Futterman, what was your assignment at Attica?

MR. FUTTERMAN: Initially what my platoon was instructed to do was to evacuate with our ambulances what were identified to us as hostages to civilian hospitals for treatment.

Q How many members were in your platoon?

MR. FUTTERMAN: At the time we had approximately 12 men at Attica. We had some others, but they didn't all come with us.

Q How long did you remain at Attica that day?

MR. FUTTERMAN: Approximately from 10:00 until 7:30 or thereabouts. The time is really hard.

MR. LIMAN: Were you the man who requested permission to stay late to help?

MR. FUTTERMAN: Yes, sir.

MR. LIMAN: Now, what kind of work did
you do at Attica?

MR. FUTTERMAN: Initially what my platoon did was to evacuate the hostages and civilian personnel who needed aid. After that we were rather limited in the number of qualified medics who were there that day. We had—and this is true of the company in general. We had 34 or 40 qualified medics in the medical unit and after the hostages or civilians that we evacuated were moved, I went in with a team of doctors and our prime objective was the catwalk in the Times Square area and I was followed very closely by litter teams and for most of the day I worked between the catwalk and when that was evacuated of wounded, then I helped outside to give any type of emergency first aid that we could to doctors who were evacuating inmates who were brought out on litters and then after that I moved to the hospital area.

MR. LIMAN: Mr. Futterman, you have never been in combat, I take it?

MR. FUTTERMAN: No, that's correct.

MR. LIMAN: Were any efforts made to interfere with your efforts to render medical assistance to the inmates?

MR. FUTTERMAN: Initially when I went
to--when I went up on the catwalk in the Times Square area, I came across one inmate who appeared to be suffering from a sucking chest wound. We were taught in the National Guard that if you come across a person with a sucking chest wound you are to make the wound tight, the wound of exit and the wound of entry, so that there could be no lung collapse possible, if it hasn't already occurred. We were told before we went in that we weren't to touch any prisoners who weren't already stripped and searched.

MR. LIMAN: Who told you that?

MR. FUTTERMAN: We were told by--I was told by my first sergeant and by the company commander, who were told, in my presence, by what appeared to be correctional officers and at the administration building steps. When I reached this man I did try to apply an air tight dressing to the wound and I was stopped by a state trooper pushing me away. But I must say that there was a good reason for it.

MR. LIMAN: What was the explanation he gave you?

MR. FUTTERMAN: There was no explanation.

At first I thought that perhaps it was just that
he didn't want anybody touching

--as I said--then before they had been searched, the inmates had been searched, but I later found that the person that I was attempting to render first aid to had a hammer.

MR. LIMAN: How did you know he had a hammer?

MR. FUTTERMAN: It was pointed out to me at the time, a few seconds later.

MR. LIMAN: Who pointed out the hammer?

MR. FUTTERMAN: The state trooper.

MR. LIMAN: Where was the hammer when it was pointed out?

MR. FUTTERMAN: It was laying beside the prisoner.

MR. LIMAN: Had you seen the hammer when you first went to treat him?

MR. FUTTERMAN: No. This--I would like to say that this was the only time I was stopped from treating specific prisoners that I wanted to treat.

MR. LIMAN: Now, Mr. Futterman, did you come across 6 or 7 men in the corridor of the hospital awaiting treatment?

MR. FUTTERMAN: Yes. This was in the
afternoon.

MR. LIMAN: Would you tell us about that?

MR. FUTTERMAN: The men were in an area at the entrance--at the entrance of the hospital between the hospital area and E block, right in that area there. They were against the closed wall, the bottom wall. There were approximately 6 or 7 or 8 men on litters and we were told that they had initially been treated with IVs, pressure compresses and blankets and we were told that they were to get no further first aid.

MR. LIMAN: Who told you that they were not to get any further first aid?

MR. FUTTERMAN: Correctional officers who were guarding the prisoners specifically.

MR. LIMAN: Did they tell you what these men had done?

MR. FUTTERMAN: They told us that these were the ringleaders--the supposed ringleaders and they were the ones who had emasculated some of the guards and they weren't to be touched until further notice.

MR. LIMAN: Did you see a large black inmate brought into the hospital?
MR. FUTTERMAN: Yes, I did.

MR. LIMAN: Tell us about that; what his condition was before you--when you first saw him and what his condition was when you next saw him, and where did it take place?

MR. FUTTERMAN: On entering the hospital, the room--there was a large room to the left of the double doors opposite a glass guard station it appears to be, and basically what we were doing--the National Guardsmen, medics, what we were doing was moving patients from this holding room into the treatment area, which is where the pointer is indicating right now. As we were walking back and forth, I noticed that this fellow was brought in by a number of guards, a number of correctional officers, and he was walking eventually to the back of the--he was walking under his own power with no visible injuries at that time. He was walked to the back of the area out of my sight. The next time I saw him he was in the holding room. He was bleeding seriously from what appeared to be head wounds and he was being kept until the very last person to be treated. There were three guards standing over him with night sticks prodding him.

MR. LIMAN: Were you told what he had
MR. FUTTERMAN: Yes. We were told he was specifically the one who had emasculated guards and prompted them to commit acts of sodomy.

MR. LIMAN: What was he saying?

MR. FUTTERMAN: Nothing. Not a thing.

MR. LIMAN: Now, Mr. Dill, did you walk in when this man was being dealt with by correctional officers?

MR. DILL: Yes, I did.

MR. LIMAN: Could you speak in the microphone.

MR. DILL: I was working in the hospital that afternoon and I was assigned to get four men to form a litter team and walk through the hallway from the hospital to the HBZ reception center and to pick up--somebody must have called in and told somebody that we were to pick up a prisoner and I got four men and we walked down the long hallway to the reception center and we didn't know where to go, so I was in charge of the litter team and I just picked the first door. As we got into the reception center I turned--coming that way it would be a right turn and I walked into the first doorway just to find somebody to tell me where
the prisoner was and as I walked in I got the door a quarter of the way or half-way open and I saw correction officers, 5, 6 or 7--I'm not exact--bending over and beating on somebody that was on the floor and they told me to shut the door, that I wasn't allowed into that room. So, right away I didn't have any authority to say anything--I ran out of the room. I didn't run, I walked out of the room. I waited outside with my litter team. About 30 seconds later they came out and some man said that a correction officer told me that I could go in with my litter team and take the patient and when I walked in he was already on the litter, so we just left the litter that we took over into that room and picked him up, which was the big black man and he did have a laceration of the head and we brought him back to the hospital.

MR. LIMAN: What was he saying?

MR. DILL: He was, in my opinion, in a state of shock. He was delerious. He was crying emotionally and that's all he kept saying, "I didn't do it, boss."

MR. LIMAN: Were there any efforts to interfere with your treating--giving him treatment
at the hospital?

MR. DILL: Well, when I got to the hospital they were busy in what we called the emergency room and so they told us to lay him out in the hall on a stretcher and I went about on my duties in the hospital.

MR. LIMAN: Did you see him being guarded in the hospital?

MR. DILL: About half an hour later I was told to get into another litter team and we walked into the emergency room and picked the same man up. They wanted him to be taken to X-ray. So I got four guys and we carried him into the hallway that led--X-ray is in the back of the hospital, toward the right in a back room. And we picked him up and there was patients scattered all along the halls to X-ray. So we had a hard time taking him to the back of the hospital. And as we got there, there was somebody in X-ray, so we had to set him down in the hallway and at this time a correction officer that was walking with us grabbed one of the National Guardsmen who was just standing in the hallway and told him to guard him and the correction officer took the National Guard--you know, took his hand, because the National
Guard had a bayonet on his rifle and told him, "Put the bayonet at his neck," and told him that if he moved to kill him. The correction officer said this.

In the meantime, we stood around him and he was still crying, "I didn't do it, boss," and a correction officer went and got two state troopers and brought him back--brought the two state troopers back, relieved the National Guardsmen and the two state troopers guarded the man.

MR. LIMAN: With guns?

MR. DILL: No. With night sticks.

MR. LIMAN: Mr. O'Day were you given an explanation as to what happened to this man? Did somebody tell you something?

MR. O'DAY: I was outside when he walked in on his own power and then without entering the hospital I had heard the rumors that he had castrated some of the hostages or whatever it was and then while I was still outside I had heard the rumor that he had accidentally fallen down three flights of stairs or something to that effect.

MR. LIMAN: When you say you heard the rumor, who was passing this rumor about that that's
how he happened to become in-
jured?

MR. O'DAY: I can't really say who I
heard it from, sir. Probably--

MR. LIMAN: If you're not sure, then
let's not go into it.

Mr. Futterman, did you see any other
acts of mishandling of inmates?

MR. FUTTERMAN: Yes. I was working be-
tween the--at one point I was working between the
entrance to the hospital and the steps of the
administration building, helping to guide litter
team to the hospital area. At that time I no-
ticed that there were a number of men laying on
litters in front of the chain link fence, which
is in front of the HBZ area. At that time I
stopped to look at the people on these litters.
I wanted to make sure that they were all seen.
Some of them were crying that they hadn't been
seen and to the best of my knowledge everyone
that I had seen at that time was tagged. By
tagged I mean seen by a medic. We put field
cards on our patients to make sure that they
had been seen. It gives a brief description of
what to look for when they reach a hospital area.
At that time I heard a commotion. So, I turned around and one by one prisoners were brought from the administration building steps up the walkway to the HBZ area and at that time they had been stripped and they were walking or running with their hands behind their heads with correction officers behind them and they were brought to the steps of the HBZ one at a time so that the fellow behind the one who was on the steps couldn't exactly see what was happening. When they reached the steps of the HBZ they were asked what their name was and where they were locked and when they answered that question 6 or 8 correctional officers directly inside the doors said, "You want your amnesty? Well, come and get it" and at that point they were shown through the doors and beaten severely with clubs, night sticks, and they were beaten out of sight. They were run around the corner of a building, but they were beaten out of sight.

MR. LIMAN: Did somebody say anything about stopping it in your presence?

MR. FUTTERMAN: Yes. I witnessed about four such incidents in a period of a very few minutes and at that time a man in a white shirt
and blue pants came up to the steps and said to the men who were at the door, "You better cool it. There are too many witnesses."

MR. LIMAN: Did you also see an incident involving an inmate being brought in E block on a stretcher?

MR. FUTTERMAN: Yes.

MR. LIMAN: Will you tell us about that?

MR. FUTTERMAN: Yes. After a number of inmates were treated, they were put back on guernneys or rolling litters or some type of transportation and moved down the area past the mess halls to the E block and my men told me that when they took them down there initially they were able to take them right into the area. However, after a few teams had gone down there one team returned and told me that they were not allowed to go past the elbow in the corridor there. They told me that as they got to that area the correction officers took the carts and wheeled the inmates around the corner themselves and they heard noises to the effect of "Get off that thing, you son of a bitch," and they heard the cart being dumped and the sound of beatings.

MR. LIMAN: These were men who were on--
MR. FUTTERMAN: These were inmates who we had treated already and were being treated to cell blocks.

MR. LIMAN: On a wheeling form of stretcher?

MR. FUTTERMAN: Right. So I went down at that time myself to see what was happening and initially the teams were allowed to move along that corridor, which was guarded by correction officers and National Guardsmen without an escort. By the time I went down there a correction officer was walking with the litter and the same thing happened that I described before.

MR. LIMAN: What did he say?

MR. FUTTERMAN: He just said, "You are not allowed to go any further. We will take it from here."

MR. LIMAN: Did you hear any of the prison doctors express a comment about the wounded?

MR. FUTTERMAN: No. Nothing that I can remember right now.

MR. LIMAN: Did you hear any of them make any suggestions or express characterizations of the wounded?

MR. FUTTERMAN: The prison doctors or our doctors?
MR. LIMAN: Not your doctors.

MR. FUTTERMAN: Oh, yes. There was one incident which is rather detailed. If you want me to relate it, I will.

MR. LIMAN: I want you to relate it as it is.

MR. FUTTERMAN: Okay.

A black prisoner was brought into the emergency room area, which is the treatment room, and as he was carried in by the National Guardedics--our doctors and members of the Meyer disaster team were there already in the room at this time. The doctor said--

MR. LIMAN: Say it as it is.

MR. FUTTERMAN: The doctor said, "That nigger is a fucker and he should have died in the yard so we won't treat him."

MR. LIMAN: I have no further questions of you at the moment, but Mr. Bramlette has questions to pose to Mr. Dill and Mr. O'Day and then we will come back.

MR. BRAMLETTE: Thank you.

MR. O'DAY, you heard Mr. Futterman speak before about the wounded that were out by the wire
fence in front of the insti-
tution, and that they had been tagged. Did there come a time in the day when rather than being on the litter team you assisted a prison doctor in accomplishing that tagging?

MR. O'DAY: Yes, sir. Early in the day--

MR. BRAMLETTE: Could you move the micro-
phone? Just turn it a little more.

MR. O'DAY: At first I was a litter bearer and then after carrying one prisoner into the hos-
pital, whose floors, by the way, were covered with other stretchers, prisoners in which you could hardly step across the floors, we started pulling some of the prisoners outside in front of the wire fence and then as I went back into the--into A yard to pick some more prisoners up, I realized that there were many National Guardsmen around to man the stretchers and so I went over to these prisoners that we laid outside the fence and I started getting blankets for them and just trying to make them feel fairly comfortable. There was a security line very close to these prisoners that were laid outside the fence and as I was try-
ing to help these men cover up the--keep them warm,
put blankets on him, I was being harassed by the prison guards and the non-uniformed people in this security line. One of the prisoners then told me that it would be a good idea if we got some priorities for the prisoners who were hurt the worst and to see if we could get them in the hospital first.

So I went around looking for someone in authority who could accomplish this and where some of the people in the security line just said, "Well, just let them die, don't worry about them." Then I found a man in a white coat and he turned out to be one of the prison doctors and he said he was coming out for that purpose.

MR. BRAMLETTE: You began to help him?

MR. O'DAY: I stayed with the prison doctor.

MR. BRAMLETTE: So you were going around and talking to the prisoners before the doctor got there and expedited his work a little; is that correct?

MR. O'DAY: I was giving blankets. I wasn't really talking. The prisoners were saying things to me. I wasn't carrying on conversations with the prisoners until I started taking them
MR. BRAMLETTE: Could you tell me, please--let me get back a moment. What did you mean by your being harassed by correction officers?

MR. O'DAY: By the security line. There were some correction officers in this line and some not uniformed people. There was one man who had a wound and he asked for some water. I found out later his wound was a hole in the back, in the spine, and he asked for some water and the people from the security line yelled--I started to get my canteen out and they yelled, they told me not to do it and they told me, "Do you have any salt for his wounds?" And things like that and they were continually telling them that they were going to die.

MR. BRAMLETTE: In other words, his other remarks made it clear that the man who said this was not concerned about the fact that you might be doing harm by giving him water?

MR. O'DAY: Well, I was confused there. He was asking for water and I was trying to help him and the other people in the line were telling me, you know, let him die and all this and then I
heard a familiar voice—who was another National Guardsman—say, "Jim, you better not give him water. You don't know what his wound is," and that sounded reasonable to me, so I just wet his lips.

MR. BRAMLETTE: Mr. O'Day, as you went around doing this you were told the names, told the names by some of the inmates, is that correct, who were there wounded?

You were subsequently asked not to take those names, but did that occur for a time?

MR. O'DAY: As I first went along, I became familiar with all of their names because I was taking them. After my job of—I found out their numbers, their names and their injuries.

MR. BRAMLETTE: What was the purpose of your taking their names in addition to your helping tag the people for the doctor?

MR. O'DAY: Well, at first that was it, and after my job of taking—is that what you are referring to?

MR. BRAMLETTE: Yes.

MR. O'DAY: I had run across one particularly articulate prisoner who was quite afraid because if there was any prisoner who was lying
nothing wrong with him, he was forcibly gotten up off the stretcher and led back to I don't know where and he was shaky because he was trying to explain to me that he had dropped his glasses and they were being led out and without his glasses he is legally blind and that he had been hit on the head as they were trying to move him along and he was just dizzy.

MR. BRAMLETTE: So he wanted you to intercede for him with the security people?

MR. O'DAY: Well, he was just trying to explain to me with no purpose that that's what happened. Even though he couldn't see there was nothing really wrong with him now. He was shook up. So I told the doctor what was wrong with him and the doctor was not as rough on him.

MR. BRAMLETTE: Mr. O'Day, what I was trying to get at was the fact that you saw later a list of names of wounded in the paper and I believe you told me something in your prior talks that you were rather astonished when you read over the list of wounded. Can you just briefly tell me what astonished you?
MR. O'DAY: Yes. When I got home, I don't remember the numbers, 42 people were killed, and then there was a list of the wounded--this is the Buffalo Evening News--of about 100--100 or so, 110 or 20 and of these prisoners that I went through--

MR. BRAMLETTE: Who were wounded?

MR. O'DAY: Who were wounded, about 30 prisoners, about 6 of their names appeared on that list.

MR. BRAMLETTE: 6?

MR. O'DAY: 6, 7, 8.

MR. BRAMLETTE: Out of how many?

MR. O'DAY: Perhaps 30.

MR. BRAMLETTE: Let me ask you this: while you were in that area subsequently in the afternoon, did there come a time when another man was abused by prison officials?

MR. O'DAY: Twice, sir. Once after we had--were taking a break on the cell block side of the chain fence and the prisoners were still lying on their stretchers on the other side of the chain fence--we were just sort of getting a breather and we heard this singing. It was sort of--it was some sort of chanting or something.
MR. BRAMLETTE: Was this coming from one of the wounded inmates there?

MR. O'DAY: At first it was— you know, it was just there and then I looked over and saw that one of the prisoners was sitting up on the stretcher and was singing this. Then there was some--

MR. BRAMLETTE: Now, subsequently— what I would like to do is skip to subsequently what you saw happen subsequently to that man.

MR. O'DAY: Okay.

MR. BRAMLETTE: He was sitting up on the stretcher crying out, chanting?

MR. O'DAY: Right. And somebody yelled to him to be quiet and to lie down and he was just sort of singing to the sky and he started yelling "You're going to have to kill me, brother" or somebody or other and something like that and then about 3 or 4 uniformed prison guards appeared and he stopped the singing as soon as they appeared and they started walking over toward his stretcher and as they got closer and closer to him he got up on the stretcher and laid down and as they got to him he was lying down on the stretcher and they dumped him up and let him onto
the steps of the reception building and took him into the vestibule and before the door was closed--like they just beat the hell out of him with night sticks. He was on the floor in a fetal position yelling, "Enough. Enough." And they just kept beating him on the head, on the spine, you know, just beating him.

MR. BRAMLETTE: I see.

Is there some other incident of violent reprisal that you recall?

MR. O'DAY: Yes. Later in the day--later in the day we were--we went back to the hospital and realized that our duties were to take these prisoners who had been treated back to their cell blocks. So I went back into the hospital. We were in the front hall where you mentioned before those 7 or 8 prisoners were who were not allowed to be treated any further. I was assigned to one stretcher in which there was a large black man and both of his hands were bandaged, not tied, but bandaged. He was lying on his stomach naked and there were gun wounds in his legs and rear end.

MR. BRAMLETTE: Pellets? Could you tell?

MR. O'DAY: They were little holes,
about a quarter of an inch wide, and they had black rings around them. I don't know what caused them or anything.

Four of us--four of the National Guardsmen carried this man--

MR. BRAMLETTE: Excuse me, Mr. O'Day. Was he one of the 7; is that your recollection?

MR. O'DAY: He was in the front hall of the hospital.

MR. BRAMLETTE: I see. Please go on.

MR. O'DAY: We carried him back through some hallways across one of the courtyards--let me see. Where is the hospital hallway on there?

We carried him down the hospital, down that hallway and then we turned down that hallway and this is all rubble now and we went to the door in the center there and cut across this courtyard to the door--right--down there and then carried him straight down toward the front. Okay?

Now, that's in--in that area there is a central hall, like, leading off to different cell areas. Then we carried him down and back and in the center of that area there are many, many prison guards, uniformed prison guards, and there is also a mezzanine around that area and there
were prison guards up on that mezzanine and there were some non-uniformed people there and a small non-uniformed man came up and asked what was wrong with this particular prisoner and I told him that he had gunshot wounds in the legs and my telling him seemingly went unnoticed. He told us to put him down and we put him down and he picked the head end of the stretcher up and dumped this man onto his feet and the man then fell over onto his shoulder and really bounced off the floor. There was debris and slime water all over the floor. Then this non-uniformed man came out and pulled out a Phillips screwdriver and the man is lying on the floor on his back with his feet planted on the floor and the man said, "If you don't get moving--if you don't get up on your feet, you are going to get this right up your ass."

And then he did stick this man right in the anal area five or six times and the prisoner was lying--he didn't say a word, but just sort of pushed with his legs toward the cell block that this man wanted him to go into.

MR. BRAMLETTE: Away from the blows of the screwdriver?
MR. O'DAY: As he was pushing the man didn't strike with the screwdriver any more, but they just disappeared into that cell block.

MR. BRAMLETTE: Were there others there at that time? I don't recall if you mentioned that.

MR. O'DAY: There were four National Guardsmen on the stretcher. There were the other prison guards around and there were—well, this man was not in uniform, so that's who was around. I don't know how the National Guard felt. We knew that the civilian authorities were in control and not us. I know that we should have stopped this man, that it was a criminal act, but it happened so quickly and we were just awed by the fact that the prison guards were standing around and seemingly not even noticing it. And by the time the man was gone we couldn't do anything.

MR. BRAMLETTE: Thank you, Mr. O'Day.

Mr. Dill, I want to ask you if in the course of your working during the day, you saw any instances of mistreatment of inmates.

MR. DILL: Yes, I did. I went—
in the afternoon and right along outside along the 
fence where they kept the prisoners outside on 
stretchers there was the man that Jim was talking 
about. I took out a litter team--

MR. BRAMLETTE: That's down by the wire 
fence?

MR. DILL: Right. Right there. And I 
took four men plus myself and we went down to 
bring another patient into the hospital. And as 
we walked down we were going to pick this man up 
and as we were walking down, that's when he started 
singing and he was--he was singing a song, but 
he was looking up into the sky and I told the 
four guys that I had with me not to touch him; 
that I was going to see if I could get a state 
trooper or a correction officer to come with us 
because we didn't want to pick this man up since 
he was conscious and he was singing--we didn't 
want to get hurt by the man. So, we looked around 
and there was nobody--nobody would come to give 
us assistance with this man, so I figured I would 
go back to the hospital and tell one of the doc- 
tors or somebody in charge in the hospital. So, 
as we were walking back there was--there was be-
officers sitting on the front stairs of the reception center and they were just talking and shooting the breeze and they told this man to shut up; that if he didn't shut up they were going to make him shut up and he kept singing and he got up and he sat on a stretcher. Now, I turned around and I was still about--I was about 20 feet away from and when I saw him he had shotgun wounds of the side of the face and of the upper part of the arm and shoulder. And the correction officers walked toward his litter and he laid back down and as they reached his litter they tipped the litter over, knocked him down on the ground and they walked him into the reception center. So, I went back to the hospital and I started working again. This was about an hour later that I saw this man back in the hospital and when I saw him he had gunshot wounds of the lower abdomen, but I am not sure if he had them before he went into the hospital.

MR. BRAMLETTE: What about--you say that he was tipped off his litter. Were there other instances of that, where the correction officers at any time instructed you as to how
to carry these wounded inmates?

MR. DILL: Yes. In the beginning of the day I was working on some litter teams and we were bringing the litters out of the front door from the lats and we were walking the sidewalk to the hospital and as we were walking--we are trained as medical people that you are to bring the patients morale up and you are to be very gentle with an injured person. We were walking through the sidewalk and a correction officer came up behind us and said, "Why are you being so God damn gentle? He's only a nigger. Dump him. You know, bounce him around a little." He could not understand why we were so gentle with these people. This was a correction officer.

MR. BRAMLETTE: What about in E block; did you ever go down to there? Were there similar incidents or anything at all like that in E block?

MR. DILL: Yes, sir. I was told to take a patient with another guy, another National Guardsman to E block on a roller cart and as we walked down the hallway from the hospital to E block, just--right around there, there are a set of gates by the mess hall and there was a guard at that set of gates and the gates were locked
with a chain and as we approached, the guard told us to stop 15 feet before the first set of gates and he unlocked the door, came out and walked with us to the gates and then he told us to stop 15 after we got through the gates. He turned around, walked back to the gates and locked them and then he walked half-way up to the next set of gates, which is just before E block and as we got half-way to there the guards that were at the last set of gates opened the gates and met us and released the other guard and he went back to the first set of gates. Then we proceeded with this guard to the last gate. After we got through he told us to stop 15 feet--he locked the gates back and then he told us to stop and they wouldn't let us go around the bend into E block. And he asked what was wrong with the patient on the stretcher and he had shotgun wounds of the buttocks and upper thighs. And they told him that he would have to walk if he wanted to get back to his cell block and he told--well, I told the correction officers to plus the prisoner, that i don't think he was fit to walk to his cell block, but they made him get off the cell block and
a correction officer with a 2283 Thompson machine gun walked behind him, told him to put his hands above his head and as they were walking him to the bend that goes to the E block they made his say his name and they wanted to hear it louder and louder. And the louder he got, the more the correction officer said he couldn't hear him. It was just all verbal abuse into E block.

MR. BRAMLETTE: I would like to ask you what it was like when you returned to Buffalo from this mission. What was the reception that the
National Guard--

MR. DILL: Well, on the way back from Attica we heard that there were flight incidents of demonstrations on Lafayette Square on the radio, because we had all had radios in our ambulances that we brought from home and as we were coming back we had to get off the expressway onto Best Street and there were people standing around and we had a police escort through Best Street and as we were driving through--it is the colored section of Buffalo, and as we were driving through, the colored people were standing on the curbs and giving us the fist and, "We will
we got back to the armory our company commander asked for 7 volunteers to come back the next morning because we were all exhausted and he told us we can go right home. He asked for 7 volunteers to come in the following morning to clean up the ambulances and to unload all the medical supplies. So I volunteered to come in for the next morning and we were--it was about 9:00 the next morning and we were all working in the yard. We were washing ambulances and the garage is up front on Best Street, right across from the stadium in Buffalo and we had the gates locked. As we were walking from the garage into the armory bringing the vehicles back, there were people, colored people walking on the streets and that's all they were saying, "We will remember you" and "We will remember Attica." I remember this one incident. There was this one guy walking on the street, colored. He was very highly intoxicated and the gates were locked. He walked up to the front gates and he grabbed the gates and he was shaking them and he said, "We will kill you. We will remember Attica."
MR. BRAMLETTE: Did you hear yourself referred to, the National Guardsmen, over the radio or in the press?

MR. DILL: No, I did not.

MR. BRAMLETTE: Did any of you gentlemen?

MR. FUTTERMAN: Yes, I did. We heard over the radio that Mr. Kuntsler, after leaving the institution, had gone down into Niagara Square or Lafayette Square, one of the main squares down in downtown Buffalo, and was issuing statements as the National Guard is shooting at the prisoners and so forth and so on. And this upset us quite a bit since the medics, all of the company C were issued absolutely no--

MR. BRAMLETTE: I was going to ask you if you were issued any weapons.

MR. FUTTERMAN: No. The medics were not issued any weapons at all. We had no side arms, no rifles, no weapons at all, bayonets or anything. The only piece of equipment that we had that would be other than medical supplies was our gas masks.

MR. BRAMLETTE: Mr. O'Day, were you
issued a weapon?

MR. O'DAY: The engineers were given
their rifles the night before and we had no
bullets and as soon as we went into the court-
yard area--outside of the building, all our
weapons were stacked and so we did not have
any weapons when we were with the prisoners
except for that one incident in the hospital
where one of the National Guardsmen was told
to bring his rifle and stand over this man.
It was an unloaded rifle.

MR. BRAMLETTE: I want to clear up
just a couple of things and then I am finished.

Mr. Dill, when you described the man
who was taken into the hospital with head wounds,
hand wounds and then subsequently you saw him
come out and you noticed that he had a shotgun
wound, I believe you characterized it, in his
stomach, did you not at that time hear any
shots?

MR. DILL: No, I did not.

MR. BRAMLETTE: Very good.

Oh, yes, yes. Mr. Futterman, the doc-
tor who you described as saying to the black
man--saying about the black man, don't treat him,
did he have an accent?

MR. FUTTERMAN: Yes, he did.

MR. BRAMLETTE: Thank you.

MR. LIMAN: One more question, Dr. Cudmore.

When you returned to the base, did the colonel address you and give you instructions with respect to—relating to the experiences that the Guard had observed?

DR. CUDMORE: Yes, Mr. Liman, he did.

MR. LIMAN: What did he say?

DR. CUDMORE: We returned to Camp Orion before going back to Buffalo because that would be the last time all the units would be together before going back to their home armories. He held a formation of all of the troops that had been involved. I cannot give you a word by word quotation of what he had said, but the effect of which was, however, that we had seen things today that we thought were quite horrible. We had seen things—I think terrible was one of the words that he did use. We were to remember them. He didn't advise telling everyone freely about them throughout the city. However, when asked by appropriate authority we were to respond
exactly as to what we have seen.

MR. LIMAN: And you have done so?

(Continued on page 2289.)
MR. LIMAN: And you have done so?

DR. CUDMORE: Yes. Subsequently, since I have spoken with you—I have always kept my higher headquarters informed as to what I am going to do. I spoke to Alb4; Col. Quadget (phonetic), chief of staff to Gen. Baker, requesting any information concerning the hearings. His word relayed was "Go down. Tell it as it was" and that was it. "Tell the absolute truth."

MR. LIMAN: Mr. O'Day, you in fact did make a report to various investigative agencies of what you saw; am I correct?

MR. O'DAY: Yes, sir. The State Police came to the armory for a report. The FBI asked me for a report.

MR. LIMAN: And just to end on a note of what the National Guard's function is, because people may have come in late who are watching this; is it correct that the National Guard's function that day was to provide medical evacuation and assistance and it did not participate in the assault itself?

DR. CUDMORE: That is quite so. Although it is also fair to say that we were prepared to take part in whatever activities were required of us.
We did not fire at all. In fact, our main body did not get there until after the shooting had been completed.

MR. LIMAN: And no National Guardsmen fired his weapon as I understand it?

DR. CUDMORE: To my knowledge, the medical troops had no weapons and the rest had no ammunition.

MR. LIMAN: Thank you.

MR. McKAY: Dr. Cudmore and Messrs. Futterman, Dill and O'Day, several members of the Commission have questions and my particular questions are going to be addressed to you, Dr. Cudmore, but if anyone wants to supplement that answer, of course, he is free to do so.

I am interested and concerned about the fact that your alert was so late in coming as to the nature of the mission you would perform. You said in response to Mr. Liman's question that if you had known earlier you might have alerted your helicopter crews which would have assisted in the evacuation. What else would you have been able to do? Would you have been able to take different, more extensive equipment?

DR. CUDMORE: Yes. If we had known it
would have been in the area of 100 to 120 severely injured, we would have been able to take the equipment, if not the troops of the medical unit in Buffalo, which was a unit that I commanded until a year ago November and is capable of putting three times the amount of equipment on the ground and the unit that did go.

MR. McKay: Would that have changed what you did or--

Dr. Cudmore: It would have given us a greater volume. Had we had time to do so, I believe it would have been appropriate to use very little of the facilities of the hospital, but in fact to establish our own clearing stations as we were designed to do.

MR. McKay: And you would then have been in a position to ask for more medical personnel to join you?

Dr. Cudmore: Yes.

MR. McKay: From the National Guard units?

Dr. Cudmore: Right. I also believe that as our units are capable of producing only second echelon medical support, or so-called divisional level support, that had much forethought been given to the consequences of an assault with
weapons, a fixed installation should either have been established or should have been immediately alerted so that they didn't have to rush to get ready also.

MR. McKay: If you had known, if you had anticipated what in fact you encountered, would you then have been inclined to seek more major medical assistance of a type that you were not equipped to provide?

Dr. Cudmore: Yes, very definitely.

MR. McKay: What authority would you have had to seek that assistance?

Dr. Cudmore: I would have requested the same as from Gen. Baker as I was effectively his immediate staff officer during this operation. I would have requested through Gen. Baker to provide this.

MR. McKay: That would have meant civilian medical personnel, I assume?

Dr. Cudmore: Yes. The State of New York would then have contacted, as they did contact, Meyer Memorial Hospital, the county hospital, who sent out their emergency surgical teams that day.

MR. McKay: They were not alerted on Sunday; is that correct?
DR. CUDMORE: To my knowledge, they were not.

MR. McKay: Do you know when they were alerted?

DR. CUDMORE: I can only presume when they were alerted because of a related incident. As I am the disaster planner for the general hospital, they were looking for me about 10:00 o'clock that morning.

MR. McKay: Thank you.

And medical personnel--

MR. ROSENFELD: I might say, Dean McKay, from our investigation and our interviews of civilian personnel, we know they were not alerted until 10 or 10:30 that morning. They didn't arrive until, as Dr. Cudmore said, about 12:30.

MR. McKay: Then you spoke of some other civilian doctors being in the yard, but at the time you did not know who they were.

DR. CUDMORE: Correction, Dean. They were medical personnel. I would have judged them to have been trained medical personnel in that they were appropriately applying bandages and going about their job as if they had done it before, but
I did not have the feeling that they were physicians.

MR. McKAY: Did you ever find out who they were or where or where they came from?

DR. CUDMORE: I heard many opinions. I think perhaps the most valid is that they were civilian ambulance attendants who had been called to the scene. One I know was an ex-marine.

MR. McKAY: But you are not aware of any civilian doctors who were in the yard at the same time?

DR. CUDMORE: No.

MR. ROSENFELD: From our investigation and interviews with these people, we have determined that the people Dr. Cudmore saw were civilian ambulance drivers from the Saint James Hospital in Batavia and also the one veterinarian, Dr. Gardner, from Attica.

MR. McKAY: There has been testimony from you, Dr. Cudmore, that some of your assistants about the priorities of attention. Were you or was anyone officially told that hostages were to be treated first in all respects before inmates were to be treated at all?

DR. CUDMORE: As we were detrucking we
impressions from seeing that then.

It appeared that a number of the inmates, as they came through, were at least hustled through pretty substantially and there were clubs that we could see apparently going against them, but it was hard to tell in the film how severely they were being treated. I thought I gathered in your original testimony that you had impressions on it. That was the episode you recall.

DR. CUDMORE: Quite so. I tried to put the film clip that I saw last night into a time span. I would judge by the number of people that were lying on the ground it was probably just a little bit before I got to the area, because there were not as many people lying on the ground at that time as there were subsequently, when I got there.

Yes, to reiterate what I said previously, they were being brought down the steps, prodded from behind, which was difficult to see because they were coming out of a dark corridor, but as they were gotten to the back of the steps --

MR. McKAY: Excuse me. Just a minute. You had not yet at that time been in D-yard; is that correct?
DR. CUDMORE: Right.

MR. MCKAY: You went in after the clearing of those who could essentially walk out?

MR. CUDMORE: Yes. The walking wounded were all out of there. This was only my first trip through into D-yard. As they reached the bottom couple of steps, they would be hit across the legs, or attempts were made to poke them in the genitalia, to get them lying flat on the ground so they could begin crawling across the yard and as I said previously, I witnessed one gentleman hit sufficiently hard across the tibial area and then subsequently saw him with a fracture of that leg. He was walking or running down the steps beforehand and he wasn't walking afterwards, so I presume it was broken in either being struck or the fall afterwards.

MR. MCKAY: Mr. Wilbanks.

MR. WILBANKS: Yes.

First, Major Cudmore, how long were you in A-yard that day?

DR. CUDMORE: I'm sorry, sir. I cannot give you a specific time element. I entered the place around ten o'clock and I was out
by one o'clock in the afternoon, and I would say perhaps two-thirds of my time was spent in A-yard.

MR. WILBANKS: Were all the inmates out of A-yard? Was the strip -- the line of stripped inmates, were they out of A-yard by the time you left?

DR. CUDMORE: Yes, they were either all out or they were standing up in a column. We couldn't leave before they were all standing up, because as they were standing up you would find one or two were hurt and they had to be evacuated.

MR. WILBANKS: We heard some testimony that there were smashed watches and people were being beaten during the stripping process. Did you witness this?

DR. CUDMORE: That is correct.

The two episodes that I spoke of previously, the one when I was bandaging a rather tall black man and another was a light-skinned, but not Caucasian fellow. I witnessed two incidents. I must point out at this time that so much went on that day afterwards, that I attempted to remember specific instances, which you could be relatively sure of and those two instances I would not say were the
only ones that went on, but they are two that I remember specifically and could relate.

MR. WILBANKS: You don't recall any watches being broken?

DR. CUDMORE: Yes.

MR. WILBANKS: You recall that?

DR. CUDMORE: Yes.

MR. WILBANKS: You have mentioned that the troopers exercised some restraint in A-yard. Were any of the troopers doing this smashing of watches, or beating?

You didn't testify -- when you talked about the light-skinned man being beaten -- if that was a trooper or a correctional officer or what.

DR. CUDMORE: No. I can only speak for what went on in A-yard at that time. I did not see a uniformed State trooper strike an individual with a club.

MR. WILBANKS: So it was correctional officers who struck the light-skinned man; is that correct?

DR. CUDMORE: I believe so. Yes.

MR. WILBANKS: And you can't dis-
and park police? Do you know the difference in the uniforms?

DR. CUDMORE: The park people I can usually differentiate from the others. Yes, because there are some county sheriff's departments that wear uniforms that were fairly similar to the troopers. The troopers were all gray uniforms with the gas mask, and they also have the State crest on the shoulder, which makes them readily identifiable.

MR. WILBANKS: Could you give me an idea of the percentage of the inmates in A-yard that were struck; was it isolated, was it one out of ten, one out of fifty?

DR. CUDMORE: I would say if they weren't struck, it was only because of their own ability to avoid it. Once they were lying flat, they were not struck in any great percentage. These two were, as I say, isolated instances. There must have been several more. As they would be gotten up, stripped and put in their serpentine line before being run back out, several of them were hit. As they would go up the steps from A-yard into the corridor while they were being
run out there were people making gestures at them, but I don't think their enthusiasm for beating pretty much abated.

MR. WILBANKS: Did you see any resistance in A-yard, either verbally or physically?

DR. CUDMORE: No. A more subdued crowd or group I have not seen.

MR. WILBANKS: Mr. Dill. Did any inmates threaten or resist you?

MR. DILL: Well, there was one instance in the hospital. It was in the one hall where those seven people were laid out on stretchers that we were told we couldn't give medical treatment to. I was assigned -- that's all we can do to them, put compress bandages on and I.V. solutions. My job, for about an hour, was to go down the line every five minutes and check into the I.V. and their vital signs. So, as I was walking I stooped down to check the pulse on this one prisoner here, and it was a colored man, and he looked up at me -- and it really shook me, because I am there to help these people, and he just looked up at me and he said "Thanks, man, for saving me, because when I get out of here I will kill you."

MR. WILBANKS: Who stopped you from
MR. DILL: The correction officers.

MR. WILBANKS: Did any prison officer, any doctor, any medical person, tell you "Don't treat these people?"

MR. DILL: No.

MR. WILBANKS: Just correction officers?

MR. DILL: Yes, sir.

MR. WILBANKS: Mr. O'Day. Briefly, you mentioned the screwdriver incident. Were you told why you were to take this fellow to A-block? You were told to take him over there.

MR. O'DAY: I was just told that he was going back to his cell.

MR. WILBANKS: In the incident in which you related, was there any verbal abuse or any language used in connection with this on the part of either the inmate or the correction officer?

MR. O'DAY: The inmate was completely passive. There was no verbal abuse, except the man with the screwdriver who told him he'd better get up on his feet or he is going to get it.

MR. MCKAY: Bishop Broderick.
BISHOP BRODERICK: I think you, Dean, have taken most of my questions.

This is Doctor Cudmore. Doctor, how many other medical doctors were out in the yard when you got there?

DR. CUDMORE: There were none in the yard. We brought seven with us as National Guard personnel.

BISHOP BRODERICK: Were they identified as doctors?

You said you had a green uniform on.

DR. CUDMORE: The only way you could identify a doctor was by the doctor's insignia he would wear on his collar. We were wearing the standard National Guard uniform, which is green, plus since Viet-Nam, the brass has been made black, or a subdued brass, and you would have to look pretty close to identify a doctor from an artillery officer or anybody else.

BISHOP BRODERICK: The Dean asked a question about priority.

We have been hearing that the hostages were given first priority, but as you say, Doctor, when you arrived there most of the hostages were taken to the hospital; is that correct?
DR. CUDMORE: I can only give after the fact testimony to that. The hostages were gone and the wounded prisoners were still there, so presumably the hostages were given first priority.

BISHOP BRODERICK: So no inmate was neglected really medically speaking?

DR. CUDMORE: Medical neglect is a relative term.

BISHOP BRODERICK: Let me say, like the Good Samaritan, no one passed anybody by to go someplace else?

DR. CUDMORE: While we were there in attendance, no. As Counsel Liman brought out, we could have better prepared for it had we been better informed, so relative medical neglect may have been present, but absolutely at that time, everyone was treated the same as we came upon them.

BISHOP BRODERICK: Then the last -- one question, Doctor, is about the gas used. Had you had any experience before with this type of gas?

DR. CUDMORE: Yes, I had undergone -- as the company commander for six years, I had
undergone gas training with it.

BISHOP BRODERICK: Would this have an effect on the lungs?

DR. CUDMORE: Yes.

BISHOP BRODERICK: You spoke of a man who died. Was it of pneumonia?

DR. CUDMORE: No. He died of pulmonary edema, which is fluid in the lungs, which in this case would not have been due to gas, but was more likely due to either a chest wound or to severe shock.

BISHOP BRODERICK: If someone has a weakness of the lungs, the gas certainly wouldn't help it, it would agitate it, I assume.

DR. CUDMORE: The gas does tend to agitate it.

BISHOP BRODERICK: Then I just have a buckshot question here for anyone on the panel.

We spoke about watches being broken, the watches mentioned -- the fact that there were some watches broken. Did you see any evidence of eyeglasses being taken, or dentures removed, being asked to be removed?

MR. DILL: No, sir.

MR. FUTTERMAN: No, I didn't.
BISHOP BRODERICK: Thank you.

Mr. McKay: Mr. Wilbanks has another question.

MR. WILBANKS: Mr. Dill, you mentioned that you were standing in the hallway where the seven men were against the wall. Did the condition of those persons, due to the fact that they weren't treated for a substantial period of time, did the condition of any of those persons deteriorate seriously?

(Continued on page 2307.)
MR. DILL: I can't answer that because I am not a doctor.

MR. PUTTERMAN: I would like to answer that. I can't say that because they were not treated their condition deteriorated, but there was one man who did die either while he was being brought to that area or while he was in the area and he was not removed from that area. At the time when we set up the hospital area I was in charge of setting up one room which was to be used as a mooring and we did have three bodies in there at the time that I noticed that this man was dead and he was not allowed to be moved at that time.

MR. McKAY: Dr. Cudmore, did you want to speak to that, too?

DR. CUDMORE: Yes, please. In perhaps more an answer to Rev. Broderick's question on the level of medical care, while in fact we could have done better had we had more time to prepare for it, I think we had to look at this in the context of what the average civilian will get in care if he is going down one of our expressways or one of our parkways in Buffalo and he is in an
accident. We treated these people within half an hour to 45 minutes, with the exception of the ones in C yard, those were closer to an hour. It is not unusual in civilian practice to receive people in the hospital who are badly injured whose time of injury was two or three hours before they are brought to the hospital. I have sat on an expressway one night maintaining an area on a fellow who had been in a car accident and it was a good 45 minutes until any civilian ambulance arrived. In contrast to that would be the soldier shot in Viet Nam with his own troopers that could be evacuated and in a fixed medical installation within a half hour. They say within 17 minutes. The medical care that the prisoners got initially and subsequently at Meyer Hospital I would have to say is probably not quite as good as the regular members of the armed forces, but probably better than that you would get if you are in a car accident going home.

BISHOP BRODERICK: Doctor, pardon me. I appreciate the answer to my question. The thrust of my question wasn't any kind of neglect
medically. It was merely we have been hearing that the inmates were completely neglected, were the last men on the priorities and I just wanted to know whether this in effect did happen and you certainly would be able to tell us.

DR. CUDMORE: Right. In the 10 minutes or whatever the time was between the shooting and the time we got there I can offer no opinion, but subsequent to that, because to be quite frank, you couldn't tell an inmate from a hostage anyway. They were all—they were shot. They were wearing greys, grey sweatshirts and stuff. Unless you had prior knowledge that there were no black hostages, which we didn't have, you know, they had not been described, you would not be able to know.

BISHOP BRODERICK: Isn't there a medical phrase judicious neglect or benign neglect or whatever the word is?

DR. CUDMORE: I believe that is more a phrase subject to Mr. Moinahan of the Kennedy Administration.

BISHOP BRODERICK: I think he paraphrased judicial neglect which is used
sometime in medical circles.

DR. CUDMORE: No. If you have an overwhelming number of injured individuals and you have available supplies, you have available manpower—you put everything you had into treating the most severely wounded one who is on the point of death, you might not only lose him, but lose four or five others whom you could save if you gave them medical treatment.

There is in the doctrine of triage a category known as expectant. This is an euphemism obviously. This is someone who is so severely wounded that he cannot be treated at this moment because to do so would deny other people who have a far better chance of survival of that chance.

BISHOP BRODERICK: Thank you, doctor.

MR. McKAY: Gentlemen, I think you are aware of our procedures, which means that after you have been generous in answering our questions, and indeed you have been, you have an opportunity, each of you, to make a statement about anything that you think the Commission should hear or that the public
Is there any one of you or more of you who would like to make such a statement?

MR. FUTTERMAN: I would like to talk on behalf of the feelings of the medics when they returned and subsequently and let the public know exactly how we feel, and I'm sure this goes for the majority of the guard members who were at Attica at the time of this insurrection. It seems that whenever there is an incident which is not quite as pleasant as we would like it to be, for instance the Kent State incident, the National Guard is singled out as a body of fanatics, almost. It seems that the morale of the Guard would be a lot—a lot higher if at certain times more of the truth in the pleasant situations were brought out.

The members of my unit, and I presume the members of other units that participated at the Attica uprising were subsequently given metals for meritorious service to the State. These metals were treated with such scorn that half of them weren't even accepted because of what opinion we felt the public would have of
what happened at Attica because of selective news reports, which we didn't feel brought us out in a very favorable way and at this point I would like to take this sounding board--I would like to take the opportunity to use this sounding board to just express a desire that more of the beneficial aspects of the National Guard be brought to light. My company alone has given physicals to underprivileged members of the Boy Scout organizations in the five hundreds each year so that they might be able to go to summer camp for two weeks. This is something that's probably known by very few.

We also are in the process of developing programs by which we can work in the hospitals to help as much as we can. I'm sure there are other units of the National Guard, such as engineers, who I know at lease once or twice a year go to Camp Ditmar, which is a Boy Scout camp, and use their heavy equipment to aid in either the improvement or the maintenance of facilities of this nature and I would like, as I said before, to take this opportunity to express the feelings of the
guardsmen in this area.

MR. McKAY: Thank you.

MR. LIMAN: Mr. Futterman, I want to say, having spoken to all of you, that I think by coming here and relating the experiences which were unpleasant which you observed, you have done very well for your unit.

MR. FUTTERMAN: Thank you very much for your cooperation, too.

MR. McKay: Dr. Cudmore.

DR. CUDMORE: Dean McKay, I am proud to be in the National Guard after listening to my enlisted personnel and also watching their activities that day and subsequently I am even prouder to be so. I think Attica brings to mind several things. The first is the basic inhumanity of man to man, the veneer of civilization as we sit here today in a well-lit, reasonably well appointed room with suits and ties on objectively performing an autopsy on this day, yet cannot get to the absolute horror of the situation, to people, be they black, yellow, orange, spotted, whatever, whatever uniform they wore, that day tore from them the shreds of their humanity. The
veneer was penetrated. After seeing that day I went home and sat down and spoke with my wife and I said for the first time being a somewhat dedicated amateur army type, I could understand what may have happened at Mai Lai. I am sure that the prison guard people who were guilty of the euphuism of expressive violence went home to their families that night--

MR. McKAY: Hold on, Dr. Cudmore.

The reporter is out of paper.

DR. CUDMORE: As we were saying, the people who are guards there of the prison went home that night and were perfectly normal individuals. I can only make an appeal to them to realize that if you beat them with clubs, you stab them, whatever side of the moore you are on, they are going to bleed. They are going to die. They leave widows. They leave children. We created an awful aftermath at Attica. Whatever the cause of the rebellion was--and I have no grounds or professional ability to judge it, but the after effect rather than polarizing individuals, rather than having the fellow going up to the fence, to the sergeant and telling him the next day
"I am going to kill you if I get a hold of you" has got to make people realize that killing only leads to more killing.

I would say to the community members who were incarcerated at Attica and their fellow people the system there obviously isn't good when you look at it that day.

Another aspect I got was I would in no way ever want to do anything to get in that place as an inmate. Whatever you do, you must realize that people are people regardless of skin, regardless whether they wear a green uniform, a white uniform or sit on a panel judging the actions that took place last fall.

I thank you for the opportunity of testifying.

MR. McKAY: Dr. Cudmore, you and your associates who have been with us today and others of the National Guard who have testified to our staff have done much to bring to us and we hope in turn to be able to bring to the public the sense of reality that you have conveyed to us. We are most grateful for your being here.

Mr. Futterman or Mr. Dill or Mr. O'Day,
do you wish to make a further statement?

MR. DILL: No, I think Mark and Dr. Cudmore said it all.

MR. O'DAY: No, thank you.

MR. McKAY: We have much appreciated your being with us and the great cooperation you have given in all respects.

MR. ROSENFIELD: While Mr. Berger is getting set, I may tell the members of the Commission that Mr. Berger has, with the help of some of our part-time people, been actively engaged for many weeks in working on a detailed report of the results of all of our interviewing of inmates, National Guardsmen, correction officers, state troopers, prison officials and medical records in this whole area on which we have been hearing testimony.

Mr. Berger, who don't you start out by describing what you did.

MR. BERGER: Okay. We have conducted an investigation of the claims by inmates of acts of mistreatment following the assault on September 13. For this purpose we have examined closely a medical inventory which was made on September 21 of Attica inmates, which describes
the extent and seriousness of the injuries.

The inventory was conducted at the urging of the Goldman Panel which requested that all inmates still at Attica be examined for post-assault injuries. The Goldman Panel, in connection with Dr. James Bradley, the Medical Director for the Department of Corrections, secured the voluntary services of nine doctors from the Buffalo area to conduct the examinations. These doctors, four of whom were black and three Spanish-speaking, arrived at Attica on the 21st at approximately 9:30 a.m. and were instructed by Dr. Bradley to examine each inmate regardless of whether he complained of injury.

The doctors were accompanied on their rounds by correction officers who acted as guides and secretaries. The doctors examined 1,120 inmates between 10:00 a.m. and 2:00 p.m. They then gathered with Dr. Bradley and reported that all injuries found were a week old.

Our analysis of this inventory indicates that 700 of the 1,120 inmates examined were in D yard. Since there were a
total of 1,260 inmates in D, the 700 represents 55 per cent of the D yard population. The remaining 560 D yard inmates had been transferred to other institutions by this date and were therefore not available for examination.

Conversations with two deputy superintendents indicate that the 560 transferees were chosen on a random basis.

Therefore, it is reasonable to assume that the 700 interviewed is representative of the inmates in D.

Upon further examination of these 700 reports, we found that 315 reports, or 45 per cent, reflected reprisal injuries. We defined reprisal injury as one more serious than abrasions of the knees or elbows since these abrasions appeared on almost every inmate and occurred while the inmates were crawling across A yard.

MR. ROSENFELD: Mr. Berger, before you go on, I just want to ask you, this medical inventory was made up on the 21st or 8 days after the 13th?

MR. BURGER: That's correct.
MR. ROSENFIELD: So would you have an opinion that the 45 per cent statistic may be on the conservative side?

MR. BURGER: Very definitely.

We further concluded that 32 of the 700 inmate reprisal reports, or 4.5 per cent, reflected severe reprisal injuries. We defined a severe reprisal as either (1) an injury to the head or groin; or (2) at least four abrasions or contusions or lacerations or a combination thereof to various parts of the body. These severe reprisals included fractured ribs, broken arms, lacerations of the scalp and neck and contusions of the groin and of the testicles.

In addition, we found that 116 of the 315 injured inmates, or 36 per cent reported the loss of their glasses and/or dentures.

And finally, in examining the reports of the 370 D yard inmates who were uninjured, we found that 125 or 32 per cent, also lost their glasses and/or dentures.

Thus 440 inmates (315 injured plus 125 who lost glasses and/or teeth), or 63
per cent of the D yard inmates included in this inventory, suffered an immediate consequence following the assault.

To verify the extent of reprisals derived from the medical inventory, we sampled 240 Comm. staff interviews of inmates who were in D yard. We found that 50 per cent of this group reported to us that they were beaten. Another 10 per cent flatly stated that they were never hit. The remaining 40 per cent either refused to talk or failed to mention reprisals.

We believe that this 50 per cent figure, as I have already stated, Mr. Rosenfeld, is a conservative reflection of the number of inmates who were hit on September 13.

MR. ROSENFELD: Before you go on, Mr. Burger, on the question of glasses and dentures, our interviewing of all of these authorities has indicated that glasses and dentures were routinely taken from inmates in A yard and this has been acknowledged by the authorities.

MR. BURGER: Oh, surely. Right.
Regarding race and reprisals.

Regarding the race of inmates who suffered reprisal injuries, we first calculated that at the time of the assault, 73.3 per cent of those inmates in D yard were black and Puerto Rican. However, only 66 per cent of those inmates who appeared from our records to have suffered reprisal injuries were black and Puerto Rican. And, further, only 70 per cent of those severely injured were black and Puerto Rican. Thus we conclude that black and Puerto Rican inmates as a group were not singled out for more extensive beatings in the post-assault period.

Regarding age we have checked the age of each inmate shown by the medical inventory to have been injured and compared the number of injured inmates in each age range with the total number of inmates in each age range in D yard. There was no correlation between the age of the inmate and the likelihood of his being hit. In other words, younger inmates were also not singled out for more extensive reprisals.
MR. ROSENFELD: According to the statistics?

MR. BURGER: Right.

Now for a description of the areas where the beatings took place.

D yard. According to our interviews of those who were present in D, the beatings there were not extensive. However, beatings did occur as inmates were being moved towards D tunnel door. Inmates informed that if they offered any resistance to commands they were struck with clubs or gun butts. As one correction officer stated we were not taking any guff.

D tunnel. Reports from different sources indicate that troopers and correction officers struck inmates as they were passing through from D to A yard. Correction officers also clubbed inmates found near D-block after the assault.

MR. ROSENFELD: This is the area that Dr. Cudmore mentioned in his testimony?

MR. BURGER: Exactly.

A yard. The beatings in A yard were sporadic but often severe. Participating in
the beatings were correction officers, troopers and sheriff's deputies. Inmates informed that they were hit when they entered the yard through D tunnel door, when they were crawling towards the center of the yard and when they were unable to rip their clothes off fast enough to satisfy the correction officer, trooper or sheriff's deputy supervising this operation.

MR. ROSENFIELD: This is the general concensus of the interviews we had with inmates who were in the yard.

MR. BURGER: Exactly.

A tunnel in A-block.

Our analysis of 1600 inmate interviews indicates that the greatest number of beatings took place in A tunnel and A-block. Our further analysis reveals that the beatings were especially severe along the galleries and stairways rather than in the tunnel. Although most of the inmates were struck in the back or buttock, a number of inmates received serious reprisal beatings as reflected in their medical inventory reports.

HBZ or segregation area. The most
severe beatings occurred here.

The medical inventory reports for the inmates taken to HBZ indicate that the injuries these inmates suffered include: two fractures of the rib, lacerations of the left eyebrow, lacerations of the nose, thigh and back, a broken arm, a broken elbow, nine abrasions and contusions to various parts of the body and a laceration of the forehead.

These beatings were administered by correction officers and they occurred on the circular stairway leading to the 3rd floor of HBZ as well as on the grassy area outside the Reception Building, and have been confirmed by National Guardsmen, troopers, inmates and one correction officer. One trooper informed us that the beatings by a group of correction officers who had found a small gauntlet in front of the Reception Building were so severe that he had to turn his head. This occurred at about 1:00 p.m. September 13.

However, the beatings were most intense along the circular stairway leading to HBZ, which is on the third floor or Reception. Inmates housed on the second floor in the Observation
Unit reported that HBZ inmates were run up the stairs one at a time beginning about 1:30 p.m. An inmate's presence on the stairs was usually preceded by a yell from the officer stationed on the ground floor that another was coming up. Four or five HBZ correction officers would then position themselves along the stairway. The inmates in Observation on the 2nd floor reported to us that they heard the unmistakable sound of clubs smacking flesh and bones, followed by various inmate cries and moans.

Those inmates already housed in HBZ also reported that they heard the beatings on the stairs and witnessed much verbal abuse directed towards the inmates as the officers were dragging them down the gallery to the cells. One officer sprained his wrist in these beatings and reported in his interview with us that he appeared the next day wearing a wrist bandage.

Another officer who was involved in the beatings on the ground floor of reception reported that he is still ashamed of his activities at HBZ on that day.
Significantly no Attica lieutenant or deputy superintendent visited HBZ on 9/13 to oversee the operation there. Furthermore, no Correctional Services Department officials appeared at HBZ that afternoon. The sergeant in charge of HBZ informed that he saw no beatings and remained on the ground floor of the Reception Building.

E-block. Inmates housed here have informed that they observed incoming inmates being thrown off stretchers and beaten. Other inmates received inadequate medical attention. Most reports mention one officer as enthusiastically participating in the beatings.

Inmates and National Guardsmen also report that correction officers placed blankets over the E-block cell doors, preventing inmates housed therein from further observing the reprisals which continued thereafter in the area surrounding E-block. However, informed that they could, nevertheless, hear the beatings continuing thereafter.

The hospital. At the prison hospital inmates report that they were mistreated or ignored by prison medical personnel. We have
also received reports from at least four inmates that an inmate who had been mortally wounded was placed in a room on the second floor of the hospital. A correction officer thereafter locked the door and barred all from entering. The inmate later died. Our pathologist has concluded that this inmate could not have been saved by prompt medical attention.

We have also received inmate reports that inmates in the hospital were abused on Saturday and Sunday nights before the assault.

MR. ROSENFIELD: I also want to say that our pathologist has also stated that except for that one inmate who was mentioned in yesterday's testimony who was found later in a trench underneath the sidewalk in D yard, that except for that inmate none of the inmates who died died because they did not receive prompt medical attention. They all would have died anyway and he is not certain about that one.

MR. BURGER: Right.

MR. ROSENFIELD: These were all irreversible fatal gun shot wounds.
MR. BURGER: Reprisals

on the evening of the 13th. We have received inmate accounts similar to that of inmate Perry Ford who testified at these hearings that several inmates were taken out of their cells on the evening of September 13 and led back to A yard where they were made to crawl on their knees with a gun to their head. This could be seen by inmates from the cell galleries that faced A yard.

Inmates in A-block informed that they were awakened every half hour that night by correction officers and troopers and told to stand in their cells for the count. Those who refused to stand were threatened and abused.

Beatings on the following day, on the 14th. At least nine inmates were beaten on September 14 as they were being taken at approximately 9:00 a.m. from HBZ to be shackled for the bus ride to Great Meadow Correctional Facility at Comstock, New York. This information was obtained from our interviews of those beaten and was verified by HBZ and C-block inmates who were transferred
Those who verified the beatings were standing in C corridor and describe a gauntlet of twenty correction officers and troopers lining the area between the reception building and the hospital and were beating those inmates who came through. At least three of those inmates who observed the beatings further informed us that an officer selected the HBZ inmates who should be beaten most severely.

Further this officer is said to have made the HBZ inmates yell various epithets, including "I love pigs".

A supervisory officer informed us that when he observed officers using excessive force in preparing inmates for transfer to other institutions, he ordered the officers to act in a professional manner. Apparently they did stop since none of the other inmates transferred to Great Meadow that day informed that they were beaten before their departure.

Reprisals at other institutions.

Inmates who arrived at Great Meadow on September 14 were met by a line of 200 officers
who menaced the inmates but did not hit them.

Those arriving there on the 24th were lined up for role call and instructed to step forward when their name was called and say "here sir." We have been told by a few inmates that those who refused were beaten.

At Clinton Correctional Facility a few transferee's heads were shaved upon arrival so that they could be observed more easily. We have received reports of beatings on September 15, the day following the transferees' arrival there. Also inmates related that they were keeplocked for excessive periods of time, one until after Thanksgiving at Clinton for administrative reasons.

We received no reports of reprisals from transferees to Green Haven Correctional Facility.

MR. ROSENFIELD: Mr. Burger, would it be fair to say that the concensus of our interviews with inmates transferred to other institutions is that in any case they were singled out as being men who came from Attica,
whether they were in the yard or not?

MR. BURGER: That's very true. In many cases they were segregated in special housing units and treated quite differently for the first couple of weeks after their arrival.

Returning to A yard for some added details, we have received reports from National Guardsmen of correction officers taking off inmate watches, tossing them into the air, and striking them with their clubs, as if they were playing baseball.

While inmates were being stripped and paraded through the yard, correction officers identified approximately 48 inmates, most of whom were considered ringleaders, placed them against A tunnel and block walls, marked the backs of some inmates with X's and later led these inmates to HBZ. While these inmates stood against the tunnel walls, they were subjected to a torrent of verbal abuse.

Officers also separated about fifteen Black Muslim security guards who had been found in the hostage circle and placed them in a
corner at the junction of D tunnel and D-block walls. A state correction official, National Guardsmen and inmates indicate that one of the HBZ designees, a large black man, was ordered to lie on his back across one of the chess/checker tables with a football balanced under his chin and shot gun shells on his knees. Inmates who were crawling along in A yard were then ordered to "look at their leader now."

Inmates, National Guardsmen and photos taken by a sheriff's deputy confirm that other inmates placed against yard walls had to balance shot gun shells on their knees and chest while under the threat of physical harm, including death, from the officers if the shells should fall.

Inmates also report that other ringleaders were ordered to stand facing the yard walls with their hands separating their buttocks.

Finally, inmates and National Guardsmen have informed that persons on the catwalks overlooking the yard dropped cigarette butts, ashes and spittle on some HBZ designees.
MR. ROSENFE LD: Mr. Burger, would you explain in a little bit more detail what our information is as to the inmates who were marked with X's? How was that done and for what purpose as we understand it?

MR. BURGER: The marking was done to identify the ring leaders so that they can later be taken to HBZ.

MR. ROSENFE LD: What was the marking done with?

MR. BURGER: The marking was done with chalk and as far as we know, persons who were marked were solely corrections officers.

Finally, inmates and National Guardsmen have informed--The stripping and searching continued until about 3:30 that afternoon. During the course of this operation a sheriff reported that he had to discipline three of his deputies who were "over-excited."

Further, an Attica sergeant ordered a number of officers to leave the yard when they became uncontrollable. Lastly, official state reports have confirmed inmate accounts that a state trooper lieutenant walked through the yard reprimanding law enforcement personnel
there for treating the inmates "like cattle."

Moving again to A tunnel for a description of the gauntlet's origin and composition.

A tunnel and A-block. We have been informed that the first inmates who returned to their cells beginning at approximately 10:30 a.m. were accompanied by correction officers. However, it soon became apparent that this method of rehousing inmates was too time consuming. It was then decided to line A tunnel and block with correction officers and troopers, to insure that the inmates locked in without incident. From our interviews with officers and troopers, we have concluded that approximately 15 correction officers and troopers placed themselves at ten-foot intervals along the tunnel. Another 10 officers and troopers lined each gallery. One correction officer also stood at A tunnel door regulating the flow of inmate traffic from A yard.

The first group of inmates through the gauntlet were met by troopers and correction
officers who brandished their clubs and verbally abused the inmates. Soon law enforcement personnel were striking their clubs against the walls rather than brandishing them. Thereafter they began striking the inmates that were involved.

MR. ROSENFIELD: Mr. Burger, this is again the composit of inmate interviews that you are referring to?

MR. BURGER: Not only inmate interviews, but also interviews with correctional officers who were in the areas and came to the same consensus.

MR. ROSENFIELD: Would you know more to what was done with the personal property of the inmates?

MR. BURGER: Sure.

In A-block, after the assault, correction officers and troopers were assigned to empty A-block cells of their contents. All inmate belongings were piled onto the galleries and later taken to the prison dump where they were buried.

B and D blocks had been trashed and looted during the takeover and the days
thereafter. Following the assault, these blocks were sealed by order of Judge Fisher. When they were finally reopened, prison personnel informed that most personal property, including legal papers, had been damaged and was thrown away.

Officers informed that they were assigned to clean out C and E blocks of contraband on the 14th and thereafter. A deputy superintendent stated that he observed these officers completely cleaning out these cells, destroying legal papers as well as unauthorized articles. He then ordered the officers to stop destroying legal papers as well as other authorized articles.

MR. ROSENFIELD: Now, Mr. Burger, in the course of your preparing this report, did you have occasion to make some inquiries about the replacement of legal papers?

MR. BURGER: I did.

MR. ROSENFIELD: Would you relate your experiences to the panel?

MR. BURGER: Right. I was informed through the Goldman Panel that the Department of Correction agreed in October 1971 to pay
the cost of replacing all legal papers of inmates who had been housed in A-block only before the disturbance. They, the correction officials, limited replacement to A because they believed that only in that block were all legal papers destroyed as a direct result of the State's decision to clean out the cells. Last week I called Albany and inquired how many sets of papers have been replaced. I was informed that none had been. I was surprised at this figure since there were 500 men housed in A-block, most of whom had legal papers which was necessary for their appeals.

When I asked why none had been replaced, I was informed that the Department of Correction had never notified former A-block inmates that the State would pay the costs and assist in the replacement of papers.

I then spoke with the deputy commissioner with responsibility for this area. After I informed him that I was quite concerned with this matter, he agreed to notify all former A-block inmates of the State's willingness to pay the costs of replacement. He sent me
a letter to this effect dated three days ago.

MR. ROSENFIELD: Thank you, Mr. Burger.

MR. LIMAN: During the Rochester phase of our hearings we heard testimony both from correction officers and from inmates that they considered the parole system to be arbitrary and that the decisions were never explained to inmates and that it was a great source of frustration and dissatisfaction.

That is a fact that has been brought home to the Commission and to the staff in interviewing inmates and in visiting the prison. We decided to make some statistical analysis of the results of the parole system and Joel Cooper, a member of the staff, will present some of these results.

MR. MCKAY: Mr. Liman, I think there are some questions of Mr. Burger first before we go to that.

Mr. Burger, I want to ask just a general question. It really is reiterative of what you already said about the credibility
of the information you have.

Part of what you stated is based upon uncontroverted facts, but much of it is based on interviews that are controverted by much of it. How have you made your selection as to what are the facts as you presented them? I know it is softened always by saying as reported, but how do you make the determination as to what to report?

MR. BURGER: Well, almost every incident I reported was verified by at least one other person. I don't think anything that I have told you so far, Dean McKay, is without some support by other persons, either by other inmates or corroborated by troopers, National Guardsmen or correction officers.

MR. LIMAN: I think I should add to that by saying that we started with the two basic facts, one the fact that the inventory showed this very substantial amount of bruises, plus there were reports by National Guardsmen and by some correction officers of it having taken place and by other correction officers who said that they didn't see it, but that given the mood it did not surprise them.
From all of this it was very, one, clear that these injuries did take place in the aftermath and, two, that it was an accepted fact that they had taken place even though individual people could not bring themselves to acknowledge in every case that they had participated. Some did, but many could not bring themselves to acknowledge it.

We therefore set out to determine where they took place and again in almost all of these instances that Mr. Burger has related it is corroborated by inmates, correction officers, National Guardsmen and others that the severest beatings took place in HBZ and, of course, the medical inventory reflects that, and that the severest—that next to that the injuries were inflicted most severely and in a most sustained basis in A-block and I think that even though, as I said, the question of which particular officer participated in it may be a subject of debate or detail. The fact that the events did take place is well accepted within the institution.
MR. McKay: Let me make my general comment more specific in one instance. As Mr. Liman has just said, as I believe you said, Mr. Burger, the most severe beating in your understanding was in HBZ and you spoke particularly of the circular staircase from the first floor to I believe the third floor, but as I heard your recitation all of the corroboration came from inmates. The only officer who was present or the only correctional official who was present testified that he saw no beatings and knew of no beatings.

MR. Liman: No.

MR. McKay: I am not disputing the fact at all. I just want to know the basis for your determination that it did occur with the severity you reported.

MR. Burger: Well, the HBZ inmates are then subjected, as I mentioned at the outset, to the medical inventory and this inventory disclosed the injuries I related, the fractured ribs, broken arms, and broken elbows.

MR. McKay: Could we identify that they occurred after they entered HBZ?
MR. BURGER: We then went back to the interviews we had and subjected them for security fully as well as talked to National Guardsmen who were outside HBZ and they said most of them did take place inside and we then had about 35 to 40 inmates housed in observation on the second floor of HBZ and most of those interviews verified the severity of the beatings I described.

MR. LIMAN: Those people were in observation and were not in HBZ at the time.

MR. McKAY: And were not themselves beat by their testimony?

MR. LIMAN: And the other matter that ought to be pointed out and that was pointed out by Mr. Burger in his presentation is that at least one officer who was involved in this area explained to us, without going into detail, what he had done; that he was ashamed of what he had done and that he came after the various rumors of castration and another officer, as we noted, indicated that he sprained his wrist.

MR. McKAY: Thank you. That's helpful to me.
MR. MARSHALL: Maybe I missed this, but will you tell me who took the medical inventory. I don't know who that is.

MR. BURGER: There was nine doctors who volunteered to come to Attica on the 21st and of those nine, four were black and three were Spanish speaking. They spent the whole day at Attica going through the blocks examining each inmate and none of the doctors had any connection whatsoever with Attica before they arrived that day.

MR. MARSHALL: For whom did they do this?

MR. BURGER: They did this at the request of the Goldman Panel and under the auspices and through the cooperation of Mr.-- Dr. James Bradley, the chief medical doctor for the Department of Corrections.

MR. LIMAN: For the record, the Goldman Panel was presided by the presiding Justice and was headed by Robert Patterson, Jr., who was the former head of Legal Aid Society.

MR. MARSHALL: I just can't remember.
Were these statistics in the Patterson report?

MR. BURGER: No. David Schrapman (phonetic) and I went through each report and compiled the figures. I then talked to the doctors about my own feelings, and they verified or agreed that my 45 per cent accurately reflected what they thought, that was the extent of the reprisals.

MR. MARSHALL: Mr. Liman used the term accepted fact and maybe I should address the question to him, but I take it that that's not an accepted fact by everybody, that is it isn't an accepted fact by the superintendent and the commissioner and so forth, or is it?

MR. LIMAN: There will be testimony on that. Mr. Mancusi was not permitted out of his room, as we will hear from Mr. Oswald, because he thought it might be a provocation in the light of the demands for his resignation to have Mr. Mancusi in contact with the inmates. I think that as one deputy superintendent, assistant deputy superintendent said to us, he knew the inmates didn't bruise themselves and that it had taken place. There was also a
lieutenant--complaints that--
when the word kept coming "try to stop this,
we are getting these reports," one of the
supervisory personnel said "I can't be every-
where." And I think in our investigation, as
I said opposed to the question of who did it,
you don't find very much in the way of sustained
argument that it did not take place. Most
people acknowledge it took place and the
question is really why did it take place and
why--why--why did it take place and why was
there not enough supervisory personnel there
and other mechanisms to make sure that the
reprisals would not happen.

MR. MARSHALL: Just one other detail.
You started to say what the time of the
gauntlet--when it started and when it stopped
and then I don't think you ever did.

MR. BURGER: Right. The gauntlet
began about 10:30 and it was over about 3:30.

MR. MARSHALL: It went on for five
hours?

MR. BURGER: It was not--the gauntlet,
meaning the meetings, did not occur throughout
that period as I mentioned about the first half
hour, 15 minutes there were very little reprisals as then there were quite a few later on as can be verified by a state senator who may testify here on Friday and then they slackened off towards the afternoon and inmates came in more slowly and it ended about 3:30 from all reports.

MR. McKay: Mrs. Wadsworth.

MRS. WADSWORTH: Mr. Burger, you said that the information is more or less accepted, is the word we have used, and Mr. Marshall has defined that further. Was the kind of brutality that you report, was it expected as well as accepted? Was it expected in a prospective with the kind of brutality which might go on at all times in a prison situation; is this--was there anything in the information that you gave which would give us any kind of prospective on this in relation to before the riot?

MR. BURGER: Expected by whom?

MRS. WADSWORTH: By the inmates.

MR. BURGER: The inmates, from what they told us did expect reprisals. In fact, that's what they were quite concerned about
beginning at the first meeting with Commissioner Oswald on Thursday afternoon. They were afraid of reprisals—well, as he will testify, they spoke about that with him and they feared them very greatly, but they could not avoid them.

MRS. WADSWORTH: Thank you.

MR. MCKAY: Bishop Broderick.

BISHOP BRODERICK: I have just had a question which the Dean said, namely the amount of your credibility. I can see where we would readily accept the testimony of Dr. Bradley and his medical associates, but I wonder whether we can accept the testimony of one inmate confirming the others or a correctional officer confirming his fellow officer and I think you answered that pretty well. I will accept it.

MR. MCKAY: Mr. Wilbanks.

MR. WILBANKS: You have a separate breakdown of HBZ reprisals and the terms of the injuries and the severe injuries as you give us for the entire 500?

MR. BURGER: Yes. I know there were 48 inmates taken to HBZ. Nine of those received severe or serious reprisals.
MR. WILBANKS: In regard to race, you mentioned that there was no significant difference.

MR. BURGER: Correct.

MR. WILBANKS: What about the 4.2 per cent with severe reprisal injuries, did you have a breakdown on that?

MR. BURGER: Yes. I think I mentioned that in my testimony. There is no--the severe reprisals do not reflect any greater beatings towards blacks and Puerto Ricans.

MR. McKay: I think that's all the questions, then.

Do you wish, Mr. Liman, to take a recess now?

MR. LIMAN: Yes. I think we should.

MR. McKay: We will recess until 2:00 o'clock.

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