

demonstration. MR. GIBBONS: (Presiding): General, we will
 get started, and Bob Lilley will take the chair as
 soon as he gets here. We have been following
 the practice of having all the witnesses sworn.
 Whereupon, As you know, we had some problems -- some great

problems -- at the ARTHUR J. SILLS
 called as a witness, duly sworn, testified as follows:

Over that winter EXAMINATION
 1965 we By Mr. Jaffer:

Q General, I wonder if we might begin with some
 general comments from you as to your understanding of the
 pre-riot problems in Newark and the gradual militancy that
 was occurring, and to the best of your recollection the
 information that the state authorities had prior to the riot
 in July. State Police.

A Well, I can go back as far as 1964 in the spring
 when we were asked to prepare security for the Democratic
 National Convention, and at that time there was a strong
 civil rights movement in this state. There was also the
 evolving of what we thought was a militant spirit on the
 part of blacks, and at that time we had the State Police
 and I also had the Division on Civil Rights become more
 alert and make more contact with civil rights leaders and
 public officials in the larger cities and Atlantic City to
 determine whether or not we were going to be faced with

1 demonstrations either in Atlantic City or throughout the
2 state at that particular time.

3 We had certain observations. We found a pretty strong
4 undercurrent at that time for militancy in the civil rights
5 movement. As you know, we had some problems -- not great
6 problems -- at the convention. We were able to contain the
7 problems fairly well.

8 Over that winter there didn't seem to be much, and in
9 1965 we had some of the same and I had general reports again
10 coming from the State Police and the Division on Civil Rights.
11 I believe it was in 1965, and I am not quite sure whether it
12 was 1965 or 1966 when we broke out with some disturbances in
13 Elizabeth and in Jersey City. By this time we had devised
14 -- and I forget the exact date now -- a Human Rights section
15 in the State Police.

16 Q By whom was that headed?

17 A It is not exactly headed by anyone. There were two
18 troopers assigned to it. They may be sergeants now. One
19 was Holton and one was Black. I am not quite sure how many
20 are in there now and how large it may be, but if it is larger,
21 it is maybe three or four men instead of two.

22 When we had perhaps something on the horizon, we would
23 supply other men to go with them. But generally it was
24 Holton and Black who established contact with Mrs. Irene
25 Smith and other members of the civil rights movement.

1 In Elizabeth and Jersey City we did not send in any
2 uniformed men, but we had observers there and we were alerted,
3 but we were never called. As a matter of fact, in Jersey
4 City Mayor Whelan was expressing his desire that we not be
5 called at the time he had his disturbance. The only
6 difficulty was he had just appointed Joe Smith as the chief
7 of police down there, and the very first night they had their
8 rioting the chief was out in the front lines, and liaison
9 between him and the other men in the field was very poor,
10 they couldn't get instructions from him. By our sending
11 some State Policemen down there we corrected that, so we
12 set up a line of communication. Of course, ultimately Mayor
13 Whelan got together with Smitty and they ironed out their
14 differences.

15 We had some problems in Elizabeth, but we didn't send in
16 uniformed men either.

17 Going into this spring we were getting reports that there
18 was still this undercover militancy. I wouldn't say undercover
19 really because everyone started to note that the black people
20 in the Newark area were becoming more militant. I started
21 getting reports, and if I had to pick up the key things, one
22 would be the medical school and the second one would be the
23 Callahan incident, and the third the setting of the Black
24 Power Conference.

25 Q When you say key things, you mean these were the

1 issues which the militants had?

2 A Right, although if these had not been present, in
3 my opinion they perhaps would have had some other things to
4 seize upon. It just seemed to me that in the medical college
5 issue they had a good issue, in my personal opinion, as to
6 the amount of acres that had to be taken and they themselves
7 not knowing just what was going to be done. Of course,
8 those who were militant were making good use of that. And
9 the other with respect to Callahan, at least as you read it
10 in the paper and what I knew from my reports, not only were
11 the black people concerned about it, but a great majority of
12 the white people were, too. So these issues gave the
13 militants, who I think would have acted anyhow, the opportuni-
14 ty of moving more strongly toward whatever their goal seemed
15 to be.

16 Their goal seemed to be the taking of as much power as
17 they could. Whether by force or not it is hard to say.

18 Q General, would you have an opinion of how many
19 militants were involved in the Newark community?

20 A No, I wouldn't. The same names seem to be recurring
21 all the time as to those who were mostly concerned, and they
22 are the names that you heard almost everyday and read about
23 in the newspaper everyday.

24 Q Would you know whether or not there was any great
25 degree or small degree of outside agitation? Were there

1 outsiders coming in from different parts of the country?

2 over A We were of the opinion -- it was never truly
3 documented -- that, of course, this Colonel Hassan, to the
4 extent he was an outsider, came in from the outside.

5 Col We also heard there were people who would come in from
6 time to time from other areas of the country who would be in
7 Newark for short periods of time. We never had a full
8 documentation on this. A great deal of this came from the
9 local police as I recall.

10 Q Would you say that based on the kind of information
11 that was present in Newark prior to July of 1967 that there
12 was a fairly good chance that a riot could occur in the
13 summer? What would be your approximation?

14 A It is very easy to say looking backwards. I would
15 just say in 1964, 1965 and 1966 we also thought there was a
16 fairly good chance. So I would have to say there still
17 remained that good chance in 1967.

18 Q Could you tell me how the relationship between the
19 State Police and the local administration was worked out?

20 A Colonel Kelly is in a much better position to do
21 that than I. I only know I was asked permission and gave
22 permission -- in fact, as I say, we set up this human
23 relations unit. We also set up an organization whereby
24 Colonel Kelly and Major Olaff and others necessary would go
25 in and speak to the officials of the various cities where we

1 thought there might be problems. In doing that, we talked
2 over the question of communications on the question of
3 control and arrests and things of that nature. I was not
4 part of these conferences, but I knew about them. I knew the
5 Colonel had some in Newark, some in Jersey City. I think
6 there was one in Elizabeth, and I would say maybe two or
7 three weeks before the rioting broke out in Newark that we
8 were very much concerned, but we were keyed in on this week
9 of this Black Power Conference where we thought if there was
10 going to be some kind of demonstration that would be the time
11 for it.

12 but I would say that in my own mind at no time did I think
13 in terms of what actually happened. I would think in terms
14 of demonstration and disorder, but not to the extent which we
15 did have it.

16 Q You were present, General, in the June 1965 meeting
17 with the Governor and the Mayor of Newark at the Newarker
18 Restaurant where there was a general discussion as to the
19 procedure to be employed for the calling in of state aid?

20 A As I said, we had this concern that early and we
21 were fairly apprised of the fact that the National Guard
22 had little or no experience in this area and also could not
23 mobilize itself very quickly. There was general reluctance
24 on my part throughout this whole period of time to use the
25 State Police, very frankly, in local situations. I didn't

1 think this was a primary function of State Police, and I
2 felt that if the State Police were going to be used that --
3 well, exactly what has happened has happened; that is, you
4 get both the good and the bad along with it. People complain,
5 talk about State Police force and gestapo methods and things
6 of that nature, and, as I said before, you can't stop a
7 rioting by glancing at people. I just didn't like the state
8 to get the idea we were going to use State Police in numbers
9 and in forces to keep civil order in given municipalities.

10 Notwithstanding all that, because of the fact that the
11 National Guard could not set up for it, we had little choice
12 but to establish a procedure whereby we advised the various
13 mayors present that if they needed assistance, they were to
14 call the Governor and the Governor would call me and I would
15 alert the State Police. If the State Police thought it was
16 too large for them to handle, they needed more bodies, we
17 would call the Governor and then the State Police would set
18 up communications and run theirs along with the National
19 Guard.

20 Q Has that procedure ever been formalized by an act
21 of the legislature, by administrative order or executive
22 order of the Governor?

23 A I don't think it would have to be.

24 Q This is an internal method of operation?

25 A The Governor has the power under the law to send

1 the State Police into a municipality as I view the statutes.
2 He can do it with or without the consent of local people.
3 If local people want it, they can ask him for it. Also he
4 has the power to activate the National Guard either under
5 martial law or without martial law.

6 Q Would the Governor of the State of New Jersey have
7 the power to send the State Police, for example, into a city
8 like Newark if not requested by local authorities?

9 A I believe so. I believe he can do it under the act
10 which we activated, the Civil Defense Disaster Act, and we
11 do it on gambling raids, of course.

12 The State Police have a police power. When originally
13 formed their primary function was to patrol and police the
14 rural communities. They do have primary police powers, and
15 they go into any area of the State of New Jersey and enforce
16 the criminal laws.

17 Q You feel this would also apply to a general break-
18 down civil disorder type of thing?

19 A Yes. Also if you activate the Civil Defense Disaster
20 Act.

21 Q General, I wonder if you might have an opinion -- do
22 you think this procedure you have outlined to us should be
23 formalized, or do you think it is the type of thing that
24 should reside generally in the discretion of the Governor?

25 A I think it should reside in the discretion of the

1 Governor. I think if you try to formalize it, you tend to
2 become too rigid and you start worrying about what the words
3 are in the particular statute rather than what you have to
4 do in a given circumstance. At least that would be my opinion

5 Q You just mentioned before your personal reluctance
6 to have the State Police called in to contain a civil
7 disorder. I wonder if you might want to contrast the
8 personnel of the State Police number-wise as to personnel in
9 the Newark Police Department and give us an opinion as to
10 what you think the State Police would have to be like in
11 terms of an overall strength to effectively take on the
12 primary role in a riot situation.

13 A In the State Police we have about twelve to thirteen
14 hundred officers and men at the present time. On patrol we
15 generally have about seven hundred men, and in the investigat-
16 ive force we generally have somewhere between two and three
17 hundred. The others are more in a staff capacity.

18 I think the City of Newark's full force is around
19 sixteen hundred, and they have close to fifteen hundred
20 right now. Jersey City, for example, has 877. They are
21 up in full force right now. Elizabeth, 263; Camden, 226;
22 Atlantic City, 192; Trenton, 269, and they are short about
23 20 men.

24 As I say, we have 1,225 with an authorized strength
25 of 1,266, and broken down in the way in which I indicated.

1 We had 484 men on duty in Plainfield, and they spent
2 31,000 duty hours there. In Newark we had 627 men, and they
3 spent over 40,000 hours of duty.

4 Q Would you say that 600 figure is about the outside
5 limit that the State Police could be limited to at the
6 present time?

7 A It is over the limit. When you realize, as I
8 indicated, that we have 700 men for highway patrol throughout
9 the entire state and these men are, you might say, being cut
10 in half because they don't work twelve-hour shifts. For the
11 purposes of our understanding we could say at a given time
12 half of them are on duty and half off duty. The other 200
13 men are involved in narcotics, auto theft, in organized
14 crime, gambling raids and run the gamut.

15 You have got to say our sending these men left the rest
16 of the state without any kind of a State Police force.

17 Q General, in view of that and in view of the fact
18 that Colonel Kelly testified that when he came into Newark
19 that Friday it was very clear to him that he needed National
20 Guardsmen, that the State Police could not effectively
21 contain it, do you think it is realistic, then, to have the
22 State Police as the primary role to play, to have the primary
23 responsibility in containing these civil disorders?

24 A I think I said before I was not in favor of that,
25 but I had no choice because as between everything, an

1 organization with some discipline and a plan of action and
2 less bodies as against an organization which did not have
3 any kind of training and did not have a plan of action,
4 although they have a lot of bodies, we had to choose the
5 former. We had little or no choice in my opinion but to
6 adopt that method.

7 If we are talking in terms of permanency, I would go
8 back to my original thinking. I don't think this should be
9 a duty of the State Police. I think we need to double our
10 State Police force just to take care of our highway patrol
11 problems and our state criminal problems without giving them
12 the problems of doing the work for city police.

13 Also philosophically I don't like the idea of building
14 up a tremendous State Police force to go in and superimpose
15 themselves over local police forces, not as a permanent
16 thing.

17 Q I wonder if you have an opinion, in view of the
18 training problem with the National Guard, that you think it
19 might be more advisable to call up the regular army if a
20 civil disorder came to the point where they were needed.

21 A I don't think I am expert enough to be able to
22 answer that. I don't know. I know the National Guard didn't
23 have this kind of training. It seems to me the National
24 Guard should have had this kind of training, and I think
25 the National Guard can have this kind of training. Then I

1 would have to leave it to the generals in charge of the
2 National Guard and in charge of the regular army to determine
3 who would best be suited to handle a situation of this kind.

4 In Detroit they called in the regular army, but I
5 couldn't answer that. I can only say that from my experience
6 State Police should not be called in for this function, and
7 I don't think they ought to be called upon for this function.

8 Q You briefly alluded to the fact that there is a
9 distinction between --

10 A Since this is a matter of public concern, I don't
11 want it to be felt that I am saying that the State Police
12 did not do a good job here. I think under the conditions
13 they did a superlative job, but I am talking now in terms
14 of not what happened but what should be.

15 Q I think you also mentioned before the General
16 Disaster Act and the martial law concept. I wonder if you
17 might briefly describe for us the two different kinds of
18 situations in which the Governor can act.

19 A The National Guard can be called in by the
20 Governor in two ways: He can activate them and send them
21 in without martial law, and he can declare martial law. I
22 think it should be obvious to everyone when you declare
23 martial law, you are admitting a total breakdown in the
24 civilian authority, and this did not seem to be necessary
25 or advisable under the circumstances. So that in this case

1 all that was done was to activate the National Guard to work
2 in conjunction with the State Police.

3 With respect to the general power of the Governor to
4 act here, we did that under Appendix A:9-30 et seq. where
5 in the National Defense Act there were very, very broad
6 powers which the Governor had and which we felt he could
7 use under circumstances of this kind.

8 The Act has as a prelude the following: "The purpose
9 of this Act is to provide for the health, safety and welfare
10 of the people of the State of New Jersey and to aid in the
11 prevention of damages and the destruction of property
12 during any emergency as herein defined by prescribing a
13 course of conduct for the civilian population of this state
14 during such emergency and by centralizing control of all
15 civilian activities having to do with such emergency under
16 the Governor, and for that purpose to give to the Governor
17 control over such resources of the state government and
18 each and every political subdivision thereof as may be
19 necessary to cope with any condition that shall arise out
20 of such emergency, and to invest the Governor with all
21 power convenient or necessary to effectuate such purpose."

22 You can see that's very, very broad.

23 Q General, do you feel that there is legislation now
24 on the books in this area of the Governor's responsibility
25 and is the Governor's authority clear enough? Is there

1 need for any type of legislation here? with me, of course.

2 A I would think which the powers which the Governor
3 has right now are broad enough to suffice under an emergency
4 of this kind. "Those are the very words in the past.

5 Q Just to get a bit specific for a few minutes, I
6 wonder if you might tell us, getting back to the Newark riot
7 this summer, when you were first alerted, your reactions,
8 what you did and how you did it. said, "Your driver says you

9 A There had been arrangements made between myself
10 and the State Police whereby no matter where I was during
11 that two-week period prior to the Black Power conference
12 meeting that we would be in touch with each other and they
13 would let me know what they were doing generally speaking.
14 Things started to look as though they were warming up pretty
15 well, and we didn't know exactly what was going to happen a
16 couple of days before the riot took place. ending by and we

17 On the particular Thursday, July 12th or 13th, whichever
18 it was, I went to see a legitimate show in New York, the
19 ending of which I never saw. conversation with him, about a

20 MR. MEYNER: July 12th was the cab driver
21 incident and then Thursday was the night it got so
22 rough that you had been called in in the morning.

23 THE WITNESS: We felt there might be trouble,
24 and Thursday when I went to New York to the show I
25 left instructions as to where I would be and could

1 be contacted. I had a driver with me, of course.
2 At a quarter to nine I got a slip of paper just
3 before the show was to start that "trouble is
4 brewing." Those are the very words on the note.

5 MR. MEYNER: Off the record.

6 (Discussion off the record.)

7 THE WITNESS: About quarter after ten the
8 usherette came down and said, "Your driver says you
9 had better leave." I got up and I walked out. As
10 I got out, the sergeant who was with me indicated
11 to me that things were looking very bad and they
12 started to get some trouble up in Newark.

13 From the theatre I called Major Olaff and
14 spoke with him, and he told me he was in contact
15 with the Newark police and they felt they could
16 handle matters, but we would be standing by and we
17 told them we were ready anytime they would be
18 calling us.

19 After my conversation with him, about a
20 half hour, I left there and I arrived home at about
21 eleven-thirty and contacted Major Olaff again, and
22 he told me one of the deputy chiefs, Redden I think,
23 had called Troop B and said he needed help.

24 Then when Major Olaff tried to get in
25 touch with Acting Chief Foley, I think the chief

1 was not available and he was told by the acting
2 chief to disregard Redden's message to Troop B.

3 I called the Governor then about midnight
4 to let him know what was transpiring, and he said
5 that he would sit by and if something developed, of
6 course, to let him know. I kept in communication
7 with Major Olaff until I guess about one-thirty,
8 quarter to two in the morning, and just about two-
9 thirty I got a call from the Governor and he said,
10 "I have just received a call from Mayor Addonizio.
11 He needs help."

12 MR. MEYNER: This was now the morning of the
13 fourteenth?

14 THE WITNESS: This was now the morning of the
15 fourteenth. I said, "I will call Dave Kelly,"
16 which I did, and I told Kelly to get in touch with
17 General Cantwell, and then I called the Governor
18 back and told him that I had made these arrange-
19 ments but that I thought he should call Cantwell
20 himself and advise Cantwell that he was activating
21 the National Guard. Kelly told me that he would
22 be leaving at about quarter to three or ten to
23 three for Newark and the Governor then asked me
24 whether or not I thought he ought to go to Newark,
25 and it was my opinion at that time that he should

1 not. But about an hour later he called me and
2 said he was going. I directed him to go to the
3 headquarters on the turnpike so that he could be
4 escorted in from there because I was told that
5 things were riotous.

6 He then met up with Dave Kelly at the
7 armory. I kept in touch, and I assumed it was
8 about quarter to five or five o'clock in the
9 morning that they got together at the armory in
10 Newark.

11 That same day I came to Trenton to take
12 a look at the statutes and to see what it was
13 necessary for the Governor to do statute-wise and
14 also what my advice might be. After going through
15 the statutes, it was my advice that we make a
16 proclamation under the National Defense Act, A:9-30
17 which we did, and I also sat down and I wrote out
18 what I deemed to be appropriate rules and
19 regulations under the proclamation.

20 Of course, during this period of time I
21 was either talking with the Governor or members of
22 his staff or with Colonel Kelly to the extent
23 possible, or men underneath him, to determine
24 questions like should we have a curfew and if so,
25 should we have a different curfew for automobiles

1 and Sunday as well as for pedestrians, and whether it was
2 hotter inside or hotter outside, to keep people in
3 or keep them out, and things of that nature.
4 position. We had the problems, of course, with
5 Governor, respect to traffic as to where and how to circulate
6 the traffic because we have some highways that cut
7 through Newark as well. So I spent that day, as I
8 say, in Trenton getting these papers out and
9 adjusted.

10 Governor. On Saturday I went into Newark and I was
11 in Newark Saturday, Sunday and Monday, generally
12 speaking, from nine or ten in the morning until
13 about seven, eight or nine at night, something like
14 that. I generally tried to get out of there before
15 dusk fell. I did whatever I was asked to do up
16 there, general matters. I sat in on various
17 conferences and gave whatever advice I was asked to
18 give at the time, helped to man the telephone and
19 Sunday I things of that nature.

20 By Mr. Jaffe:

21 Q General, once the Governor had alerted the State
22 Police and the State Police had gone up and you had spent
23 some time up there, would you say that the basic overall
24 responsibility for running it was a state responsibility
25 and was it administered by the state on Friday, Saturday

1 and Sunday?

2 A I don't understand what you mean by responsibility.
3 I could answer that by saying that the state took the forward
4 position. The mantle just naturally was cloaked about the
5 Governor, and whether it was or was not his responsibility
6 is someone else's determination. He undertook the
7 responsibility.

8 Almost all police action was left in the hands of Dave
9 Kelly and almost all policy matters gravitated toward the
10 Governor.

11 Q That is the import of my question.

12 A Everything gravitated toward him. When you asked
13 where did the responsibility fall, as a practical matter
14 everything came to the Governor and to Dave Kelly.

15 Q When the decision was made to withdraw, was that
16 done independently by the Governor, or was it done at the
17 request of the local authorities?

18 A I don't know. All I know is that midnight on
19 Sunday I was then at home, and I was speaking on the phone
20 with Major Olaff and we were discussing this question of
21 the sniper fire and the question of whether or not by our
22 continuing roving patrols within the area we were not
23 stimulating the sniper fire and whether it might not be
24 best if we withdrew to checkpoints and not have any roving
25 patrols. He was going to take that up with Dave Kelly.

1 When I got there the next morning and spoke with Major
2 Olaff, he told me we need not concern ourselves with that
3 point because we were going to move out that afternoon. So
4 how or when that decision was made I am not in a position to
5 say.

6 Q There were certain allegations made of State Police
7 misconduct and shooting up of various windows during the
8 riot containment phase. I wonder if you could just briefly
9 describe for us the kinds of investigations that are being
10 made, whether they are in your shop or whether they are
11 within the State Police.

12 A Within the State Police. You know my office has
13 within it an investigative staff, but not of the kind which
14 would or could handle things of this kind. It has been my
15 feeling that you have here (1) If these things are true and
16 they must be investigated, the question of the Division
17 taking action against any of its own men if they did these
18 things improperly, and (2) the prosecutors or the federal
19 government coming into the picture and doing what they had
20 to do under the criminal laws of the state and the federal
21 government. That is exactly what has transpired.

22 The State Police have made investigation, as I understand
23 it, with respect to all people who complained to them. The
24 FBI has made certain investigations of which I am aware,
25 and all of this either has been or is being turned over to

1 Brendan Byrne for whatever disposition he thinks ought to be
2 made. If the facts warrant him presenting it to the Grand
3 Jury, I am sure he will present them. If they don't, as I
4 say, that's his determination to make.

5 I understand MR. GIBBONS: The Newark Legal Services
6 to cause project turned over to the Attorney General's
7 Guardsmen Office the affidavits they collected with respect
8 appointed to destruction or excessive use of force, do they
9 A not?

10 we had some THE WITNESS: I don't know whether they have
11 those who or not. I received a letter from an Albert Black
12 told this of the Human Relations Commission, I believe it is
13 ought to the Newark Human Rights Commission, and Joe was
14 over, the Hoffman in my office would know whether or not
15 said, "I Newark Legal Services turned anything over. If
16 these things they did, it wasn't through me. It might have
17 the same been through my office. I am not aware that they
18 investiga turned anything over.

19 Q By Mr. Jaffe: socially know, General, what has
20 happened Q General, do you know whether it is contemplated
21 that the State Police investigation report will be sent to
22 your office for review, too, or will it just be directed to
23 the prosecutors?

24 A No, it is not generally sent to me for review. It
25 is there and available for the Colonel to suggest whether

1 or not action should be taken against any trooper who did
2 something wrong or for the prosecutor to come in and take a
3 look or take whatever action he thinks should be taken.

4 Q This is based on my reading of the newspapers, but
5 I understand that the Governor also directed General Cantwell
6 to cause an investigation of alleged misconduct by National
7 Guardsmen and my reading also indicates that General Cantwell
8 appointed his Inspector General to make such a report.

9 A I think it was on Sunday when we were in Newark and
10 we had some people come in who were complaining. Most of
11 those who came in were talking about hearsay. They had been
12 told this and they had been told that, and they thought it
13 ought to be investigated. The minute that conference was
14 over, the Governor, as I recollect, turned to Dave Kelly and
15 said, "I want you to put someone in charge of this and have
16 these things investigated," and turned to Cantwell and said
17 the same thing to him. That was the genesis of the
18 investigating staffs.

19 Q Would you personally know, General, what has
20 happened to the Cantwell report?

21 A I don't know anything about the Cantwell report,
22 but I know as far as the State Police are concerned they
23 have made investigations and they have reports on these
24 investigations.

25 Q General, I wonder if we could briefly discuss also

1 with you the Plainfield situation as you recall it and your
2 participation.

3 and A Well, on Monday as these things --

4 Q What date was that?

5 A The seventeenth. I better start a little earlier.
6 The previous day on Sunday I was sitting in one of the rooms
7 in the armory, and I think it was called the Essex Room, and
8 there was a trooper in a corner servicing a telephone. He
9 seemed to be having some difficulties, with someone on the
10 other wire. He asked me if I would take it. I took it, and
11 it was either the mayor or the chief of police of Plainfield.
12 I am not sure which was on first. I spoke to both.

13 They told me they were having problems in Plainfield
14 and they needed State Police aid. I remember speaking to
15 the chief and I asked him what men he had. He said eighty.
16 I said, "How many are on duty?" He said, "forty." I said,
17 "Are you calling up the balance of the men?" He said, "Yes."
18 Also The mayor got on and said, "This town is going to blow
19 apart. You better send the State Police in."

20 Q Was that Mayor Hetfield?

21 A Mayor Hetfield. I tried to get the Governor. I
22 was unable to. I transmitted that message to our command
23 post so that they could seek out the Governor and give him
24 the message. I learned later that the message had gotten to
25 him and, as a matter of fact, the first contingent of

1 State Police went into Plainfield at eight o'clock that
2 night. I understand that Dave Kelly went there that night,
3 and I believe Larry Bilder went there that night. I did not.

4 MR. MEYNER: What day was that?

5 THE WITNESS: On a Sunday, the sixteenth. On
6 the next day, the seventh day, as I say, I went
7 back into Newark. Things were winding up, and we
8 were turning our attention to Plainfield. Of
9 course, we then knew about this death of this police
10 officer Gleeson, and we also knew about the stealing
11 of the 46 semi-automatic rifles, carbines.

12 By Mr. Jaffe:

13 Q When did that occur?

14 A That occurred on Sunday night. In Trenton I drew
15 a proclamation, and it was decided between the Governor and
16 myself that it would not be published unless it was
17 necessary, but I would hold it and have it in abeyance.

18 Also we drew rules and regulations again and those, too,
19 would not be activated unless necessary.

20 I took those papers with me and I left with a couple
21 of men and another car with some other State Policemen
22 followed us and we went into Plainfield.

23 We left Newark at about five, five-thirty, something
24 like that and got to Plainfield at six, quarter after six,
25 and went to the Plainfield police station where we had set

1 up a command post. At this time I was on the first floor.
2 It was later moved to the basement.

3 I met with Colonel Kelly there. I saw Commissioner
4 Ylvisaker for a few minutes, and there was a fellow by the
5 name of McDonald who was introduced to us by Commissioner
6 Ylvisaker as having been a former policeman of the Los Angeles
7 Police Department and who had experience in the WATTS riots.

8 Q Was he an employee?

9 A He was an employee of Commissioner Ylvisaker's
10 department. Mr. McDonald said he had been in the neighbor-
11 hood already and that he had spoken to a group; he didn't
12 know whether they were a representative group or not, but
13 they were a group and there were certain things which he
14 thought could be done in order to keep things quiet.

15 Jack He pointed out that the community did not like the
16 idea of having roving patrols whether the policemen involved
17 were negro or white. As a matter of fact, from what I
18 stated before about what my feeling had been in Newark, I
19 tended to agree. In Plainfield it was a simple kind of
20 situation because the area involved formed pretty much of a
21 rectangle. It was much easier than in Newark to set up a
22 checkpoint so you could keep people in or out of the area as
23 you desired.

24 As we were in the police headquarters and this inside
25 area had been sectorred off as it had been in Newark and we

1 had patrols in each one of these areas, immediately Colonel
2 Kelly said, "All right, we will cut out these roving patrols."

3 There was some question where it raised with respect to
4 people who had been arrested and what was going to happen
5 with them.

6 Q Had there been extensive looting at this point?

7 A It had already taken place, as I understand it,
8 on Saturday or Sunday or Friday. I am not quite sure, but
9 it had already taken place. Mc Donald then went back into
10 the area. He came out and said that some of the people in
11 the community wanted to have a meeting with us and they
12 would be down to the city hall at seven-thirty.

13 At seven-thirty I went over to city hall. Mayor
14 Hetfield was there and the Colonel and Commissioner Ylvisaker,
15 Jack Gleson of the Commissioner's department, this fellow
16 Mc Donald, and I am sure there must have been some others.
17 There was also a gentleman from, I guess, the Attorney
18 General's office in Washington known as the Community
19 Services Officer, Jim Norton. He was there.

20 We went there and the conversation pretty much followed
21 what Mc Donald had said before. They didn't want white
22 people coming in and out of the area. They also wanted
23 people let out of jail, and an argument ensued for about
24 fifteen or twenty minutes as to where the checkpoint should
25 be. They wanted us to move back a couple of streets from

1 where we were. We were told later, and I don't know how true
2 it was, that the purpose in doing that was so that they would
3 have control over one particular building where the guns
4 were supposed to have been cached. I cannot verify that kind
5 of information, and there was other information which would
6 lead me to believe that might have been, if true, only
7 partially true because we knew that the guns had been at a
8 certain store on Sunday night and had been passed out to
9 various negro youths. As a matter of fact, these youths
10 were picked in Piscataway with one of the guns in their
11 possession. They had given us the story of the guns being
12 passed out at this store.

13 Q This was based on informants you had in the area?

14 A Yes.

15 MR. GIBBONS: Where were the guns picked up?

16 THE WITNESS: This one gun was picked up in a
17 car. I believe it was in Piscataway. There were
18 three negro youths in the car. One of the youths
19 said he didn't want it, but they gave it to him.

20 He had been in Plainfield at the time.

21 By Mr. Jaffe:

22 Q There was a store in Plainfield where he said he
23 received the gun?

24 A He was outside.

25 MR. LEUCHTER: No, the store.

1 THE WITNESS: I am not quite sure whether the
2 store was inside or outside.

3 MR. LEUCHTER: Did you accede to that request?

4 THE WITNESS: We did at that time. We had no
5 idea of this one particular building where they said
6 the guns were. This was later, and I can't be sure
7 that we were right or wrong. There was quite a
8 jealousy, very frankly, that was being built up
9 because the local police just wanted to go into this
10 area and rip everything apart to find these guns or
11 see if they were still there or to teach people a
12 lesson, or whatever the story was. They resented
13 bitterly the fact that we were not going to do that
14 and that we had moved the line back just as they
15 resented bitterly what I will tell you occurred if
16 you will let me progress in that fashion.

17 After Commission At that point certain numbers of the
18 committee said, "They are waiting for you back in
19 the community," and we learned at that point that
20 they said that they were really not representatives
21 in the sense that they could talk for the people
22 and that they had come down to city hall to bring
23 us, the big shots, back to the negro community,
24 and they specifically wanted me and Commissioner
25 Ylvisaker and the mayor. The three of us with

1 two negro Colonel Kelly went down to Plainfield and Fourth,
2 bullhorn which was right in the area, and we drove in through.
3 there said That is when I saw this extensive looting and
4 his speak broken bottles on the streets strewn all over, two
5 said they burned out motorcycles.

6 By Mr. Jaffe:

7 Q Was there any looting occurring at that time?

8 A No. We got into this area and when we got there,
9 we got out of our cars and first Commissioner Ylvisaker
10 jumped up on a truck and was speaking to them over a bullhorn.
11 I couldn't hear it. I walked to the side of the street, up
12 on the steps of a negro family home. I asked for their
13 permission to come up there, and one woman said to me, "Yes,
14 if there ain't no shooting." I said, "I don't want any
15 shooting either, so we are both thinking the same way."
16 They let me stay there.

17 was After Commissioner Ylvisaker spoke for a while, and I
18 couldn't hear what he was saying, and they had the mayor
19 speak and I couldn't hear him, I just stood there. Then
20 the Colonel was standing with me. Then we started to walk
21 back to my car; in fact, I think I got in my car. He moved
22 a little forward as though we were going to go out of the
23 car when they all came surging around the car and wanted me
24 to talk. They got me out of the car and some pulled me one
25 way and some pulled me the other way literally, and finally

1 two negro fellows kind of formed around me and gave me the
2 bullhorn and with certain expletives to the others around
3 there said, "You brought the man down here to speak; now let
4 him speak."

5 They threw questions at me, and they asked me about
6 sealing off the area and not letting white people in and
7 keeping roving patrols out. We told them we were going to
8 do that. Then they asked me to let everybody out of jail.

9 I said I didn't have the power to do that; I didn't even
10 know what the people had been charged with, but one thing I
11 would do, and that is the moment I got back to city hall I
12 would call the public defender and I would ask him to be in
13 Elizabeth to see what he could do about setting up a system
14 of bail as had been set up in Newark.

15 There were all kinds of comments from the crowd and,
16 of course, we had noted during this period of time that there
17 was a bottle or two that was passing around amongst the
18 crowd and some were getting out of hand, and there were two
19 or three women we noticed who seemed to be egging on their
20 fellow men there to make remarks.

21 Q What would you estimate the size of the crowd at?

22 A It is very, very difficult because it might have
23 been -- first of all, I am short, and I was completely
24 surrounded. It was hard to say how many there were. As I
25 stood on the side it seemed to me there were fifty or

1 one hundred people around the truck where Commissioner
2 Ylvisaker was, but all up and down the street. You had
3 groups of four or five and a lot of people out on the stairs
4 of their homes. There could have been three hundred, there
5 could have been four hundred people there altogether.

6 MR. MEYNER: Off the record.

7 (Discussion off the record.)

8 THE WITNESS: Then Dave Kelly said, "We better
9 get out of here." At this point the mayor came
10 into our car with the Colonel and myself, and we
11 started to drive out. Then we noted the others
12 following us out. We got back to city hall, and
13 there were a bunch of newspapermen there, and I
14 suggested that we go into a side room and sit down
15 and prepare something for the press. This was
16 about at that time maybe between quarter to nine
17 and nine o'clock.

18 A few minutes thereafter, and I was told
19 it was about ten after or a quarter after nine,
20 there was a knock on the door, two negro fellows,
21 one by the name of Lee later I found out, whose
22 last name I still don't know and who has disappeared
23 from the community; another fellow by the name of
24 Lennie Cathcart, who appears quite often in the
25 picture thereafter, and he appeared before, too,

1 but not to my knowledge at that point.

2 The mayor went over to the door and I
3 just heard the mayor say, "They helped cool things
4 off last night. Let them in." I had left orders
5 for no one to be allowed in because what was
6 happening was all of the councilmen and all of the
7 civil rights leaders and all of the commission
8 members wanted to come piling into this room in
9 the back. Having seen something of what occurred
10 in Newark and knowing that it was impossible to get
11 something done with everybody putting his two cents
12 in, I had asked the mayor to come in by himself and
13 if he felt that anything we were doing was not to
14 his liking, he could tell us there or if he liked
15 it or whatever he wanted, he could go out and speak
16 to his councilmen and come back in later and we
17 would adjust our thinking accordingly with respect
18 to the newspapers. But it never got to that point
19 because these fellows came in. a lot of people.

20 You know The first thing Cathcart said was, "Unless
21 you let everybody out of jail by ten o'clock, we
22 are coming out shooting. We got the guns; we got
23 a bazooka; we have got grenades, and we are going
24 to blow this town apart. We have died for nothing
25 in the past; we might as well die for something now."

1 I am summing up just about what he said
2 to us. Commissioner Ylvisaker sat down and started
3 to talk with him and this fellow Lee. I went over
4 and conversed a bit with Dave Kelly.

5 I might as well tell you who was in the
6 room at the time. Dave Kelly was in the room; Leo
7 Kaplowitz and one of his assistants, Kozlowski, or
8 something like that. I will have to get you the
9 spelling. It is a Polish name. This fellow Jim
10 Norton, Mc Donald, Commissioner Ylvisaker, Jack
11 Gleson and Mayor Hetfield and myself, as I recall.

12 A little later in the conversation I
13 turned to this Cathcart and I said to him, after or
14 about ten or fifteen minutes of argument going
15 back and forth, "Suppose I were to say to you that
16 unless the guns are handed over within three
17 minutes the State Police and National Guard would
18 open fire in this area," and he said, "Man, you
19 can't do that. You would kill a lot of people.
20 You know we can't get you the guns in three
21 minutes." I said, "I know. We don't intend to
22 get them, but I am trying to tell you we can't get
23 everybody out of jail even if we wanted to by ten
24 o'clock."

25 We started to talk and time started to

1 go by and word was sent back into the community
2 that we were talking about these things. The idea,
3 I thought, was to keep talking to prevent any
4 further rioting or shooting. Meanwhile we were
5 getting sporadic reports of sniper fire, mostly
6 around the police station. We were down the block
7 from the police station at city hall.

8 I called the Chief Justice. I explained
9 to him what was happening. I called the Governor,
10 and I explained to him what was happening. I called
11 the assignment judge, Judge Weidenbrunner, and
12 explained to him what was happening. After every-
13 thing the consensus was that we should try to
14 release some people to send them back into the
15 community to ease the tensions of the community
16 where these people had been arrested for disorderly
17 persons offenses, not for crimes; for things that
18 we felt under other circumstances they might not
19 even have gone to trial for but would have been let
20 out on their own recognizance.

21 By Mr. Jaffe:

22 Q Who set the original bail?

23 A I don't know.

24 Q Was that a decision by the local authorities or
25 the state authorities?

1 they are It must have been local. We had nothing to do
2 with that. When I came in, these people were already in
3 jail. Some had been in jail for two days. We made known
4 to them after all these conversations that, number one,
5 this was not releasing charges; this was only permitting
6 them to go home on their own personal recognizance, and
7 that they would still have to stand trial; that the further
8 condition of the bail was there would be no further looting
9 or rioting. Then, as we were talking, of course, we were
10 always concerned with the guns. While it wasn't exactly a
11 condition, there was no quid pro quo with respect to this.
12 This Cathcart kept saying -- of course, he had indicated
13 they were coming out with guns shooting, and he kept saying,
14 well, maybe he could bring these guns to us, but he couldn't
15 do it right away. He didn't know exactly where they were,
16 but he might be able to help us out by bringing in the guns.
17 We kept harping on that while he kept harping on people
18 being let out of jail.

19 Q Were you or Colonel Kelly convinced that he had
20 the capability of delivering that type of a promise?

21 to pr A I don't know that we came to a conclusion that we
22 were convinced or only partly convinced. We knew or felt
23 from things which have been told to us and that we had
24 visualized that they had the guns. We were told by the
25 Plainfield police that the kind of fire they heard indicated

1 they were at least semi-automatics. We knew with a little
2 kit you could completely automate these guns. We knew they
3 held clips of thirty. We knew they had used them already
4 because we have the bullets which they had stolen which had
5 markings around them, so they had been identified as having
6 been stolen from the Plainfield Machine Shop.

7 So we knew they had this potential. Whether they were
8 convinced they would blow the town apart, we were convinced
9 they could cause trouble.

10 MR. LBUCHTER: Those guns were used?

11 THE WITNESS: Yes. We had the evidence of
12 that. We had the evidence of the bullets which
13 were found had been used on the firehouse on Sunday
14 night. They were picked up outside the firehouse
15 during the daytime. Also this fellow Mc Donald,
16 for whatever his information was, seems to know or
17 be convinced that they had these guns and were
18 going to use them.

19 By Mr. Jaffe: were he not there. I just don't

20 Q Was he also convinced that Cathcart had the ability
21 to produce them from the community?

22 A I don't know he was actually asked that. I would
23 say this was the impression I gathered from the conversation.
24 But even if I had not been convinced, knowing what I knew
25 and knowing that it would be very simple for someone to

1 sneak out of this area no matter what patrols we had there,
2 I knew they could go down into other sections of the town
3 and do a lot of damage. While it seemed as though Cathcart
4 had them awaiting his word, while they were awaiting his
5 word they didn't seem to be moving in any particular
6 direction. We had nothing to lose by taking Cathcart at
7 his word at that particular point either.

8 CHAIRMAN LILLEY: General, to get clarified,
9 Mc Donald's name comes up quite often as being a
10 very unusual and effective police officer. He
11 came from WATTS I guess. Do you share this feeling?
12 Is he as good as I have heard several people say
13 uniformly?

14 THE WITNESS: I don't know. First of all, I
15 never saw him act with the negro community because
16 he was down there acting on his own. He would come
17 back and report to us, so I can't tell how effective
18 he was with the community. I don't know what would
19 have happened were he not there. I just don't
20 know. I believe our reports since then indicate
21 that in fact he was not a Los Angeles police officer.
22 He was introduced to us as having ^{been} formerly with the
23 Los Angeles Police Department.

24 CHAIRMAN LILLEY: That is the way I always
25 heard him described.

1 THE WITNESS: I believe our reports indicate
2 he was not connected with the Los Angeles Police
3 Department, and I don't know exactly what his
4 function was at WATTS except I know in some way
5 he was involved.

6 MR. GIBBONS: What is his function in Mr.
7 Ylvisaker's department?

8 THE WITNESS: I don't know. I only know from
9 hear say he had some job over there, and when this
10 broke out the commissioner found out he had some
11 experience in WATTS and, therefor, took him off his
12 desk job and put him out in the field. I am not
13 here to say he didn't do an effective job; I just
14 don't know.

15 MR. MEYNER: How did he come into the picture
16 in the first place, from Ylvisaker?

17 THE WITNESS: When I came into Plainfield he
18 was there. He came up and was introduced to me by
19 Commissioner Ylvisaker, and he told me what he was
20 doing with the community. I accepted him as he was
21 given to us by the commissioner.

22 MR. MEYNER: Is he on the state payroll?

23 THE WITNESS: Yes.

24 MR. MEYNER: How long had he been on the
25 payroll prior to this?

1 THE WITNESS: I don't know.

2 CHAIRMAN LILLEY: Probably two and a half
3 months?

4 THE WITNESS: Certainly not longer than that.

5 MR. LEUCHTER: At this point you are in the
6 city talking with Cathcart and Mc Donald, stalling.

7 THE WITNESS: Not just Mc Donald. Commissioner
8 Ylvisaker was doing quite a bit of talking with
9 Cathcart and Lee. At one period of time both of
10 them left to go back to the community. This
11 fellow Lee came running back within moments, and
12 we asked him why didn't he go back to the
13 community and tell them what is going on. He said
14 words to this effect: "I can get killed out there.

15 I walked to police headquarters and there were
16 bullets flying around. Man, I don't want to get
17 killed. I ran back."

18 This Cathcart didn't come back but later,
19 I understood Mc Donald and he went back into the
20 community to let them know we were trying to work

21 out something. As I indicated, we ultimately then
22 Tuesday, called Weidenbrumer and I was in contact with Pete
23 Murray, and I saw to it that Pete Murray was
24 available. He came down to the Elizabeth area.

25 I left about two-thirty in the morning, and at that

1 that point it had already been arranged that we were
2 by going to present to the judge ten or twelve names.

3 I didn't know who the names were. They were picked
4 out by Prosecutor Kaplowitz after going over the
5 clerk's records in Plainfield to see what these
6 people had been arrested for. To this day I don't
7 know one of the names. I understood that ultimately
8 they were released at about four-thirty or five-
9 thirty in the morning and they walked home.

10 There was no further disturbance that
11 night. But the tensions were still rather high
12 and remained high.

13 By Mr. Jaffe:

14 Q Would you know how many were released?

15 A Twelve. There was a story to the effect that there
16 was supposed to be thirteen. This became hearsay, and the
17 story was circulated that they couldn't find the thirteenth
18 because he had been beaten to death. This circulated
19 throughout the community, but it had no foundation.

20 Q What was the situation the following morning?

21 A Things were rather tense. They were tense that
22 Tuesday, tense Wednesday. There was very little shooting
23 thereafter. There was no more looting, no more rioting,
24 to my knowledge. There were various incidents of gunfire,
25 but I think if you will look at the record you can find out

1 that possibly the gunfiring was done by police rather than
2 by snipers. To my personal knowledge the only sniping was
3 that Monday night as we were in city hall, and there was
4 shooting at the police station.

5 A You MR. LEUCHTER: What would the police have
6 taken place been firing on Tuesday and Wednesday?

7 THE WITNESS: I can give you two instances of
8 that right which I was aware. The police were given certain
9 stations to man, and one of the local police, so I
10 night as understand, came to this corner and he saw this
11 and he could light. He wasn't going to stand under any light
12 some general and be picked off by a sniper, so he shot the
13 by noon We light out. A policeman standing one block away
14 Tuesday morning thought they were shooting at him, and he fired
15 Wednesday back in the general direction. This was one
16 didn't know instance we had on record. thinks he can get that

17 He contradicted him Another one we had heard firing was
18 matter of down at the railroad station. When it was mapped
19 what happened, it appeared two local policemen at opposite
20 everybody ends might have exchanged some gunfire. Again
21 home and this had to be pieced together on the basis of
22 you I said reports that came in and who was in the general
23 and go to area. It might have been a sniper, but if it was,
24 You don't it couldn't be pinned down by any corroborative
25 I am conce evidence. Don't want people to get killed. I have

1 By Mr. Jaffe:

2 Q General, when in time sequence did the search of
3 the houses in the negro community take place, the general
4 search?

5 A You can't call it a general search, but the search
6 took place on Wednesday.

7 Q The twelve people had already been released, is
8 that right?

9 A Yes. I didn't finish my story, but that particular
10 night as Commissioner Ylvisaker was talking about Cathcart,
11 and he could possibly tell this better than I, there was
12 some general consensus that Cathcart would bring the guns
13 by noon Wednesday. Remember now, we left there early
14 Tuesday morning. So he felt he needed Tuesday and part of
15 Wednesday to get these guns in. He kept saying well, he
16 didn't know who has the guns, but he thinks he can get them.
17 He contradicted himself during the entire evening. As a
18 matter of fact, at one point he said to me, "I don't care
19 what happens. If you don't want to let these people out and
20 everybody wants to get killed, it is okay be me. I am going
21 home and put my head down on the pillow and go to sleep."
22 I said to him, "I can't go home and put my head down
23 and go to sleep. I have to worry about people getting killed.
24 You don't seem to worry about it." He then would say, "Yes,
25 I am concerned. I don't want people to get killed. I have

1 got children, too. I don't want them killed."

2 This would go back and forth and you would get these
3 contradictory statements from him as the evening wore on.
4 He seemed to be enjoying himself in playing somewhat of a
5 game. Again, as I say, we felt we had to keep listening to
6 him. As long as we were listening and they were not coming
7 out from the community, we felt that something was being
8 accomplished.

9 Tuesday tensions were still rather high. The police
10 were having general discussions about what was going to be
11 done in case the guns were not brought in. On Tuesday we
12 spoke with Mc Donald as a matter of fact, and he seemed to
13 be sure that they were going to bring the guns in, or a
14 substantial portion of them. At this point I would like
15 to go off the record.

16 (Discussion off the record.)

17 There was still general talk amongst the police as to
18 whether or not there was going to be a search and, if so,
19 what kind of a search it was going to be. As I understand
20 it, the Plainfield police were insistent that there be
21 a general search and that we just go right through that
22 community into every nook and cranny to get these guns.

23 Q Was this the higher echelon of the Plainfield Police
24 Department in your conversations?

25 A Well, I guess it would have to be because the ones

1 that we dealt with mostly were Captain Campbell and Lieutenant
2 Hennessey. I didn't talk with them generally; I would get
3 this from Colonel Kelly or Major Olaff or one of our own
4 men would be talking with them.

5 that I told you once before they were resentful about
6 something. They were resentful about the fact that some of
7 these people had been released. In fact, the story was
8 circulated and emanating from them, I am quite sure, that
9 some of these people we released might be, or at least they
10 suspect them of being involved in the killing of a policeman
11 Gleeson. I don't know whether that is true or not. Certainly
12 at that point the Prosecutor was there and he had been
13 investigating the case. Nobody knew this to be a fact or
14 that it was even close to being a fact. But they did resent
15 that quite bitterly.
16 were The moral among the Plainfield Police was horrible. I
17 don't think they would have stayed on the job except for the
18 fact that Colonel Kelly was there and they had a great deal
19 of respect for him and they were taking orders from him.

20 store That night I got a call, Tuesday night I was home, and
21 I got a call from Prosecutor Kaplowitz who told me he was
22 going down to city hall and he said I had been invited, but
23 I didn't understand by whom or how. He told me he would
24 give me a report as to the meeting, and he called me and
25 told me later that it was a meeting of the Human Rights

1 Commission and the mayor was there. Some people, white and
2 black, had made the statements that we had no right to make
3 an ultimatum that these people bring in the guns by Wednesday
4 noon; that this was ridiculous. Some of the people said
5 that these people to hold on to their guns because they had
6 to protect themselves after the State Police left because
7 they were going to be at the mercy of the Plainfield police
8 at that point and the whites in the community who had been
9 armed.

10 Let me say when I came in on Monday there had been
11 reports of young white kids circulating through Plainfield,
12 and some of them had been these motorcycle fanatics, some
13 who wear jackets with swastikas on them. As a matter of
14 fact, while I was in Plainfield a car with five kids in it
15 -- I thought they were three boys and two girls, but they
16 were five boys -- was stopped by the police in front of me.
17 The car was searched. We asked if we could open the trunk.
18 They said yes, and we did. We asked them what they were
19 doing in town. One kid said, "Well, my uncle has got a
20 store in town and we came in to take a look at the store."
21 We told them to go back home. They did.

22 These were the kids that were circulating in the town,
23 and they were looking for trouble and we had reports they
24 had driven through the negro area and had taunted some of
25 the people in this area.

1 Kaplowitz reported to me that Tuesday night that he
2 didn't know whether under these circumstances the guns were
3 going to be brought in at all. I conveyed that information
4 to Colonel Kelly, and we were going to wait to see what the
5 morning was going to bring.

6 It was early in the morning Colonel Kelly called me at
7 home, eight o'clock or somewhere around that time, and said
8 the police had made up their minds that they were going to
9 have a general search because they were sure the guns were
10 not going to come in and there was no element of surprise
11 involved anymore because some of the stations, one station
12 in particular had said the night before, one o'clock in the
13 morning, that there was going to be a general search. This
14 could be true speculation. The Colonel told me he was going
15 to circulate this paper that had been drawn up --

16 MR. LEUCHTER: By station you mean a radio
17 station?

18 THE WITNESS: Radio station. And that he was
19 going to circulate this paper to let the community
20 know so they wouldn't be greatly surprised. I left
21 my home and came down to Trenton and had a conference
22 here with the Governor and other members of the
23 staff.

24 By Mr. Jaffe:

25 Q Just to interrupt that narrative, on the evening

1 right before that morning was there any rioting going on at
2 all in Plainfield?

3 A No, not to my knowledge.

4 Q Then the situation that morning was also relatively
5 calm, I mean calm in the sense that there was no rioting?

6 A The fact that there was no rioting does not permit
7 you to use the choice of words "relatively calm" because it
8 was not relatively calm on Tuesday and it was not relatively
9 calm on Wednesday. The feelings were high. The community
10 was very tense, both the black and the white. Whatever
11 conversations you had with anyone was at a high-pitched
12 voice. All you can say is that there was very little left
13 in that area to loot. The liquor was all gone; the cigarettes
14 were all gone. The stores had been broken into. The State
15 Police and the National Guard were pretty well containing
16 these people in a given area. That had a lot to do with
17 the fact there was no looting and rioting. But there was
18 no relative calm because feelings were very, very high on
19 both sides.

20 Q I just wanted to have a picture on record as to
21 whether or not there was any actual physical rioting or
22 sniping.

23 A There had been sporadic incidents which you will
24 find on the record, but in the general sense there was no
25 looting or rioting. I came down here to Trenton to discuss

1 this matter of the search, and after a conference down here
2 it was decided that there would be a search of selected areas.
3 These areas had been pinpointed on information given by the
4 police. There were various other things which were done
5 which I don't think I ought to put on the record at this
6 moment because, again, we are now starting to talk about
7 something which is the subject matter of litigation, and
8 there is a question of whether we were justified or unjusti-
9 fied at that point in moving without search warrants.

10 Q If I could just ask some questions and if you feel
11 they are of a privileged nature, please don't answer them.

12 I ask you: Was a decision made that morning to conduct a search?

13 A The actual decision was made down here between
14 eleven and twelve o'clock to make a search of certain areas
15 where we had information from the local police to the effect
16 that the guns might be cached.

17 MR. LEUCHTER: Wednesday morning?

18 THE WITNESS: Wednesday morning. As a matter
19 of fact, the proclamation was activated that
20 morning, and the rules and regulations were put on
21 file with the Secretary of State, you will find,
22 somewhere between eleven-thirty and eleven-thirty
23 five.

24 By Mr. Jaffe:

25 Q Did the decision encompass a number of areas to be

1 searched? Did you talk in terms of dwelling houses or
2 particular areas?

3 A Some were dwelling houses and some were outside
4 areas. I think in all there were about twenty-six locations.
5 There is a map in existence, and the State Police have that
6 map with names and points on it as to the areas to be
7 searched, and this is where we had received the information.

8 Q Who had the responsibility for directing the search
9 out in the field?

10 A That is a good question. I am going to tell you
11 what happened. I don't know who had the responsibility.
12 I left Trenton about one or ten after one and got to
13 Plainfield about quarter to two, and when I got there I met
14 the Colonel. He told me they were getting ready to move
15 and search the area. He received a call from the Governor,
16 and he knew we were going in on a selective search. He
17 moved out. I stayed in police headquarters, and the next
18 thing I knew a call came over the radio that everybody
19 should stop and they were stopped for about fifteen minutes.
20 You will have to find out what happened there from Colonel
21 Kelly and from Commissioner Ylvisaker.

22 The next thing I knew, about two o'clock they moved
23 forward. The next thing I knew was about ten to three
24 Colonel Kelly came back into police headquarters and I said,
25 "Is it over?" He said, "Yes, it is over." Then he related

1 to me they had gone into some of the areas, not all the areas,
2 and I would get a report later as to the guns and other things
3 which had been picked up.

4 Q Did the National Guard join with the State Police
5 in that search?

6 A Yes. The National Guard and, as I understood it
7 because I wasn't there when arrangements were made, certain
8 people in the community also went along with the State Police
9 and National Guard teams going into the various homes and
10 trying to get the people to understand why we were doing
11 this.

12 Q Were local police members of these teams, too?

13 A I don't know. I don't think so. I think that there
14 was very high feeling between the local police and the people
15 in this community. I think, if I recall correctly, we had
16 been asked by the negro members of the community not to
17 have local police as part of the teams.

18 Q The next question -- I don't know whether it is
19 more properly directed to you or Colonel Kelly or whether it
20 is privileged information -- but could you tell us what the
21 results of the search were in terms of weapons? How many
22 weapons did you find?

23 A I think you had better get that from the State
24 Police. Sufficed to say we did not get a substantial
25 number of the rifles. In all I think we recovered only

1 about seven or eight rifles, and I think you had better get
2 that information from the State Police.

3 A MR. LEUCHTER: Were some of the stolen rifles
4 searched found in that search?

5 Q THE WITNESS: I believe so. I think there
6 happened were three. I can't be sure of that. I think the
7 reaction Colonel can best give you that information. I

8 A know one was recovered some days later, as a
9 bottle of matter of fact. In fact, one of the areas searched
10 but then was an incinerator. There was nothing in it.

11 kind of Later on one of our men got the idea things had
12 this to been picked up from the incinerator before we got
13 occurred, there, so they went to the garbage people. We
14 seemed to went there and found one burned rifle. The serial
15 I guess the number was still legible, and we traced it back as
16 going to being one of the stolen guns. We knew this one
17 back or a gun had been thrown into the incinerator, as a
18 when it was result of our search.

19 annoyed by By Mr. Jaffe: they claimed was harassment

20 apartment Q While you were in Plainfield were there any
21 specific complaints directed to you during the period of
22 the search? I mean people complaining whose homes were
23 being searched.

24 A No, but I was in police headquarters when this
25 James Bowie called, and I heard the Plainfield sergeant

1 at the desk speak with him over the phone.

2 Q He was calling?

3 A He was calling and complaining his home had been
4 searched and somebody had taken his shotgun.

5 Q Could you describe just very briefly for us what
6 happened after the search was called off and the general
7 reaction in the community and then what happened?

8 A My observation seemed to be that it was like a
9 bottle of champagne. It was explosive when the cork popped,
10 but then as it stayed open and it started to fizz out things
11 kind of went flat. Everybody was waiting for something like
12 this to occur, and the black community was mad that it had
13 occurred, was irate, but then after it was over everybody
14 seemed to be calmer and not as tense as they were before.

15 I guess they were afraid of what the results of it were
16 going to be, and I guess whether someone was going to shoot
17 back or not and whether it would be a great conflagration.
18 When it wasn't, it was a question of some people being
19 annoyed because of what they claimed was harassment or their
20 apartments being placed in disorderly fashion. When they
21 got over that, it was just now a matter of conversation.

22 Things did seem to be much easier at that point except that
23 right after the search the Plainfield police en masse
24 "resigned."

25 MR. LEUCHTER: Why?

1 THE WITNESS: As I got the story, No. 1, they
2 were very much concerned that they had been left
3 out of things; that the State Police had not been
4 allowed by state officials to go rampaging through
5 the negro community and teach them a lesson. They
6 were afraid that the State Police were now going to
7 move out and leave them at the mercy of the negro
8 community with the forty-six rifles, or whatever
9 it was left of them. They were tired. They had
10 worked for a long period of time. They felt they
11 had not been treated properly and all of this led
12 them to say they were all going to quit. I
13 understand Commissioner Ylvisaker went up to talk
14 to them, but they weren't buying anything from him.
15 Finally Colonel Kelly went up there and, as I say,
16 they had a great deal of respect for him. He was
17 able to bring some assemblance of order in, and
18 they did not in fact resign. But they were still
19 rather bitter at the actions of the state officials.
20 As a matter of fact, the State Police had agreed
21 to stay on, and I think we stayed in there and
22 gave them a measure of cooperation for, I guess
23 the record will show, at least maybe ten days to
24 two weeks after that particular time.

25 MR. LEUCHTER: Why was the search called off

1 after approximately forty-five minutes?

2 THE WITNESS: I honestly don't know. When the
3 Colonel came in and I asked him that, he kind of
4 shrugged his shoulders and went like that, putting
5 his arms into the air sort of indicating there was
6 no sense in it anymore. We weren't going to get
7 anything and weren't getting anything. Some of the
8 tempers were getting pretty high out on the streets,
9 and the TV cameras were running all over the place.
10 This was the first time we had allowed newspaper
11 men in the riot area. We had kept them out up
12 to that point.

13 Q As a matter of fact, I got a three-or four-
14 page telegram from CBS complaining about the
15 violation of the First Amendment.

16 MR. MEYNER: Who actually called it off?

17 THE WITNESS: I honestly don't know. I thought
18 that the Colonel did. I don't know. I really
19 don't know.

20 MR. MEYNER: Didn't you think it your duty to
21 find out? Didn't you think it was your responsibili-
22 ty to find out?

23 THE WITNESS: Well, you asked before who had
24 the responsibility. I had thought that I had the
25 responsibility when I was there. I did not go out

1 Q in the field. I sent Colonel Kelly to go out and
2 require a conduct the search on orders of the Governor.

3 a plan to Commissioner Ylvisaker was out there, and he had his
4 communicate own ideas and he took away some of the responsibility
5 handling from the Colonel, saying he was doing so, and taking
6 it upon himself as a cabinet member.

7 MR. GIBBONS: Do you know the circumstances
8 have gone under which he came to Plainfield?

9 THE WITNESS: He was there when I got there.
10 I assumed that the Governor had sent him there to
11 do what he could with the people in the community.

12 As I recall, require that they have riot training.

13 For example, Q I just have a few other minor matters I would like
14 to get your views on. What can be done on the state level
15 to require local police to have riot training? What
16 mechanisms presently exist for that?

17 A We have through the Police Training Commission
18 mandatory basic training, and now in-service training which
19 was passed this year. When we make this a requirement of
20 the various academies established in the state, it will then
21 give the police this training.

22 know Q Do we statewide require local municipalities to
23 have pre-riot plans, plans that they have to develop to
24 meet a riot situation?

25 A You will have to repeat that.

1 Q Is there any mechanism by which the state can
2 require a municipality to have a riot plan, in other words,
3 a plan to contain a riot once it occurs in terms of
4 communications facilities, in terms of the best method in
5 handling it, in terms of overseeing their requirements?

6 A Not that I am aware of. No more so than for the
7 state to tell a municipality without legislation they must
8 have gas masks or tear gas. The cities have their home
9 rule and they have their own organizations and their own
10 responsibilities. All we have required at the state level
11 is training.

12 As I say, we can require that they have the training.
13 For example, even recently when we tried to legislate that
14 each municipality should have a drunkometer so they could
15 test for drunken drivers, that legislation didn't pass
16 because some thought it violated the home rule precept.

17 Q Would it be possible to legislate specific
18 requirements for riot control?

19 A I think so. I think that it is part of the State
20 Police power, and I think it can be done reasonably, but
21 whether you can get it through or not I don't know. I don't
22 know it is practical. Again you are going to have the old
23 bugaboo of: Who is going to pay for it?

24 MR. LEUCHTER: General, how effective is the
25 police human relations course? I think the State

1 Police have done this. Have many local police
2 participated in these courses? Have they been
3 effective other than on the book?

4 THE WITNESS: I don't know how effective they
5 have been, but I know all of their recruits since
6 1962 have gotten this course in the training
7 schools. It is hard to say how effective. I know
8 that the unit that we have in the State Police has
9 been very effective because I know many of their
10 incidents not connected with rioting in Newark and
11 Plainfield where they have been in contact with
12 civil rights leaders and others and have contained
13 certain situations and have gotten to reason with
14 people and explained to them. We could have had a
15 very explosive situation in Bridgeton last year
16 when a negro boy died in prison, and it was alleged
17 he had been beaten to death by State Troopers. Of
18 course, we had a Grand Jury investigation on that,
19 and it turned out he died in jail as a result of
20 adhesions which he had gotten from a knife wound
21 which occurred in a fight some years ago. But, of
22 course, the problem there was that he complained of
23 the pain, and they called the doctor while he was in
24 jail and the doctor prescribed over the telephone
25 instead of coming down and taking a look at the boy.

1 MR. LEUCHTER: A county physician?

2 THE WITNESS: Yes, and he strangled inside
3 and had nothing to do with being beaten or anything
4 of that kind. But there was a lot of hullabaloo
5 about it, and I think that our human rights unit
6 in the State Police had a lot to do with keeping
7 the NAACP there on an even keel, for example. They
8 were quite hot about it, but they were effective
9 there. They were also effective down in that area
10 when we had a possible confrontation with the
11 Klu Klux Klan and the NAACP, and there have been
12 other things throughout the state where our unit
13 has been effective.

14 Of course, giving the course is not the
15 sole answer and does not come close to being the
16 sole answer. To my way of thinking what we sorely
17 lack here in New Jersey, and probably in the United
18 States, is the professionalization of our police at
19 the local level.

20 MR. GIBBONS: Do you think you can effectively
21 professionalize them with the present home rule
22 set up?

23 THE WITNESS: I would have to say yes and no.
24 I think there would be some limitation, but I think
25 you could go an awful long way before you start

1 worrying about the limitation. What you need most
2 of all is the upgrading of the educational
3 requirements and, frankly, the paying of professional
4 salaries. You have got to. You are asking a
5 policeman today to be a social worker, a lawyer, a
6 member of the clergy as well as to do his ordinary
7 police functions. You are asking him to know how
8 to deal with minority elements when we have people
9 in our society with college degrees who don't know
10 how to deal with minority elements.

11 MR. GIBBONS: In a city like Newark with a
12 declining revenue base and an increasing welfare
13 load, is it really at all feasible to think in
14 terms of their finding the money to professionalize
15 their police department?

16 THE WITNESS: You look at it from one end of
17 the spectrum but not from the other. I wonder
18 whether if they spent the money they would have the
19 greater expense which comes about by virtue of
20 having the jails filled and the numbers of probation
21 officers which they need and the amount of money
22 which is lost in property damage by virtue of all
23 the crime which you have.

24 MR. GIBBONS: The probation function is in a
25 different segment of government.

1 THE WITNESS: But you might not need as much
2 of that if you don't have the crime at the initial
3 stage. Probation comes in at the end.

4 MR. GIBBONS: Doesn't this point in the
5 direction of the police function being other than
6 the local government function?

7 THE WITNESS: I can't answer that by saying
8 yes, because I feel again if you are going to have
9 the police operate from too large a government
10 structure, like from the state, that you might in
11 the long run get away from what you need a great
12 deal of, and that is the contact of the police
13 with the local community. If you are talking about
14 being financed by the state, that is one thing.
15 If you are talking about the state coming in and
16 providing State Policemen to take care of municipal
17 police functions, than I respectfully disagree.

18 MR. GIBBONS: Would you care to comment on the
19 Bergen County freeholders' proposal?

20 THE WITNESS: A comment to this extent: On a
21 matter of balance when you have what, 70 communities
22 all fragmented, you don't get the best possible
23 police services. This doesn't necessarily mean
24 there should be a county police department and
25 that everything should emanate from the county

1 police department. It does mean there has to be
2 some kind of coordination and some kind of
3 regionalization, but the regionalization doesn't
4 necessarily have to be the county structure.

5 MR. MEYNER: Hasn't the state undertaken the
6 role in endeavoring to professionalize the local
7 police in that they conduct the Civil Service
8 examinations, in that they make contributions
9 toward the retirement fund, in that they set up
10 the requirements with respect to police training?
11 Isn't it but just another step to add more
12 professionalization?

13 THE WITNESS: The answer, of course, to a
14 degree is yes, but it is a little different I
15 thought from the approach taken with respect to:
16 Isn't it a state function to police the municipality,
17 or shouldn't it be?

18 MR. MEYNER: I think the question was
19 professionalization of local police.

20 THE WITNESS: You get state standards. You
21 have to have state standards. You have to have
22 standardization, but that's different from saying
23 that the chain of command should be from the state
24 all the way down to the local precinct where, let's
25 say, the superintendent of the State Police is in

1 charge of all the police in the State of New Jersey
2 and that he has the power to take forces from one
3 place and put them in another place. This might
4 give you total efficiency, but it will take away,
5 in my opinion, from the humanistic elements which
6 are just as important.

7 I think it is very important that you
8 have a local base for local police.

9 Governor Meyner talks about, for example,
10 Civil Service. With that, you see, what you have
11 today is setting of salaries where local police --
12 well, in one particular section they can get up to
13 \$7,200, and that's it. This day and age that is the
14 top of their range as a patrolman. In this day and
15 age you can't expect a man to read Miranda and
16 Escobedo and Mapp against Ohio for \$7,200 a year,
17 and what he does when he gets through with his day's
18 work, he goes down to the next block and goes to
19 Joe and he and Joe have a business where they put
20 roofs on or they paint houses or do landscaping.
21 This, to my mind, takes away from the professional-
22 ization of the State Police or any police.

23 MR. MEYNER: Well maybe they look the other
24 way on occasion.

25 THE WITNESS: They will look the other way in

1 problems certain situations. It helps to bring up conflicts
2 of interest. There is no question about that. My
3 point is that you have got to pay these men and you
4 have got to increase the standards of education and
5 give them more money as they become more educated.

6 For the moment I am rather taken with the concept
7 put out by the President's Crime Commission where
8 you have the community service officer, the police
9 officer and the police agent; where the community
10 service officer can be a fellow just graduating
11 high school coming in at 18 years of age. He is
12 given limited police functions and not allowed to
13 carry a gun. He continues his education if he
14 desires, and when he reaches a certain point and at
15 the age of 21 he is able to move into the police
16 officer category. If he wants to go on to his
17 degree, he can move into the police agent category,
18 and with each step, of course, he goes up in pay.

19 By Mr. Jaffe:

20 Q Also you can get the professional people coming in
21 at a higher level.

22 A You come in laterally, which can't be done today,
23 and you have the problems there of welfare payments and
24 retirement funds and so forth, especially if you went from
25 state to state. Within the state it still has certain

1 problems. judiciary?

2 CHAIRMAN LILLEY: You mentioned the local
3 police have personal contact. I guess the question
4 is if we haven't become so efficient with respect
5 to local police that they are just in cars and don't
6 have contact, and I don't like to bring in my own
7 business, but I have learned something that has
8 amazed me in that the telephone business is such
9 that we spend a lot of money on public relations.
10 Our operators are told how to handle callers and
11 service reps, but our best image comes from men
12 who are not trained for this who go on the
13 customers' premises. They meet them face to face.
14 This is on Should we in police work put the policeman
15 on the beat? on. It works two ways, one to

16 THE WITNESS: In certain areas I believe so.
17 Certainly in the highly urban areas I believe so.

18 CHAIRMAN LILLEY: He would encounter the
19 public not only in crime situations but in other
20 situations.

21 THE WITNESS: This would be a function under
22 the President's Crime Commission concept of the
23 community service officer to a great extent.

24 MR. MEYNER: Then don't you on occasion get
25 people to say that is performing the role of the

1 judiciary?

2 THE WITNESS: The police do perform the role
3 of the judiciary when they decide to give a ticket
4 or not for going one mile over the speed limit.

5 MR. GIBBONS: Colonel Kelly pointed out to us
6 there were no common radio frequencies between the
7 state and the local police, although there is a
8 teletype system.

9 THE WITNESS: This is one area where I believe
10 that we should be able to legislate to make all
11 police be on the same communication frequency, and
12 we have suggested that and we have a plan which we
13 have put in statewide to assist in this area today.
14 This is one of the areas where I believe in
15 regionalization. It works two ways, one to
16 communicate to them, secondly for them to send back
17 to us reports which go into our uniform crime
18 reporting system, which in turn goes back to them.
19 By Mr. Jaffe:

20 Q I don't recall whether or not I told you, but when
21 I was down to the State Police Headquarters on Wednesday I
22 asked the officer in charge of communications to prepare for
23 the Commission a paper setting forth their communication
24 needs and the problems in this area. They said they would
25 send it to the Commission for our consideration.

1 MR. MEYNER: Mr. Attorney General, so far as
2 trying to provide for the future, do you think it
3 might be possible to work out a system by which in
4 Newark they could borrow some people from Jersey
5 City or Jersey City could borrow some people from
6 Newark or maybe some community could borrow some in
7 order to work out --

8 THE WITNESS: There is an assistance act.

9 MR. MEYNER: Has it ever been thought out in
10 terms of implementation?

11 THE WITNESS: Plainfield used it.

12 MR. MEYNER: Whom did they call?

13 THE WITNESS: From neighboring communities in
14 that area.

15 MR. GIBBONS: Englewood also.

16 THE WITNESS: Englewood, too. You get in a
17 lot of problems there. You don't know what the
18 local system is and you don't have available cars.
19 You don't have the same frequency radios in the
20 cars that you bring in. One of the big problems in
21 Newark the night of the riot was they had something
22 like 200 police in headquarters and no cars to send
23 them out with.

24 MR. MEYNER: This calls for more planning than
25 there was, doesn't it? You have the fabric?

1 Whereupon, THE WITNESS: That, and I guess again the
2 question of money. You need to spend money to have
3 more cars available.

4 CHAIRMAN LILLEY: General, we have been
5 draining your energies pretty much. We appreciate
6 your coming.

7 (Witness excused.)

8 CHAIRMAN LILLEY: Gentlemen, the Governor
9 today has to leave at five o'clock, and I mean to
10 respect that, but he has also said he will be glad
11 to come back. We will take you up on that,
12 Governor. We have commissioners here who would
13 very much like to hear you.

14 JUDGE WACHENFELD: I would suggest instead of
15 asking questions that the Governor tell us in his
16 own way and in his own manner as to how he thinks
17 he can be helpful to us and what he can tell us
18 will be helpful to us, and then you can go on with
19 your questions later.

20 CHAIRMAN LILLEY: We do agree you can make
21 any statement you like.

22 MR. MEYNER: You can do it on the record or
23 off.

1 Whereupon,

2 RICHARD J. HUGHES

3 called as a witness, duly sworn, testified as follows:

4 EXAMINATION

5 THE WITNESS: I will go on the record.

6 As the Judge said, I think it is rather
7 important to recall that state government, as far
8 as I know it, has been interested in the possibility
9 of outbreaks for a long time. I recall talking to
10 Mayor Whelan in Jersey City one time, and I think
11 it was 1964 if I am not mistaken -- I don't know
12 when the riot was -- but I know I had called Tom
13 Whelan and repeatedly offered the assistance of
14 the State Police. I had heard and read there had
15 been some truck drivers, bus drivers pulled a man
16 out of his vehicle and beat him, and I don't recall
17 if there were any deaths, but there was certainly
18 the imminence of violent death there.

19 Mayor Whelan told me at that time that
20 the situation was completely within the control of
21 the local police; he would prefer not to have any
22 showing of a state trooper or any armor or anything
23 of that kind. I respected his opinion. It turned
24 out to be correct, and at that time I was
25 interrogated by President Johnson on the telephone