

THOMAS M. HENRY, Sworn.

EXAMINATION BY MR. FORTUNATO:

Q I believe you are inspector --

A Inspector of Police, City of Newark, New Jersey.

Q Can you give us just a little bit of your background and experience as a Newark police officer, how long you have been on the force.

A I have been a police officer nineteen and a half years. In that time I have been assigned to the various divisions of the police department.

Q And your present assignment is what?

A I am assigned to the inspection office.

Q Can you tell us briefly how that functions, the inspection office, in general.

A The inspection office is set up to inspect departmental operations, training programs, field operations; to report on their effectiveness, the efficiency, in an attempt to eliminate duplication of operation and economy of operation.

We are also charged with the responsibility for investigating complaints against members of the police department, which amount to misconduct and breaches of integrity.

Q Now, specifically in connection with the civil disorder in Newark in July of this year, were you charged

1 with the responsibility of investigating any complaints
2 made against the Newark police?

3 A At that particular time I was in command of the
4 inspection office and for a few months following the
5 disorder and during that time there was a total of five
6 complaints which came to our attention.

7 Q You may want to answer this on an individual
8 basis. From what source were these complaints received?
9 By that I mean, did the individuals involved come down and
10 make a complaint or did someone in their behalf or just how
11 did it happen?

12 A In two of the instances the complaints were
13 referred to us by the Newark Legal Services Project. The
14 other three were what we call walk-in complaints, where
15 people came into our office or into the department and
16 eventually were referred to our office and lodged their
17 complaint.

18 Q Since the number is small -- I believe you
19 mentioned five -- could we take up each one separately and
20 let's start in with the three walk-in complaints.

21 A Well, we may have to correct that just a little
22 bit. I will do it this way: One complaint we received was
23 from a Mr. Gilman Spencer. He is the editor of the Trentonian
24 newspaper. He made a complaint on behalf of a reporter who
25 worked for him, a William Lowe. Now, we received that

1 complaint by letter from Mr. Spencer.

2 Q What was the nature of the complaint?

3 A Mr. Lowe complained to his editor that on the
4 13th of July while he was in Newark covering the disturbance
5 he was abused by the police, he was struck, he wasn't
6 treated the way a reporter should be treated. Generally
7 that is the basis of his complaint.

8 Q What steps did you take to investigate that
9 complaint?

10 A Our investigator went to Trenton and spoke with
11 Mr. Spencer, at which time a meeting was set up between
12 Mr. Lowe, Mr. Spencer and our investigator and I believe
13 a legal representative from the newspaper.

14 We attempted to take a statement from Mr. Lowe
15 relative to his allegation. He refused on the advice of
16 Mr. Spencer, the editor.

17 We used the newspaper article which he had
18 written in the Trentonian as the basis for our information
19 relative to his complaint, and in the newspaper article
20 he mentioned various things that happened to him, various
21 people who he was in contact with, and our investigation
22 reveals that the biggest percentage of the allegations
23 and the information that are contained in his newspaper
24 article are definitely false.

25 Q Did you make a recommendation regarding that

1 complaint?

2 A We made a recommendation that the complaint be
3 filed without prejudice towards the police officers
4 involved.

5 supplied to us by MR. FORTUNATO: All right. Do any of
6 officer who you gentlemen want to go into any more --

7 time the incident MR. DRISCOLL: I don't want to know the
8 names of the police officers involved but was he
9 wife was able to identify the police officers?

10 abused. But on the THE WITNESS: He said he might be able
11 an identify to identify them if he saw them again.

12 was working on the MR. DRISCOLL: But he didn't
13 we could do specifically identify them by badge number?

14 confirmation from THE WITNESS: No. He had no badge
15 numbers. And we offered to have him come up to
16 Newark to look through our photographic file of
17 atmosphere the police officers who would have been working
18 that particular area. We made two or three
19 he was not appointments with him and he never came to
20 the idea Newark. The people that were involved in the

21 BY MR. FORTUNATO:

22 Q Proceed with the second one.

23 A A Mr. Oliver Bartlett came into our office and
24 complained on behalf of his wife. He provided us with a
25

1 badge number, 1551, and he complained that his wife was
2 detained and bothered unnecessarily and she was knocked
3 down by police while on her way home from a store; this
4 was at the height of the disorder. The badge number
5 supplied to us by Mr. Bartlett was assigned to a police
6 officer who was on duty in another part of the city at the
7 time the incident occurred.

8 complaint We don't deny that possibly Mr. Bartlett's
9 wife was bothered or, in his terminology, unnecessarily
10 abused. But on the basis of the fact that we cannot make
11 an identification, the badge number which he supplied us
12 was working another part of the town, there was not much
13 we could do with it, although we did wind up having a
14 confrontation between Mr. Bartlett and badge number 1551.

15 lived at 70 They sat down in the office for about a half
16 hour and talked, and they left in a very friendly
17 atmosphere.

18 Now, he wasn't too put out about what happened;
19 he was more interested in trying to leave the police with
20 the idea that all the people that were involved in the
21 riot weren't rioters, but apparently his wife had become
22 involved or had been near a group that the police were
23 attempting to disperse and she may have held back a little
24 bit and she may have been pushed and very possibly knocked
25 down.

1 Q So the record may be clear, we were talking
2 about walk-in complaints.

3 A This was a walk-in complaint.

4 Q This was a walk-in complaint?

5 A Right.

6 Q And your recommendation in this case?

7 A There is no recommendation for action. The
8 complaint was satisfied. Everybody was satisfied as a
9 result --

0 Q Including the complainant?

1 A The complainant left very happy. I wish they
2 would all leave that way.

3 Q All right. The next one.

4 A This one involved a Puerto Rican woman who
5 lived at 70 Oriental Street. And the complaint in essence
6 was that the state police, the Newark police had broken
7 down her apartment door and searched her apartment, left
8 some furniture out of place, and she was quite put out
9 about this.

Investigation reveals that from 70 Oriental
Street the state police, the Newark police had been under
intensive sniper fire. They made an apartment by apartment
search of the entire building. This was the last apartment.

Now, prior to reaching this apartment they had
discovered nothing but they were refused admittance to this

1 apartment and they knew someone was inside.

2 which you are Feeling quite certain that this was the apartment
3 that the sniper fire emanated from, they proceeded to break
4 down the door and search the apartment.

5 Now, Mrs. Cruz, who made the complaint, is
6 Puerto Rican, she didn't speak very good English, and I
7 don't believe that at the time of the original incident
8 the officers present were able to convey to her actually
9 what took place. When we explained the entire situation
10 to her, she withdrew her complaint. She is quite satisfied.

11 Q CHAIRMAN LILLEY: Inspector, I don't
12 know whether you would know this but how far
13 is 70 Oriental Street from Broadway?

14 THE WITNESS: Right off Broadway.

15 Q CHAIRMAN LILLEY: Right on the corner,
16 at that corner, that apartment on the corner?

17 THE WITNESS: Right.

18 Q CHAIRMAN LILLEY: We visited the area
19 and I was trying to place it.

20 Q MR. BRISCOLL: Is that one of the
21 high-rise apartments?

22 THE WITNESS: No. I believe it is about
23 a five-story apartment. It is an old apartment.

24 BY MR. FORTUNATO:

25 Q Would you have the dates when the alleged incidents

1 were to have taken place in each of the first three cases
2 which you gave?

3 filed A Spencer's complaint relative to Lowe took place
4 on July the 13th.

5 Q Is there a time, by any chance?

6 A 7:00 p.m.

7 Q How about Mr. Bartlett?

8 A That was on the 16th around 3:00 p.m.

9 Q And Mrs. Cruz?

10 A That was on the 16th about 5:00 p.m.

11 Q The 16th, Sunday. Might that have been the
12 14th in the case of Mr. Bartlett, at least, rather than the
13 16th? The 16th was Sunday. I would think that things
14 were pretty quiet by that time.

15 A They weren't too quiet in that particular area
16 at that time. The 16th is the date we have on it. It may
17 be an error but that is the date we have on the complaint
18 form.

19 CHAIRMAN LILLEY: Did he walk in on the
20 right day, same day?

21 THE WITNESS: No. It was about two
22 weeks later that he came in.

23 Q Would you give us that for Mr. Spencer and the
24 70 Oriental Street address. When were those complaints
25 filed, if you have it?

1 A I don't have it on this particular form.

2 Q Do you have a recollection when Mr. Spencer
3 filed the complaint?

4 A His letter to the police director was dated --
5 we talked to him on August 9th. We had a communication
6 from him prior. July the 19th his letter to the police
7 director is dated, so we figure a day or two days after
8 that we initiated the investigation.

9 Q And what about the case of 70 Oriental, do you
10 have the date that that complaint was made?

11 A That was made on the 16th, the same day as the
12 occurrence.

13 Q Was the one at 70 Oriental a walk-in?

14 A Yes, it was.

15 Q I believe we are up to complaint No. 4.

16 A Mr. Frederick Fair. He was referred to us by
17 the Legal Services, Legal Services Project. And the
18 occurrence was the 14th at about 2:30 a.m. The date
19 we received this complaint for investigation, I don't know
20 right now.

1 Basically his complaint was this: He has a
2 restaurant at 564 Bergen Street, and he admits that there
3 was quite a bit going on in the particular neighborhood
4 and he was outside viewing it when the police came along,
5 he says two squad cars with six police in each car,

1 attempting to clear the street, and he explained to them
2 that he owned the restaurant and he was there watching it
3 to make sure nothing happened, and they advised him to go
4 back inside and he more or less insisted that he stay
5 outside, and at this point he was pushed back into the
6 store; when he went back into the store two of his
7 employees asked him what he had been pushed about and he
8 said he didn't know so they told him to go back out and
9 find out, so he went back out and he had a confrontation
10 with the police again, the result of which he alleges he
11 was struck in the eye and was hospitalized for five days.
12 Now, Mr. Fair gives us a badge number which he is one
13 hundred percent sure of, at least in his mind.

14 The badge number he gives us was again working
15 at another location at that particular time. Mr. Fair
16 is not able to identify a photograph and he says he cannot
17 identify the person if he saw him again.

18 We have never been able to take a statement
19 from Mr. Fair because he has been advised by Newark Legal
20 Services Project not to give us a statement.

21 He has not furnished us with the names of any
22 witnesses because he has been advised also by the Newark
23 Legal Services Project not to give us that.

24 So at this particular time the investigation is
25 still pending. We are attempting to dig up some witnesses

on behalf of Mr. Fair in the particular neighborhood.

As of yet we have had no luck.

Q Did Mr. Fair advise you of the badge number he felt was involved in the incident?

A Yes. He supplied us with the badge number.

Q What number was that?

A 1551.

Q There has been no recommendation, then, since, as you indicate, the investigation is still pending?

A The investigation is still pending.

Q All right. Complaint No. 5.

A The fifth complaint is actually the original complaint that began all our problems, or at least it would appear that way. The complaint of Mr. Smith, the cab driver. Now, nothing of any importance has been done on that investigation because we haven't been able to talk to Mr. Smith. He is under ^wreps by the Newark Legal Services Project. He won't come in and give us a statement and we are not allowed to talk to him.

At this point we are going to have to make a decision based solely upon the information supplied to us by the police officers, because we have no actual information from Mr. Fair as to what his allegation is.

Q I believe you meant Mr. Smith.

A Mr. Smith, I'm sorry. We don't know specifically

1 what Mr. Smith is complaining about. We don't know
2 specifically the facts that brought about the arrest, from
3 his standpoint. If we can't talk to him and get the story
4 from him, then I don't see how we can make any kind of an
5 investigation.

6 And I think if we do make a decision, if we
7 have to make a decision now, the decision would be based
8 solely upon the reports submitted by the police officers.

9 MR. DRISCOLL: Well, you have litigation
10 pending against the police officers and also
11 litigation pending against Mr. Smith, do you not?

12 Q THE WITNESS: Well, there is litigation
13 against Mr. Smith but I don't believe there is
14 any litigation against the police officers.

15 A But regardless of the pending litigation, this
16 would make no difference to us in our internal
17 police, if investigation.

18 Q If someone was to give us information
19 which was detrimental to them, we would not
20 attempt to use it against them in a criminal
21 case. As a matter of fact, if they gave it to
22 us under those circumstances, I don't think it
23 would be admissible. We are interested not in
24 a criminal action or not in a civil action;
25 we are interested in internal discipline.

1 If the case at hand involves a criminal
2 action, we will hold up on our internal action
3 until it is disposed of in the courts. Now,
4 usually what is happening now, we are holding up
5 on the investigation until it is disposed of in
6 court, not by our choice, but this may be a
7 year and a half from now. We can't go back and
8 make the investigation that we could have
9 made in the original.

10
11 BY MR. FORTUNATO:

12 Q By that you mean things get stale, witnesses
13 leave?

14 A Sure. Witnesses disappear, they forget,
15 sometimes records become lost, and so forth.

16 Q Will you outline for us the dress of the Newark
17 police, if you will distinguish say from the ordinary
18 patrolman or person in a radio car from the motorcycle
19 police and also the mounted police.

20 A Well, the basic difference between the police
21 on normal patrol, they would wear a completely blue
22 uniforms, dark blue uniform, blue hat, jacket and pants.

23 The men assigned to traffic, which would be the
24 motorcycle men, would wear a white hat and they have a
25 yellow stripe in their pants.

The mounted squad, they have a campaign

hat similar to the old Spanish war hat which they wear now and they have a yellow stripe in their pants.

Q Would any of them be wearing helmets at all?

A Generally?

Q Generally.

A Our motorcycle men are supposed to wear helmets at all times.

MR. DRISCOLL: In fact, that is the law, isn't it?

THE WITNESS: Yes.

MR. DRISCOLL: How would you distinguish between the Newark police and the state police?

THE WITNESS: The state police wear a light jacket, a light colored blue jacket and I believe it is a darker pair of pants with a yellow stripe in them. There is a distinct difference.

MR. DRISCOLL: But when you have a situation that is confused and filled with emotion, apparently it is difficult for some people to distinguish between state troopers and Newark policemen.

1 THE WITNESS: Well, this would be
2 possible but there is a very distinct difference
3 in the uniform. In our uniform, the shoulder
4 patch reads "Newark Police," our badge reads
5 "Newark Police." I believe it is possible that
6 somebody could be that confused but it is hard
7 to conceive because there is such a distinct
8 difference in the uniform.

9 CHAIRMAN LILLEY: I don't know whether
10 this is a question about the uniform but do the
11 Newark police have the standard place for the
12 badge on the left breast?

13 THE WITNESS: Left breast.

14 CHAIRMAN LILLEY: Is it ever under any
15 conditions moved elsewhere such as put on the
16 hat or the helmet?

17 THE WITNESS: Well, we have a wreath
18 that is on the hat.

19 CHAIRMAN LILLEY: I meant the number.

20 THE WITNESS: It is the state seal
21 with the badge number underneath it.

22 CHAIRMAN LILLEY: So the number
23 appears in two places, then?

24 THE WITNESS: The number should appear
25 on the breast and on the hat, yes. Now, this

1 would be only for certain ranks. It would be
2 the rank of patrolman. From sergeant on up the
3 hat wreath would say "Sergeant." The sergeant's
4 badge would have a separate number.

5 CHAIRMAN LILLEY: Does the badge number
6 appear on the helmet as well as on the normal
7 cap?

8 THE WITNESS: No. They are not allowed
9 to wear the badge on the helmet. There is no
10 identification on the helmet at all.

11 MR. DRISCOLL: Other than the number?

12 THE WITNESS: No number.

13 MR. DRISCOLL: No number?

14 THE WITNESS: No number on the helmet.

15 MR. DRISCOLL: You have testified that
16 you have had nineteen years experience on the
17 Newark police force.

18 THE WITNESS: Yes.

19 MR. DRISCOLL: And I would like to ask
20 you, during the period when we had the civil
21 disturbance, where were you stationed?

22 THE WITNESS: Well, let me go to the
23 very first night. I was in command of the
24 office at that particular time and, including
25 myself, I put eight people in the field. My

primary objective was that if we had trouble
 our people would be in the field and we would
 have firsthand knowledge of any allegations of
 police brutality or misconduct. And we left
 our office -- well, four of us were in the
 office; the other crew were on their way down
 from Yallsburg when we received a call that
 they were at Morris and Springfield and they
 were being stoned and they were under attack.
 The three men working with me left our office
 in an attempt to rendezvous with them, and it
 took us about three hours to get to where they
 were.

Now, we never were able to perform the
 function that we set out to perform, to inspect.
 We became deeply involved in the riot. That
 was the first night. The second night --

MR. DRISCOLL: May I stop you there.
 Were you in uniform that night?

THE WITNESS: No. We worked in civilian
 clothes.

MR. DRISCOLL: All in civilian clothes?

THE WITNESS: We did this specifically
 because we didn't want to become involved with
 the general police operation, but what happened,

1 the thing got so bad that we had absolutely
2 no choice.

3 MR. DRISCOLL: You were armed?

4 THE WITNESS: Yes, sir.

5 MR. DRISCOLL: You had a regular
6 Newark police pistol?

7 THE WITNESS: Yes, sir.

8 MR. DRISCOLL: Did the Newark police on
9 this particular occasion or at any time during
10 the riots carry rifles?

11 THE WITNESS: Not police issued. What
12 had happened, we gave tacit approval; in other
13 words, we knew that some of the men, due to the
14 fact that we hadn't sufficiently armed them,
15 were bringing weapons which they themselves
16 had at home. We knew this.

17 MR. DRISCOLL: You did have shotguns?

18 THE WITNESS: We had a few shotguns at
19 this particular time. But the men were
20 permitted, and I don't believe there was ever
21 a written order -- if any of the men had asked
22 me if they could bring their shotguns with them,
23 I would have told them yes. And I believe this
24 happened in many cases. But they had their
25 own personal shotguns. Some of them had

1 carbines or whatever other weapons they had at
2 home, which they brought to work with them.
3 Some of them had been doing this for a period
4 of time prior to the riot because we had
5 anticipated that we were going to have a
6 difficult problem.

7 MR. DRISCOLL: One of the problems
8 that the commission has had is to try and
9 distinguish between the weapons carried by the
10 National Guard and the weapons carried by the
11 state police and the weapons carried by the
12 Newark police, and I wonder if you can throw
13 any light on that.

14 THE WITNESS: Well, I can only go by my
15 personal observations and what I know that the
16 police department had as standard issue, which
17 were a few shotguns and our service revolvers.
18 As I say, some of our people brought in
19 weapons that they had at home. Basically I
20 think the state police were equipped with the
1 M-1 rifle. I believe I saw a few sub-machine
2 guns, some shotguns and their sidearms.

3 The only weapons that I observed with
4 the National Guard, as far as being carried by
5 an individual, were the M-1 rifle, and I

1 believe some of the officers had 45 caliber
2 sidearms.

3 Now, outside of machine guns that were
4 mounted at various places or on vehicles, I
5 don't recall seeing any other weapons. I don't
6 recall seeing a shotgun in the possession of
7 the National Guard.

8 MR. DRISCOLL: Inspector, the
9 ammunition used by the Newark police is somewhat
10 different from the ammunition used by the state
11 police, as I understand, is that correct?

12 THE WITNESS: This I couldn't answer
13 truthfully. I really don't know. I believe
14 there is a difference in weapon. I believe
15 they use a Smith & Wesson and we use a Colt
16 but I am not sure.

17 MR. DRISCOLL: That is all I have.

18 CHAIRMAN LILLEY: Inspector, coming
19 back to the badge numbers, you indicated that
20 in both instances the number was in some other
21 part of the city. Let's go to a time when
22 there is no civil disturbance and not all this
23 emotion. How reliable do you find badge number
24 identifications by citizens, in general?

25 THE WITNESS: Sometimes it is good,

1 sometimes it is bad. I would say about 50
2 percent of the cases where we have a badge
3 number, the badge number is usually correct,
4 maybe a little higher percentage, but these
5 things happen so fast and the people take a
6 glimpse, they don't have a piece of paper to
7 write it down and by the time they transfer
8 their thought to a piece of paper, it changes.
9 They may get one number out of the way.
10 Instead of being 1551, maybe it should have been
11 1515. But what we would attempt to do, we
12 would take all the possible badge numbers; if
13 they gave us a badge number of 1345, we would
14 drop the one, we would use 345, and we would
15 take photographs of all these men in an attempt
16 to make an identification, because we realize
17 under the excitement they may not have gotten
18 the right badge number.

9 CHAIRMAN LILLEY: In this day of
0 complaints, and so on, is there any better way
1 of identifying a policeman to the public than
2 the badge number?

3 THE WITNESS: Are you referring to a
4 name plate?

5 CHAIRMAN LILLEY: Well, the Army uses

1 the name.

2 THE WITNESS: I think we would have the
3 same difficulty with a name plate. The name
4 plates are much smaller than the badge number,
5 as we have them now, at least the name plates
6 I have seen. For a person to read that much more
7 in the short span of time they have, I think
8 they would have trouble grasping it. I think
9 it is simpler to get a badge number. You see
10 102 or 501 or 53, whatever it was. It is
11 better than looking at a name and saying,
12 "Thomas Henry." You got to read the whole thing.

13 But we don't rely primarily upon that
14 information. In other words, if they give us
15 a badge number, we will exhibit a photograph,
16 amongst other photographs, of that particular
17 badge number. If they can't make an identification,
18 then we feel that they possibly have the wrong
19 badge number. Then we will take the possibilities
20 that we have and add them to the group of
21 photographs and occasionally we come up with a
22 good identification.

23 CHAIRMAN LILLEY: Let's say a citizen
24 feels that he wants to complain about a
25 policeman. Can he ask the policeman his name

1 and get it? I mean, if he specifically asks
2 for it, can he get it?

3 THE WITNESS: The regulations state that
4 if he is requested civilly -- civilly -- he is
5 to supply his name, rank and badge number, but
6 the question is "civilly."

7 CHAIRMAN LILLEY: Yes.

8 BY MR. FORTUNATO:

9
10 Q Perhaps you could give us in general the
11 investigative steps you go through. Maybe that would
12 cover some of what we are covering now but we would get
13 the complete picture from you, in terms of when you get
14 a complaint in. I can understand that many of them would
15 offer different problems, but can you tell us generally
16 what you do in terms of investigating complaints.

17 A If the case involves an arrest, and 99 percent
18 of them either involve an arrest or some physical
19 confrontation with the police, a traffic summons, being
20 chased off the corner, but if there is anything that has
21 provided some form of paperwork, some report, the first
22 thing we do is pull the reports and peruse the reports.
23 The second thing we attempt to do in each and
24 every case is to take a sworn statement from the complainant.
25 We warn the complainant that if the statement is false and

1 the investigation proves that it is false and it is
2 maliciously given falsely, that we will make an arrest.
3 This is the protection we offer to the police officer
4 against false allegations.

5 In most of our cases the complainant will give
6 us a sworn statement. We feel the complainant, if he is
7 telling the truth and has clean hands, he has no reason
8 not to give us a sworn statement.

9 When he refuses to give us a sworn statement,
10 then we start thinking, why? Has he got something to
11 hide? Is it a false allegation? That is our second step,
12 is to get the sworn statement.

13 Now, the third step usually is to get the
14 witnesses, whatever witnesses are involved, and take
15 statements from them as soon as possible.

16 Then next we usually get hold of the police
17 officers and get their version of the story and then get
18 written reports from them. When we have all our
19 investigative material in, then we sit down and based on
20 the facts that we have in front of us, we attempt to make
21 a decision as to whether the allegation is true or if we
22 have enough evidence to warrant action against our people.
23 And if we do take action, will whatever we do stand up --

24 MR. DRISCOLL: How many actions do you
25 take in the course of a year against your own

people?

1
2 THE WITNESS: Oh, that is difficult
3 to say. I gave all of that information to
4 somebody from your office a few days ago, but I
5 would say in numerous cases, in numerous cases.
6 We will take a complaint of alleged police
7 brutality; we cannot substantiate from the
8 investigation that the police acted the way
9 the complainant states, but in the course of
10 our investigation we may discover other
11 derelictions of duty not completely associated
12 with the case at hand. These men would be
13 charged under departmental regulations for
14 these derelictions of duty. So in instances
15 where we can't substantiate the allegation,
16 there is other action taken against the police
17 officer; not as an alternative but as a result
18 of the original complaint.

19 MR. DRISCOLL: Going back to the search
20 of the apartment at 70 Oriental Street which
21 was the last apartment searched, where a
22 state trooper and a Newark policeman broke in
23 the door, did they find anything in there?

24 THE WITNESS: No, but they still feel
25 that the shots came from that apartment.

MR. DRISCOLL: Even though they couldn't

find anything?

THE WITNESS: Right. They found nothing

but they had information when they went up there that there was an adult male in that apartment.

And when they reached the apartment and conducted their search, they found no adult male.

They found a 14 year old boy but they found no weapons or spent cartridges.

MR. DRISCOLL: Just one more question.

With the possible exception of some weapons that members of the force may have brought on duty themselves, the Newark police have no automatic weapons, do they?

THE WITNESS: Not at that time. Yes,

we have 45 caliber sub-machine guns but during the riot, at that particular time, they were in the possession of the police emergency. This is a specialized group. They were not in the hands of the general police officers.

MR. DRISCOLL: How large a group is that?

THE WITNESS: There are approximately 40 men assigned to the bureau and I would say

1 they had possibly 15 or 20 on duty at that
2 particular time.

3 MR. DRISCOLL: And they had sub-machine
4 guns?

5 THE WITNESS: They had Thompson sub-
6 machine guns. I believe the department had
7 six or seven Thompsons -- I don't remember
8 exactly what we have -- but this was a weapon
9 that wasn't carried around the street. This
10 weapon was kept on the police emergency truck.

11 And there was only one instance that I
12 have personal knowledge of where the weapon was
13 displayed on the street. That was on the first
14 night of the riot.

15 We attempted to clear Springfield
16 Avenue and I guess I had maybe 50 police cars
17 up there that I had taken the men out of and I
18 had these 50 cars parked on Springfield
19 Avenue and I ordered the men from the emergency
20 bureau to get their Thompson sub-machine guns
21 out and stand guard on those 50 vehicles while
22 I used the personnel on the street. That was
23 the only time, to my knowledge, that that
24 weapon was displayed to the general public.

25 MR. DRISCOLL: Are those weapons signed

1 out to a specific person?

2 THE WITNESS: No. They would be assigned
3 to the truck and the man who would be ordered
4 to use it would go and take it from the truck.

5 MR. DRISCOLL: Well, now, as an
6 experienced police officer, mindful of the fact
7 that we have had testimony that there was a
8 certain amount of indiscriminate exchanging
9 of guns between let's say the National Guard
10 and state police, inability to account for
11 ammunition, what do you think should be done
12 in cases like this to tighten up on the control?
13 I am not now talking necessarily about state
14 police. I am talking generally so that when
15 ammunition goes out, the person who received
16 the ammunition has to be able to account for it
17 in some fashion. Is that a reasonable suggestion
18 in a situation of this kind where emotion is
19 running high?

0
1 THE WITNESS: Well, I would say it is
2 reasonable but you have to take into consideration
3 that the situation we worked under -- if I
4 needed ammunition and I went to the point where
5 the ammunition was being dispensed, I didn't
6 have time to make out the normal requisition.

1 I took whatever ammunition was there and I
2 felt was available to me. Now, what has
3 happened as far as accounting for ammunition,
4 some of the ammunition that we issued hasn't
5 been used, is still retained by the men, and we
6 have as yet not gotten it all back. The men
7 are afraid that in the event we have another
8 disturbance ammunition may not be available,
9 or it may not be available in the quantity
0 that is necessary, so they are holding on to
1 what they have. They have got that put away.
2 This I know for a fact.

3 So if there is a large discrepancy
4 between the actual ammunition on hand and the
5 ammunition dispensed -- possibly it wasn't all
6 dispensed.

7 **CHAIRMAN LILLEY:** Thank you very much,
8 Inspector.

9 **THE WITNESS:** You asked me about my
0 experiences during the riot. I started to tell
1 you about the first night, how we became involved
2 in the riot, doing actual police work. From the
3 second night on I was the field commander from
4 7:00 o'clock at night until 7:00 o'clock in the
5 morning. I was in charge of the operation in

1 the field. So if you feel you have any
2 questions you would like to ask along that
3 line, I may have some personal experience that
4 may be helpful to you.

5 MR. DRISCOLL: Did you yourself see any
6 sniper fire from windows?

7 THE WITNESS: I saw sniper fire. I
8 don't know where it came from. I knew the
9 general direction, but somebody put three
10 rounds of tracer bullets about two feet over
11 my head at the corner of Littleton and
12 Springfield Avenue about 11:30 the night of the
13 13th. Now, I heard the shots and I saw the
14 tracers go over my head. Now, I know it wasn't
15 our people because we had no tracer ammunition,
16 and the National Guard and the state police
17 were not at the scene at this particular time.
18 So I think I am safe in assuming that we did
19 have someone sniping at us, and we had reports
20 and we have verified accounts of sniper
21 activity. Our problem was to determine where
22 the sniper was actually working.

23 What would happen, they would go to a
24 location, fire one shot, fire two shots, pick
25 up their spent brass and take off to another

location.

Now, by the time we organized our people, made a search of the premises, we found nothing. And this happened time after time.

We were pinned down on 18th Street or on Avon Avenue between 18th Street and 20th Street for two hours from sniper fire from the front and sniper fire from the rear, and we had difficulty -- we never did determine where it came from. Every time we went to pull out, and I'd say this involved maybe 200 people, our people, state police, National Guard, somebody threw a shot. We could never determine where the shot came from but they kept us pinned down for two hours at that particular location.

MR. DRISCOLL: These shots were not tracer shots then?

THE WITNESS: These particular shots weren't. The only three tracers I know of were the ones that I saw and I remarked to the officer standing alongside of me, I said, "Did you see that?" I knew what they were. I had seen them before. Snipers were, as far as I am concerned, a big problem. And I think if we do

1 have another disorder, it is going to be a big
2 problem again, because I can't think of any
3 actual way that we can safely combat them.

4 Any attempt we make to apprehend a
5 sniper, a sniper is exposing our people to
6 danger and innocent people, and this is the
7 problem that concerns me, is the innocent
8 people. And if you are under sniper fire, I
9 don't think you can just walk away and forget
0 about it. I think some definite action has to
1 be taken towards the sniper. I wouldn't want
2 to have to give the command at a location
3 where a sniper is present to my people, "All
4 right, forget it, let's pull out." I
5 wouldn't want to give that command. I think
6 a definite action should be taken against the
7 location if it can be identified.

8 And this is the problem, being able to
9 identify the location that the sniper fire is
0 coming from.

1 MR. DRISCOLL: But would you say the
2 use of an automatic weapon to "spray" a
3 building is the right action to be taken?

4 THE WITNESS: No, not in my opinion.

5 MR. DRISCOLL: It requires individual

1 action, does it not?

2 **THE WITNESS:** Individual action, action
3 of the same type, a counter sniper action. If
4 we can identify the exact window or the exact
5 apartment or the roof that the sniper fire is
6 coming from and we can see someone there, then
7 I think we should return with like weapons.

8 **CHAIRMAN LILLEY:** Thank you very much.

9
0 **C H A R L E S A . M e L E A N , Sworn.**

1 **EXAMINATION BY MR. PORTUNATO:**

2 **Q** Will you give us some of your background,
3 Colonel.

4 **A** I am presently a colonel in the New Jersey
5 Army National Guard and my position there is military
6 support plans officer, which I have been for the past
7 two and a half years. Prior to that I was inspector
8 general of the 50th Armored Division, from January of
9 1949 to March of 1963. Is that far enough back?

0 **Q** Go back just a little bit further.

1 **A** Prior to that I was a teacher in the public
2 school system of Hackensack, New Jersey, from 1938 to
3 1947, with a little interlude of five and a half years
4 in the military service of the United States.

5 **Q** Were you assigned or is it your general duty to