CHAIRMAN LILLEY: Chief, we are going to start. We have three commissioners now, but before long there will be seven or eight. This is the first time I have had a chance to hear you, but I want to thank you for coming before us. I hope that we can all find something of value. The Chief has been sworn.

Whereupon,

JOHN L. REDDEN

recalled as a witness, previously sworn, testified as follows:

EXAMINATION

By Mr. Robinson:

Q As I recall Chief Redden, you had left off describing the taxicab demonstration in front of city hall about 3:00 a.m. Thursday morning, correct?

A Right.

Q Could you tell us generally about how many cabbies were demonstrating, how many vehicles were involved and the conversations between you and their spokesman?

A Precisely how many cabs there were I can't say, but they did park the length of that block in front of city hall. Some were double parked. A few, maybe one or two, were triple parked. We towed four of them, three or four of them, and we informed Al Walker, who was there at the scene and who has been identified as a civil rights

leader, that we would have to tow all of the cars unless they cooperated and moved out.

When we indicated to him that this was our intent, the group began to disperse. I had quite a few policemen on the scene. I established a heavy motor patrol on Broad Street. I left a couple of men in plain clothes at either end of the demonstration, north and south of it, to observe the conduct of the people, and any other policemen I took over to the First Precinct as a reserve force.

We kept in contact with our people on the street who were observing the conditions, and in a short period of time the group dispersed. No damage was done.

Q How many policemen approximately did you have assisting you at the scene?

A Again it is difficult to say, but I would imagine we must have had in the neighborhood of 40 or 50 or more.

Q Did the spokesman for the cab drivers have any specific complaints and, more directly, did he say anything about beating up cab drivers or "You beat up, Mr. Smith," anything like that?

A I don't recall any conversation with Mr. Walker specifically that the protest was in regard to Smith. I assume that it was. If I can recall generally what I said to Walker, it was that it was a poor place and time to protest

It was early in the morning, and certainly the city fathers weren't there, and the public, the people who were generally there during the working day just weren't around to observe a protest or to form any opinions about a protest. So I think Mr. Walker realized this. Mr. Walker and whoever else was there making the decisions realized this, and I think they agreed to disperse.

Q They had no specific complaints to you about police conduct?

A No, I can't recall, for instance, Walker saying to me, "We are down here because Smith was arrested and beaten up." I assume this is why he was down there.

Q Did you find out either then or up until this morning in what manner the cab drivers were down there, how they got there or who led them there?

A I saw the cab drivers forming up on Belmont Avenue before I had decided that things were in hand at the Fourth Precinct. I saw them forming up on Belmont Avenue let's say just south of Seventeenth Avenue. They were forming up in file double parked on the east side of Belmont Avenue.

Q Did it consist of both Negro and white cab drivers?

A As I recall it, they were all colored cab drivers.

Q Nearly everyone?

A I don't recall seeing a white cab driver in the

group.

Q Do you know whether they were gathered up as a result of a dispatcher's call going out to them, or do you know how they got together?

A Again I couldn't say. I do know all the cabs are radio equipped, and I would assume that there was some communication there.

Q I take it, then, when they dispersed that you went off duty or went to bed since it was about 4 a.m.?

A When they dispersed we felt that the situation was in hand and it would be quiet at least the rest of the night. I had a few other things to do.

I at this time ordered the people in the Patrol Division who worked around the clock on twelve-hour tours of duty. I did not stop days off, regularly scheduled days off. We did not cancel vacations. What they did was work twelve-hour tours of duty in order to provide a reserve force at each precinct the following evening before I felt certain that there would be a demonstration at the Fourth Precinct, and I felt there was every likelihood of disorders that night.

Q What did you base that belief on, that is, as of Thursday morning what evidence did you have indicating that you were sure there would be disorders that night?

A I felt that the buildup -- we have to go back

over four years -- of tensions and pressures out in the city was reaching a climax. This year it was brought to a head by these meetings, the Planning Board meetings and the Board of Education meetings to protest over this. I policed these meetings all except the first meeting of the Planning Board, and I was president in charge of the detail because I considered that the thing was reaching a climax and I was concerned about it. I was so concerned about it in fact, that after one of the meetings I told Chief Kelly that I considered that these meetings, all the events leading up to it were a prelude to violence, and I suggested to him that we have a meeting of the people who were identified as civil rights leaders and the newspapers. This was done. I personally notified the Newark News, the Star Ledger, and I called Mr. Matthews of the Afro-American. They all agreed to attend the meeting. I do know we held this meeting --

Q Could we have the month, please?

A This was June 29 or June 30, I believe, in the city council chambers. Various members of the civil rights group were there. For instance, Tim Still was there. Willie Wright was there. Washington was at the thing. The two newspapers in the city, the Ledger and the News, were there. I assume one was there from the Afro. I called Mr. Matthews, but I don't know him personally.

Q Could you tell us who else was there?

A Police Director Spina, myself, Chief Kelly, various other members of the civil rights groups. Many ministers were at the thing. Al Black from the Human Relations Commission made an appearance. Jim Threatt. I think Jesse Allen was at the thing. People who had been interested.

Q Was the mayor there?

A The mayor did not appear. Our purpose in calling for this meeting was to express to these people our concern, and our concern was that from the conduct at the meetings violence could grow. We re-issued a policy statement which positioned the Police Department in regard to civil rights. This was issued several years ago. I wrote an addendum to this which was approved by the Chief of Police and by the Police Director in which we identified the two current issues as (1) a political issue and the other matter of public policy.

We stated that these were issues that the Police Department had no part in formulating. Our purpose was merely to maintain order.

We further stated that it wasn't our position to try to suppress or deny public protest of these things, but what we were asking was that it be done without vilification, without obscenities, without assaults on people,

without destruction of property. We informed them that if these incidents took place that there would have to be arrests.

Q Up to this time had there been any arrests at any of the public meetings?

A There was only one arrest at the public meeting. The first public meeting was a meeting of the Planning Board. This took place in May. I believe it was May 22. I wasn't present at this meeting. In fact, I didn't know of this meeting until 5 p.m. the previous evening.

MR. DRISCOLL: This had to do with the medical school?

THE WITNESS: Right, with the Planning Board, with the medical school. At this meeting this fellow from Washington, Colonel --

MR. DRISCOLL: Hassan.

THE WITNESS: Colonel Hassan, I am told, and the reports indicate that he showed up, and I think he destroyed or knocked over a stenotype machine and engaged in quite a bit of hollering and shouting. He was apprehended, but then he was turned loose. They did not make an arrest on him. When I learned of this I decided that I was going to be present at all of these meetings.

The way we handled the meetings was to get a group of uniformed policemen, generally about 25. Before the meeting we would meet in the basement of city hall, Room B-21, and I would brief these men on how I wanted them to conduct themselves at these meetings. The police were in a difficult role at the meetings. The meetings were conducted under the direction of a chairman, and the chairman is responsible for the orderly processes, the decorum in the room. If the police take action, let's say, in arresting someone for a violation of the Disorderly Persons Act, which occurs in their presence without being directed to do so by the chairman, you are in a very difficult position. You are put in the position of suppressing expressions of freedom and the right to protest.

My belief is that the chairmanship of these meetings was very weak.

By Mr. Robinson:

Q Who acted as the chairman?

A Mr. Brookes was originally the chairman of the Planning Board meeting. He was replaced -- replaced is the wrong term. He requested to be replaced after the meeting in which I arrested Luke Moore. Mr. Coucouzza replaced

him.

Q Are these councilmen or members of the Planning Board?

A Mr. Coucuzza is -- well, they are both members of the Planning Board. Mr. Brookes is a real estate man. He has offices on High Street. Mr. Coucuzza, I believe is an employee of the City of Newark.

Q In what way was their leadership as chairman weak from your viewpoint at the meetings?

A From my viewpoint disturbances were permitted at the meetings which were all out of line with legitimate protests. Outcries were permitted. The aisles were packed. The meetings were disrupted. As I say, the police were put in a very difficult role.

Q What was the authority of the police at the meetings? Could you act only under instructions from the chairman?

A I believe that lawfully we could make an arrest without instructions from the chairman. The violation that you would arrest under this situation is 2A:17 0-29, disruption of a public meeting.

A general statement in regard to the Disorderly Persons Act is that policemen shall arrest when a violation of the Disorderly Persons Act is committed in their presence, and that the average citizen may arrest.

Policemen know these provisions beforehand, and you know the situation that you are put in there because of the leadership, the chairmanship. So we were put in a very difficult role, and I believe comment was made aboutthis in the public press.

Q Before we continue, Bishop Taylor had a question.

BISHOP TAYLOR: Sir, how do you define legitimate protest?

THE WITNESS: I suppose we would have to go back to the constitution in which the right to protest is granted. When public meetings are disrupted, when there are shouts, if obscenities are uttered, if there is public damage, I think this goes beyond the bounds of public protest. For instance, if a man who is supposed to speak at a public meeting gets up and speaks and then encourages people to get out of their seats and pack the aisle and disrupt the further conduct of the meeting, I feel that this is beyond the provisions.

By Mr. Robinson:

Q Were there things that you wanted to do at these hearings when they became disrupted that you were unable to do because of various restrictions?

A Well, when you say that I wanted to do, what I

wanted to do at these meetings is merely station a token force of policemen at the meetings. This is what I wanted to do, but because of the nature of the thing, because of the possibility of violence, and I would say to you at one of these meetings a minister had to be escorted out of the meeting for fear of his safety. Certainly violations of the Disorderly Persons Act occurred there, but again the problem was: Do you take action without direction of the chairman of this thing and then have your action interpreted as being in suppression of free speech, protest and so forth?

At several of these meetings, I believe the meeting at which I arrested Duke Moore, I had to call up the director and tell him what the situation was. The meeting was adjourned. The mayor, the corporation counsel, several other people convened in the mayor's office to consider what would happen here.

It was at this meeting that Mr. Brookes decided that he wanted no more part of the chairmanship. The chairman had a very difficult role, very difficult job. I say there was weak chairmanship, but it would have had to have been a terribly strong man. I doubt if any man could have handled that chair to the satisfaction of all people concerned.

Q Was there any general police directive or

directive from the mayor's office as to how the police were to conduct themselves at the hearings, or was it left to your discretion?

A It was left to my discretion, and as I stated before, I would get the men together in the basement. I told them how I wanted them to conduct themselves. I told them if any arrests were to be made that I or the ranking officer present would make the arrest and that their job was merely to assist.

In the instance of the arrest of Duke Moore I believe Mr. Moore was arguing the procedure employed by the chairman, and he was ruled out of order by the chairman. He would not give up the mike. Mr. Brookes asked me to remove Duke. I stood at the back of the chamber and, as you know, records were made of this, a stenotype record or probably a recording. I let Mr. Brooks ask me several times to do it so I was sure that it was on record.

I went down and I spoke to Duke. I know him for quite a while. I told him that he was creating a bad situation and that if he persisted in staying there I had no other alternative; I would have to arrest him. He told me that he was going to leave the mike. I told him, "Well, you are arrested." I led him out of the chamber.

This created quite an uproar. Hassan was out there and Allen was out there. The aisle became packed. I told

Moore, "Talk to these people and tell them to get back in their seats." He was cooperative to this extent. In fact, both Allen and the Colonel assisted in getting people back in their seats. We took him out of the chamber and sent him over to headquarters and slated him.

Q That was what month?

A That was in June.

By Mr. Jaffe:

Q Were you also present at the city council meetings on the K-9 Corps that just occurred the last couple of months?

A No, I was not present at those meetings.

Q Who handled the responsibilities for the Police Department at those meetings?

A We have what we call a command post in off-business hours, and we have either an inspector or a captain in charge of it. Specifically which inspector or which captain was in charge of these meetings I can't say.

Q Were the instructions to the Police Department to those meetings any different than the instruction to the Police Department at the Planning Board meetings that you refer to prior to the riots?

A No. The meeting is under the direction of the presiding officer who is generally Mr. Villani, the president of the Council. The city charter states that

the chief of police is the sergeant at arms. Well, naturally this is delegated to whoever the chief of police sends to these things.

One of the difficulties that I can see in the Planning Board meeting and in the Board of Education meeting is the procedure that the presiding officers were to follow. They have the procedure set forth in the city ordinances for city council meetings. This is again hindsight. It wasn't my responsibility anyway, but I think this procedure should have been followed by the chairman at the other meetings.

Q Do you think that the procedure at the city council meetings is a better procedure because the police chief is the sergeant at arms by the regulations as set up?

A No, that doesn't make the procedure better. The fact is that the procedure for the city council meetings is documented; it is part of the city hall; it is understandable; it is easy to argue.

At the Board of Education meeting and the planning meetings the big argument was that the ground rules were changing from meeting to meeting and even during a meeting. At least with the procedure under the city council meetings it is all set forth in the city law.

By Mr. Robinson:

Q On that point, do you feel in retrospect that

either an ordinance or legislation or regulation of some sort is necessary in order to prevent the difficulties the police had that you describe?

A Well, I think the police would have had a difficult time in any event. What I feel is they should have been in agreement beforehand on procedures that were documented. In other words, we would have said, yes, we will proceed under the rules of the city council meeting. I think at least some of the arguments -- they would have known where they were. They would have had a road map.

Q Could you get back to that late June meeting? As I understand it, you were responsible for calling it because you were concerned with the worsening situation. Am I right?

A Yes, I was.

Q Was the meeting made public, the results of it?

A It was covered by Doug Eldridge of the News and I believe Novellino from the Ledger was there.

As I stated before, I spoke to Mr. Matthews on the phone. There may have been someone from the Afro-American there. I don't know.

Q What decisions came out of that meeting or what was the consensus?

A No decisions came out of there. For the position that we were trying to establish, that the Police Department

was trying to establish, we received support from many of the ministers there. I believe three supported our position, but many of the people who were there, civil rights people, and I am speaking of Willie Wright who spoke quite a bit and Washington -- there was another man there whom I don't know who had spoken quite a bit.

MR. ROBINSON: Off the record.

(Discussion off the record.)

THE WITNESS: I might add I didn't call the meeting. I suggested to the chief and the director that this meeting be held, and they agreed and we had this meeting in the council chamber at city hall.

The opinion of the civil rights people, if I can explain it as I view it now, was that well, this is all well and good, but they spoke about the social inequities, the economic inequities which have provoked this situation, they were critical that the mayor wasn't sitting there or members of the council weren't sitting there, members of the Board of Education.

So from our standpoint, that is, the standpoint of the police in attempting to calm down the tensions and at the same time express to these people that it was not our desire that

they lessen their protests but they at least channel them so the tensions did not mount to the point where there would be violence we were totally ineffective in light of what happened later.

By Mr. Robinson:

Q How did you feel at the time?

A After it was over, after listening to all parties concerned, I remember talking to the chief of police and I told him, "Well, we have done everything we can from the standpoint of talking to people, and I don't feel good about the situation."

MR. ROBINSON: Mr. Jaffe.

By Mr. Jaffe:

Q Besides the medical school issue and the school secretary issue were there any other problems, grievances articulated by the members of the community who came to the meeting?

MR. DRISCOLL: He outlined them. It is in the record.

MR. JAFFE: Governor, my recollection, subject, of course, to the record, was that he discussed two problems.

MR. DRISCOLL: No. He mentioned others.

THE WITNESS: These were the two critical

issues. At this time there was no talk about police brutality or a review board. These were the issues previously, and I might add Andrew Washington, a member of CORE, in his talk stated that he considered that the Police Department has greatly improved in the last five years. This to me was encouraging that a member of this organization would get up publicly and say this. It was one hopeful utterance during the thing, along with some of the utterances of the ministers who attended the meeting.

MR. EMISCOLL: Will you go back and find where you referred to social inequities and economic inequities?

(The record was read by the reporter.)

MR. JAFFE: I recall that, but I did not know what he meant by social and economic inequities, and I wondered whether they articulated them to specific references, to specific programs in the City of Newark.

THE WITNESS: Do you want me to respond?

By Mr. Jaffe:

Q Yes, unless the Governor feels that is adequate.

A They were speaking for instance about the composition of the Board of Education, the quality of the

school system, the jobs, political control, things of this nature. Again it is very difficult for me to be specific. I have to give it to you in general terms. I don't believe that a written record was created of this other than what is reported in the public press.

By Mr. Robinson:

Q Did you say that meeting was June 29 or June 30?

A This is June 29 or June 30.

Q Excepting Mr. Threatt, did the administration have any representative at the meeting?

A Director Spina.

Q Other than police people?

A Mr. Threatt, Mr. Black. There were other people from city hall that were there, but I can't recall.

Q As a result of the meeting I believe you said you feared the worse, correct?

A Yes, I did. Just that I asked the chief and the director to have that meeting called indicates my feeling about the thing, and then after the expressions of the various people who attended I thought the meeting, for the purpose we wanted to hold it for, that we called it for, was ineffective.

Q Between the conclusion of that meeting and the Wednesday night disorders that did occur a couple of weeks later were there any significant steps taken by the police

Department either to lessen the tensions or to get ready for disorder?

A Whenever I could I would speak to people whom I knew who were in the civil rights meeting. Right after the meeting I spoke with Willie Wright. I spoke with a fellow by the name of Cunningham who has been active in it. Washington. But as far as preparing to cope with disorders, about the only thing that was done, and I can say it was effective, was the coordination which continued to exist between the State Police and the National Guard. The measures that were taken were very effective.

We set up a command post. We continued personal contact with people in these agencies, and this permitted the State Police and the Guard to swing into action when they were called into the city.

Q Were any preparatory steps taken like ordering equipment or by way of training the men in riot control, anything of that sort, in that two-week period?

A No, sir, nothing was done. Pardon me -- there was something done in that twenty-five shotguns were delivered to the Department. Previously the Department did not have serviceable shotguns. We had model 1897 shotguns, Winchesters, which were declared unsafe by our firearms expert. Twenty-five shotguns were delivered to us possibly a week and a half before the riots. By command

was given fifteen of them. Five of them were assigned to the emergency squad, two to each precinct.

Q Were there any recommendations that you made or any top level police officials made that were either ignored or rejected either by your superiors or by the administration in the preparatory days?

A We have made recommendations consistently over the years that changes be made; that people be trained, a tactical squad be trained to handle disturbances of this kind.

At the root of the whole thing is the use of personnel. It has to come back to that. You have to be geared to perform the best you can under normal conditions. This entails facilities. We are operating out of antiquated facilities. You can't get the best out of personnel. It involves training; it involves procedures; it involves organization.

The Police Department has an $11 million budget. Ninety percent of it goes for personnel. The question is: How are you going to get the greatest use out of that personnel in order to provide service to the public?

BISHOP TAYLOR: You mention, Chief, the coordination between the State Police and the National Guard. Was the mayor aware of this coordination before the night of the riot?

THE WITNESS: I assume he was. My contact is not with the mayor; my contact is with the chief and the director through the chief. For instance, I have personal contact, and I like to maintain it with, the commander of the Troop B in Norristown, with some of his subordinates, with people at the National Guard level.

If you have this personal contact, it solves a great many problems. It makes the operation much smoother.

MR. BROWN: Was Fitzsimmons at Troop B during most of your time?

THE WITNESS: I don't know where he was, Mr. Brown. Captain McIlroy is the commander of Troop B at Norristown. He is the man who I deal with mainly.

By Mr. Robinson:

Q I take it it is your feeling, then, that up until the time of disorders the men had not received proper training to prepare them to handle major disorders, is that correct?

A I fail to see where we had received proper training. As part of the recruit course men were given training in riot formations, but you have a recruit class and after the recruit class is over, the men are dispersed

throughout the Department and you don't have this unity of action. The thing that is necessary is that you form yourself a tactical force and that you have some unity of action in this thing.

Q Is that type of procedure and training agreed to by your superiors in the Police Department, if you know?

A Yes, sir.

Q Is anything being done about it now?

A At this point, no. It is very necessary.

Q Do you know why nothing is being done?

A I don't know.

If I may add to that, Mr. Robinson, I am charged with the responsibility of forming a unit such as this.

Q A tactical squad?

A Right. I am charged by the chief of police in orders with this responsibility. But I don't consider that I can do it.

Q Why?

A What this involves is the assignment of personnel to duties. I can't assign personnel to duties in the Police Department. The assignment of personnel is the responsibility of the Police Director. It has to be a decision at some place that, yes, X number of men are going to be commited to these responsibilities; training is going to take place; that the training facility has to be made

available for this purpose.

Q You brought all of this to the attention of the director?

A This has been brought to the attention -- several years ago it has been brought to the attention of the people who are responsible for making the decisions.

Q Has he told you why he is not assigning any men to this task force?

A I believe there are problems of organization, there are man hour problems. Again, my feelings are sort of vague in the reasoning behind it.

Q Do you know what the reasoning is?

A No.

Q At any rate, you are still looking for the men?

A Definitely you have to go with it.

Q Could you tell us what your duties were and what your observations were throughout Thursday preceding the picketing at the Fourth Precinct?

A I went home at five-thirty in the morning. I came back in for a 9:30 a.m. meeting in the chief's office. Acting Chief Foley was at the meeting. The director came to the meeting. I informed all present that my people were working twelve-hour tours of duty. There was some talk which left vague notions in my mind that some extra people from other divisions would be available that night to back

up our reserve force.

After that I went about, well, let's say my normal duties and also conferred with the precinct captains about how we would try to handle what we considered was going to be disturbances that evening.

Q What plan did you set up to handle the disturbances you anticipated?

A We established a reserve force in each precinct, and we tried to assure ourselves that we would have as many vehicles as possible in serviceable condition. This was about all we could do.

Q Did you issue any special equipment?

A I had no special equipment to issue. The shotguns which were in the precinct, I considered that they were there for the defense of the precinct, and that was all we could use them for because of the quantity we had.

Q Will you continue, please?

A After doing what we could, I went home about five-thirty. I had a meal, and I came back at the office at approximately seven o'clock or a little thereafter. I made a phone call to the Fourth Precinct, spoke to the Lieutenant Price who was on duty at the desk. I asked him what the situation was, and he said a group of protestors were out in front of the place. I asked him if any missiles had been thrown at the building, if any violence was displayed.

He said, "No, not as yet. They are protesting, a considerable crowd. They are right up to the doors of the precinct."

So there was an acting captain on the scene. The captain of the Fourth Precinct was on vacation. It was Acting Captain Leonard Paradiso. This man since has received a promotion to captain. He had a reserve force in the precinct. He asked me what I wanted done if missles were thrown at the building, if the building was attacked. I said, "Well, I want you to form the people up, your reserve people, up into four squads under the supervision of superiors and if missles are thrown at the building, if the station is attacked, I want you to send your people out and disperse the crowd."

I told him I wanted an immediate telephone call if this type of thing took place. I told him, "I will send you reinforcements."

I don't believe more than ten minutes or so passed and I received a telephone call from the lieutenant. He told me that the place was being stoned; that the inner doors, the glass in the inner doors of the precinct had been shattered. I told him, "Well, you have to send your people out and disperse that crowd."

Q This was about what time, Chief?

A I would assume that this was before seven-thirty.

Q Continue, please.

A I immediately called the Fifth Precinct. I had two motor patrols standing by. These are patrol wagons, and I had a group of men assigned to each of the patrol wagons, a superior officer and approximately fourteen men. I dispatched these two auto patrols to the Fourth Precinct with the men, possibly 30 police officers. I sent another auto patrol, same type of complement, from the First Precinct. So in all I dispatched upwards of 45 men to the Fourth Precinct as reinforcements.

On the way one of the wagons going east on Seventeenth Avenue was stoned and a police sergeant was severely cut on the face. When I first looked at him I thought he had lost his eye. Fortunately he didn't. Other men were struck with rocks. They had a difficult time making the Fourth Precinct.

We were now trying to get people out of the area.

Q Where were you at this point?

A After dispatching the auto patrols with reinforcements, naturally I was still down to the Patrol Division office at headquarters, 22 Franklin Street. I then went to the Fourth Precinct with patrolman Adams and Inspector Murphy.

Q You arrived about what time, sir?

A I would say we arrived there at the latest about seven-thirty or thereabouts.

Q Tell us what you found.

A I found the street littered with rocks, pieces of glass, windows of cars. Generally it seemed to me they were police vehicles that were parked there. Windows shattered. People had been cleared from the sidewalk right in front of the sidewalk. Some of them still were in the area in the housing project across the street.

We got reinforcements inside the building, and what I decided to do was to create a secure working area. I thought that we would have to secure an area on Seventeenth Avenue from Boyd Street down to Belmont Avenue and on Belmont Avenue from, let's say, Seventeenth Avenue to I believe it is Montgomery.

We began assigning men for this purpose. We had to move people out of the area. I had to send groups of policemen to the tops of the nearest housing project buildings because some people were throwing missiles down at the station from there or at any people who happened to be in the area.

Q Were any arrests made up to this point?

A It is difficult for me to say. There may have been some arrests. Not many. The Department records would reflect the time of arrests.

We were mainly interested in clearing that area.

Q Were you able to do it?

A We finally secured an area around there so that we could operate in safety around the precinct, but this required a considerable expenditure of manpower.

In the meantime, there were other things that had to be done. We began to call in everybody we could to handle the situation with this exception: We could not call in the people who would be due to work at six-forty-five and seven-forty-five the following morning because we had to provide service around the clock. So we called in whatever manpower we could who were off duty or on vacation.

At this time I got some help from the Traffic Division. I found out they had some motorcycle men. We tried to stop off traffic in the area. I wanted to stop traffic on Belmont Avenue from Spruce and Eighteenth down to Montgomery. Large crowds gathered around Spruce and Belmont. We had probably about four traffic men down there, motorcycle men and they had to leave the area. They just weren't safe there.

So we found it difficult in shutting off the traffic on Belmont Avenue. There were large crowds of people on Belmont Avenue watching what was going on inside this perimeter that we tried to establish, that we did establish.

Q What time did the director arrive at the precinct?

A I would estimate that the director got there approximately about eight o'clock or so.

Q When he arrived, did he take over control in the form of issuing orders?

A No, I wouldn't say that. I would say that he conferred with them. It was evident to him what the situation was. We informed him that we were calling in people from off duty. I would say for operational purposes I issued most of the orders.

Q What was the next significant event?

A As time went by the activity around the precinct diminished. Reports began to come in that windows were being smashed on Springfield Avenue. A few arrests began to be made at this time.

Q Did you make a tour?

A Yes, I did. Not at this point though. There were several things that I had to do at this time. One was to notify the State Police. We received calls from the turnpike troop wanting to know what was going on. They had heard about the trouble. So we told them.

I informed Captain McElroy by phone what was going on. We were checking up in each other precinct to find out what the situation was. I was concerned about providing additional service throughout the city. While this whole thing was going on you could not stop giving service throughout the rest of the city. We did have previous plans to scale down services in a situation like this. In

other words, you are not going to perform some relatively minor services which you ordinarily perform.

Q Did you feel at that time that you needed State Police help?

A At that time I considered that we were in very serious difficulty. Whatever I had was committed. People who were going to work the next day I could not bring in because the men were already working twelve-hour tours of duty, which is enough under stress conditions such as this. I considered that the only thing that could contain it now was a real show of manpower, and I think this was proven by what took place.

As soon as we could we took men away from that perimeter and assigned them to whatever vehicles we could collect first to go up to Springfield Avenue and try to do something about the situation. At this time again it is very difficult to pinpoint time.

Captain Zinza, the commanding officer of the precinct, showed up. He came back in from vacation. He organized the groups to go up on Springfield Avenue to do what he could.

Q How many people did you have committed at this time approximately?

A Normally we would have roughly 110 men out working a four to twelve tour. I had roughly 40 men on

reserve in each precinct. So this would be about 300 men in my command.

Q That were committed?

A Were fully committed at this time. From that point on it is very difficult to determine who was coming in at what times in the other precincts, people off duty. At this time policemen began showing up, and as soon as we could get them vehicles we would assign them to Springfield Avenue to go up with Captain Zisa in order to try to quell the thing.

Q At this point did you recommend to the director or to anyone else calling in the State Police?

A Not at this point. I made a tour of inspection on Springfield Avenue, Clinton Avenue, downtown Newark, some of the other streets. When I came back I told him, "We need help."

Q This was what time, before midnight?

A Oh, this was before midnight. This would have to be approximately maybe nine o'clock, nine-fifteen or thereabouts.

Q What was the reaction of your superiors?

A Well, Spina acknowledged -- I told him I thought we needed help, but no action was taken at the time.

After making this tour around I checked again on what was being done around the perimeter of the building.

Arrests were being made. After the passage of some time I made another tour of duty. I found conditions on Clinton Avenue to be almost comparable to the conditions on Springfield Avenue. I found stores completely looted. For instance, on Springfield Avenue Flax's had a fire. The super market across the street was completely smashed and people were in there literally shopping.

Q Did you find during these early hours of the Thursday night disorders a shortage of police vehicles?

A Yes, we had a shortage of police vehicles. I think that in any event you would have had a shortage of police vehicles because as you got men in, you certainly had a complement of men which was far in excess of what ordinarily work. You are not geared to providing the quantity of vehicles which is necessary.

Q At what time were you instructed to call in the State Police?

A At about one-thirty in the morning the director spoke to me in the precinct, and he told me to come up to the captain's office with him on the second floor of the Fourth Precinct. He told me to call the State Police in.

Q And you did that?

A Yes, I did. I called Captain McElroy up in Norristown, and I told him, "The director has told me to

call you and to have the State Police come in."

Q In your opinion should the State Police have been called in sooner?

A I would like to have seen them called in sooner, but again this is a judgment I am making and I didn't have the responsibility for calling them in. I thought we needed manpower out there to contain the situation. In my tours around I found there just wasn't manpower. For instance, on Clinton Avenue, I can think of the situation around Neuman's Liquor Store. The place was just a mass of people with no one to contain the situation.

I would say from probably Jelleff Avenue on Clinton up to Osborne Terrace there was just no effective control whatsoever. Businesses were being ransacked.

CHAIRMAN LILLEY: Can you tell us whether there were prior requests for the State Police that were countermanded, or was there any succession of requests?

THE WITNESS: Yes, if I can, I will continue on with the telephone call that I made to Captain McElroy. He asked me to standby, and he had Major Olaff call me from Trenton. I told the Major, repeated the message I gave to McElroy. He said, "Okay, we will get the thing started."

I sat there in the captain's office with the director, and it seems to me that ten or fifteen minutes passed and a phone call came through. I answered the phone and the director was requested. I gave the phone to him and he told me to call up the State Police and cancelled out and remain on standby.

I again called up McElroy. I told him I had received another instruction from the police director that this was a request made to cancel out and that they should remain on standby.

McElroy had the major, Major Olaff call me and I repeated the instructions to the major. But I told him on my own that I considered that the situation was very bad.

By Mr. Jaffe:

Q I wonder if you could just specify the time of that, if you recall.

A I believe my first call to the State Police was made at about one-thirty-seven.

Q That would be on the morning of the fourteenth?

A Right.

Q Were there any calls by you, sir, to the State Police on the thirteenth or the twelfth?

A I called the State Police on the thirteenth.

After receiving a call from the troop that handles the turnpike inquiring as to what was going on up there, I called Captain McElroy in order that his office could be informed. This was considerably before midnight.

Q That was not a formal request?

A It wasn't formal. It was to acquaint him with what was going on. Here I had a call from one troop, the turnpike troop, and I didn't want McElroy to get some distorted version of this thing.

MR. GIBBONS: Who called Director Spina?

THE WITNESS: I can't say who that was. It was a telephone voice, and I really don't know who it was, but I assume it was somebody from downtown.

MR. GIBBONS: Do you know if it was somebody in the Police Department or in the administration?

THE WITNESS: Well, I don't think anyone in the Police Department, no one in the Police Department would have had the authority to countermand the director's order. I would assume it would have to be someone from the administration.

By Mr. Robinson:

Q Up until the time that the State Police were

called in did you --

MR. BROWN: What time were they called in? They were not; they were countermanded ten or fifteen minutes later.

THE WITNESS: Yes.

MR. BROWN: As I understand it, the first call to bring them in, the authority was given by Director Spina at about one-thirty-seven roughly?

THE WITNESS: Right. If I may add, the State Police have a log of all these events, I believe. Unfortunately we didn't keep a log.

MR. BROWN: Approximately ten or fifteen minutes later there was a cancellation of a call and a request for standby. That would be about ten minutes to two?

THE WITNESS: Somewhere in there.

By Mr. Robinson:

Q When was the call made to the State Police to come on in?

A This I don't know. I have heard it was about three-thirty, but I had no part of any communication to the State Police after the telephone call I made cancelling or putting them on standby rather than responding.

Q Up until two-thirty when you assumed the State

Police were called in had you or any superiors issued any orders to the men on the street on how they were to conduct themselves by way of firing or not firing?

A Yes, I had. The instruction I had given should be on our communications tape. From listening to the radio there was quite a bit of excitement out there and apparently it was becoming unsafe even for two men to patrol the reported crowds of this size. There was an impression I think that was gained through our entire experience that there were restrictions on the use of firearms. The message that I got out, and I wrote the thing down and I gave it to the lieutenant in charge of Central Communications, that firearms may be used when your own or another's life is in danger and no other means are available to defend yourself or apprehend an offender.

Q You issued that order to the dispatcher when?

A This again had to be, I would assume, some time after eight o'clock. Certainly between eight and eight-thirty. I was monitoring the radio listening to these dispatches. I wrote it out and gave it to the lieutenant. It went out on the air, and I guess it went out under my name so it is on the tape what the dispatcher said.

MR. BROWN: I just want to get this straight: That firearms would be used when no other means were available and the lives of the

officers or other persons were in danger?

THE WITNESS: Right. What we were doing, we were repeating, reiterating training that has been given to the men. We were reiterating what is stated in our department rules and regulations. We were reiterating what is stated in a training bulletin on the use of firearms.

Previous to this, previous to the riot I wrote an order setting the responsibility expressly on precinct captains to conduct roll call training and to certify in the post blotter that they themselves had done so concerning the use of firearms. It was a repetition of continuous training in the law and in our rules and regulations.

By Mr. Robinson:

Q After you issued that order did you get back any requests from the men in the field for clarification?

A No requests from the men. I feel that the situation at that time and the use of firearms was the same as the situation operating under normal circumstances. The law stands. The rules and regulations stand.

Q At what point did you change that order if at all?

A Never changed. Changed the order in regard to

the use of firearms?

Q Yes. The order that you issued that night at about eight o'clock, did you at any time change it?

A No.

MR. BROWN: Was it eight o'clock?

THE WITNESS: I said it had to be somewhere between eight, eight-thirty.

MR. BROWN: My only point was that I don't think you gave him the time before.

THE WITNESS: No. As I explained, so many things happened, so many things broke so fast that we just didn't have a log of this. I would like to have had a man who could go around documenting the time that this, that and the other thing was done, but that wasn't the situation.

MR. BROWN: I just thought perhaps I had not heard the time.

THE WITNESS: The time is available. This is documented on communications tapes.

By Mr. Robinson:

Q That order of yours remained the standing order throughout the night in the use of firearms, right?

A Right. It was a reiteration of what stands at law and what stands in our department rules and regulations.

Q Do you now know when the first firing took place by your men, at what time?

A No, I do not. It is just difficult to say. I was in the precinct making whatever decisions I had to make in regard to duty tours, in regard to getting people back. I made several tours of inspection around the city. I am just one man, and I was only in one place.

Q Did you receive any requests from any of your subordinates asking permission to use firearms?

A No, I did not receive any requests, but I believe a review of the tapes will indicate that some things were said on the radio about, "Well, when are we going to be permitted to use our firearms?"

Q These requests were never made of you directly?

A They were never made of me directly, but I responded to these transmissions from the radio cars when I was monitoring the radio.

MR. BROWN: And your response was that standing order that you have already told us about?

THE WITNESS: Yes.

MR. BROWN: Do you have any statistics, or are they available, on the amount of ammunition that the Newark police used in any given period?

THE WITNESS: No, I don't have any statistics on this. I do know that when I came back in the afternoon of Thursday, the thirteenth, that we ordered ammunition. We ordered 100,000 rounds of shotgun ammunition.

As far as an accounting of ammunition, no, sir, no provision was made for the accounting of ammunition.

MR. BROWN: Such figures to your knowledge are not available?

THE WITNESS: No. The best that we could come up with at this point is probably the amount of ammunition on hand in a central repository and in the commands.

MR. BROWN: Do you happen to have those figures or are they back at headquarters?

THE WITNESS: I don't have these figures. These figures could be obtained.

MR. BROWN: Can you tell us what type of ammunition was used by the Newark police throughout the disorders?

THE WITNESS: In this 100,000 rounds that was ordered I believe we got a mixed lot of bird shot. I would believe that would be No. 6 shot. Double O buck and rifle slugs. I believe

this had to be shipped in from Bridgeport.

MR. BROWN: Connecticut?

THE WITNESS: Right.

In the meantime we were concerned about ammunition running out, and I contacted a place in Union City and ordered in whatever they had in shotguns. I believe there should have been 20 to 25 we purchased in this lot, and we took whatever shotgun ammunition we could get from him. Some of this amounted to, I believe, very very fine shot all the way up through rifle slugs. Again, there are bills which document this.

MR. BROWN: Can you tell us what other types of ammunition were used during the disorders?

THE WITNESS: I would assume that some people used their regular .38 caliber ammunition.

MR. BROWN: Any others?

THE WITNESS: This is all I know. I do mean that men showed up with their own personal weapons.

MR. BROWN: And used them?

THE WITNESS: And used them. I suppose this was whatever ammunition fitted those weapons.

By Mr. Jaffe:

Q Chief, have you instituted controls for the disbursement of ammunition in a civil disorder? How could you control the ammunition?

A We have done some preliminary thinking about this. Forms have to be developed and a system has to be developed to do this. It is something we are working on now. The big problem with this thing there is a great amount of staff work required, and you have day to day ongoing responsibilities. This is a problem that has to be met.

MR. BROWN: Chief, in the ordinary conduct of the department's business is an officer required to account for his ammunition? For example, perhaps the first question should be: Is he issued ammunition or must he purchase it himself for his personal assigned weapon?

THE WITNESS: I suppose I could say I am not really too clear on the subject. I have purchased ammunition.

MR. BROWN: Some do and some don't.

THE WITNESS: Right. We had a firearms program going in which men would respond. You would use your old ammunition on the range and you would be resupplied.

MR. BROWN: Is there a regulation that controls expenditure of ammunition in line of duty? For example, is an officer required to have a certain amount of ammunition on hand or with his uniform equipment when he checks out of the precinct?

THE WITNESS: Yes. At all times you are supposed to have your revolver fully loaded, and you are supposed to have six rounds.

MR. BROWN: The way you are equipped now?

THE WITNESS: Right. This is the minimum you are supposed to have. If you wanted to have more, there is no restriction on this.

MR. BROWN: Let's assume that an officer on non-riot duty goes out and fires certain shots. Is he required to account for these cartridges and shots?

THE WITNESS: In my division, the Patrol Division, he is. Whenever there is a shooting and on occasion we have to destroy animals --

MR. BROWN: He has to account for that?

THE WITNESS: Right. He has to account for this. We get a report outlining what happened in this shooting.

MR. BROWN: Let's assume a break of peace,

a robbery or whatever. If a person flees and the patrolman fires a shot or if a person is looting and he fires a shot under ordinary circumstances, would he account for that?

THE WITNESS: He must account for it. If a man sent me a report and did not outline how many rounds he discharged, the report would go back, "We want to know this."

MR. BROWN: Has there been any correlation in the riot circumstance wherein men have reported the shots fired? For example, let's assume a person shot like the much publicized picture in Life. Would someone have accounted for that?

THE WITNESS: How many rounds were discharged?

MR. BROWN: Who fired the shots and how many rounds.

THE WITNESS: No.

MR. BROWN: In ordinary circumstances you would require it?

THE WITNESS: Under ordinary circumstances we would. We do. I have a file on shootings. We try to keep very close track on shootings. You know the emotional issues that arise from

them. But this was not under normal circumstances.

MR. BROWN: Was there any record at all throughout the riot, assuming there would be times when nobody could keep a record? Were there any occasions during the riot when there was an account kept? Let's assume there were 100 shootings and let's assume that some time there were shootings where a report could be made. Were there any reports made?

THE WITNESS: No.

MR. BROWN: Was there any effort made to try to get an accounting in some of these cases? Let's take this picture in Life that didn't look very pretty, and I am sure you hated to see it. Was there any attempt to find out which officer was involved, how this sort of thing happened for the purpose of the facts, whether it was rebuttal or not?

THE WITNESS: There was no attempt made on my part. You now have a homicide. This happens. This gets outside of my responsibility.

MR. BROWN: Where would that go?

THE WITNESS: It is a homicide. It would be a responsibility of our Homicide Squad and Homicide Squad of the County Prosecutor's office.

MR. BROWN: So your Homicide Squad would probably have investigated and possibly have some records?

THE WITNESS: Right. If that was my responsibility, these are things that I would want to know.

MR. BROWN: What about those who are not homicides, that would be a responsibility, correct?

THE WITNESS: Yes, it would. Let's say we reported a sniper incident and the men did come under fire. How much return fire? If you are making the question of how much return fire --

MR. BROWN: My question is more this: Is there a body of reports, department statistics, no matter how much latitude must be given under the circumstances, which would reflect fire, counterfire or more particularly the bullet shots at people who were injured and so forth?

THE WITNESS: No. I think any effort to arrive at this right now is going to prove impossible. It is just not going to be good.

MR. BROWN: From the totality of your testimony I make an assumption that may be completely erroneous. Would you say now that

if something broke out tonight you would be almost in the same situation as far as equipment, corporation of vital police units like a tactical squad and all the rest? You would be almost in the same position if it broke out tonight?

THE WITNESS: You would be in almost the same position except that you have experienced the thing. You have learned some lessons.

MR. BROWN: But those lessons have taught you you need equipment, tactical squads and other police methods developed?

THE WITNESS: Oh, yes, sir.

MR. BROWN: It has been my impression from some testimony that there have been worsening racial relations in the city; that there has been a polarization of white persons as opposed to Negro or black persons. I have gained that impression from some testimony. Let's assume that is true.

What is being done in terms of trying to meet what may be another emergency circumstance as terrible as this?

THE WITNESS: Well, if I could just back up to the period of time when the riots were slackening off, I considered and I reported to

the chief of police that what we have to do when the emergency state is over is to get additional manpower out on the street, and I gave him a plan which would increase our normal work schedule to an average 42-hour week. This would have the effect of putting more manpower out on the street.

MR. BROWN: What was the normal work schedule prior to the riot?

THE WITNESS: We work what is a nine-squad schedule --

MR. BROWN: You just said 42 hours.

THE WITNESS: I wanted to explain.

MR. BROWN: It is more involved?

THE WITNESS: Right. It amounts on paper to an average 37-1/3-hour week. You have to speak in the number of days a year that men work. If you jump that thing up to a 42-hour schedule, it is the difference between having nine men or eight men, and when you jump it up it is like a 12-man increase.

We took men out of some functions and put them in the Patrol Division. This schedule was instituted I believe on July 28. It created resentment in the Police Department because men

were required to work extra hours. The men were informed that they were to be paid time and a half. I don't know if a majority of the men objected to this, but I do know that the representative organizations objected to it. They exerted enough pressure to go back to the scheduling setup which existed before the riots.

MR. BROWN: Despite your effort you are right on the same manpower plan, 37½ hours?

THE WITNESS: Yes, we are. There can be alternatives to this. The alternative can be that the men can be offered the opportunity to work voluntarily to increase the number of people out there during the critical hours, and your critical hours begin at about three-thirty-four o'clock in the afternoon.

MR. BROWN: Although you have attempted to do this and although you certainly have concepts, in reality you are in the same boat you were just before the riot? Would that be generally correct?

THE WITNESS: Yes, you are and I will repeat my statement: That our greatest problem is the use of existing manpower.

MR. BROWN: In certain forms like tactical

squads and so forth?

THE WITNESS: Well, the problem is deeper than that.

MR. BROWN: Would you elaborate because before, with my horrible notes, all I got was tactical squad.

THE WITNESS: Deeper than that. There has to be a consideration of all of the factors which will make individual police officers and a collective body of police officers more effective.

MR. BROWN: What would they be?

THE WITNESS: This has to start with facilities. Our facilities for any of you who have been in them are antiquated. They are 19th century facilities. Our cell block has been condemned by the State Department of Institutions and Agencies. We do the best we can in painting them.

MR. BROWN: Yours among many.

THE WITNESS: But I am making this presentation.

MR. BROWN: I don't want you to sound worse than you are.

THE WITNESS: This is something that we

have been struggling with -- when I say we, people who have been trying to do something, have been struggling with since at least 1960. It also gets into equipment, organization, and an index of how effectively you are using your people, which is a consideration of what percentage of uniformed personnel are available and on the street performing non-specialized uniform patrol.

MR. BROWN: What does that mean? That is a professional term, non-specialized uniform patrol. Does that mean a foot cop in a neighborhood?

THE WITNESS: Not necessarily a foot man. What I am talking about is a uniformed man assigned to preventive or repressive duties.

MR. BROWN: You don't mean repressive, do you?

THE WITNESS: Oh, yes. Some segments of your population have to be repressed. Prevention -- we can go all the way from prevention into the social causes, and I don't know we are equipped to do this.

The notion that needed to be taken to control a situation in the Fourth Precinct

certainly was repressive in nature.

MR. BROWN: When you say repressive, whatever action necessary to control the Fourth at its height?

THE WITNESS: Force which can be legally supported.

MR. BROWN: They call that necessary force, is that it?

THE WITNESS: Yes, sir. Involved in this are the facilities, equipment, training, all of those things which will make for better service of personnel in the Prudential, in the Bell Telephone Company, all of these things.

MR. BROWN: But with a percentage of uniformed, non-specialized people why would you say you didn't have an adequate function -- let's take the Fourth Precinct on the night of the fourteenth. You feel you didn't have sufficient force for repression. Why would that be?

THE WITNESS: Let's say we had the best facilities. The best equipment, the best of everything. We still couldn't have contended with the situation without outside help. But what I am saying is we would have been better

able to respond.

MR. BROWN: You felt you needed outside help -- let the record show I am not restricting you to time in terms of an hour or a half hour -- around nine o'clock, you as a professional on the scene, right?

THE WITNESS: Because I knew the restrictions on manpower. I knew we had to provide service the next day.

MR. BROWN: How would you meet within the present department regulations or within the traditions of the department the situation where you as the chief officer on the scene feels that you need additional help and telephone calls from unnamed people and others come in and the help doesn't get there? How do you meet that? Is there any professional way to meet it? You tell your superior officer, "Look, this is desperate. I am a professional in command. I tell you we need help," and nothing happens. Is there any way that you can respond or any departmental regulation that allows you any emergency action? Supposed they refused to call them at all during the thirteenth and fourteenth. What could you do as a professional?

THE WITNESS: Just ride it out. Do the best you can. I am responsible to the chief, who in turn is responsible to the director.

MR. BROWN: So as you see it, would you say from nine to two-thirty there was an unnecessary five and a half hour lag in the need to contain this thing? It was over your head?

THE WITNESS: I would say in my judgment, and I didn't have the decision to make, I would have notified the State Police to come in considerably earlier than they were called. It is difficult for me to say nine o'clock because in this whole thing you were getting maybe four hours' sleep during the day and you were working eighteen or so hours a day. After a succession of hours the time telescopes. It is very difficult to document.

MR. BROWN: Middle evening somewhere you would call them?

THE WITNESS: Yes, sir.

CHAIRMAN LILLEY: Gentlemen, let's take a ten-minute break.

(Whereupon, a short recess was taken.)

(Off the record discussion.)

JUDGE MACHTENFELD: The motion is, as a result of the off-the-record discussion, we proceed to hear the two police officers involved in this Smith incident and the testimony of Smith, no questions to be asked by anyone excepting the leading question by counsel for the Commission directing the respective witnesses to tell their stories, giving the details of what occurred and what took place on this particular incident.

CHAIRMAN LILLEY: Is there a second?

MR. GIBBONS: Second it.

CHAIRMAN LILLEY: All those in favor please say aye.

(Affirmative response with Bishop Dougherty not being present at the time of thevote.)

CHAIRMAN LILLEY: Those opposed?

(No response.)

It is so ordered.

MR. JAFFE: Let the record show there was discussion on this matter before.

JUDGE MACHTENFELD: Off the record.

(Discussion off the record.)

MR. JAFFE: I would like to place on the record at this point that I have had conversations

with the police director, Director Spina, and with Prosecutor Brendan Byrne regarding the appearance of the two patrolmen, De Simone and Pontrelli, who are the arresting officers of the cab driver, John Smith. Police Director Spina indicated his willingness to have the officers testify before this Commission, and the prosecutor of the county, Brendan Byrne, affirmed that willingness to testify before the Commission with the caveat that a copy of their testimony be furnished to him after they have testified. The Commission agreed to meeting Mr. Byrne's request, and a copy will be furnished after they testify.

JUDGE WACHENFELD: Off the record.

(Discussion off the record.)

Whereupon,

JOHN DE SIMONE

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

EXAMINATION

By Mr. Jaffe:

Q I am only going to ask you two questions. One question is: Would you tell us how long you have been with the Newark Police Department, where you live, what duties you are assigned to, and your full name.

A I am employed three and one-half years in the Radio Division out of the Fourth Precinct. I reside at 305 Walnut Street, City.

Q Your age, please?

A Thirty.

Q Patrolman, directing your attention to the evening of July 12, 1967, it is the Commission's understanding that you were one of the arresting officers of the cab driver by the name of John Smith. Would you please relate to the Commission in narrative form the circumstances of that arrest based upon your observations and what you did?

A Well, we were on routine patrol on Fifteenth Avenue at approximately 9:30 p.m. I observed Mr. Smith myself -- I say myself because my partner had observed him prior. He was the driver and I was a passenger in the radio car. I observed him pass us at the intersection of South Seventh Street and Fifteenth Avenue. He was going west in the eastbound lane. We proceeded to apprehend him. We apprehended him about two and a half blocks.

My partner pulled alongside. Mr. Smith pulled over; he parked the car. I requested his driver's license and registration. With that Mr. Smith became loud and abusive and used profane language. I was still sitting

in the radio car, and I ordered Mr. Smith to tone down, to watch his language. He continued four letter words proceeded with the word "mother." I got out of the radio car. I pointed my finger -- I am sorry.

He had a woman passenger in the cab. I told the woman myself, "You better leave because I am placing this man under arrest." Prior to that I had ordered him under arrest. I went to the cab door and he swung it open and struck me in the chest. I went to apprehend him, and he was just swinging wildly, and he struck me in the face. With that my partner, Officer Pontrelli, came to my aid and Mr. Smith was hollering, screaming, swinging. He came to my aid and he apprehended him with me, and we forced him into the radio car. Once we got him in the car he toned down, he calmed down.

I got in the front and my partner got in the back -- my partner got in the driver's side rather. We proceeded to go to the precinct. We proceeded west on Fifteenth Avenue, made a left on Tenth Street going south. Mr. Smith started up, just began acting violent, and he swung. He swung at me. He just was swinging and kicking and I leaned over the back and I subdued Mr. Smith. I was leaning over the front seat holding him down. By this time Mr. Smith was down on the back, the floor boards of the car, back of the seat.

When we got to the precinct my partner and myself got out. We ordered Mr. Smith out. He didn't come, he didn't move, he just stayed there. We ordered him out again. He still didn't come. My partner grabbed his two legs and we yanked him out. Apparently he was holding onto the seat belt. I grabbed one arm and my partner grabbed the other arm. We started to carry him. We got halfway around and I called for a fellow officer to help us carry him in. I had one arm. My partner had the other. The other officer, Patrolman Campbell, he picked him up, and we had a three-man lift.

As we were going up the back of the precinct he began kicking again. My partner fell with Mr. Smith. We all went down. Mr. Smith fell, my partner fell, and he even ripped his pants.

He was cursing, using four-letter words and racial slurs. We couldn't get any information out of him once we were in the precinct. We had to put him right in the cell.

That is the story, gentlemen.

CHAIRMAN LILLEY: Have you said everything you want to say Officer?

THE WITNESS: I would like to say one thing off the record. If it is all right.

CHAIRMAN LILLEY: Hold it. I am afraid

we can't take anything off the record.

THE WITNESS: Then I will say it, gentlemen. There has been a lot of inference here of police brutality and discrimination from different groups, and I just want to say that I am not biased. That's it, gentlemen.

CHAIRMAN LILLEY: Thank you very much, officer.

(Witness excused.)

Whereupon,

VITO N. PONTRELLI

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

EXAMINATION

By Mr. Jaffe:

Q Patrolman, I have two questions for you. The first one is: Could you give us your age, address, years on the Newark Police Force, assignment and general duties?

A I am twenty-seven years old. I live at 198 Grafton Avenue, Newark. It will be four years I have been on the Police Department this January 6. My general duties are in the Patrol Division in a radio car.

Q Where are you assigned?

A Vailsburg area.

Q Directing your attention to the evening of

July 12, 1967, it is the Commission's understanding that you were one of the arresting officers of a cab driver named John Smith on that evening. Would you please in narrative form tell us the events leading up to the arrest and all of the circumstances surrounding it and all of your own observations, what you know?

A Well, on that night of July 12, at approximately nine-thirty we were driving, I was driving, my patrol car west of Fifteenth Avenue when I looked in my rearview mirror and I observed Mr. Smith in a cab approximately I would say about two blocks behind us. He was coming at a fairly fast rate of speed. The reason I say that is because I saw his taillight -- excuse me, his headlights bounce and the car would hit the bumps in the street. These were bouncing a little faster than normal. I went approximately a block, and he caught up to us and I was doing about twenty-five. He caught right up to our rear and stood on my rear end for approximately a second, and they shot around us at the intersection of Fifteenth Avenue and South Seventh Street and went approximately one block on the wrong side of the street up to about South Eighth Street and Fifteenth Avenue.

We then pulled Mr. Smith over at Fifteenth Avenue and South Ninth Street. My partner asked him for his license and registration, and he seemed kind of disturbed

that we stopped him, used some obscene language, swear words. My partner told him to watch his language, which he repeated again the statement.

He had a woman passenger in the car. She started to leave as soon as he used that obscene language as my partner was telling her she better catch another cab because he was trying to place him under arrest. As he told him he was going to place him under arrest, I began to leave my radio car on the driver's side and walk around. Smith opened up his cab door striking my partner in the chest, and came out and punched him in the face, I believe, in the mouth.

About this point I was around the rear of the radio car just coming on his side. I grabbed Smith from the rear and tried to hold him in a bear hug. He broke away from this and turned around and struck me in the stomach. Then Patrolman De Simone grabbed him, and we both had an arm, and a struggle ensued for approximately thirty seconds, something like that, just trying to get him to the back of the radio car. Once he was in he calmed down. Then from there we called another radio car to come to tow his cab, and we proceeded to go to the precinct to look him up. As we were going to the precinct Mr. Smith started getting loud and unruly again, and I believe he struck my partner in the car because before you know it they were

arguing and fighting, and the next thing I knew I was struck in the back of the head as I was driving.

I was driving south on South Tenth Street at that time. I says, "Holy smokes!". I put my red light on and siren because I figured if it is going to go on like this I better get down to the precinct fast. They were fighting almost all the way down from South Tenth Street down to the precinct. Maybe a few blocks before the precinct.

We pulled up in the precinct there and pulled in the Livingston Street side, which is near the alleyway there. There was about four or five people as we pulled up. We both got out of our radio car and told Smith to get out of the radio car. He wouldn't move. He stood down, he was between the seat. He was on the floor between the rear seat and the front seat. We asked him to get out and he wouldn't get out. I pulled him out by his feet. He wouldn't walk either once he got out.

So my partner and I grabbed an arm, each grabbed an arm, and we started to walk, dragged him across the street. About the middle of the street I think it was Patrolman Campbell who is an officer in our precinct, happened to be coming out and saw we were having difficulty with the prisoner. He came over and grabbed him by his feet, so we lifted him entirely off the ground.

Meanwhile these four or five people across the street --

I really didn't look; I just assumed there were that many out of the corner of my eye -- I heard them saying something about, "Take the handcuffs off him. Stop beating him." He wasn't handcuffed because we had all we could do to get him into the radio car at the scene of the arrest.

He laid limp up until the stairs. There are about five or six steps you walk into the rear of the precinct. As we got almost to the top of the stairs he started to act violent. He was throwing himself all around. I slipped in the precinct and fell to one knee and ripped my pants. Smith laid on the floor, kept screaming and kicking and yelling. So our lieutenant there, Lieutenant Price, told us to put him in the cell because he was not going to be cooperative as far as giving us his name, address and age. So we had to get that mostly from his cab license, papers he had in his wallet.

Then we were making the arrest sheets out and it seemed like about an hour passed and the lieutenant came up to us and said there was a crowd outside starting to form. He says he thought it was due to Smith's arrest. So my partner went outside about ten-thirty to get the stuff out of the radio car, ticket book, gloves and so forth, because we were quitting in fifteen minutes. He was surrounded out there by a bunch of people, about fifteen people demanding to know what happened to Smith.

He told them what happened. The story. Somebody says to him -- I don't know who it was; this is only what he told me when he came into the precinct -- "Okay, let him go." So he walked back into the precinct. From there people just kept growing and growing outside. The crowd got bigger and bigger, and these representatives, Robert Garvin -- I recognized him from CCRB -- came in and a couple of other people from the UCO. I don't know who they were. I just heard them mentioning names, but you forget the time. They said they were representing the UCO. They were talking with Inspector Melchior. They heard the prisoner was -- I don't know if they said he was badly beaten or beaten to death because the rumor had started to go around the prisoner was beaten to death. It was being spread around by these other cab drivers, I would say that about fifteen of them that came in front of the precinct.

This was about an hour or so after the initial arrest. So they went into see the prisoner, and they came out and talked to Inspector Melchior in one of the side rooms. I heard them demanding that he get immediate medical attention, which Inspector Melchior replied. He sent Smith to Beth Israel Hospital. Then they had some more discussions. I didn't hear any more after that because they went into the other room.

Do you want to hear this? Am I right in telling this?

CHAIRMAN LILLEY: Tell the story in your own way.

THE WITNESS: I am going beyond the arrest now, what I heard at the precinct.

CHAIRMAN LILLEY: Whatever you want to say you say.

MR. DRISCOLL: I don't think he should be making a statement based on facts which he did not know first hand. This is obviously hearsay.

CHAIRMAN LILLEY: I believe we have asked the witness to tell us a story as he sees it. You just tell it.

THE WITNESS: That is why I don't know if you want to hear the rest or beyond that. I will stop with the arrest.

CHAIRMAN LILLEY: Does this complete your story concerning the arrest?

THE WITNESS: Yes -- well, I just want to say Mr. Smith has stated he gave us his license. We never got his license. I believe he handed us his cab license because the following morning we went down to issue him summonses. We were going to issue summonses that night, but one thing led to another, the assault and battery on us, resisting arrest, and we took him to the

precinct and from there the crowd started to form. The following morning we went down to issue summonses, and we asked for his license, and he stated he gave it to us. But we never received it. He kept insisting.

We checked with Trenton, not to find out if he had a license, just to get his number so that we could issue the summons. Once we checked with Trenton they stated that he had been on the revoked list, so that was another summons we had given him on top of the two for the violations that he had committed that night, the previous night.

CHAIRMAN LILLEY: Does that complete the statement?

THE WITNESS: I believe so.

CHAIRMAN LILLEY: Thank you very much.

(Witness excused.)

Thereupon,

JOHN L. HEMEN

resumed the stand, testified further as follows:

EXAMINATION

MR. HEMEN: Chief, you mentioned that you did not have the responsibility of assigning personnel or duties. Did you at any time, or

did someone hold a position similar to yours who had this ability? As I understand it, Spina took over this responsibility.

THE WITNESS: No. Let me try to clear this. Let's say within the existing structure of the Police Department I do not have the authority to assign men to specific duties. For instance, I have five precinct captains and an emergency squad captain. I have some other captains who perform in this command post which I described before. I do not have the authority -- I can't make the decision to take a captain, let's say, from the command post and put him in command of a precinct station. This authority by department order remains with the police director.

Now in regard to this situation, I had authority to use any people in the Police Department in regard to this situation as I saw it. In other words, if a group of men came in and I understood they were needed on Springfield Avenue or Clinton Avenue, I could send them up there. You might say I was in operational command of the situation, and I kept the director, who was at the Fourth Precinct until we went

up to the command post at six o'clock in the morning, kept him informed of decisions I made, important decisions. I wouldn't tell him I sent five men up to Clinton Avenue. It didn't have that importance.

MR. MEYNER: Apart from the riot situation, who had the responsibility to assign men to various duties, assuming someone was in Radio and they wanted to go on Homicide or they wanted to go into something else? Who has the responsibility for those assignments?

THE WITNESS: The director is responsible for the issuance of personnel orders.

MR. MEYNER: Has this always been so? I am thinking of a situation with respect to Weldon and then Spina.

THE WITNESS: The situation with Director Weldon was somewhat different. Director Weldon, as you may recall, came over from New York City. He was a high ranking superior officer there. He took the advice of some people who -- I suppose you could term them professional officers, his chief aide, our chief of police, and many of the decisions, almost all of the decisions were made in consultation with the

chief of police with our present Chief of Police Kelly, who was his chief staff man at the time.

MR. MEYNER: Was there more delegation of responsibility under Weldon?

THE WITNESS: Well, I would say there was. For instance, under Weldon on the assignment of men to investigative duties this was handled through an examination and recommendations of various commanding officers and the use of a rating system, however imperfect that was. Those were the factors -- a rating system, a test, and recommendation of commanding officers.

MR. MEYNER: That is for investigatory work?

THE WITNESS: Yes.

MR. MEYNER: And that system was abandoned when Spina came in?

THE WITNESS: That system was abandoned. When the director came into the Newark Police Department I was a lieutenant. I was working in Central Communications. I think the day after he came in there was a gambling raid which received quite a bit of notoriety, and this was November, 1950. He then sought people

to put in a gambling operation, and certainly he didn't know people such as myself. I guess he asked advice, and the squad was put together to work on this problem. I mention this to show how it was handled at that time.

MR. MEYNER: Was this squad abandoned after Spina came in?

THE WITNESS: I couldn't say it was abandoned. Some people were promoted. There was a change. I think the change is best documented in the public record in the 1965 spring presentment to the Grand Jury. The director's viewpoint is cited there.

MR. MEYNER: Would you be willing to say anything about the prevalence of bookmaking and number playing in the city?

THE WITNESS: Based on my own experience, based on previous Grand Jury investigations, based on the statement, the public statement of a man such as former Assistant Attorney General Bergin, I would say that it was very prevalent. It is a very large business.

MR. MEYNER: One final question. Did you have any other method of dispersing the crowd such as the use of tear gas or the use of water

or something of that sort? Had that been considered in the method of dispersing the crowd originally?

THE WITNESS: Yes. I thought of using tear gas. Frankly, I have never used tear gas. I don't know its capabilities. I as a commander who would have to order this, I would have to learn what I was doing while I was doing this. We haven't been taken to a facility and been permitted to experiment with this.

MR. MEYNER: Did you have some?

THE WITNESS: We had some, but with the lack of knowledge, lack of training I was hesitant to use it, and I question if at the time it would have had a significant effect because, if you remember, it just wasn't a contained disorder. The people were dispersed. They drifted out to Springfield Avenue and certainly we couldn't gas the entire section of the city.

In regard to the use of water, I think this was discussed several years ago, and I think this decision would have had to be made by the mayor.

MR. GIBBONS: Why would that decision have

to be made by the mayor?

THE WITNESS: I think that is the way it was left. I can only conjecture that the Fire Department feels they have a different mission than suppressing public disorders. Certainly traditionally they have been viewed in a different light than the police. Cars can be a repressive action in nature; whereas, theirs can be seen as safeguarding life and property without any sort of a repressive implication.

MR. BROWN: Could I follow up with one question? You mentioned while you had the ability and authority to assign and reassign within the precinct, you would not have had the authority to replace a precinct captain with a man from the administrative group. Was there any time here when you would have felt this appropriate and necessary in a situation, to replace a precinct captain had you had the authority?

THE WITNESS: No, I didn't. Let me put it this way: You can feel if you are going to an organization the size of, let's say, the Patrol Division with about 750 people in it that you might want Captain A instead of Captain B. You might have some feeling in this

matter, and at least on paper you have responsibility for results.

MR. BROWN: But lacking that authority, do you feel that this is a gap in your authority that is crucial to such incidents you are talking about?

THE WITNESS: I feel this is crucial. This whole area again is cited in public records, in the newspapers, in the Grand Jury presentment of the spring of 1965 where the political implications are cited there by the present mayor or former mayor.

MR. BROWN: You seen the political implications to be read into the fact that you have not got the authority to replace or supersede a precinct captain, that has political implications

THE WITNESS: Yes.

MR. BROWN: What would they be?

THE WITNESS: Well, again I would refer to newspaper articles, and the reason I refer to these is because I can be accused of prejudice or bias in my own opinion on this. But the opinions of the present mayor and a previous mayor were cited both in the Grand Jury testimony and in the Grand Jury presentment, and they were

published on the front page of the Newark News.

MR. BROWN: Does this relate in any way to the question asked by Governor Meyner as to the presence of gambling? It was so related in the Grand Jury presentment and the press, was it not?

THE WITNESS: This particular presentment originated because of a gambling situation, and then again from reading the presentment it seemed to spring out or spread out into other areas, such as the very thing you were talking about before, the use of personnel.

MR. BROWN: As to the Fourth Precinct, you had a man acting there because someone was on vacation, am I correct?

THE WITNESS: Yes.

MR. BROWN: Would you, had you had the authority, have replaced or put someone in whom you thought would be more able to handle this crisis situation?

THE WITNESS: Are you referring to the present captain of the Fourth Precinct or the man who was acting?

MR. BROWN: As of that Thursday evening, as we approached mid-evening roughly around

nine we had a very crucial situation and we had an acting man there. Was it your judgment you should have had the authority to replace whoever that officer was with someone from your reserve or from your headquarters force who would have been more capable in your judgment of handling the crisis?

THE WITNESS: No. In respect to that I wouldn't have done anything different than what was done. The man who is running the Fourth Precinct is a capable, hard working man. I believe he is one of the best. When he was going on vacation -- I knew this --

MR. BROWN: That is the regular man?

THE WITNESS: Captain Zisma. I have to schedule vacations. Before he went he told me that he would like to put Lieutenant Paradiso in charge as acting captain. I told him, "The decision is yours. I agree with what you are doing." So he was there with my concurrence.

MR. BROWN: But there is something implicit as I sense it, something about your authority to replace the captains that seems to be important in the content of the riot. Do I sense that correctly?

THE WITNESS: No. I again go back to what I said before. The best use has to be made of your existing personnel, and it involves many of the factors we said before. This involves authority and responsibility relationships also because if these things are not proper, they can have a detrimental effect on morale.

MR. BROWN: Apropos this situation, what is it I sense you say should be determined in case of your authority and whatever should be done? What is it that was missing that would have been useful and helpful to the city in handling this?

THE WITNESS: In the riot situation?

MR. BROWN: Yes.

THE WITNESS: I don't see anything that you are sensing that could have been helpful.

MR. BROWN: Perhaps I sense it as previous to the riot. You feel there was something missing?

THE WITNESS: Right.

MR. BROWN: Tell us what that is.

THE WITNESS: I say you can't take a riot out of context with the whole thing.

MR. BROWN: Speaking to that context, what

was missing in your authority?

THE WITNESS: The better able you are to handle normal, routine duties, the better you are going to be able to respond to stress situations, be it an airplane crash, a major fire or a large scale disturbance.

MR. BROWN: You have made that clear. Now what is it you think was missing?

THE WITNESS: I think that if a man is appointed as a deputy chief in the Police Department, there should be some consideration to his opinion concerning whether or not people are going to command precinct stations or command an emergency squad or be assigned here, there, and other places. This involves not only precinct captains but --

MR. BROWN: Was your opinion respected in these areas that you have just outlined?

THE WITNESS: My opinion wasn't respected as far as I am concerned in these areas anymore than it apparently was respected in organization studies that were submitted. Those weren't things weren't acted on.

MR. BROWN: Then you feel in terms of organizational studies, Grand Jury presentments,

and all experience relating to good professional work. Yours was not respected?

THE WITNESS: Let me state this. Currently there is a controversy going on. Five captains were appointed. One of these is a colored man, Captain Williams.

MR. BROWN: Talking about pre-riot or post-riot?

THE WITNESS: Post-riot. Presently there is quite a bit of pressure on -- I think it emerged in the Newark News the other night under a story in which Willie Wright is credited with saying Eddie Williams should be made captain of a precinct, period.

MR. BROWN: That is Captain Eddie Williams?

THE WITNESS: Right.

CHAIRMAN LILLEY: Speak a little louder, please.

THE WITNESS: The story from Wright states that Captain Williams should be made captain of a precinct. I mean the implication there being that he is a colored man. If we are going to make decisions strictly on this basis, this again follows what we have been talking about. Decisions are made, have been made, on this basis.

MR. BROWN: On the colored basis?

THE WITNESS: No.

MR. BROWN: On an extraneous basis?

THE WITNESS: Right. Emotional issues, what we were talking about before, political issues. This is nothing that is unique. This involves itself in other police departments.

MR. GIBSON: Maybe you can develop this because I think to some extent it is quite important as far as the police aspect is concerned. During the election at which Mayor Addonizio was elected didn't Mr. Weldon become somewhat of a political issue?

THE WITNESS: You mean in what respect? I have some personal knowledge of it.

MR. GIBSON: In respect of his only relying on the kind of procedures that you describe in selecting personnel rather than some other method.

THE WITNESS: Unfortunately reformers, and I supposed Mr. Weldon could be seen in this light, don't always lead a long and happy career. I know the man who took over the job in the Denver Police Department, and the man didn't last a year. They made the situation

untenable for him.

I know that Mr. Weldon had great pressures exerted on him. I worked in a staff capacity for Mr. Weldon. Pressures were exerted on him to get him involved in a political campaign, and Mr. Weldon was a professional. He did not get involved in the campaign. Well, he would have been out with the new administration coming in, I believe.

MR. BROWN: But perhaps not had he gotten committed politically?

MR. DRISCOLL: May I ask the chief a question? Are promotions in the Newark Police Department made on the basis of politics?

THE WITNESS: There again we are in a little different situation. The experience in the department has been that men are promoted as they hit that list. Well, I came out first on the deputy chief's test. I was appointed and in very short order. So the history has been in the department that men are appointed in one, two, three order. There has been no application, let's say, of this one and three rule.

MR. DRISCOLL: Are assignments made on

basis of politics?

THE WITNESS: I believe that assignments are made on the basis of politics. This again is just on my opinion. The opinion is expressed and on the public record, and the mayor and former mayor testified to this in Grand Jury proceedings.

MR. DRISCOLL: In your opinion as a professional is the Newark Police Department of proper size considering your population and your traffic problems and all the other problems that confront a city that doubles its population during the day?

THE WITNESS: You are asking a very complicated question. Before I would say in the Newark Police Department that I would want 100, 150 or 200 more men, again I would want to first consider how we are employing the existing manpower. Do we need five precinct stations? Do we know that if the first precinct station is going to go for some sort of public use and it is going to happen in the indefinite future, should we retain that precinct? If we don't retain it, I can reclaim about 18 men who I can then put on the street.

MR. DRISCOLL: When you are talking of inadequate facilities, you, I gather, applying it to the precinct stations. There is involved a question of how many precinct stations you should have.

THE WITNESS: Right. And we have made the recommendation that we operate centrally. We have done quite a study on it. We have done what we term in police business a beat study, which involves recording the number of minutes of expended police time, and we have chosen small areas of the city as assessment districts so that we can put these together and make up equitable work loads so that we can classify the times of work, the types of service that we perform, so that we can come up with some sort of budgeting approach, however, imperfect to a cost accounting type of thing so that when you go to a budget meeting you can say well, with 55 percent of my patrol time unobligated to provide called-for service I am achieving such and such result. "This is my crime rate; this is my accident rate."

We have done studies like this.

MR. DRISCOLL: And they have been filed?

THE WITNESS: That's right. We have made recommendations to put this best study -- it involves possibly 350,000 to 400,000 punch cards a year on data processing. You get much more out of your reports. If you hand-tally, you can only get a few fields of information. With punch cards you get many fields of information mechanically.

We have gone so far as to revise forms, lay out punch cards, get cost estimates from a service bureau as to what this would cost to provide this on a routine basis.

Really what I am trying to relate to you is that I feel that we have the administrative talent, the experience there to do the type of studies that they will call organizations in to do and then they will have the studies as they have done in so many municipalities.

CHAIRMAN LILLEY: I think counsel has quite a few questions to go.

MR. DRISCOLL: So have I. I have a few questions, and everytime I seem to get shut off.

CHAIRMAN LILLEY: Go ahead, Governor.

MR. DRISCOLL: Reference was made to the gas, use of gas and lack of experience. Where

was it stored? Did you have it at the Fourth Precinct, or was it at some other location?

THE WITNESS: I would say we probably had a very limited supply at the Fourth Precinct. The bulk of our supply would be in the emergency squad, and we probably had some in the armory up in the Police Academy.

MR. DRISCOLL: You have testified that some of the men that showed up, and I think I quote you correctly, with their own weapons. Could you amplify? What kind of weapons would they show up with? Rifles?

THE WITNESS: Some of them showed up with rifles, shotguns. This is parallel to the situation that developed out in Detroit also. We didn't have the weapons. I suppose the men feared for their own lives, feared they were outgunned, and they showed up with these things.

MR. DRISCOLL: Were any of these rifles automatic in character?

THE WITNESS: I don't know. I couldn't say that. I was aware that there were personal weapons out there.

MR. DRISCOLL: Again in your opinion as an expert do you feel that this is a good

procedure?

THE WITNESS: Governor, I don't feel I am an expert, but I don't think it is a good procedure, either.

MR. DRISCOLL: Have any steps been taken since the riot to prevent any policemen from adopting this procedure?

THE WITNESS: During the period of time that this disturbance was on, and I will include the period of time that the Black Power conference was in Newark, some time in there we gave orders, and I am quite sure that this would be before the restrictions were taken off by Governor Hughes on Monday, that all personal weapons were to be taken out of service because we now had gotten some shotguns. We had about 200 shotguns shipped in from Winchester Arms. I myself had about 20 to 25 purchased over in Union City. As I recited before, we had 25 shotguns delivered to us approximately a week and a half before the riot.

MR. DRISCOLL: I will defer.

MR. BROWN: Was there any control over the personal weapons in terms of ammunition or count or control from the precinct?

THE WITNESS: Over the ammunition used?

MR. BROWN: That's right.

THE WITNESS: No, I don't believe there was. I believe a lot of these men showed up with their own ammunition.

MR. BROWN: If they came with their own ammunition and automatic weapons and possibly would you also say personal shotguns?

THE WITNESS: Yes.

MR. BROWN: Since this is bad procedure -- I will withdraw that.

Since you said you don't think it is a good procedure, what was done by the responsible police officials to either control or regulate or have minimized of this "not good procedure"?

THE WITNESS: I was unhappy that personal weapons were out there. We certainly didn't want this, but the department had not supplied the people, their people with weaponry. So under the existing conditions I felt that you could not order these men to not use these and rely solely on their sidearms.

MR. BROWN: But, sir, wasn't there a time when the National Guard moved in with every kind of known weapon to be employed in armored

vehicles and you still think that they needed that after two-thirty or six, or whatever it was when the State Troopers and the National Guard moved in?

THE WITNESS: If you would say could the National Guard assure the Newark Police Department that they would protect the safety of the policemen and they, the National Guard, had sufficient weaponry, I would say they couldn't do this because we had to provide --

MR. BROWN: You mean the police couldn't say to the National Guard, "What type of weapons do you have? Do you have sufficient to support us"?

THE WITNESS: The National Guard had particular assignments, particular missions. Our missions were not exactly the same as the National Guard. We had to provide service on a citywide basis.

MR. BROWN: There has been some testimony that National Guardsmen were available for whatever you wished to the extent they rode with firemen and police officers and worked with and in support of rather than in independent missions as a platoon or squad of guardsmen.

THE WITNESS: Roughly you had two situations. You had a situation where you have to supply some measure of normal police service in the city, although this was scaled down. This was citywide, including the riot area. For instance, you would have to respond to maternity cases. Somebody falls down a flight of stairs; you have got to get them out.

If you are saying was the National Guard available at the scene to assist the police officers, to measure weapon for weapon with what might be used against you, no, they are not. We have the situation of fifty patrol cars on the street with three men in them. You couldn't be sure if you were one of these men in a car responding to what is a routine assignment that a National Guardsman would be there with an M-1 to support you. You couldn't be sure of this.

MR. BROWN: I don't want to go beyond this because I know this is not the role of the Commission to be argumentative, so this last question is not argumentative.

Wasn't it the fact that on any mission you could have a National Guardsman in that car?

THE WITNESS: No, sir. For instance, coverage of the Fire Department -- requests were made of the National Guard and manpower was not forthcoming. My brother happens to be the chief of the Fire Department. He asked me if I could squeeze out some manpower to cover the firemen. This is how we covered the firemen.

MR. BROWN: There has been some testimony that National Guardsmen accompanied firemen.

THE WITNESS: They may have ridden in on jobs, but the arrangement that was made that we had a uniformed policeman with shotgun assigned to each battalion chief from 7 p.m. to 7 a.m. and in four or five firehouses we stationed a marked police car with three uniformed policemen in it. This would be places like 6 Engine, 20 Engine, the house down on Belmont Avenue. So the Fire Department had to depend on the Police Department for protection.

Again up at the Sussex Avenue armory there was a small detail of National Guardsmen. I know I was called upon to send men up there at different times.

MR. BROWN: To protect the National Guard?

THE WITNESS: No, for security.

MR. BROWN: That was facetious. I have no further questions.

CHAIRMAN LILLEY: I am going to return this to counsel.

By Mr. Robinson:

Q Could you summarize the role of the Newark Police Department after the State Police arrived and after the National Guard arrived, right to the end, what problems you had, if any, and what recommendations you have?

A Well, as I understand it, when you call for the State Police the National Guard responds in support of the State Police. When the Governor issued the proclamation, it was a proclamation that an emergency existed. It wasn't martial law. They didn't want to get into that situation where they take over the operation of your city.

My understanding is that the State Police and the National Guard's mission was to contain the disturbance, if we want to call it that. The Newark Police, in addition to supplying a scaled down routine service citywide, had responsibilities also. Some of these responsibilities were the same as the National Guard's and the State Police's. This can result in, well, let's say arguments or frictions out there, but I believe from what I have been able to determine that there was a minimum of this. We tried to operate on a mission concept. Let's say in these perimeter

that were set up this was the State Police supported by the National Guard with the Newark Police guide to keep them on post, because these fellows didn't know. So that the Newark policeman had to be responsive to the orders of the State policeman in charge of that patrol unit.

When you get into reported sniper situations I can see where there would be friction, and there was one at one time. There was sort of an outstanding case that I remember wherein the captain of the Fourth Precinct that night, when I was monitoring the radio, issued some orders to State policemen there. From what I have been able to learn of this situation. The captain was right in what he did, but there was some criticism up at the command post at Roseville armory.

MR. BROWN: What did he do, say, "Stop shooting at one another"?

THE WITNESS: This is the situation. Right. The captain gave out some orders which were entirely realistic and proper, but the flap was at the command post. I spoke before of the personal relationships that we have tried to keep between such men as Colonel McLean and Colonel Sharpe and the captain up at Morristown.

MR. BROWN: McElroy.

THE WITNESS: Yes. And I feel that the

the operation level, the people that have to do it on the street, these things can pretty easily be resolved.

MR. BROWN: Has there been any effort post-riot to resolve what we have been talking about here, any effort into interoperational lines that you infer was lacking?

THE WITNESS: I don't think that you are ever going to have a situation where this thing is going to operate like a completely smooth operation.

MR. BROWN: It is not going to be a school exercise.

THE WITNESS: You are dealing with people who are under emotional stress. You can get into problems, but I do know that field exercises, paper exercises are planned, and I think these are good. I understand they are to start taking place in November. I don't know how true this is. They are necessary and it is good.

MR. BROWN: I have nothing further.

By Mr. Jaffe:

Q Could you give us an opinion, if you have one, as to whether or not riots this summer were the result of

any considered action as the result of one group or any particular groups?

A I would go back, let's say, in my awareness of the situation at least four years until people such as this fellow who wrote the book, "Rebellion in Newark," Tom Hayden, came in and began organizing protest groups. I am not so much concerned with the protests. Certainly you can go out in a city and see some real abominable conditions in housing and all the rest of it. What I am concerned about, I think what we are all worried about, was what route this thing was going to take. There was also the overtone in my mind of possible violent disorders.

Q Do you think this group planned this particular riot? Do you give credence to the conspiracy theory of the riot? That is really the essence of my question.

A It would be difficult for anyone to prove this. The conditions out there provided the raw material for people to act on these conditions and lead to a riot. There are people in the civil rights movement, there are many diverse groups, and I am not prepared to say, for instance, what a man believes, what this fellow Hayden believes, but I do know when he came on the scene he organized many of these protests. I feel that he is one of the people who is behind the scenes on the thing. I would refer to some of his writing in the book.

Q Do you have any evidence of any considered action in the sniping phase of the riots?

A No, no, we have no evidence, I have no evidence of it. It is not my responsibility to collect intelligence. You may be able to make something out of a log of locations where sniping is reported to have taken place. It seems to me that there had to be some sort of organization in regard to sniping, particularly in regard to reports of sniper fire. We were getting them hot and heavy, and we considered that many of them were false.

Q Were they coming from the populace or coming from the Police Department or National Guard?

A They were coming from the populace, and we were responding to them. Say you would call up, "There is a sniper at such and such location." Our immediate impulse is to respond there. Then the call would go out on the air that a sniper was reported at such and such location, and we would frequently get a mass response. We could see in very short order that this was wrong. So what we started to do then was ask, "Well, what is your name? What is your address? Do you see the man? How many shots has he got off?"

When we started doing things like this, the number of calls went down and then what we started doing was getting calls from maybe the East Orange Police Department

which called up and said, "Somebody called us up and said there is a sniper at such and such a location," or East Newark or the Sheriff's Department. This tends in my mind to indicate that somebody out there was doing some thinking and used this tactic.

Q Would you have an opinion on the number of people in the community who participated in any sense in the riot, in the three or four days in Newark, just your best estimate?

A I wouldn't want to make the estimate. I couldn't support it. What I will say is in relation to the looting I saw a lot of women and children out there. I saw it for several days. One of the problems is that businesses were not secure. I am thinking particularly of a place that was burned out there, Court and Prince. You would see a couple of kids maybe ten years old wandering in and wandering out with a pillow. It is a question now of defining what looters are. I wouldn't want to make a guess on that. It would be unfair to the people.

BISHOP TAYLOR: Would you make a distinction between the rioters and looters?

THE WITNESS: I think they are both pretty poor terms. Rioters -- I think this has developed through common usage, and I don't think it fits the case. In my mind a riot is

something which is more or less of a confined area. This thing -- I just don't think of it as a riot. I don't know what word to use. The Governor used insurrection and other people have used the word "rebellion." I don't know if they fit the thing.

Looters -- again if you use the word "looters" you are liable to get some people to say all looters should be shot. Do you shoot a woman loading up in a grocery store with a load of groceries? Do you shoot some kid who has gone in a day or two after this thing and is walking out with some property which is really trifling? These are all difficult problems.

By Mr. Jaffe:

Q Just one last question. Would you give us your opinion of what you think the procedure that is presently set up in the Newark Police Department to handle complaints by citizens against police officers for alleged police brutality?

A We have an investigation division. This unit right now is investigating allegations of police brutality. It can be criticized because it can be claimed that it is self-serving and that they can whitewash cases.

In addition to this, the prosecutor has a responsibility in this area, and it is also the responsibility of the FBI. So what I would say is we do have an investigative agency. I have confidence that they will turn up the facts, but again I don't think there is acceptance by the people in the community of this. But be that as it may, from then, from a departmental review of this thing, it then becomes a question for the Grand Jury, for the federal authorities.

Q Do you have an opinion as to how a procedure could be set up that might more meet the community's needs or the community's feelings of acceptability?

A I don't think that at this stage of the game we are going to put together a unit which is going to satisfy people who are vocal in their criticism of this area of police operations.

Q Do you think a unit could be put up that could satisfy most of the community, even if we could not satisfy the more vocal units of it?

A I like to think that the units of government which are established can satisfy the people. If these units can't satisfy them, what sort of extra organization or unit are we going to put together to satisfy them? We do have the prosecutor's office. You have the action of the Grand Jury on these instances. You do have the Civil

Rights Division at the state level. You have the FBI which has responsibility in this area.

But while we are talking about this, I would like to suggest that the situations, the jobs policemen are sent to frequently could not be solved by Solomon in all his wisdom. We have two now which are being contested both in civil and criminal court. They are almost identical. A police team sent at the insistence of a young mother to an apartment. The husband has a baby less than a year old and is threatening to kill the baby. Now here we have marital difficulties, a young man who has the baby under his arm and two policemen go up there. Now they are going to take an action which is going to be reviewed in Municipal Court, in County Court, in civil court. They manage to get the baby away from the fellow without harm to the baby. A struggle ensues with the husband. He is injured. The policemen are injured. A crowd gathers.

Now we hear it in Municipal Court, and we have very lengthy and very tedious testimony. It goes up to County Court on a trial de novo. For some reason, some technicality, as I have been given to understand, the guilty sentence is overruled in Municipal Court, and we are faced now with the civil suit in which the police director and the chief of police are being sued for half a million dollars or so.

JUDGE MACKENFELD: Was it ever different?

THE WITNESS: What I am saying is that the public has to become aware of the type of jobs that policemen handle. The bulk of your time is spent not on criminal activity but is spent servicing jobs which tend to be social in nature and are just dynamite. These jobs are dynamite.

By Mr. Robinson:

Q Could we have your opinion and recommendations in three areas for the benefit of the Commission? What steps do you believe are necessary within the Police Department to avoid another riot, and if that isn't possible, what steps should be taken during the next one to contain it and, thirdly, to stop it?

A Can I have the first one again?

Q From a high police official viewpoint what steps do you believe should be taken and what recommendations do you have for avoiding another riot?

A For one I believe that this issue of this K-9 Corps was unfortunate. It should never have become an issue. It has driven people into opposing corners. All the energy and the aggravation that has been expended over this thing I would like to have seen channeled into providing the Police Department with the facilities needed. Any benefit that could possibly be derived over the

institution of a K-9 Corps is insignificant. In fact, I think it probably contributes more to an existing problem. This is one.

But I think again what we have got to do is try to take steps to try to make absolutely the best use we can out of the greatest resource we have -- policemen. It seems to me ridiculous to spend a budget of over $11 million each year, better than 90 percent of which is spent on manpower, and then deprive that manpower of the tools to do the job. These decisions have to come from the highest level, the policy-making level. I don't know if that does it in twenty-five words, but I think this is the core problem.

Q This deprivation of tools to do the job, have you told us what you have been deprived of in your view?

A Well, I can give you some examples. Again we have made this proposal for the centralized operation of the Police Department. It gives you a much better control over everyone. Our selection of policemen is even more archaic than our facilities. We recruit policemen strictly from the boundaries of the City of Newark. Of course, there gets to be political implications here. People will say that these jobs should go to people in the City of Newark. Let's say that because of the number of colored people in the City of Newark by saying this I could be

accused of trying to get a disproportionate number of white people on the Police Department, but in the recruit class we have in the Academy now we only have four colored men out of twenty-nine. So selection is a problem.

MR. BROWN: Do you have more applicants than that? Were they selected from a larger number, or do they represent a portion of those who applied?

THE WITNESS: I don't have that information. If you are going to comment on it fairly, you should be able to give information on this, but I can't.

MR. MEYNER: That is Civil Service, isn't it?

THE WITNESS: Yes. The Police Department records would reflect this.

MR. BROWN: By implication you are saying even though you have a larger number of Negroes, you only wind up with four out of twenty-nine? The second question would be why, although a large number apply only a few qualify, or does it mean that the small number reflects very few apply?

THE WITNESS: I don't know. I would say, and it is my belief, that if we could get

colored policemen who qualify, they would be put on there.

MR. BROWN: Let me make sure about this. I am not saying this: I am only asking if there is anything to support the idea they do not apply, and therefore, only a small number are accepted, or that a large number do apply but only a small number make it?

THE WITNESS: I don't have this information. I would say though what might be done is to institute a true cadet program.

MR. BROWN: I heard you have that.

THE WITNESS: Yes.

MR. BROWN: Commissioner Spina testified there was a program of which he was quite proud.

THE WITNESS: These are police trainees, not police cadets. If you get cadets, I think you are going to have to deal with Civil Service; and if you do get cadets, I would like to see them recruited from high school graduating classes, type selection policies. You want to get a tight selection policy. You want to get good people. The President's Commission refers to jobs people can handle with less authority than a full-blown policeman. We can

use people like this. We can use them on school crossings; you can use them on clerical duties. There are many duties.

Another thing that works in its favor at this time is that we finally got Rutgers University to establish a police program. So, therefore, you could get people whom you might lose to the labor market between the time they get out of high school and they become eligible to get on the department and at the same time try to weld the people that you think are necessary.

MR. BROWN: In view of the proportion of Negroes in this community do you think it would be useful in terms of professional police concepts to have more Negroes on provided they qualify? You are a pro, and I am talking to you as a pro. Would you feel as a non-political professional aspect that if you had more qualified persons in the police force who happened to be Negro that this would, in terms of professional police work, help in Newark?

THE WITNESS: I think it would, but I don't like to think, and probably my approach is unrealistic, but I don't like to think of policeman as being colored or white.

MR. BROWN: That is unrealistic today.

THE WITNESS: It is in view of the real live situation out there.

MR. BROWN: The nitty-gritty says you should have them if you can get qualified people.

THE WITNESS: I know good colored policemen; I know poor colored policemen. I know good white policemen and I know poor white policemen. That is the situation.

CHAIRMAN LILLEY: Do you have anything else? Chief, thank you very much for being with us.

MR. BROWN: Do you think that a civilian review board would help at all? Your opinion as a professional policeman.

THE WITNESS: I feel that if the composition of a civilian review board could not reflect the militants who demanded it, it would be unacceptable.

MR. BROWN: To the militants?

THE WITNESS: Yes.

MR. BROWN: A question was put to you about this middle ground. These people, for lack of a better phrase, the reasonable people in the community, Negro and white, and you would

admit there are a great many of both. You think all Negroes are now militant?

THE WITNESS: Oh, no. I have worked out there in that city in a radio car. My opinion is that the vast majority of the colored people are doing just what I am trying to do. They are trying to make it.

MR. BROWN: Reasonable in a sense?

THE WITNESS: Right. I have gone in on a lot of wild deals. I am constantly apologizing that you can't supply additional manpower here, there and the other place. A fellow like Tim Still calls you up and he is making a reasonable request of you. You don't have the resources to give him what he wants.

MR. BROWN: You are not against the concept of a civilian review board provided you could get reasonable people reflecting a spectrum of the community and the professional police interests?

THE WITNESS: I question the need for a civilian review board when you consider the existing organizations which are supposed to do this.

MR. BROWN: You explained about the courts.

THE WITNESS: If a person tells me that he is convinced a review board is needed, I think a corollary of that is that other people are not doing the job.

MR. BROWN: New York has rather compromised this by having an interdepartment board over the investigating units. It is not the civilian review, but they do have a board of high police officials who review the investigating apparatus. I don't think Newark has that, does it?

THE WITNESS: We do have this Investigation Division staffed by police officers. They are directly responsible to the police director.

MR. BROWN: But is there a board of pros, a board of high police officials who sit in review of their own internal investigating divisions really, which is a division of the police force, isn't it?

THE WITNESS: Yes. It is headed by a deputy chief.

MR. BROWN: Is there a top level police unit that reviews what is in essence the decision of a department?

THE WITNESS: No. The only review of this is made by the director.

MR. BROWN: Isn't that a sensible division to the police machinery, that your department have over it, officials on a top level who would in effect review other divisions like your division.

THE WITNESS: If approached in a proper manner, if approached in honesty with the intent --

MR. BROWN: Within the Police Department.

THE WITNESS: (Continuing) -- to make people perform up to standard, within documented policy, I think it could be helpful.

MR. BROWN: That in effect is almost an essential, isn't it, where you have one division actually passing on issues concerning other divisions? Don't you need within the Police Department this top board that will set standards and regulations, will sit just as your own courts sit? We review our own courts. Why shouldn't the Police Department review itself?

THE WITNESS: I suppose this could be done. I can see it could be helpful. What has been established is the Investigation Division responsible to the director, so I could suppose decisions then -- you are running this division

and you submit a certain report of recommendations to the director. The decision then is in his realm.

MR. BROWN: Isn't that what you are talking about, that you should have this professional standard setting group as opposed to the change of political super head, the director? He is a political super head, to use my term, not yours. Shouldn't you have in between him, in accordance with your professional views, a group of professional guys who say, "Look, we are pros. This is the standard. If a cop shoots five bullets, we want to know where the sixth one is." I am talking about within the Police Department. Isn't that essential?

CHAIRMAN KILLEY: This will be your last answer.

THE WITNESS: At some level an appointed official has to make the decision to act. I suppose in the police field with the way we are governed this official is going to express the policy of the people through the man who appointed him, right?

MR. BROWN: I will be debating you endlessly on it. I want to make this last point.

The pro, the cop, the top level cop reviews this Investigation Division, and doesn't this go to the thrust of what you have said to effect that some things which have gone along all along, which are not growing out of the disturbances, should be ameliorated by this business?

THE WITNESS: Let's relate it to some of the things I have said before. I have said before that we have made recommendations to organizations as to the use of data processing, as to the use of many other things. This rises to a level. I don't know what happens. It is conceivable that this thing you are talking about can rise to this level, and then I don't know what happens.

MR. BROWN: You have answered my question.

CHAIRMAN LILLEY: Thank you, Chief. You have been very helpful. Mr. Robinson has pointed out, in the preparation of this. I would like to make one request that our staff could deal with you, or whomever you assign, on additional information we might need. Would you be willing to work with us on that?

THE WITNESS: Certainly.

MR. JAFFE: He has been very cooperative I would like to state for the record.

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C E R T I F I C A T E

I, JOSEPH F. READING, a Certified Shorthand Reporter and Notary Public in and for the State of New Jersey, do hereby certify that the foregoing is an accurate transcript of my stenographic notes to the best of my ability.

Joseph F. Reading

November 13, 1967.