CHAIRMAN LILLEY: All right, Mr. Jaffe.

C O L O N E L D A V I D B. K E L L Y, Sworn.

DIRECT EXAMINATION

BY MR. JAFFE:

Q Colonel, my recollection last time is that we had just about gotten to the point where the State Police had taken over the command post at the Roseville Armory in Newark on the morning of July 14.

A Right.

Q My recollection was that the State Police Troop had been activated some time earlier that morning and you proceeded to the Newark Armory after a stop with the mayor to set up the command post and the actual processing of the men in and the assignments that would be given.

Is that your recollection as to where we left off?

A Right.

Q I think the last question I had for you was the physical layout in the Roseville Armory, where you were quartered and what the responsibilities were.

Could you just briefly go through that? Then we could take it from there.

A The physical layout of the armory?

Q As to how you were quartered, you, the State Police, the Newark Police Department and the National Guard, where

each of you were and the way in which it was set up.

A Right. The ground floor of the armory is an auditorium-type thing and all of the State Police vehicles, the gasoline, the ammunition, the supply and such other allied equipment was stored on the ground floor. The area was assigned by Troop A, B and C and the offices in the rear of this auditorium-type thing was assigned by Troop, A, B, and C.

The National Guard had a counterpart roomfor their brigades. There was a room set aside for the commander of the National Guard and there was one room, the Essex Room, that was set aside for the Governor. There was a larger room downstairs and eventually that was set aside for the press and Community Affairs people.

Q Where were the Newark Police Department people located?

A The Newark Police or the only Newark Police that were with us at that time was the Deputy Inspector and he was at our command post and the radio operator, he was at our command post, and at the command post the State Police Division command post, that was in the center of the troop command post, A, B and C.

Q Was the Deputy Inspector assigned to that position throughout your time?

A Right. He was the liaison officer and there was

always a deputy inspector there. We have his name.

Q What was his name, doyou recall, Colonel?

A There were two at the time. We have his name in all of the logs but I have forgotten it. I just don't recall it. They had a radio man and the radios were Newark, State Police, National Guard and their dispatcher or radio man, whatever they call him, communications man, was right alongside of ours.

Q At this point. Colonel, had the National Guard been activated yet?

A Yes. Their command was activated.

Q I am talking about the troops.

A Right. They were on the move.

Q Was the National Guard activated at the same time that the State Police was?

A Practically. After the Governor -- well, I called the Governor and General Cantwell was called by the Governor and it was five minutes or so.

MR. LEUCHTER: Can you give us what day we are on now?

Q I think it was the morning of July 14, is that right?

A Yes, Friday morning.

Q The Governor's calling of the National Guard was a result of your request to the Governor for National Guard

assistance?

A Well, this is true. It was practically a simultaneous call by the Governor alerting both the State Police and the National Guard, activating both.

Q As I understand the understanding between yourself and the Governor it is that the State Police has the primary responsibility for containing a riot once the local authorities have called the governor for assistance?

A Right.

Q And it is your determination or your request of the Governor that activates the National Guard,is that right?

A Right.

Q Now just to clear up the record, that is not formalized by law?

A No.

Q This is a result of an understanding between you and the Governor?

A This is the policy of the Governor.

Q That has been set up by the Governor?

A Right.

Q I see. Now what prompted you to ask theGovernor to activate the National Guard at that time?

A Our reports from our observers prompted this immediate call of the National Guard.

Q Was it your opinion that based upon the reports

you were getting from your observers that the State Police were not capable of containing the riots in Newark at that time?

A Right.

Q This was a judgment you made just based on your observers' reports?

A On the recommendation of the observers, that's true.

Q Do you have an opinion, Colonel, just before we leave this area, as to whether or not you were called in too early or too late? Do you think you were called in at the right time?

A Well, we had to go eventually but we felt we should have been called sooner.

Q I realize this is an opinion based upon retrospect but in view of your analysis of the riots what would you have considered a more propitious time for you to have been called in?

A Well, we felt that we should have been called possibly about 9 o'clock on the evening of July 13th.

Q That would be Thursday evening?

A Right.

Q If you had been called at 9 o'clock on the evening of July 13th would you have asked the Governor simultaneously to activate the National Guard?

A Not at that time, no.

Q Why would you not have done that?

Let me rephrase the question.

Is it your opinion now that if you had been called at 9 the situation may not have deteriorated to the extent where the National Guard would have been needed immediately?

A Well, that's a rough one.

Q Well, it is an opinion.

A Well, I don't know. Let me advance my statement in furtherance of my opinion. The timing of these things is most important. Sometimes you can aggravate a situation by moving in too fast and this show of force may have aggravated the situation or may not, I don't know.

In this case it is very easy now to quarterback, to be a Monday morning quarterback, but it did get out of hand, maybe it could be contained and maybe it would have been more severe. Maybe the activity on the part of both sides would have been more severe. I don't know. You asked me my opinion.

Q Yes. In other words, what I am saying is that if you had been called about 9 you might have attempted to use just State Police for a limited period of time prior to calling the National Guard?

A Right.

Q And that would have given you an hour or two to see whether or not the State Police could have contained it?

I gather that's your opinion?

A Yes. I think with the concerted effort of the Newark Police and State Police and a little bit of organization, I think possibly -- again, this is my opinion -- it may have been contained or may have been suppressed sooner. I don't know.

Again, it is very simple to say this won't happen or this won't happen. If I can again go further, in Detroit we found that because they were not organized it spread in different directions. Maybe they were called too soon, maybe they were not called soon enough. We don't know. I think the organization is the most important factor.

Q When you say organization you mean what?

A The police organization.

Q Between the police echelon plus the State Police and/or National Guard?

A Right.

Q Just to get back now to the time sequence, it is the morning of July 14 and you have activated your group.

Could you tell us approximately what time that morning you committed the State Police to the streets of Newark?

A I think I got you up to around four o'clock when I arrived in Newark and the Governor arrived in Newark eventually. The patrols started to come in approximately 4:30. These were individual cars. As they came in they were

assigned areas.

Q Now did you take your men from just Troop B which handles northern New Jersey, or did you take your men from Troop A, B and C?

A We took the men from B, C and A, in that order, because of the geographics.

Q Have you worked out a prior plan as to the number of men from each troop that would be called to a specific disturbance?

A Right. Each troop at that time, 100 men, were assigned from each troop.

Q So on your original call-up on the morning of July 14 you called up 300 men?

A Right.

Q One hundred from each troop?

A Right.

Q Could you describe for us, Colonel, your basic plan of operation on the morning of July 14, what you wanted to do and how you were going to go about doing it?

Maybe before you answer that question, I understand you brought a map with you?

A Right.

Q Would that help you in answering this?

A Right. I think if we could put that up I could show you what it looked like.

Q All right. Let's see if we can get that up.

MR. JAFFE: May we have this map marked C-11?

(Map marked Exhibit C-11 in evidence.)

MR. JAFFE: Could we have it identified as a map of the City of Newark, New Jersey.

Q Colonel, has this map been prepared by the State Police under your direction?

A Right.

Q Does it generally depict the area of State Police operations during the civil disturbance in July of 1967?

A Right.

Q Would you explain the map, please, Colonel? Then later on you can relateyour testimony to the map.

A All right. We had the maps prepared prior to going into Newark and when we moved into the city we asked the Police Department -- well, I asked the Mayor first and we got a negative from the Mayor because he really didn't know where the whole situation was. We asked the Police Department and we eventually found out that the immediate problem area was Springfield Avenue.

Now Springfield Avenue is this area in here. I am not too familiar with Newark. I am a little bit more familiar with it now but at that time I was not too familiar with Newark,

only by map. I will give you a chart when we get finished here showing the troops, the assignments, the patrols and the sector that they were assigned to.

Q Colonel, could we mark that in now as an exhibit?

A Yes.

MR. JAFFE: Mark this C-12.

(Chart marked Exhibit C-12 in evidence.)

MR. JAFFE: Could we identify C-12 as a breakdown by patrol sectors of where State Policemen were assigned from various troops and that this was prepared by the State Police.

A This is the hospital, this is the armory, this is the Newark Police Department and this is the stadium. The stadium is where the National Guard assembled originally and they bivouaced in the stadium.

I met with the Mayor here --

Q When you say here would you point out where that is?

A That's the Newark P. D.

Q The Newark Police Department?

A Yes.

Q Is that on Broad Street in Newark or right off Broad Street in Newark?

A Yes. There's where the star is. I left them and went to the Roseville Armory and this is where we established

the C. P.

Q Is that depicted by the circle?

A Yes.

Q Would you describe that for the record? It is depicted by a circle with a square?

A A block encircled, yes. The Newark P.D. is the star, the hospital is the cross and the stadium is an arrow. This is our headquarters here. As we got reports by radio as to the seriousness of the situation, it was generally decided that the critical area was here, here and here at that time, 1, 2, 3.

Q Just again for the purposes of the record, Colonel, though it may seem obvious, would you just describe verbally how your map is broken up in terms of sectors and so forth.

Also it might be a good time to describe the symbols that you have on it. That's really for the purpose of the record so when you read the transcript it makes it more intelligible.

A From the reports and the intelligence that we received while we were at the Roseville Armory, it was decided that the critical area was the boundary line, I guess this is the Newark boundary line up here to the north and this street here is Washington Street and it was decided that the center of this critical area was Bergen Street and the

north-south streets, Springfield Avenue I believe, South Orange and Clinton Avenue and this one is Orange Street.

So as these reports of the critical areas came in, what we did was assign men to the areas, general patrols first, because of the looting and the pillaging.

I have a report that will depict the assignments and we will show you this report later.

What we did is, so that we had controland that there was some integrity within the units themselves, we never split units.

So what we did was the original assignment and the breakdown we had seven sectors that we considered critical and as time went on, we developed these other critical areas and we wound up with 12 sectors.

Now these were not considered critical on the night of the 13th and 14th and 15th.

Q Now just for the purpose of the record, you are now pointing to the north --

A I am pointing to the area that is now in yellow.

Q In yellow on your map?

A Yes, 8, 9, 10, 11 and 12.

Q And it is to the north of Orange Street?

A Yes.

MR. GIBBONS: That would be northeast.

Q So that would be to the northeast of Orange Street?

A Yes. Now if you will notice here, there are blocks, yellow-lettered blocks and they are the high rise projects, 1, 2, 3 and 4.

Q Could you read into the record what high rise projects are depicted on the map?

A One is Christopher Columbus, 2, William Hayes, 3, W. Scudder and 4, S. Wright.

Q Are they within a particular sector in your map?

A Yes. They are in the area or sector 6.

Q Could you tell me what the other symbols on that map are? What are the orange circles?

A They are sniper reports and the sniper reports as came in by radio and as by telephone reports.

Q We will get to that.

Now is that a red circle?

A Yes.

Q What does that stand for?

A That was reported by the local police, the guard, the State Police and unknown.

Q So the circles are snipering incidents?

A Yes.

Q And the different colors depict the organization that was reporting in the various incidents?

A Right.

Q The placement on the map depicts the areas in

which they were reported?

A Right.

Q Would you proceed.

A Now again remembering we are on the morning of the 14th and as the troops come in, they are assigned by troop to sectors.

Now if you want to know something about a sector, for example, Troop C had Sectors 5, 6 and 7, so we are talking about a responsibility and we saw something happened in Sector 6, it was assigned to Troop C. That's their responsibility. One, two, three and four were B Troops and 8, 9, 10, 11 and 12 were eventually A Troops.

Q Were those sectors made up that morning?

A B Sectors were made up in the morning. The yellow sectors were made up later as the area grew and we had more men and more National Guard and we developed.

Q What was your basic plan in sending people out to the sectors as they came in?

A Well, the basic plan was first to contain the area.

Q Would you describe for us what you mean by containing the area?

A Yes. What we tried to do or what we really first had to do was stop the looting. This was the first thing we had to do and we had to do this with the patrols and the men

as they came in and reported and they were assigned out in individual cars to a particular area to assist Newark Police and as our people grew in numbers, then it became the patrol system.

As the National Guard grew in numbers, as they reported, they were assigned the posts and the outposts were these streets and the National Guard had the responsibility of all of these streets and crossings. We had 157 National Guard outposts.

Q Before we get to the National Guard outposts, when you sent your cars out to contain the looting, how many State Policemen would be in each car?

A A minimum of three.

Q Three State Patrolmen?

A Yes.

Q Their first assignment on that morning was to ride through particular areas where you had looting reports?

A Right.

Q And stop the looting?

A Right.

Q By arrest?

A Right.

Q At that point what were your orders to your State Policemen regarding the use of firearms? Were there any specific orders or were there general orders that are appli-

cable to this point?

A They were authorized to fire if fired upon and they would return fire.

Q Were your State Policemen authorized to fire upon a suspected looter who would not obey a command to halt?

A As I said to you now, the order was to fire if fired on. If the looter hadn't a gun I don't suppose that they were fired on.

Let me tell you about the looters, since we are talking about that. Most of the looters were women and kids. It just didn't make sense and no one was fired on, talking about the State Police specifically. The orders were fire if fired on and if they were fired on they returned the fire.

Q Do you know whether or not on the morning of July 14, if you know, State Police did engage in any firing in trying to contain the looting that morning?

A Fire and trying to contain the looting?

Q Yes, that morning.

A You will have to make it a combination of fire and trying to contain the looting and sniper fire.

Q I want to leave the sniper fire out at this point.

A All right. You can leave the looting out too. We fired at no looters.

Q At all?

A I have no reports of firing at looters.

Q During the whole course of the State Police operation in Newark during the riot?

A We shot no looters. We arrested many looters but we shot none.

Q When you would arrest a looter what would you do, turn him right over to the local police? What would be the procedure involved there?

A Now again by time, originally we contained them and the local police got them.

Q How would you contain them? Would you contain them on the street?

A Just hold them, that's all.

Q Your three men would leave the patrol car and contain them on the street?

A Yes, and then four or five or six or seven, whatever number it may be. There is always a patrol car backing a patrol car.There would be at least two patrol cars. This would mean six men. There wasn't one alone. This again was in the early stages of this and as we progressed, the system that we had developed a long time back when the National Guard came, we used trucks and the patrols never left their assigned area.

When the looter was arrested or anyone was arrested, a disorderly person, he was in the truck and when the truck was loaded, down he went and he was arraigned. We did not leave

patrol areas. Once you were assigned to a patrol you stayed there.

MR. LOFTON: Let me see if I understand this then, Colonel.

Are you saying that if the State Police arrested a personthat was thought to be looting, that that person would be turned over to a local policeman?

THE WITNESS: No, I didn't say that. Well, let me tell you how we made the arrest procedure so that you will have a complete picture.

We had developed this procedure four or five years ago and our procedure for arrest is this, and we will show you the type and why we developed this.

We have an arrest ticket that we use. This will probably be made a part of the system when I get to it but I probably can explain it to you besides that.

We have tickets with a number on it and it is about so big. That was the identification ticket. Our arresting officer or trooper will arrest you and we have arrest teams with Polaroid cameras or with whatever kind of camera, primarily Polaroid cameras. I mean the arrest team.

I will take your picture with the arresting officer with this taking with the loot, if you had been looting. If you hadn't been looting then whatever the complaint is against you we now place you in a truck, good bye, you go down to be arraigned and we identify you by number and by name and the officer, the loot, the complaint and the time and everything is there. We know who you are and down at the police headquarters you are now fingerprinted and arraigned by our identification people down at police headquarters. This may take four or five hours before we get to you to sign a complaint as such but we do not leave the patrol area.

Q You would not turn the person over to the local police for identification purposes?

A We could turn them over but we are the complainant. It doesn't make any difference who takes him down to the precinct or to the jail, wherever he is going to be, because we have already identified the man, the loot and the complainant by photograph.

Now as you know, if you are going to arrest 1500 people, the identity is gone. There isn'tany identity. This is why we use cameras.

MR. LOFTON: So in every one of the arrests

effected by the State Policemen for looting or for disorderly conduct or what-have-you --

THE WITNESS: I wouldn't say every one. There were so many at one time, conceivably there were some that were not photographed because of the numbers. But the goodly number in fact of the 71 or 75 indictments, 71 were State Police indictments because of this procedure.

MR. LEUCHTER: Who was in charge of those trucks, Colonel?

THE WITNESS: The National Guard drivers. That was the only reason for the trucks, because we learned a long time ago, once you establish a patrol that patrol must be there all the time doing something. It doesn't leave the patrol or doesn't leave that area. That is their assigned area. The arrest teams are in the trucks for follow-up.

Now there may be one arrest team that would be covering maybe two sectors and he would get a call to go to such-and-such a place, Sector 4, arrest team number such-and-such and that's his job, like I had men.

MR.LOFTON: Colonel, if I might ask another question, you indicated that the circles of

different color on the map depicted places where reports of sniper fire had come in?

THE WITNESS: Reported.

MR. LOFTON: Were there responses to each one of these reports of sniper fire?

THE WITNESS: Was there return fire, you mean? Is that what you are talking about?

MR. LOFTON: For example, if in fact the State Police received a report of sniper fire in the area depicted in Block 6 would the State Police respond to that area by going there?

THE WITNESS: They would be in the area. They would have to go to the house or wherever it was reported.

For example, here every troop has sent in a report of their sniper incidents, the date, the location and the duration, and whether they returned fire or not.

So if you are talking about a place and it was reported by State Police, we have this as a matter of record, A, B and C.

Q Can we just hold that up for a minute? That was something I was going to get to a little bit further on down. I want those sniping incidents in the record. I would like to put it in at a later time.

A All right.

Q Now directing your attention again just to the morning of the 14th, what we are talking about, based on your recollection of the events, was the primary phase of the rioting at that point looting?

A Right. In the early morning, yes.

Q This was the first morning you were in?

A Right.

Q That was your first job, was to send patrols out to contain the looting?

A Right.

Q Did you contain the looting that morning?

A When you say contain, what do you mean?

Q Did you effectively stop it?

A By the afternoon, probably it was stopped. There wasn't much more to take.

Q That would be the afternoon of July 14?

A Yes.

Q That's till on the Friday?

A Yes. I am generalizing now.

Q Yes. Please do. I realize this is just a generalization. I think we would like to have a feel for the various phases in the riot and when they terminated and when other phases began and what the interaction of it was.

A Right. That primarily was the main problem at that

time, the looting, and ofcourse, there were fires. The Newark Fire Department was answering fires. I think if we show you the film that we have -- again, this is only taken by an amateur, one of our men and he can explain to you what it is about.

Q What I am leading to is this, Colonel. In your opinion, Colonel, was the looting phase over as a result of police action -- when I say police action, I am talking about National Guard, local and State Police -- or was it over because by Friday afternoon there was nothing left to loot basically?

A No, sir. There was plenty left to loot. It was not over. In fact, it was about 9 o'clock in the morning that theGovernor, myself, General Cantwell and Colonel Sharp of the National Guard were in one car and there was another car and I think that was the Mayor and Director Spina, toured the area and the looting was still going on.

Q That was 9 o'clock that morning?

A Yes, 9, 9:30. We have those times. In fact, I think at the one point, the thing that kind of amazed the Governor was the young woman and the young boy and each had a case of beer in a new 1967 Cadillac, 19 miles on the Cadillac, no license, no registration, nothing. We stopped this vehicle or it was stopped because of debris or something. Looting was still going on at that time.

Q Is the reason that the riot was still going on is that physically there were just not enough men to place on the streets to prevent it? Was that the basic reason for the continuation of the looting in the morning and afternoon of the 14th?

A Right. There were not enough patrols, there were not enough people to control the area and I think I am making an observation now and I am not being critical but I think the system as applied in the Newark Police Department where they would make an arrest and take him down to the precinct meant time lost and patrols off of the area of assignment. This added to the confusion. We don't have that type of system. We stay and if you have 50 men you stay with the 50 men until somebody picks you up. I thinkthis added to the confusion.

Q This is what troubles me a little bit.

Now how did you in this early stage coordinate the looting containment with the Newark Police Department?

A Well, starting out in the morning again, we had to take from our reports, our observers and the Newark Police the critical street and that was Springfield Avenue and what we did was patrol Springfield Avenue as the cars came up and the concentration of Springfield Avenue and I think it was Bergen Avenue, in this general area.

Q Do you know where the Newark Police were concen-

trating at this point?

A No.

Q Did you inform the Newark Police where your patrols would be concentrated?

A Right.

Q Did the Newark Police inform you where their patrols would be?

A No.

Q Were reports of looting incidents coming in to your command headquarters?

A Yes.

Q How would they be coming in?

A By radio.

Q Radio fromwhom?

A From our cars.

Q Would Newark Police radio calls of looting incidents come into your command structure?

A Eventually when their radio system was tied in to our radio system, yes, but at this early stage it was not.

Q When does the National Guard actively enter the picture on this morning?

A The National Guard is into the picture -- again I can't tell you, I have it here but it is maybe around noontime, something like that.

Q When you drew up the sectors was that done in liai-

son with the Newark Police?

A Right. As we moved into the Roseville Armory -- and I think I testified that the Mayor was there maybe 15 or 20 minutes later and he came there with -- I think it was a lieutenant then, Ferrante, and the Mayor's group. I know that it was the Mayor's entourage. They came up and we had the maps with us and we opened the maps and asked them where their patrols were, where the problem area was, and it was decided then that we would concentrate in the Springfield Avenue sector. It wasn't a sector then. It was just an area and we decided to concentrate on it. This is where they told us the problem area was and this is where it was reported that the problem area was for looting.

Q Now to get back to the NationalGuard, around 12, if my recollection is correct, you said the National Guard first came into the picture in force?

A Right.

Q Could you tell me what you did with the National Guard, how you assigned them and what their role was?

A Right. The National Guard then were assigned posts, dismounted posts, and they were also assigned mobile patrols teamed up with others.

Q Would you explain the difference.

A Yes. The mounted post would be that there would be three National Guardmen at a street, all of the streets here,

and we blocked off this whole area. Again as I say, there were 157 blocks that we had.

Q When you say blocked off the whole area you are now referring to the blue area depicted on C-11?

A Right.

Q And you blocked that off with National Guardsmen?

A Right.

Q You put dismounted patrols at intersections along that blue perimeter?

A Right.

Q How often would you put them there, every block?

A Every block. There were 157 of them. There were 19 areas or streets that you could get into or get out of and that's the only way you could get in or get out. There were 19 exits or entrances that you could get in and out of.

Q Just to digress for a minute, Colonel, what is the red? I notice C-11 also has the red perimeter. What does that mean?

A Down here, red is the sealed perimeter, blue is the patrol sector and yellows are the additional patrol sectors. As I told you, this is the second day.

Q What is the difference between a sealed perimeter and a patrol sector?

A In here we sealed this off, as I told you. The National Guard sealed off the whole thing and within this

were the patrols.

Q Now at eachcorner there were three guardsmen and what were the weapons assigned to them? What kind of weapons did they have, do you know? Did they just have rifles?

A M-1's, I think.

Q Each one would have a rifle?

A I think that was it. Maybe some had carbines. I don't know.

Q What was the general structure? Was there an officer or a senior enlisted man with each three-man patrol or what?

A I don't think so. This is not a patrol now. This is a dismounted post. The dismounted post would have -- and I do not know the National Guard breakdown with regard to non-coms. I know what it is but I don't know what the assignment would be. I would assume they broke it down into squads. If there would be a 10-man squad there would be a sergeant in charge of each squad and every three squads there would be a lieutenant.

Q Do you know whether or not the National Guardsmen at this time at the dismounted posts had live ammunition?

A Yes.

Q They did?

A Yes.

Q Do you know what their instructions were as regards

firing at that point?

A The same thing, they could only fire if fired upon.

Q Were National Guardsmen at this time instructed to have live ammunition in the barrel of their guns or weapons or were they required to keep their cartridges at side belt, if you know?

A I don't know but being real practical about the whole thing, ammunition was authorized and issued to the National Guard at 9:30. When we went through this area the question came up, should the National Guard be issued ammunition? When you issue someone ammunition the authorization to fire that ammunition I would assume goes with the issuance of it. The control, of course, is by the supervision.

Q The reason I ask you, Colonel --

A This is my assumption. They were issued ammunition at 9:30.

Q I realize this is not your area and these are questions that are more properly directed to General Cantwell and National Guard people but if you knew I was interested in your answers.

A Right.

Q Now what were the National Guard patrols made out of? What were they like?

A When we had the mobile patrols, the National Guard,

and the breakup would be a troop car, a jeep, a jeep and a troop car. We would have two troopers and a guardsman in the first car, three guardsmen and a jeep, three guardsmen in the jeep, two troopers and a Newark patrolman would be in the first or last car.

The reason for the Newark patrolman is streets, assignments, location, this type thing, tell us where to go.

Q What kind of weaponry did these patrols have?

A The patrols had combinations of weapons. The National Guardsmen had rifles, the State Policemen had rifles and shot guns. The reason for the jeeps is for the all around vision and the cars, of course, we don't have the open top thing. The rifles were needed for this right here, high rise.

Q At this point, were there any heavy weapons issued to the National Guard?

A Heavy weapons?

Q Yes. By heavy weapons I am talking about machine guns.

A At no point was the National Guard or did the National Guard have anything other than rifles.

Q Other than rifles?

A No. They may have had a machine gun mounted but there was no ammunition for them.

Q At this point did the National Guard use any other

1 other vehicles other than trucks or jeeps, any weapons like
2 armored personnel carriers or anything of that sort?
3 A At this point, no, not that I know of. The units
4 that were committed to this area I do not believe were
5 authorized anything but trucks and jeeps.
6 Q Was it your responsibility, Colonel, to determine
7 how many patrols went and where they would go within those
8 sectors in liaison with the National Guard?
9 A Right. The density of the patrols was determined
10 on the size of the area and, of course, on the amount of fire
11 and such things as this.
12 Q Now about what time on July 14 would you say
13 your dismounted patrols were in place and your mobile patrols
14 were active?
15 A We show you the time tables, again for the record.
16 Our patrols were active around 2, 2:30 in the afternoon.
17 Q That's the mobile patrols?
18 A Right.
19 Q What about the dismounted patrols?
20 A The dismounted patrols by the National Guard took
21 place early in the evening, about 5 o'clock. Again I am
22 talking about this blue line here, not extending it.
23 Q So that by late in the afternoon and early evening
24 of July 14 you've got your patrols out?
25 A Right.

1 Q Would you say the area was effectively sealed
2 off?
3 A Yes, I would say pretty much so.
4 Q Would you give an opinion as to whether or not
5 by that time you were also in control of the internal areas
6 of the perimeter?
7 A Control as far as what?
8 Q Let's break it down. Say control as far as looting?
9 A Yes.
10 Q You had effectively stopped all looting?
11 A Well, I would say yes.
12 Q Generally stopped it?
13 A Generally, yes. Generally all looting was stopped.
14 Q What about mobs roaming the streets? Was that a
15 problem by the time of the afternoon?
16 A No, because the mission of the patrol was to
17 keep people from congregating. I am talking about 30, 40,
18 50 people. The mission of the patrol was to break them up
19 and keep them moving. That is the reason we had the mobile
20 patrols.
21 Q Is it a fair statement that by late in the after-
22 noon of the 14th the law enforcement authorities had
23 effectively contained the area vis-a-vis mob action?
24 A Right. Now one of the problems where I met
25 resistance, we met with the police director and the Mayor.

Now this street, Springfield Avenue, was so congested and so littered that it was just mass confusion.

Q What time did you meet with them?

A This was in the morning.

Q Of the 14th?

A Yes, some time in the morning. After we came back from this trip with theGovernor, and it was decided that this street would be closed, this street would be closed and this one.

Q When you say this, you better give us street names.

A Springfield Avenue, Clinton Avenue and Orange Street. They were closed. The reason was the patrols could maneuver and we could contain and we could control things. I met much resistance from theCity Fathers about closing these things.

Q For what reason?

A I don't know. They said that these streets were the prime streets in the city and if they were closed the people couldn't get through the town. I decided that they would be closed.

CHAIRMAN LILLEY: Mr. Jaffe, I am getting confused and maybe it is me, on whether that is Orange or South Orange Avenue. It is important to me.

MR. JAFFE: It is South Orange Avenue. I'm

sorry. What happens is that the way the blue crayon is, you just don't see the "South" but it is South Orange Avenue.

CHAIRMAN LILLEY: When the Colonel started talking about a through street, that is South Orange Avenue?

THE WITNESS: Yes. Again streets didn't bother me. It was just a question of looking at the map and saying this street, this street and that street. They were closed.The reason they said that they were meeting or they claimed that the traffic could not flow through the town. Possibly this was so and I can understand it, but it was decided that they would have to find alternate routes to get the people out and around this area.

Q So you did close the streets?

A Yes.

MR. LEUCHTER: There was hardly much traffic flowing down those streets, wouldn't you say?

THE WITNESS: Well, just about this time we received reports from Public Service and other bus companies -- other bus companies that do travel up and down these streets -- that the buses were

being stoned and that the bus drivers were being beat up and the bus drivers didn't want to come down or couldn't come down. This was a problem. We were going to permit the buses through and then it was decided that nothing would come through.

Q So effectively then, by some time in the morning, the major arteries you referred to were sealed off?

A We closed them off, maybe 12 o'clock, or 1 o'clock.

Q You would only let in certain kinds of vehicles, emergency vehicles?

A That's all that would be permitted in there, emergency vehicles and police vehicles, through there.

Q Were there any curfew restrictions at that time yet?

A I think the curfew instruction was given and issued by the Governor at -- well, I have a copy of his proclamation -- yes,"on July 14 pursuant to the powers", et cetera. I will give you a copy of the proclamation. The curfew is -- I will excerpt it -- "There shall be no movement of vehicular traffic between the hours of 10 p.m. and 6 a.m. except for the movement of police, fire and National Guard and other such vehicles as may be permitted by the Governor.

"This regulation shall not be effective on the Garden State Parkway, New Jersey Turnpike or State Highways Number

1 and 2." but having some control over the Parkway we closed the Parkway exit up in Newark too.

Q Was there any effort at this time to limit people from other areas of Newark going into the sealed perimeter? Would National Guardsmen stop people who wanted to go into that area?

A Yes.

Q What were their instructions?

A The instructions were you weren't permitted in there. Then there were some people, of course, that had businesses and some people that lived there. If you could properly identify yourself and we used a Newark police officer for help in identity. He would say he lives at 165 Main Street.

Q Then you would let him proceed?

A And if there is a main street, okay, and they were identified by license or something.

Q Colonel, at that point did you have any responsibility for the movement of foodstuffs, medical supplies?

A There was nothing moving. Nothing was moving there until Sunday morning.

Q Was there any attempt by you at that point or the National Guard, if you know, to provide food and/or medical supplies to the residents of that area?

A There wasn't any request from anyone for food or medical supplies. Now ambulances did move in and out.

1 Q But there was no attempt by the National Guard
2 to set up food kitchens or anything of that nature or supply
3 and distribute food to the residents of the area at that
4 point?
5 A No. That is not the primary function of the
6 National Guard at this time either.
7 Q We said before that by five o'clock it was
8 basically contained within the Sectors 1, 2, 3, 4, 5, 6 and
9 7?
10 A Yes.
11 Q Now could you describe to me what kind of
12 activity occurred in the riot after late afternoon Friday?
13 A Well, I believe as it was starting to get dark
14 there were fires. Fires started to break out and the primary
15 problem at that time was the Fire Department getting to the
16 fires. Then with the fires came some shooting and some
17 sniping and reports of sniping.
18 Q Have you plotted on this map or any other map the
19 location of the fires?
20 A No, we have not plotted them but I do have a copy
21 of the Newark Fire Department gunfire directed at fire
22 stations and men and the times and dates and places. I have
23 that here. Now this is a City of Newark Fire Department
24 report that was submitted to us so it is really not our problem.
25 Q What was your responsibility to theFire Department?

Were you aiding the Fire Department in responding to these alarms?

A Originally we had no way of knowing that a fire was taking place. There were many fire alarm boxes that were pulled that we knew nothing of that the Fire Department would respond to. We had no way of knowing if the Fire Company was going to respond, not being in their communication system but as the fire trucks would move into one of the sectors the patrols naturally would go with them.

Q Would you get called for assistance?

A We didn't get called for assistance. We would follow the fire truck into the areas or into the streets into the sector that was assigned.

As time went on, the second day or so, yes, there would be calls for us to assist them. What we did after the second day, we assigned two National Guardsmen to every fire house and they in turn rode with the firemen to the fire.

Q What was the state of activity inthe riot late Friday afternoon? Were things relatively calm before nightfall?

A Yes.

Q Now could you describe for me what characterization the riot took on Friday evening?

A Again, with the fires, with the shooting, with some reports of looting here and there as it grew darker

there would be reports of looting,breaking into stores and again we had no way of knowing that the Newark Police Department was responding to a call until we saw them responding, as they came into these areas.

Again the Newark Police Department has a telephone system and everyone knows the Newark Police Department's number. They did not know the State Police number. There was no way of the people of Newark knowing what the telephone number of the State Police was.

Consequently, Newark received all of the calls. They would respond to a call wherever it may be, on this street or this street, and as they would go through the area and into the area we would go and assist them. We really didn't know what they were going for until they told us what it was, until we got there.

MR. LOFTON: Colonel, there is something I don't understand.

When were the radio communications set up side by side, I think you said?

THE WITNESS: Yes, Just about that afternoon we were all set but there were many things that did not comeover the radio that were taken care of by a patrol. It would come in to their central headquarters downtown.

MR. LOFTON: It would not be radioed to the

transmitter at the command post?

THE WITNESS: No. There were many that never came in. They were sent direct by their central communications system to a patrol that evidently they had plotted downtown someplace and they would answer to that call.

They in turn, as we moved through, would say "There is a report of looting at such-and-such a place" and they would go to the place of the complaint.

Sometimes there wasn't any looting. The complaints sometimes were unfounded. Sometimes They were founded. The majority of times they were unfounded.

Q Colonel, I would like your opinion on how, if you were to have a riot today or next week in the City of Newark, you would obviate that problem.

A Can you repeat that?

Q The crux of the question is this: This is an obvious probe into the State Police and the way the local police, the way the relation ship has been set up in meeting a civil disturbance.

I am just raising a specific problem and asking you for an opinion as to how you would obviate that particular problem, how you would avoid it, how you would get around it and how

could you make it work better?

What can be done in this area?

MR. LEUCHTER: Inter-group communications.

A I think we have to talk about a specific problem.

Q Let's talk about the specific problem.

A A like problem?

Q No. Let's talk about the specific problem of the fact that theState Police have the primary responsibility now for containing a riot and they are in a particular area like Newark but the phone number is not known by the major Newark residents and if they need assistance they call the local police and the local police are not in a position now and don't communcate that to the State Police and so you've got as you say one group following another group.

A They are in a position to communicate. This is tied in.

Q But it wasn't done in Newark at this time?

A No. In some cases, yes. As we moved on in time it was done but there were many, many complaints that the Newark Police Department answered that we knew nothing of or about.

For example, the city goes on, babies are born and guys get drunk, all that kind of stuff no matter whether there is a riot or not. This doesn't make any difference and they still have the rest of the community to take care of. They had to

answer complaints. They had to take care of the rest of the town. They had to do many things that were normal police functions.

They had to direct traffic, they had to divert traffic, they had to do many things because if they didn't do this there would be problems in the areas outside of it.

Q I am talking about the areas within the sector and let's talk about phone calls and complaints that are riot-orientated.

Now how can we have that communicated to you so there is a unified approach to that particular problem?

A Well, it is unified because within the last month or so we have been working together with all municipalities and this is why we have this school that we are running and it is pretty well tied in now communications-wise.

Q Could you describe that for us? How would it be tied in right now? If there were a riot tomorrow in Newark how would it work?

A The only way it can work with present communications systems is the way it worked towards the latter part of this affair, wherein a Newark radio here, the State Police and the National Guard and because of the lack of uniformity of communications throughout the state this is the only way it can be functional.

We must have their communications coming through their system.

There is no one uniform system of communication police-wise throughout the state. This is a necessity, not only for riots but for many things. There is a need for it.

Q It is really particularly a necessity in a riot situation, isn't it?

A Well, yes. There is no question about it. These things must be controlled.

Q What troubles me is this: You've got the basic responsibility, you've got the responsibility of running this perimeter and it seems to me you ought to know all the riot-connected incidents, so you can make the decision who goes where, when and how.

A Right.

Q I think the question I am asking you is this: How do you achieve that in the realm of communications?

A Well, obviously it is through communications, the centralization of communications. Either they have our system or we have their system or we have a system.

Q Which we still don't have now in the state?

A No.

Q So we can run into the same problem if we were to have a riot next summer in Newark, we could run into exactly the same problem?

A Yes. Well, I don't think the complexities of the problem would be the same.

1 Q We might have more cooperation?

2 A Right.

3 Q But we don't have a mechanical way of doing it

4 right now?

5 A Right. Nothing has changed from last June or July

6 to this date communications-wise.

7 Q Now could you tell me this? I think I just inter-

8 rupted you at that point. You were characterizing the riot

9 Friday evening, how it changed and what it was like.

10 Could you just describe it for us?

11 A Again as I tried to tell you,there are many people

12 that never get the message. There are people that don't hear

13 radios, there are people that come home from work, there are

14 people that have been away, there are people that are sight-

15 seers, there are people that are troublemakers, there are all

16 kinds of people that try to get into the area. This is one of

17 the problems we had.

18 The other problem was or the other two problems, the

19 looting started, the fires started and the shooting started.

20 Againthese things were spasmodic. I don't know how many fires

21 were reported that night.

22 Q We can get those from the Fire Department.

23 A We have this and I guess you got the same thing.

24 Q Yes, because I would be very interested in the

25 number of fires as they occurred and the relationship between

1 particular time periods.

2 A Well, their greatest problem seemed to be on the

3 14th and 15th.

4 Q Was the evening of the 14th the time when the

5 sniping became most prevalent?

6 A It was the 15th that it became more prevalent.

7 Q That's the next day?

8 A Yes.

9 Q So the evening of the 14th then was generally

10 fire-orientated?

11 A Fire and a few sniper reports. I can give you

12 that too. A Troop had four fire and sniper reports. B Troop

13 had a goodly number but it was later in the evening.

14 Q Was the early evening of the 15th then spent

15 relatively calmly, say from 12 to 6?

16 Was that a relatively calm period?

17 A Yes, other than the fires, other than again people

18 out on the streets. Wehad to enforce the curfew. Some people

19 didn't get the message. There were very few people that were

20 arrested for a violation of the curfew.

21 Q Was there any looting at all during that night?

22 A Yes, we had reports of looting.

23 Q But nothing of any great merit?

24 A No.

25 You must remember now you are asking me as an

individual and I am trying to recall all the reports and of course the reports will reveal and depict all of the incidents that possibly I am not aware of and I hope this will be made a matter of record, that the reports that we have will show and depict the incidents as they occurred.

Q We will make those a part of the record.

A We were quite busy and I am speaking for myself, I was personally kind of busy getting around to all of the places and trying to meet people and trying to arrange to see if there was some means of communication within this area here, people we could talk to.

I guess you, Mr. Lofton, were one of the workers that night. The reports we had from the first night were that you and Tim Still and a couple of other men were in the area at that time and we were trying to communicate with someone but there were not too many people who were willing to talk to us.

MR. JAFFE: Note onthe record that when the Colonel said "You" he meant Mr. Lofton.

Q Colonel, going now into Saturday of the 15th, could you describe to us the characterization of the disturbance then? How would you characterize it for us?

A Let me say this: During the night and during the days of the 15th, we ran into our people and our patrols ran into a kind of resistance, a kind of resentment. We ran into brick-throwing. We ran into garbage, we ran into a lot of

debris, we ran into a lot of people throwing things from rooftops.

One of the biggest problems we had was if someone broke into a record store and they must have had 10,000 records and they decided to scale the records down the streets, just throwing them, and that's quite a potent weapon in case you ever got a record whistled around you.

We found out where they were and on many occasions we went up onthe rooftops and we made the people clear the rooves off, throw the stuff off the rooves. Most of the day was spent on that.

Q This is on the date of the 15th?

A Right. We did it on the 16th too. We spent time on the roof and if there was junk on the roof we would say "Get up and get it off."

Q Was there further looting at this point or had that been pretty well contained?

A That was pretty much contained. It was the usual stuff, kids.

Q Was there any discussion on the morning of the 15th between the Governor, yourself or between yourself and the city authorities as to removing the State Police and the National Guard from the area?

A No. There may have been by someone else but we were not in on that, no.

1 Q Again based in retrospect, asking you for an
2 opinion, do you think that that was a propitious time to
3 remove the State Police and/or National Guard? Was the riot
4 sufficiently contained by the morning of the 15th that your
5 presence was no longer needed?
6 A They were contained because of the physical
7 presence of the people that were there, the numbers of people,
8 the National Guard and State Police. Our patrols were meeting
9 with severe verbal resistance and they were being taunted,
10 being called all kinds of names, "You wait till night Whitey"
11 and this type of stuff. The tempo wasn't ready for us to be
12 moved out of that town.
13 Q You don't think you had broken the back of the
14 riot at that point?
15 A No, sir. At this time, Friday night, Saturday,
16 Saturday night, as yet there was not agroup or not anyone
17 talking to anyone. I think it was Saturday afternoon where
18 the ministers were gathered or was it Saturday or Sunday, a
19 group of people were gathered together to go in and talk and
20 there was no communication.
21 Q By Saturday the looting had been contained?
22 A Yes.
23 Q The mob,action had been contained?
24 A Yes, sir. They had been contained because there
25 had been a curfew and because there were people on the streets

restricting them and stopping them from doing anything. Fires were still going on.

Q There were fires going on Saturday?

A Yes, sir, that day and Saturday night. I believe it was Saturday that this cop was killed and I believe it was Saturday night that the fireman was killed, both in the vicinity of the fire.

Q Was there any sniping on Saturday?

A Yes. The policeman was killed on Saturday and the fireman was killed on Saturday night, later Saturday night.

Q Would you characterize the civil disturbance or the riot forming on Saturday night. What character did it take?

A Generally the same as it was Thursday night, fires, reports of looting, sniper fire.

Q Was there moresniper fire on Saturday than there was on Friday?

A From the reports that we have in certain areas it changed.

Q That's what I am driving at.

When, in your opinion, did the characterization of the riot change? When did the looting and the mob action phase change into the sniping phase, if such a change occurred?

A Well, the first night, the sniping started. The 14th was the first night. The 15th it changed from one area to another area but the sniping was there. It changed from a

different sector. It came from a different direction. We continued to have fires, we continued to have sniping and we continued to have looting. We had reports that there was looting down in this area and this is why we had to extend to the yellow area.

Q You are talking about the yellow area on C-11?

A Yes.

Q When did you extend to that area?

A I think it was Saturday or late Saturday afternoon that we extended the patrol areas.

Q The question that I am asking you,Colonel, is this: Is there a phase of the riot that is sniping and a phase of looting. The looting phase is basically over on Friday night.

A It is basically over but now it is starting to break out in the yellow area.

Q Then that is contained?

A It is contained here and on Saturday it started to break out in these areas.

Q All right. Now on Saturday, in the areas marked 1, 2, 3, 4, 5, 6, 7, is there an extensive sniping phase on Saturday?

A During the evenings, yes.

Q There is?

A Yes, but it changed from down in this area up to

this area. It changed from 6-7 area up to this area on Saturday night. It changed on us, different places. Now primarily a lot of it came from the high rise originally.

Q Would you describe for us, Colonel, how you reacted to the sniping phase of the rioting, what your instructions were to the State Policemen and what they did?

A My instructions didn't change. They had orders to fire if fired onand this is what they did.

Now one of the things is that the patrol composition that we had, and we had shotguns and we had rifles, we needed rifles to fire back to the high rise apartments. They are these buildings right here, 13 and 14 stories high.

Thepattern that had been developed or that we felt had developed was that during the day or during the night all of the windows in the stairwell would be opened and the firerer or firerers, X number, would fire from maybe the 12th story, then the 8th story, then the 6th story and keep moving up and down. This pattern was developed by the casings that we found.

The reaction was that the riflemen would return fire and the men with the shotguns would go in and search the buildings.

Q When you talk about returning fire how would you return fire, from what positions would you return fire and was it mass firing or was it individually returned fire?

A Let's talk about a patrol that was fired on.

Q Talk about a specific patrol and how it was handled.

A The specific patrol had a specific area. Now this patrol, the composition, as I told you, were four vehicles, two troopers and a guard, three guard, three guard, two troopers and a guard. This is the composition of all patrols generally, as best we could. There were some men that had to cover.

The riflemen covered and the men with the shotguns moved into the houses, wherever it may be, high rise, 12th floor, 6th floor, 7th floor. Generally the elevators were stopped so we had to climb. You would hit the level that you felt that the fire was coming from and nothing. We have yet to receive one report from anyone, from any building, any house, any street anywhere, saying that there was a sniper.

Q But you would find casings though?

A Yes.

Q You would find the casings on the particular floor level?

A Yes, in some cases.

Q Did your people who went into the buildings with the shotguns capture or apprehend any snipers?

A The first two days we had nothing. There was none reported. But how do you identify a sniper?

Q Did you catch anybody with a rifle that you could identify as a sniper?

A No, nothing.

MR. GIBBONS: Did you enter apartments?

THE WITNESS: Yes, right or wrong we entered them.

MR. LOFTON: Did you find any weapons in the apartments?

THE WITNESS: No.

Q If you saw firing from a window on the 12th floor and your men went in with shotguns what would you do? How would you get in the apartment? What were their instructions?

A Most of the time you would knock on the door or pound on the door and people would open the door as if nothing was going on. You would just walk in the place and the people would be smoking or drinking beer.

"What's the matter? You got a little problem here?" You know, it was this type of attitude.

Q Did you find casings in apartments?

A No, not in any of the apartments. We never did.

Q You never found any casings at all?

A No, we never did. I don't know what happened.

MR. LEUCHTER: Did that lead you to conclude that all the firing was from the stairwells?

THE WITNESS: No, it did not but there were many stairwells that we did find casings at. They may have been automatics where there was no injection or some type of thing like this. This is

1 one of the conclusions and one of the patterns.
2 Now we have a tape and we used tapes and
3 one of the helicopters that we used picked a
4 sniper up in a window and directed a car to the
5 area and even with this direction, even with
6 this window in this building on this floor, we
7 didn't find him.
8 Q Colonel, did your men ever meet resistance by
9 apartment dwellers?
10 A Sometimes.
11 Q They would still go in?
12 A I would assume so.
13 Q Colonel, what was the reaction of the riflemen
14 in the street? How did they handle it? You had the shotgun
15 people going in to try and flush the snipers out.
16 What were the rifle people on the street doing? What
17 was their reaction to the sniper fire?
18 A Well, I guess you do understand, all of you, and
19 I don't think it is a very pleasant experience to be subjected
20 to this type of thing. For the first day it was obvious that
21 there was excitement. This was obvious by the radio transmission
22 and after the second day the fire was controlled and you could
23 hear them "Okay, we'll take it", this type of communication
24 back and forth, "We'll handle it" and sometimes there are many
25 incidents that are not even reported here because they were

handled on the spot, in and out, and the only way that they would be depicted is from the reports that you have here. This would be the individual patrol reports after they came in from the patrols but they would not even be over the air. They would handle that themselves. They became acclimated to the fact that they could handle it themselves without a lot of to-do and as the more experienced people -- that is, the more experience they got the better they did handle it and were able to take care of the situation.

There was not this type of mass retaliatory fire. It may have been one or two conditions but I doubt very much that this even happened. It was controlled, supervised and directed.

Q Were there instructions to the State Police or to the National Guard to engage in mass firing in response to sniper firing?

A No. Remember one thing, that the control and supervision of anything is directed by an individual and there was an individual in charge of every one of these patrols and the responsibility for and of that patrol was either the sergeant or the lieutenant and the supervision and direction and discipline that this individual we feel has controlled that fire.

Q What I am driving at is that there were no general over-all instructions to engage in mass firing as a response

to sniper firing?

A No. Let's say this: There may have been another area, there may have been National Guardsmen that were on dismounted posts or patrols or dismounted posts in addition to the patrols who may have fired. I am not saying this because this I don't know. The retaliatory fire for that patrol would be under the direction of that patrol commander.

MR. GIBBONS: For clarification, do you have a report from each patrol?

THE WITNESS: Right.

MR. GIBBONS: Daily or a summary at the end?

THE WITNESS: When they came in from patrol.

MR. GIBBONS: Were there instructions with respect to those reports to record all incidents of firing?

THE WITNESS: Right. The report is pretty much formatted.

MR. GIBBONS: So that all incidents of State Police firing should be recorded in the patrol reports?

THE WITNESS: Right.

MR. GIBBONS: Do you have a patrol report that covers the location and incident of the shooting of the police officer?

THE WITNESS: I would assume we do. We have

volumes of reports but I would assume that that would be one of them, yes. That was Police Officer Toto, wasn't it?

MR. GIBBONS: Yes.

THE WITNESS: I am assuming that we would, yes.

Now we have a tape on that too. That is the Newark tape that we picked up. The first notification of this is a message from a Newark patrol car saying "A cop has been shot" and this is recorded.

MR. GIBBONS: Is all police radio transmission recorded?

THE WITNESS: No. Fortunately, we were testing some dictaphone equipment and we had it installed in our Morristown headquarters. This was within receiving distance of the car transmission.

In addition, we did have some of our own equipment that recorded receptions but no transmissions. We have that. This is from the walky-talky. We anticipated the excitement and we anticipated that there would be kind of tumultuous situations and we had trained four communicators and their sole job was to communicate, to talk, and they were in the relay tower and station and

1 their job was to calm people down. When a
2 transmission came about sniper fire the communi-
3 cator took over and said "Okay, I'll take it. I'll
4 take it."
5 His job was to keep his voice without
6 inflection and to keep the tempo where people
7 were not excited. This was solely his job.
8 The main job that he had was to know the
9 situation map and to know what patrols and what
0 sectors were affected and he had to know this.
1 He had to be trained in this operational phase
2 and the communications phase and this was his job.
3 This is how this thing was controlled
4 communication-wise to our system and as such he
5 would control then Newark patrol, he would control
6 National Guard patrols, National Guard posts and
7 State Police. We had reports that National Guard
8 was fired on or fired uponand we would have the
9 job of sending a patrol to the reported area.
0 Q Colonel, in meeting the sniping did you have men
1 stationed on rooves at all? Would you use that technique of
2 stationing men with high-powered rifles on rooves?
3 A We have sniper teams and have had them. We have
4 sniperscopes, we have men trained who are prettyhandy with
5 rifles. We had them but they were never in a position that they

could be used.

Q Why? Could you explain that?

A Because they were never in a positionwhere they could fire back or they were situated near a situation that would demand return fire.

Now primarily, you can list all the tactics that you want to but primarily sniper fire is a defensive thing. Well, Ishould say it is an offensive thing and if you are going to sit in a position where you have to wait till someone is going to come to you, and no one is going to come to you. We are not firing on someone walking on the streets. Their job was to fire back at someone that had fired and they never got into a position or situation where they had to fire back.

Now we had them and we do not use them on rooves. We use them in buildings on the top floor, top level.We did it once at the request of Newark. It was against my better judgment. I didn't go for it. It was demanded or kind of requested and we did put people one night, I think that was Saturday night, on the high rise and that was the only time. This is not my system, my technique and I said there would be no more because anybody who was on the roof, thereafter became a target because we knew we had no one on the rooves so we suspected people who were on the rooves from there on in.

Q If you had an area, say on C-11, Springfield Avenue, where you have effective sniper fire, give me an opinion as to

1 whether or not you can control it by rooftop.

2 A Well, let's say this: Let's get on a rooftop and
3 I am on the roof and the man is on the 14th floor. I can't
4 see him. If I can be possibly on the 14th floor I can look
5 up but I can sit on the window on the 14th floor and somebody
6 could be up above me and I can't see him.

7 Q How effective is ground fire in sniper control?

8 A Well, if you have a pretty good rifle it is
9 pretty effective. Let me tell you something. The manthat
10 fired that round or two is not going to stay in that window
11 too long. He is going to get out of there real quick like
12 once he fires that round and people are going to ask why were
13 there not more people or more policemen shot?

14 Let me give you an observation. I explained to you about
15 firing from windows or possibly from rooftops. This is possible
16 too. Conceivably there was some firing from rooftops, sniper
17 firing.

18 Now remember one thing, that the angle of fire, 14 stories
19 or 10 stories, that's 100 feet, at a moving vehicle -- and
20 this is what we had, moving patrols -- you had to be pretty
21 handy and this is why we had fewer people hit, because of
22 the angle and the moving of the vehicles, we assume.

23 Now for the record, we do have 18 vehicles that had
24 holes in them. Seven had holes at ground level. So we have
25 to assume that people or someone came out of a building after

the patrols went by and fired at this level because the angle of fire was this way and not this way.

Q If you return ground fire on a mass basis --

A Do you mean if I am on the ground returning fire?

Q Yes, returning fire up at the window.

How do you avoid the problem of people other than the sniper either in that particular apartment or the adjacent apartment?

How do you evaluate the risk to the people in the adjacent apartment as to the utility of returning the fire from the ground, your professional opinion, Colonel?

A How do you evaluate the risk of hurting anyone? This is a critical situation and you hope that no one gets hurt and no one wants to see anyone get hurt, be they firing at you or be they not firing at you, no one wants to see anybody get hurt.

But in times like this, someone has to make a decision as to what should be done.

Suppose fire was not returned. How long would this man continue to fire at them? Now the decision has to be made at this time and that's this: Let's stop it. This was the mission, to stop the fire.

How do you stop the fire? By returning the fire. Of course, it is entirely possible that innocent people may have gotten hurt. It is entirely possible. This is the criticism of

1 situations like this and people have to understand it. There
2 are many innocent people that are subjected to it.
3 Let's take a mob or a crowd or a riot or a situation
4 where 20 people attack one individual and this one individual
5 fires, to create a hypothetical situation. When he fires he
6 hits some man who has 20 children. The only thing we read
7 about is the man with 20 children was killed but no one ever
8 realized that he is part of a mob or a part of a group or
9 part of a bunch of people that were going to do damage some-
0 where.
1 Q As a result of your experiences in Newark, Colonel,
2 have you instituted techniques to meet the sniper problem?
3 The second question is, what kind of techniques do
4 you think are needed or can be developed?
15 A Well, there are some techniques that can be
16 developed. I think one of the best techniques that could be
7 developed could be developed by the population itself, by not
8 tolerating snipers in the buildings or reporting a sniper in
9 the building. Just remember that the people that tolerate this
0 type of thing evidently condone it or if they don't condone it
1 they areafraid of their life to do something about it and we
2 found that this was a condition many times, that people were
3 terrorized, they were actually afraid. They are afraid to tell
4 and they are afraid not to tell.
5 We feel that the best conditioning, again it is a social-

ethical problem, where people should understand that there is a responsibility to report it or say something for self-protection or for the protection of others in that building.

Q Well, from the standpoint of police techniques though, are there any that you think are worth exploring that could be used in this area?

A Yes, there are techniques and these are developed. Whether they can be applicable to all situations or not, we don't know. The individual sniper team, we prefer not to use rifles and we prefer not to hurt anyone but presently the only system of defense is by this counter measure of shooting back. You can talk about gases and there are many limitations and many problems with the use of gas.

Q You mean gas as a sniping technique?

A Yes, it could be but remember, with the use of gas there are many problems in that there are children, there are people with conditions, there are asthmatic conditions and there are old people and many things can be affected and possibly many people could receive more serious damage than through other means.

MR. LOFTON: Colonel, in these teams that responded or that were in the patrol as you have described them, did they have on their vehicles mounted any flood light equipment or anything of that nature?

THE WITNESS: On ours, no. We didn't have any.

MR. LOFTON: On any of the vehicles that were in the contingent that would respond to a report of sniper fire?

THE WITNESS: In this critical situation we did not have floodlights. We had some floodlights but not enough that we could bring in and put in a particular area.

MR. LOFTON: Do you think that that would be an effective assistance to you?

For example, it would seem to me it would be much easier to shoot at something you can see rather than something you can't see. If you have the floodlights you can put it on the building and at least see if there is anybody in the target.

MR. MEYNER: The floodlight might be a good target too.

THE WITNESS: If you ever bring a floodlight to me, the first thing that is going to happen is goodbye floodlight. For every measure there is a counter measure. The answers are not ready just now.

I don't know how else you fight a war other than if you want to fight me with your hands okay,

1 and then I pick up a stick and it grows from
2 there and this is the way it grows. You can't
3 expect someone to move in with a stick against
4 someone that has a rifle, this type of thing.
5 The severity or degree of severity is
6 dependent upon the aggressiveness on the part of
7 both people.
8 If there has to be shooting, God forbid
9 that there should be, the only way is discipline,
0 control, supervision and training on the part of
1 the people that have to use this, on the part of
2 all individuals.
3 CHAIRMAN LILLEY: Mr. Jaffe tells me that
4 this is a good time for a break.
5 I wouldlike to ask first though, in your
6 line of questioning now, is it all right to have the
7 movie at the end of the break or would you rather
8 continue with this?
9 MR. JAFFE: Yes, we are just about through
0 with the activities through Saturday and I think
1 it would be fine.
2 Q Don't you think so, Colonel? Wouldn't it be a good
3 time right after the break?
4 A Whatever you say.
5 CHAIRMAN LILLEY: We will break until 5:15.

1 MR. JAFFE: Could we mark the film as a
2 Commission exhibit for identification and then we
3 can work that.
4 (Film marked Exhibit C-13 for identification.)
5 MR. JAFFE: We will describe it as a film
6 made by the State Police during the rioting in
7 Newark and Plainfield in July.
8 Would you identify yourself for the record?
9 SGT. KOBUS: I am Sergeant Joseph Kobus of
10 the New Jersey State Police. The film was taken
11 by Detective First Class James Burns, Trooper C,
12 Identification Bureau, and Trooper Anson Baker,
13 of the Public Information Section at Division
14 Headquarters.
15 MR. MEYNER: Was this edited out of an
16 extensive amount of film?
17 SGT. KOBUS: Yes, sir. What was repetitious we
18 cut out. We condensed it down to approximately
19 38 minutes.
20 MR. MEYNER: Out of what, about 60 minutes,
21 would you say?
22 SGT. KOBUS: Yes, sir, approximately 60
23 minutes or so.
24 THE WITNESS: Again you will find that this
25 shows our physical layout at the armory and it is

not too exciting but at least it will give you an idea of the situation.

Again it is done by amateurs but it will give you a general idea of what the situation was.

(The film was shown.)

THE WITNESS: I don't think there is anything exciting about that but I think you have a pretty good idea of what Plainfield looks like and the housing and we just want the film to go on record as saying there was a riot in Newark.

It will give you an idea of the operation that we had. You were asking questions about the command post setup and that was the command post setup, A,B and C within the armory in Newark.

You saw the composition of the patrols, the four-man patrols. You saw the littering of the street on the first day on Springfield Avenue.

There is why we demanded that these streets be closed and you noticed the difference the second day when there wasn't any congestion.

If you have any questions I will be glad to answer them.

MR. LOFTON: Colonel, I noticed in one of the films or one of the clips of the film it was indicated and showed some damage done to private

house which was not a high rise.

THE WITNESS: There were many of them.

MR. LOFTON: I believe the officer said that there had been a report of sniper fire coming from that house?

THE WITNESS: Right.

MR. LOFTON: With respect to the report of the incident of the sniper fire that came from that house, was that house in fact entered by the people who fired on the house?

THE WITNESS: I would assume. I would have to look up reports on that. I would assume that.

MR. LEUCHTER: Are you talking about Plainfield now?

MR. LOFTON: I am talking about one part of the film where it was indicated that this was a house that had been shot into as a result of a report of sniper fire coming from there and I was interested because it would seem to be easier to apprehend a sniper who would be in a private house obviously than a person who is running around in a high rise apartment. He could duck in any apartment.

THE WITNESS: If my recollection is correct, there were two or three houses where individuals were taken out of. I would assume that they would

assume that there was a sniper or a rifle was taken. I am not prepared to say this is the house or this was not the house.

Again we can support whatever we have by individual reports.

MR. LEUCHTER: Are you finished with your line of questioning now?

MR. JAFFE: No. I was planning on doing this right now, if it was all right with the Commission members. I had three or four more questions in the area of sniping that we covered very extensively before the recess and then I was going to suggest to Mr. Killey that the Commission members, if they wanted to pursue that area, might, and then I would move into -- still continue in Newark but move on to the next day.

Let me just finish these three or four questions and then if anybody wants to pursue that area in more detail than I have I think that would be a good point to do it.

BY MR. JAFFE:

Q Colonel, before we proceed any furhter do you have what we referred to before as a series of reports of sniping incidents as depicted on C-11? Do you recall that, Colonel?

A Right.

Q As I understand your previous testimony, the map includes the reports? In other words, it is a graphic illustration of what is included in those reports?

A Right, but the map is not a full report. Let me say this. That is a graphic illustration of the recorded sniper fire by guard, local police, State Police and unknown, somebody else. Here our reports, I have by troop.Some of these are not on there because they were taken care of by the patrol themselves.

Q I see. Now what did you plot on C-11?

A These are reports that came to us by radio from Newark, local police and National Guard, this type of thing that is on here. Newark may have a lot more. I don't know.

Q Now in your reports what sniping incidents do you have from Troop A, Troop B, Troop Cand with other?

You mentioned before the Fire Department?

A I have the Newark Police, we have a copy of their reports that they gave us.

Q And also a copy of the Fire Department report?

A Yes.

Q Could we introduce those reports in evidence? Would you give us those?

A Can you mark them and can I give you copies?

Q Yes. Let's mark all those reports C-14 for identi-

fication.

(Reports marked C-14 for identification.)

MR. JAFFE: For the record, let's identify C-14 as reported sniping incidents, Troop A, Troop B, Troop C, State Police, a copy of reported sniping incidents furnished to theState Police by the Newark Police Department and a copy of sniping incidents reported to the Newark Fire Department, to the State Police.

Q Is that an accurate description of C-14?

A Yes.

Q Now what about the National Guard? Do you have a report of their sniping incidents?

A I do not have a report of the National Guard incidents. I have a report as depicted up there.

Q Yes, as depicted up there.

As I recall your testimony it seems to me from what you testified that as the time progressed in the riot, the sniping incidents increased. Is that a fair characterization?

A Yes.

Q Do you have an opinion as to why this occurred?

A No. I just don't know. I couldn't fathom because as I say, it started generally with a fire somewhere and as the firemen reported or responded, on two occasions the firehouse was under fire and on Saturday night, whatever date that is,

the 15th or whenever it is, Saturday night, the night that Toto was killed, I happened to be in the area and I believe that is in Area 6.

Q Area 6 on the map, C-11?

A Right. I don't know the name of the apartment but I know where the shot came from but I don't know the name of it. I think Mr. Loftonsaid Scudder.

MR. LOFTON: The high rise in the picture was Scudder Homes.

A That's the one that the shot came from or allegedly came from. I was maybe a couple of blocks away and we heard this over the radio and when I got there there was a fire directly across the street. There's an open area between Scudder, and then there's a street and there was a fire in one of those buildings and the firemen were fighting the fire in this building. This was approximately five o'clock in the evening.

So sniper fire was not confined to strictly nighttime.

Q But it did reach its peak on Saturday, I think you testified?

A Yes, Saturday night. This is Saturday evening. Now the firemen fighting this fire reported some sniper fire and this is when they demanded police protection of some sort. They wanted policemen around them or National Guard. The firemen wanted this and rightfully so. This was at 5 o'clock.

Later that night, I would say about 9 o'clock, a fireman

was killed fighting a fire in a different location. The location I guess is pretty well documented. It was then that we met with Jack Caufield.

Q He is the fire director?

A Yes. He wanted National Guardsmen right aaway and he came with all of his battalion chiefs, the ones in charge of the firehouse, and we gave them two National Guardsmen and they went with them. Before, we had National Guardsmen patrols, patroling the fire company. Newark itself had that responsibility. We did give them National Guardsmen to stay at the firehouse.

Q So your primary mission by late Saturday was really fighting fires and sniper control?

A Right.

Q That's really what it was?

A Yes.

Q You may not know the answer to this but I wonder if you might enlighten us.

Do you know whether or not the same pattern existed in the Detroit riot, the looting phase, then the containment of that and then the sniper phase?

A No, I really don't know but from talking with the State Police and the National Guard -- I did not talk to the Detroit City Police at all -- they had the same phasings. These phases has been the same throughout the country. There

is an incident, then the riot, then the looting and sniping and then it tapers off and eventually phases out. I think that the containment in Detroit was not the same as the containment was here.

Q In terms of area, in terms of type of containment, you would say?

A Right. By comparison, the area that we controlled here I think was about 14 miles, the total area. Detroit had 10 miles. Again this grew by degrees and this was Sunday when we were down in this yellow area.

Q Do you think there are any lessons to be learned in terms of the phase of this, as to the type of reaction by law enforcement that maybe could stop this prior to the sniping phase, if this is a phase type of activity?

A Stop it prior to the sniping phase?

Q Yes. Is there any kind of a technique that you can recommend?

A Now we are going into the sociological field again.

Q I realize this is a tough opinion question.

A There are people dedicated to a purpose and there are people assigned a mission and there are people who have made up their minds that they are going to shoot someone or they are going to shoot at someone, there isn't much you can do about it because we can't anticipate who is going to shoot or when they are going to shoot. There is no way of determining

it. Maybe somebody else does but I don't.

Q Was there any evidence revealed by your investigation of any organization among the snipers?

A Let me say this to you: All of you have been in some degree or have some knowledge of organizational fighting and I can only give you an example.

When there is crossfire this is organization. It takes two people and --

Q Could you describe for us what you mean by cross fire?

A Yes. This is cross fire (indicating), one firing in one direction and one firing from the other direction and this is organization.

Q When you are describing cross fire you mean two snipers who would station themselves on opposite sides of a street and cross fire?

A Right.

Q Now did that type of firing exist in Newark?

A Yes.

Q It did?

A Not continually but we experienced it.

Q Would you deduce from that type of firing the fact that there must have been some type of organization or some type of organization among a group of snipers?

A I would have to assume this, yes. I would have to

assume also that there was some dedication among and amid the group that were firing.

Q Colonel, let me ask you one more question in this area. Let's talk about all sniper fire. In your opinion, was it specifically directed at persons or would you say that its primary purpose was harassment, confusion, spreading of terror?

A Like the assumption in the teachings that we have in the State Police and the Army, when you aim a rifle or a gun at someone the intent is to shoot someone. I would assume this applies to any people who fire a weapon.

Q Were there incidents of firing at people other than law enforcement officials, if you know?

A I don't know.

Q Would you say generally it was directed at law enforcement officials?

A Or National Guard.

Q Well, I include them.

A I would have to assume that, yes, or firemen.

MR. LEUCHTER: Colonel, did you say earlier that not a single sniper was arrested? Did I hear you say that?

THE WITNESS: I didn't say that. I said not a single sniper was reported by anyone in all of the sniper fire and all of the reported sniper fire,

when we would enter a house there was not one report, nor was there a telephone report, nor was there anyone who came out on the street to say "There is a sniper or someone just shot from this house."

We have yet to have one oral verification of a sniper being in a house.

MR. LEUCHTER: Then may I ask you this?

What was the total number arrests out of the Newark violence?

THE WITNESS: I think 1,259.

MR. LEUCHTER: Of that number how many were charged with being snipers?

THE WITNESS: As you know, there is no such a charge. It is assault with a deadly weapon. I don't know. I would have to break it down.

MR. LEUCHTER: I was trying to determine whether there were charges made of sniping or whether all these arrested were looters or breaking curfew.

THE WITNESS: I have the breakdown for you, the breakdown of State Police arrests by crime.

Now one of the things to remember is that on the lesser offenses, when they were turned over the Newark police process them or assisted in

processing them because we would spend the rest of our life in Newark just handling disorderly persons and we would be there forever.

Now of the arrests that were made, we made 104 arrests but this is what we have: Carrying weapons or carrying concealed deadly weapons, 16 arrests, breaking and entering, 24 arrests.

We have a complete breakdown of arrests.

MR. LEUCHTER: I could well ask this of somebody else here who has knowledge but to the best of your knowledge, is anyone specifically charged with shooting at law enforcement officials during the Newark riots?

THE WITNESS: This I cannot tell you. I can tell you that there has been assault with weapon. People have been charged with assault with weapon. Whether it was directed at a police officer or someone else, I don't know.

MR. LEUCHTER: Was any sniper killed by return fire? Is there any information on that?

THE WITNESS: I don't know. I would have to look this up for you too.

MR.LEUCHTER: Well then, putting one of Mr. Jaffe's questions another way, what did you learn in this experience of combating sniping? What

did you learn about combating sniping?

THE WITNESS: Nothing that I didn't know.

MR. LEUCHTER: That it is difficult?

THE WITNESS: Yes. I have been through this before but not in this type of exposure, this type of warfare, where there are innocent people and children mixed up and amassed with a sniper. This is a pretty delicate situation.

Sensible people and people with any degree of common sense I would assume would not permit one of these people in their apartment because they know that there is going to be some retaliation and this we feel was the answer to it, [illegible] retaliatory fire as soon as possible.

MR. LEUCHTER: Except that you don't know and you can't tell us that the retaliatory fire killed any sniper, can you?

THE WITNESS: Let me say this: We hope it didn't but we hopewe stopped it. Now to kill someone I don'tthink is the answer. We are hoping not to kill someone or at least I was hoping that we wouldn't kill someone.

MR. LEUCHTER: In other words, the purpose of retaliatory fire is merely to dissuade whoever is firing from continuing their firing?

THE WITNESS: We hopeso.

CHAIRMAN LILLEY: You describe a counter force you had, as troopers that were handy with a rifle and you pointed out it was impossible to have them where the sniper was.

How were those troopers located around the area?

THE WITNESS: We had two of them in the Martland Center because there was sniper fire in that center and we had two of them there but they never got a shot. There was no reason for them to shoot because they could never see where the shot came from and so they sat there for three nights and they sat up in the windows and they were never in a position to shoot because they never did see where the shot came from.

Now the people on the ground could see because we had moving people and you could see a flash or you can hear a sound or something but our people with the sniperscopes never did have occasion or reason to shoot.

MR. LOFTON: Colonel, if I might, with respect to the exchange between a report of an alleged sniper and the return fire of the law enforcement contingent, what was the average

duration of the exchange between the person who would be considered to be a sniper and the enforcement officials?

THE WITNESS: Now the times that I have, when it says duration I am assuming that it would take this length of time to stop it, and whether the exchange was continual or not I can't say.

I will give you a for instance. Troop A reports -- and this is Incident Number 21 on 7-14 on the corner of Springfield and Bergen. The duration was 16 minutes, returned fire? Yes.

Now whether the 16 minutes that it took them this long to clear this building out or not, I don't know. On the 15th, Clinton and Bergen, a duration of 30 minutes and returned fire, yes.

On the 14th, Springfield and Broome, there was a duration of 60 minutes but there was no return fire.

On the 15th, what had happened is they were fired and fired and by the time they moved into the building and cleared it out, there was no need to fire back because they moved into the building but it took them approximately an hour to settle the situation.

So when you say was it continuous or con-

tinual, I can only give you by incidents and by time how long it took to suppress or arrest a particular individual. I have some here for 120 minutes, which means two hours and this is on Springfield Avenue.

I am assuming that they are going through a house for this period of time and after this situation is cleared up it took them two hours to straighten the situation out. This doesn't mean that there was firing all the time.

MR. LOFTON: I was trying to get at whether or not, for example, if you didn't have one of the tactical men with the telescopic lens or whatever is used on the high-powered rifle, whether or not there was enough time in the exchange between the alleged sniper and the conventional kinds of fire that would be returned for the person who may be the tactical State Trooper that has this shooting ability to get to the scene to see what he could do with it?

THE WITNESS: To answer your question, all of the people that have rifles have been trained in the use of rifles so he is as good or not as good but he is as capable of using that rifle as is the sniper man. If the sniper man has a better rifle

and a better scope he is naturally better equipped but the man that is using that rifle is qualified to use it. Every time that we had a sniper incident, to say we would have to call a sniper team the guy would be gone. This would be impractical.

MR. LOFTON: I was interested in the time period.

THE WITNESS: Unless we had everyone with a sniperscope and I don't think the state is going to buy that many and I don't think there is a need for that many, to be honest with you.

MR. LEUCHTER: I don't know if this is a fair question or not but could you rate the retaliatory fire as effective or ineffective?

THE WITNESS: Well, I would have to answer that that I wish I had a chance to talk to some of the people who were firing and I think they could probably answer it. I think it was effective, yes.

MR. LEUCHTER: You don't think the firing stopped because they ran out of ammunition?

THE WITNESS: No. Remember terror should be met with sufficient force to deter the terror and this may be the horrible true facts of life.

Now remember that some of the people

were more afraid of the people from within than they were from without but I think we restored confidence and showed them this was a determining factor.

MR. LEUCHTER: If there were a Federal Gun Control Law operative in all the states, not just the State of New Jersey, do you feel that this would either, 1, make guns less easier to get and therefore perhaps not lead to this or, 2, would it be easier to check them out?

Do you have any thoughts in this field since it is something that is being brought up in the news constantly?

THE WITNESS: If we are going to get to the gun bill without federal legislation the whole thing is useless. I think it is a very worthwhile program. I think that there is no question about it, anyone that wants a gun can get a gun, like anyone who wants a car can get a car.

If he wants to steal a car he can steal a car. That's no big problem. I agree that we could probably keep the weapons out of thehands ofpeople that shouldn't have weapons, demented persons, sick person, alcoholic people, this type of thing.

If we made it harder for guns to be acces-

sible we could do that but what do we do with the guns that people have now? There are millions and millions of guns that are just transferred from hand to hand without going through the legal processes. There are many people that inherit guns just by sheer death of people. Guns can be acquired quite simply by breaking into a place and stealing them. I think controls over the sale or over the manufacture of guns, over pawn shops, over people that wholesale guns, yes, I think that this should be controlled, definitely.

MR. MEYNER: The law in and of itself isn't enough. You have got to have plenty of implementation andplenty of administration, either at the state or local levels, isn't that correct?

THE WITNESS: Yes, sir. We have the administration of the gun bill and this is quite a job. We have it under control but the fingerprinting, the processing, the investigation and just remember one thing, once you get a permit to purchase a rifle or a shotgun you may purchase a thousand of them.

So I say there are many ramifications. If you say is it a good thing, I say Yes, it is a good thing, it is a step in the right direction but if you are an individual without a record and you want

to get an ID card which authorizes you to purchase a weapon, you can walk down the street now and purchase a thousand of them one at a time.

MR. MEYNER: Don't you in your implementation rely on local police again and if they are careless then someone who shouldn't have it might very well be licensed?

THE WITNESS: Yes. We have to depend on the local police departments, no question about it.

MR. LOFTON: Colonel, were there ever instances, to your knowledge, where the State Police, say, hypothetically, Premise A, say on a communication from the local police that people may have been congregating on the inside of the premises and the State Police would go to those premises as a result of a communication from the local police?

THE WITNESS: There could have been but I doubt very much. Generally it wasthe local police that went and we in the patrol area went and assisted.

BY MR. JAFFE:

Q I think that before we digressed into this last area we were up to Saturday evening and the characterization

of the riot on Saturday evening.

Could you tell us what happened early Sunday morning? Is Saturday evening the time in which you set up the yellow perimeter on C-11?

A That was set up on Saturday, some time Saturday, and we extended it some time Saturday.

Q What happened late Saturdayevening and early Sunday morning?

A Again fires and there were more sniping fires and fires to buildings and we would get reports of looting and we would keep patrols constantly moving on reports, just running down reports.

The things we got were rumors, they were moving in ammunition from Connecticut and there are ten carloads of ammunition coming in from Pennsylvania and there are busloads of colored people coming in from Washington and New York is moving over and this kept patrols constantly on the alert, stopping, restricting, containing.

Q Generally how would the rumors start? How would you receive them?

A It would start just like this and all of a sudden it is not 10, it's 100.

Q Was there a lot of stopping of cars coming in?

A Yes, all of them.

Q Did you find people coming in with ammunition or

guns?

A We found some and I have that in the reports.

Q We will have that in the reports?

A Yes.

Q Would you say it was extensive?

A No.

Q Was most of that on Saturday night and early Sunday morning or a lot of that?

A Yes, we found that on Saturday and Sunday. You remember there were a lot of people who normally come to Newark from New York. This is a traffic pattern flow. New York or Brooklyn is not that far from Newark that these people don't travel back and forth.

Q Was your blockade still effective?

A We didn't allow anyone on there. There was a curfew at 11 o'clock and nothing moved. If you lived there you could go in.

Q But otherwise it was still blocked?

A Yes.

Q Now taking you up to Sunday morning what was the situation then?

A Sunday morning I remember that we went out and I toured the area and I was with Stanley Van Ness, I think.

Q The Governor's counsel?

A Yes. We toured the area and the prime reason was

to find out if we could open up or if there were any grocery stores or stores that we could open up.

We found one store and the manager was there and he was afraid to open up and that was in the area right here where I mentioned.

Q Was this as a result of complaints from people in the area of a lack of food?

A I never got any complaints but it was obvious that people needed food. Some people couldn't walk any distance -- I am talking about the high rise area now. I am not talking about any other.

Q This was the area where the food problem was most acute?

A Yes.

Q There hadn't been any deliveries Saturday and there hadn't been any on Friday?

A No. In the first place, the delivery trucks wouldn't go in. The stores were closed and they wouldn't open them. One of the situations that was a real serious thing was in Scudder or Hayes, I don't know which, where the water electric system went off and when they sent the Public Service trucks in the men were fired on and they couldn't fix the system, so naturally they backed off.

Q What plans were made on Sunday for food distribution?

A Plans were made by Community Affairs. I just assume this. I don't know. I think from my association with Paul Yvilsaker, that he made the connections to get the food. I don't know where it came from but I do know that the National Guard trucks were used to get the food and bring it in and we escorted them in.

Q Did the National Guard set up field kitchens or anything of that sort to feed people?

A No. They distributed food. The only thing was that theCommunity Affairs people, wherever they procured the food, the National Guard picked it up and delivered it as you saw there.

Q And this began on Sunday?

A Sunday morning.

Q What was the situation on Sunday in terms of the riot situation? Had you contained it?

A It seemed that it tapered off.There was a different feeling. I felt differently. When I walked into this A&P, I felt nobody was going to shoot me or throw a can at me, the people that were there anyway seemed to say we had enough of this and seemed to want to get back to normalcy again.

Q Was there any discussion on Sunday morning as to withdrawing the State Police and withdrawing the National Guard?

A Discussionwith whom?

Q The Governor's office, among yourselves.

A The only two people who were discussing it at that time were the Governor and myself and that's when the decision was made to pull out.

Q When was that decision made?

A I think at noontime we announced it.

Q Is that when the decision was made?

A We have this documented. I apologize for my timing because I ran out of time and days on this point but we met with some people and I think this would be the Governor's prerogative to say who we met with and this was a discussion at four or five o'clock in the morning, whatever it was. It was early in the morning.

MR. LOFTON: If I may say this, I think that was about four or five o'clock in the morning on Monday morning because the troops were moved out on Monday.

THE WITNESS: All right.

MR. LOFTON: I was there at that session and it was early in the morning out at the armory on Monday morning.

THE WITNESS: Then I'm a day ahead.

Q The State Police and National Guard were still in Newark then on Sunday?

A Yes.

Q Just to clear up that part of the record.

A Was Monday the 17th?

Q How would you characterize the riot on Sunday and Sunday night?

A Sunday it seemed to taper off. There seemed to be less activity and there seemed to be less aggressiveness on the part of thepeople in the area. There seemed to be more respect and our people reported -- and this is how they reported by degrees. When they first went in there they were taunted, they were called names, "Wait till tonight.", you know.

The second night was not too bad. The third night wasn't and then by Monday it was "How are you makingout? Hello", you know. It had tapered off.

Q You mean in terms of the hostility towards the State Troopers?

A Right. I am not talking about any of the social problems. I am not talking about that. I am talking about the State Police relationship to the area that we were in.

Q Colonel, were there at that time any specific allegations of misconduct leveled against the State Police?

A Yes. That morning, Sunday morning, there were allegations that the State Police shot up windows or shot at windows.

Q Could you tell me how those allegations came to your attention?

A Groups of people or representatives of groups came to the armory.

Q Were these groups of people in the ghetto areas and citizens groups of people in the ghetto areas?

A I would assume. I don't know where they came from. They said they represented -- I know that the Governor and myself met with one group and I don't know what group it was and Mr. Lofton was with another group and I think there was Group Number 3. This was the allegation.

Q Could you tell me what the substance of those allegations was?

A First, that the State Police shot the windows out of the people who had "Soul" written on the windows. I don't know what else.

Q Was that the general complaint on the State Police activity?

A Yes.

Q Were there any specific incidents brought to your attention besides the general ones?

A Yes. Someone said that we tore up some guy's place by the name of Harris.

MR. LOFTON: Earl Harris.

Q Could you tell me what you did as a result of this

allegation?

A We investigated them. We set up an investigative team.

Q Could you describe for us howyou investigated them?

A Well, first the investigating officer was appointed. The people that were aggrieved were notified that we had an investigative group and to report their grievance to this group who would investigate it. The National Guard had appointed the IG, who was responsible for investigating these allegations. As they were reported we investigated them.

Q Was there a specific individual that you assigned to be in charge of this?

A Yes.

Q Could you tell us his name, please, if you recall?

A Major Victor Galassi had the responsibility of complaints.

Q Of handling your complaints?

A Not mine. I had no complaints.

Q I don't mean yours.

A Yes, he was.

Q Was the Major assigned by you on that Sunday?

A Yes.

Q What role does he play in your department?

A He is our investigations officer.

Q That is his general role, to investigate complaints against State Police?

A Generally we don't have complaints against the State Police.

Q Is it sort of like an Inspector General in the Army?

A No. He is in charge of our criminal investigations and in addition to his job he does this.

Q He has this ancillary responsibility?

A Yes. The National Guard appointed their Division IG, Inspector General, and I think his name is McLean and he was there to accept complaints.

Q Was a record made of the allegations?

A Right.

Q Could you describe for us -- and I realize you did not conduct it but just generally could you describe for us the way in which the Major conducted these investigations?

A He sent people out and he interviewed the complainants and interviewed such people who did have complaints and I guess we are still interviewing people.

Q Colonel, have any of those investigations been completed by the Major?

A I would say some of them, yes.

Q Do you know whether ornot any of the investigations conducted by the State Police have borne out the allegations

that were made? Do you know of any specific instances in which allegations that State Police broke up windows or acted in any other improper manner were substantiated by your investigative teams?

A No. Let me say this to you: The allegations that were made, one right now is being investigated by the FBI and this is a Civil Rights thing and the allegation is in the area of excessive shooting where a boy had been shot. This has been extensively investigated by the FBI in addition to ourselves and the final report will be made and the FBI has pretty well found that this is one allegation that has not been supported and there are many others that have not been supported.

If you are asking me some that have not been, I don't know. I can tell you there are many, many, that have not been.

Q Has there been any disciplinary action taken by you against State Troopers for improper conduct?

A As of this date I have had no reason to.

Q Were the results of any of these investigations to indicate a use to you by the State Police of improper force, breaking of windows and the kind of conduct we are talking about, would you take disciplinary action?

A Certainly. This is my responsibility and I have this responsibility administratively and legally that I must take this action. We do not condone this type of thing. It is

not our policy. We investigate all complaints no matter in what area and we investigate individuals and allegations and men are disciplined if there is any wrongdoing.

MR. JAFFE: I think we could stop right here.

BISHOP TAYLOR: I have one question that is not related to this.

Colonel, do you have any evidence or reason to conclude that the riot was related to any outside organization or movement?

THE WITNESS: I would have to say Yes. There were a couple of people that were around prior to the riots that are not around now, Colonel Husan, who is not around. He was only in there two or three weeks prior to the riot, he was missing during the riot and I don't know where he is now.

Is he an outsider? I don't know. How many others are there?

CHAIRMAN LILLEY: You said a couple of people, Colonel. Can you mention another name?

THE WITNESS: Offhand, I can't think of any but I throw that out as an example. Is he an outsider?Did he start the riot or was he part of the riot? I don't know. But if you are asking me were there outsiders there, he was one that was

there prior to the riot. He was one that was pretty vocal prior to the riot. He may have been there for the riot but we haven't seen him.

MR. LEUCHTER: I just wanted to make the observation that through most of the Colonel's testimony it has been a narrative one of what took place during this period from his standpoint and Mr. Jaffe was properly leading him through this and he has asked if he could leave at a quarter of seven and I just wondered whether we can get another chance some time later to talk to Colonel Kelly.

I have a few questions and I would like to chew this thing over with you and get into some exchange which would be more than merely the narrative type of statement.

CHAIRMAN LILLEY: Mr. Jaffe has not completed his questioning and the Colonel is willing to come back as often as we need to have him.

MR. JAFFE: We haven't done Plainfield, we haven't done Englewood and some general observations that might be very relevant too.

CHAIRMAN LILLEY: By that time you will probably have more questions.

MR. LEUCHTER: One of the reasons for being here is to get opinions from you, not necessarily all factual analyses of what happened but really some man-to-man opinions about a lot of matters and I feel like we haven't gotten to know you, even though you may be exhausted from us but I don't feel that we have gotten that far into it.

THE WITNESS: As far as the factual background I think that you have the knowledge you would need.

MR. LEUCHTER: Yes. I didn't want to keep you here tonight but I just wanted to suggest that I would like to spend more time talking with you.

CHAIRMAN LILLEY: If there is no further business, gentlemen, we will adjourn this meeting.

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