

1 where police were surrounding houses in order to get a suspected  
2 criminal and always there was a procedure. You surrounded the  
3 house, you tried to clear the neighborhood if it was at night,  
4 you would use some lights, you verify that there was somebody  
5 in there and perhaps use tear gas if you could, you certainly  
6 made sure there was firing coming from the building. During  
7 the whole evening, although I was told, shots were being fired  
8 by snipers from various places, I am almost certain no sniper  
9 shots were fired in my direction or anywhere near me. Of course  
10 I didn't see a sniper all evening. The other incident that  
11 seems to stand out in my mind, these mostly later occurred I  
12 believe on 12th Street in a different sort of an area. It was  
13 sort of a business and residential area made up of brick build-  
14 ings on both sides with store fronts below and apartment units  
15 above. Again, the radio summoned us to a place where as the  
16 report on the radio said a bus was pinned down by snipers.

17 Q What kind of a bus?

18 A This was an Army bus being used to unload  
19 walking guards as they patrolled the streets. We drew up  
20 behind the bus or about 20 yards behind the bus at the curb,  
21 the bus was parked in the middle of the street. When we  
22 pulled up, I could see guardsmen standing in doorways, crouched  
23 behind the bus looking in the general direction down the  
24 street on 12th Street ahead of the bus. Again, we leaped out  
25 of the jeep to take cover, to take cover by the doorways of

1 the building. I remember as we were leaping out of the jeep  
2 a M-1 rifle went off not far from my ear and it was obvious  
3 to me in jumping out of the jeeps that one of the guardsmen  
4 either snapped the safety off and pulled the trigger at the  
5 same time, in any event, the rifle went off behind me. At  
6 that point, other shots began to ring out in the neighborhood  
7 and I heard shouts, "There he is, there he is." When the  
8 firing stopped, no one was sure that it was a sniper and I  
9 think everyone was agreed that there was simply nervous  
10 people firing, answering shots for the accidental shots that  
11 went off behind my ear. Anyway, we crouched in a store  
12 doorway and there, from this vantage point, I watched the  
13 ensuing events. The captain I was with, sent one man atop  
14 the roof of the building I was in, which doorway I was  
15 crouching in. Now, this would have been on the opposite  
16 side of the street from the building where there was a  
17 suspected sniper and this building would have been ahead of  
18 us by about 50 yards or less. The captain said he was going  
19 around behind the building where the sniper was suspected  
20 to be hiding and I remember him warning everyone in a loud  
21 voice not to shoot him because he was coming up behind the  
22 building. In a few minutes, tanks came rumbling down the  
23 street behind us, went up to the building in which the sniper  
24 was supposed to be hiding, turned to face the building directly  
25 and with the muzzle of the .50 caliber machine gun, not ten

1 yards from the building, it proceeded to open fire. As a  
2 matter of fact, it was so close to the building that the tank,  
3 the front of the tank, was on the curb and it had knocked down  
4 a lamppost. Perhaps deliberately to get a clear shot of the  
5 building. Well, it raked the building up and down with at  
6 least a dozen bursts of .50 caliber bullets which included  
7 tracers. I heard small arms fire coming from, it sounded  
8 like the building and people would say, "There he is, there  
9 he is the son of a bitch. He's using a .32", and somebody  
10 else would say, "It sounded more like a .22" and somebody  
11 else would say, "That son of a bitch is supposed to be using  
12 an automatic " and with that, I started to ask people who  
13 started gathering around the bus, crouching around the bus,  
14 "Were you in the bus when it was attacked" and some answered  
15 "yes" and some answered "no" and I said, "Did you actually see  
16 the shots." Nobody could say they saw the shots, I asked  
17 them if they saw a muzzle flash, nobody could tell me they  
18 saw a muzzle flash. I asked them to tell me how they knew  
19 the bus had been shot at and they said somebody told them and  
20 I asked what type of weapon the sniper was using, some said  
21 an automatic, some said a .22 some said a pistol. The tank  
22 drew away from the building, which by this time was on fire,  
23 you could clearly see flames inside through the smashed store  
24 front and the Captain came striding down the street along  
25 with other police officers who were satisfied apparently that

1 no one was in the building and they were saying, "That is  
2 just like the bastards, they fire one shot at you and then  
3 they leave." That was the last incident which, in which  
4 there was a reaction with a lot of firing on the part of the  
5 officers and guardsmen. There was one further incident.

6 Q Before we leave that incident, let me ask  
7 you a few questions. Did there come a time after the building  
8 had first been hit on bursts from the tank that law enforcement  
9 officers, police went into the building to locate the sniper,  
10 the alleged sniper?

11 A After most of the firing had already been  
12 done, then they went in and tried to find out if there was  
13 a sniper in there.

14 Q Did they find anyone inside?

15 A No.

16 Q It was empty?

17 A It was empty.

18 Q To your knowledge, did the Commander of the  
19 tanks attempt to seek authorization for his attack on the  
20 building from the Commander of the National Guard group?

21 A Not that I know of.

22 Q You were with the Commander at this time?

23 A Yes I was --- Well, the Commander, when the  
24 tank opened fire, the Commander was in back of the building,  
25 not in the vicinity of it.

1 Q Could they be in radio communication?

2 A I don't think so because our radio wasn't  
3 working.

4 Q Did you ask the fellow, the soldiers on the  
5 bus whether the bus actually had been struck by a bullet?

6 A Yes, I did.

7 Q What was their response?

8 A They couldn't point out a place to me where  
9 it was struck and in the dark I couldn't see for myself. I  
10 looked at the windows because that was the easiest place to  
11 look for bullet holes and there were none.

12 Q Returning to the incident you mentioned  
13 before involving the attack on the large house, did you sub-  
14 sequently learn the identity of the people who owned that  
15 house, within that house?

16 A Yes, I did.

17 Q What was their name?

18 A All I remember was the last name, Reuben.

19 Q How did you come to learn that this was the  
20 Reuben house?

21 A Although I can't tell you now, I remember  
22 the corner location of the building because I put it down in  
23 my notes as we were crouching there. Later that evening, I  
24 heard that three snipers, three alleged snipers, white men,  
25 were taken from that building. Still later, perhaps several

1 days later, while interviewing prisoners who had been taken  
2 into custody during the riots, they told me about a white  
3 man who had been taken out of a building on that corner.  
4 They told me that the man had been beaten and several days  
5 after that, back in Washington, I read a letter from, I  
6 believe it was a woman named Reuben, who was either the man's  
7 wife or another relative, describing the attack on a house  
8 on that corner.

9 Q I see, now, when I interrupted you, you were  
10 going to go into some other incident.

11 A There was one other incident which points  
12 up the nervousness, the absurdity of the situation in which--  
13 and the reactions of the guard in looking or trying to  
14 counteract snipers. Very late that Wednesday night, perhaps  
15 around midnight, it had become evident to the Captain it was  
16 going to be, as he said a fairly slow night. That things  
17 seemed to be quieting down and we were cruising the area.  
18 There had been no incidents for some time and we came across  
19 a traffic accident on Grand Boulevard at about 2nd or 3rd  
20 Street. An Army truck had run into a white Thunderbird,  
21 belonging to a civilian, of course, and I remember remarking  
22 to the Captain that things must be getting back to normal  
23 because standing out there after the accident, the guardsmen  
24 and the civilian were exchanging license numbers. A few  
25 minutes later, when we were passing that scene again,

1 someone yelled out, "Sniper" and a shot had been heard in the  
2 distance down that street, 2nd or 3rd Street. The jeep  
3 stopped on Grand Boulevard and we piled out again and I  
4 remember about the same time, a cruising sound truck for one  
5 of the local radio stations pulled up right along side of us.  
6 We all jumped out and ran across the street towards the  
7 intersection of 2nd or 3rd and Grand whichever it was, may  
8 have been 2nd, may have been 3rd and I crouched behind a  
9 house on the lawn. People seemed to be looking down the street  
10 where the direction of the alleged sniper was. It was then  
11 that somebody discovered that they were standing under that  
12 light over which the traffic accident, near where the traffic  
13 accident had occurred. People were, as a matter of fact,  
14 crouched behind the two vehicles that had collided so they  
15 decided that this light made them a perfect target, if indeed,  
16 there was a sniper in the vicinity so they began firing at  
17 the light to put it out. It must have taken at least three  
18 dozen shots to get that light out and the flurry of shots  
19 caused answering shots somewhere in the neighborhood which  
20 led further to the belief that a sniper was operating in that  
21 neighborhood. However, after the flurry put the light out and  
22 the flurry which answered it died down, everyone seemed  
23 satisfied that there was no sniper in the neighborhood and  
24 everybody left. On our way back to the jeep, passing the  
25 sound truck, I heard the newscaster who was apparently making

1 a mobile broadcast, dramatically telling his audience how he  
2 was pinned down by a sniper at 3rd and Grand.

3 (Off record.)

4 (Back on record.)

5 THE WITNESS: I should add that while we were stand-  
6 ing around at the jeep, waiting to pull off after this incident  
7 was over, the Captain dropped his Carbine and everybody jumped.

8 Q Did the rifle go off?

9 A No, it didn't.

10 Q Were there many such incidents involving ---

11 A There were many such incidents involving  
12 shooting at shadows and street lights and then hearing  
13 answering shots in the distance. They couldn't have been  
14 snipers answering because at one point, the answering shot  
15 was a line of tracers that were hitting a building and then  
16 ricocheting in the air. I remember riding in the jeep towards  
17 the high school in which we were making our headquarters, we  
18 were going back to check in at headquarters for just a few  
19 minutes and just as we were approaching the high school,  
20 some of these ricocheting tracers cut through the air at  
21 least a third of a mile, a quarter of a mile away. The  
22 driver of the car, of our jeep, got so panicky, he jumped the  
23 curb and nearly hit the building on the curb and others grabbed  
24 their rifles as if to fire. Only the Captain at this point,  
25 who was more calm than, and quite a good leader, told his

1 driver, "Stop being so scared and stop being so nervous."

2 Q In addition to the carbines and small arms,  
3 were the National Guard officers equipped with machine guns,  
4 automatic weapons?

5 A No, the National Guard officers were equipped  
6 with carbines and the enlisted men were equipped with M-1's.  
7 Some of them wore their own side arms. I saw a couple of  
8 shoulder holsters, I don't remember the kind of gun, but were  
9 obviously non-issued pistols.

10 Q So, as far as you know, you didn't see any  
11 machine guns actually?

12 A No, I saw no machine guns except the .30 caliber  
13 machine guns mounted on some of the jeeps.

14 Q This incident that you related involving the  
15 shooting out of a street light, was this a fairly common  
16 thing?

17 A Yes, it was. As a matter of fact, in the motor  
18 pool of the high school where we made our headquarters, there  
19 was a light, a flood light which lit up that area. It was  
20 there because there was a children's playground nearby which  
21 sometimes, I understand, is used at night by people in the  
22 area and because there is a parking lot there used during the  
23 day and night by people in the normal school business. There  
24 had been some reports earlier that day that there were snipers  
25 in the area and so as we pulled up in this one, during this

1 one period, when we were checking into the office, the Captain  
2 and some of the men suggested that that floodlight ought to  
3 be turned out. A couple of enlisted men took turns trying to  
4 shoot it out but they missed. The captain said, "Here now,  
5 let me try," and he borrowed someone's M-1 and from a distance  
6 of about 20 yards, I suppose, took careful aim and shot the  
7 light out with one shot and the enlisted men gave a good-  
8 natured cheer. At about that time, the custodian of the  
9 building came out and asked what was going on and they told  
10 him that they had shot the light out and the poor man said,  
11 "Well, why didn't you tell me you wanted it out, I could have  
12 turned the switch."

13 (Off the record.)

14 (Back on record.)

15 BY MR. BIRNBORN:

16 Q Do you recall talking with Mr. Robert Conot,  
17 of the Commission staff about your experiences in Detroit  
18 about the civil disorder?

19 A Yes.

20 Q Was the information you gave him at that time  
21 substantially similar to the testimony you gave at this time?

22 A Yes.

23 MR. BIRNBORN: Thank you, that is all.

24 ooo0ooo

25 (IT IS STIPULATED BY AND BETWEEN COUNSEL FOR THE RESPECTIVE

1 PARTIES AT SIGNING, SEALING, CERTIFICATION AND FILING ARE  
2 WAIVED, AND THAT ALL OBJECTIONS, EXCEPT AS TO THE FORM OF THE  
3 QUESTIONS, ARE RESERVED.)

4 (Whereupon, the deposition came to a close at  
5 3 o'clock P.M.)

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I, Ronald J. Tette, the officer before whom the foregoing deposition was taken at the New Federal Building # 7, 17th and H. Streets, N.W., in Room 8230, on Friday, January 19, 1968, do hereby certify that the witness, Mr. Saul Friedman, whose testimony appears in the foregoing deposition was duly sworn by me; that the testimony of said witness was taken by me in shorthand and thereafter reduced to typewriting; that said deposition is a true record of the testimony given by said witness; that I am neither counsel for, related to, nor employed by any of the parties to the action in which this deposition was taken; and, further, that I am not a relative or employee of any attorney or counsel employed by the parties hereto, nor financially or otherwise interested in the outcome of the action.

*Ronald J. Tette*  
Ronald J. Tette  
Notary Public in and for  
the District of Columbia.

(SEAL) .

Ronald J. Tette  
My Commission Expires May 31, 1971

*Steno*  
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NATIONAL ADVISORY COMMISSION ON CIVIL DISORDERS

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I-N-V-E-S-T-I-G-A-T-I-O-N  
Re: Detroit, Michigan  
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The Depositions of GENE GOLTZ and WILLIAM SERRIN, taken before Gerald Hanson, a Notary Public within and for the County of Wayne, State of Michigan, at 457 Federal Building, Detroit, Michigan, on Monday, January 8, 1968, commencing about 4:20 o'clock in the afternoon.

FOR THE NATIONAL ADVISORY COMMISSION:

MR. DAVID BIRENBAUM

MR. HERMAN WILSON

- - -

1 Detroit, Michigan

2 Monday, January 8, 1968

3 About 4:20 o'clock, P.M.

4 - - -

5 G E N E G O L T Z, and

6 W I L L I A M S E R R I N, witnesses

7 herein, after having first been duly sworn by the Notary  
8 Public to tell the truth, the whole truth, and nothing but  
9 the truth, testified as follows:

10 MR. BIRENBAUM: May the record show that  
11 the witnesses were sworn.

12 Would you please state your name and  
13 address, Mr. Goltz?

14 MR. GOLTZ: Gene Goltz. I live at 15712  
15 Garrison Lane, Southgate, Michigan. All one word.

16 MR. BIRENBAUM: Mr. Goltz, what is your  
17 occupation?

18 MR. GOLTZ: I am a reporter for the Free  
19 Press.

20 MR. BIRENBAUM: And how long have you been  
21 associated with the Free Press?

22 MR. GOLTZ: Since March of 1967.

23 MR. BIRENBAUM: And before then were you --

24 MR. GOLTZ (Interrupting): I have been a  
25 reporter for ten years. Right before that I worked for a

1 year at Newsday in Long Island; before that three years  
2 with the Houston Post.

3 MR. BIRENBAUM: Would our other witness  
4 give us his name, please?

5 MR. SERRIN: William Serrin. 3411 Warner,  
6 Pontiac, Michigan.

7 MR. BIRENBAUM: Where are you employed,  
8 Mr. Serrin?

9 MR. SERRIN: Detroit Free Press.

10 MR. BIRENBAUM: And for how long have you  
11 been with the Free Press?

12 MR. SERRIN: Since March of '66.

13 MR. BIRENBAUM: You are a reporter with the  
14 Paper?

15 MR. SERRIN: That's correct.

16 MR. BIRENBAUM: And for how long have you  
17 been a reporter?

18 MR. SERRIN: Since March of -- I have been  
19 a reporter since 1964.

20 MR. BIRENBAUM: I see. In connection with  
21 your responsibility as a reporter for the Detroit Free  
22 Press, did both of you gentlemen work on an article on  
23 the 43 persons who were killed during the course of the  
24 Detroit riot which was subsequently published in the  
25 Detroit Free Press on September 3, 1967?

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MR. SERRIN: That's correct.

MR. GOLTZ: Yes.

MR. BIRENBAUM: Gentlemen, I hand each of you a copy of that article and ask you whether you can identify it?

MR. GOLTZ: Yes, I can.

MR. SERRIN: Yes, that's it.

MR. BIRENBAUM: May the record show that that article will be incorporated in the record as Exhibit D-1.

Mr. Goltz, would you tell us how this article was prepared?

MR. GOLTZ: Well --

MR. BIRENBAUM (Interposing): Strike that.

In connection with this article did each of you do some investigation work into the deaths described in the article?

MR. GOLTZ: Yes. There were three reporters, actually, myself, Bill Serrin and Barbara Stanton. Each of us investigated separately about 13 deaths. There were one or two deaths, or maybe three, that were so self-explanatory that the editors and we reporters didn't think it was necessary to pursue them, and so that's why we only had about 13 each.

MR. BIRENBAUM: When you say self-explanatory,

1 what do you mean? Were you relying on certain documents?  
2 MR. GOLTZ: Yes, and witnesses whom I think  
3 we had already interviewed, or whom had already called the  
4 Paper and we had talked to, and on Police reports.  
5 Do you want to say something, Bill?  
6 MR. SERRIN: The death of Tonia Blanding,  
7 the three or four-year-old who had been killed would be a  
8 good example here. We had investigated that thing so  
9 thoroughly, and so had the Detroit News, and so that there  
10 was no reason to go back and do the work over again, and  
11 also, like the Algiers, you had three people killed there  
12 at one time, so that was only given to Gene. Wasn't that  
13 you?  
14 MR. GOLTZ: Yes, I wrote that. Yes.  
15 MR. SERRIN: And that also had been  
16 investigated by -- thoroughly by both Papers, so that cut  
17 it down there.  
18 MR. GOLTZ: And I should make it clear that  
19 we did include these particular deaths in the write-ups,  
20 we merely did not make further investigations. We felt  
21 we had already investigated enough and so we just wrote  
22 them.  
23 MR. SERRIN: They really weren't investi-  
24 gated any less thoroughly --  
25 MR. GOLTZ: (Interrupting) Yes, right.

1 MR. SERRIN (Continuing): -- than the  
2 others, but they had been investigated thoroughly by our-  
3 selves. We had done enough work to be satisfied.

4 MR. BIRENBAUM: In other words, they didn't  
5 require further investigation?

6 MR. SERRIN: That's correct.

7 MR. GOLTZ: Right.

8 MR. BIRENBAUM: After you were given this  
9 assignment in those cases, where you actually conducted an  
10 investigation ~~to~~ the circumstances surrounding a death,  
11 how did you go about that investigation?

12 MR. SERRIN: Well, this left us with about --  
13 well, 38 or 39 deaths to investigate after the ones that  
14 we had already done, so we just divided them by three.  
15 Gene took -- what did you take, say percentage?

16 MR. GOLTZ: Well, I had done a little bit of  
17 work on one white woman and one fireman, for example, who  
18 we thought had been killed by snipers, and so I pursued  
19 those from there because I had already written preliminary  
20 daily stories in the Paper on them.

21 You took --

22 MR. SERRIN (Interposing): I took a lot of  
23 them that involved the National Guard and the Army because  
24 I had a lot of prior Military Service and I was knowledge-  
25 able about the Guard.

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I think Barbara got most of the looters.  
I think we gave Barbara most of the looters, the alleged looters. So that we had, say, about 13 deaths apiece.

MR. BIRENBAUM: And once you had been allocated the responsibility for conducting an investigation, as you have just described, how would you actually go about conducting the investigation? Where would you start?

MR. SERRIN: Well, you started with a Police report which is called a DB, which means Detective Bulletin. You had this one or two page report, took all the clips that described up to that point what had happened and then just went out and started walking the streets, or driving the streets and knocking on doors and finding witnesses, and the classic investigation that you do in any kind of a story.

MR. GOLTZ: I would like to point out, we three hardly saw each other all day and it wasn't possible, or it wasn't feasible to do much telephone reporting. We had to go out on the scene and talk to whatever eyewitnesses we could find.

We would knock on the doors of houses and talk to neighbors. If the deaths involved looters, or suspected looters, we would try to talk to the store owners where the victims were shot, and try to talk to neighbors,

1 other neighboring store owners, people across the street  
2 who might, and often times who did witness some part of  
3 the proceeding from their upstairs window, for example.  
4 Things like that.

5 MR. BIRENBAUM: Were there witnesses  
6 identified in these Police reports?

7 MR. SERRIN: Some were, but hardly the  
8 amount of witnesses we found. I think that was the major  
9 point we thought we made, that there were numerous witnesses  
10 that the Police did not find, or did not bother to find,  
11 that we did find.

12 MR. BIRENBAUM: But you would pursue such  
13 witnesses as had been identified and talk to them?

14 MR. SERRIN: Right, we started with those.

15 MR. GOLTZ: Because they were easiest.  
16 Often times we found witnesses, as Bill said, that the  
17 Police either had not found or may have found but did not  
18 for reasons of their own, mention in their Police reports.

19 MR. SERRIN: That's correct.

20 MR. BIRENBAUM: Do you know how many  
21 witnesses in total the team interviewed?

22 MR. SERRIN: I think -- what did we say  
23 we talked to, over how many hundred witnesses?

24 MR. GOLTZ: We --

25 MR. SERRIN (Interposing): We added it up.

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MR. GOLTZ: We added it up, and I don't know if the figure was 200 or --

MR. SERRIN (Interposing): It's about that. It's a large number. I think it's in that report.

MR. BIRENBAUM: Well, yes, the report mentions more than 300 people interviewed.

MR. SERRIN: Yes, that's the total. We figured it up.

MR. BIRENBAUM: And other than Police records did you examine other documents relevant to the circumstances surrounding these deaths?

MR. SERRIN: In some cases the National Guard had issued records too. Tony Flemming, we examined those. We spent an afternoon with Doctor John Burton, the Wayne County Medical Examiner and went over each autopsy; pictures of the dead bodies, discussed wounds, how many shots had killed this person; his estimations and whoever -- the Policeman or anybody else who had done this firing and so forth. A detailed two or three, four -- three or four hours with John Burton.

MR. GOLTZ: And the actual cause of death, which bullet might have killed a man. Oftentimes they were shot in two or three places. He would say cause of death was the man shot through the heart or something.

I had one man who was hit in the heart and

1 subsequently the Police said he had jumped a fence after  
2 he was shot through the heart and the Medical Examiner  
3 said, "Yes, this can happen." That was one of the things  
4 I remember we questioned.

5 MR. BIRENBAUM: Approximately how long a  
6 period of time did this investigation -- strike that.

7 What was the duration of the investigation?

8 MR. SHERRIN: From the time of the assign-  
9 ment to the publication was five weeks. A good three  
10 weeks or more was spent actually on the streets.

11 MR. BIRENBAUM: Off the record.

12 (Whereupon a discussion was held off the  
13 record.)

14 MR. WILSON: In the course of the investi-  
15 gation did you question the Police Officers who had  
16 prepared the Detective Bulletins which you picked up to  
17 start each investigation?

18 MR. GOLTZ: I would say no, in hardly any  
19 case did we -- were we able to do that. There were two  
20 reasons for this: One was that the Detectives are usually  
21 extremely hard to find in the office. I remember at least  
22 two occasions when I was on the phone when I tried to  
23 reach them and couldn't.

24 A second reason that we didn't talk to them  
25 directly is that there is a certain matter of Police

1 protocol. Normal procedure is to go to the top man, such  
2 as Superintendent Eugene Reuter, which we did on some  
3 occasions, actually tried to get him quite a few times.  
4 But in general we had no success in contacting the police  
5 directly except through their official written DB reports,  
6 which we did have.

7 MR. SERRIN: Also you have got a situation,  
8 don't you forget, that you have their sworn statements.  
9 I mean, they have already made their sworn statements.

10 MR. WILSON: But there were attempts to  
11 contact individual officers through Superintendent Reuter?

12 MR. GOLTZ: I myself made a couple.

13 MR. SERRIN: I made one, one guy I wanted  
14 to talk to, and, well --

15 MR. WILSON (Interposing): Could you tell  
16 us from whom you obtained these Detective Bulletins?

17 MR. SERRIN: From the Detective Bureau.  
18 That's the normal procedural thing in all homicides, the  
19 write-ups go out.

20 MR. WILSON: Did you speak to anyone in  
21 charge of the Detective Bureau?

22 MR. SERRIN: We had several long conver-  
23 sations, either -- one long conversation in his office  
24 together, the three of us, and then on the phone with  
25 Inspector Schwaller and we actually used Schwaller as the

1 Police spokesman.

2 Well, I want to make a point, I don't think  
3 that the Police cooperation that we got was that coopera-  
4 tive or extensive until the investigation reached a certain  
5 point when they realized that we were being as thorough as  
6 they had ever seen anything been thorough before.

7 MR. GOLTZ: I don't either.

8 MR. SERRIN: I think at that point we  
9 started getting much better cooperation, especially after  
10 we contacted Mr. Cahalan, the Wayne County Prosecutor.

11 MR. GOLTZ: It's my feeling that our  
12 investigation greatly embarrassed some of the police, some  
13 of the Police Force, and I will say flatly that we found  
14 many contradictions in the official Police records that we  
15 received as documents of what the Police said happened on  
16 these deaths.

17 And, let me make one further point, after  
18 our investigation was all over with and after this news-  
19 paper article on the 43 deaths, dated September 3, was  
20 published, Eugene Reuter, for one, called up our Free Press  
21 management and complimented the newspaper and the three  
22 reporters for the fine job they did.

23 MR. SERRIN: Also Mr. Girardin, the Police  
24 Commissioner, made this an official part of the riot  
25 record. Mr. Cahalan, the Prosecutor, was very congratulatory.

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He thought it was about as through a thing as he had seen done.

MR. GOLTZ: The Pentagon requested and received 12 copies.

MR. SERRIN: We sent the Pentagon 12 copies.

MR. GOLTZ: I thought it was 12. The McClellan Committee has asked us for our observations on the riot. And Newsweek wrote an article on our observations.

I have been in journalism for four years and as thorough a thing as I have ever seen. I think there is no one who refutes that.

MR. BIRENBAUM: Mr. Goltz, you mentioned a -- strike that.

You mentioned that upon investigation in a number of cases, you discovered that the facts were inconsistent with the Police reports?

MR. GOLTZ: Yes.

MR. BIRENBAUM: Could you give us an example?

MR. GOLTZ: Yes. I think the death of Roy Banks is a good one, I could give you several more if you needed them.

Roy Banks was a man who was shot while going to work one morning.

Now, the initial way we heard about this was that one of his relatives called us up and said, "Your

1 account of this man's shooting was wrong." This was right  
2 still -- I think when the riot was going on, or just a  
3 couple of days afterwards. So, we did a little bit of  
4 looking into it, and then after it had been decided that  
5 we three reporters would investigate all the deaths, I  
6 was assigned to Roy Banks' because I had been -- done a  
7 couple of the daily stories on his death before.

8 So, I got the official Police report and  
9 it stated that Roy Banks had been shot and that his body  
10 was found in a certain block which was an entire city block  
11 from his house; and that Roy Banks had been shot after he  
12 had been seen by Police Officers and National Guardsmen  
13 inside a liquor store -- strike that liquor store, please  
14 -- inside a beer tavern stealing beer and whisky, and that  
15 they had shot him after warning him to halt and he was shot  
16 while fleeing, as a looter.

17 Now, what I actually found out through --  
18 I spent several days on this case, by the way, and I  
19 talked to a great many people, and I even located a witness  
20 whom the Police had neglected to mention and did not appear  
21 to be willing to tell me who this woman was.

22 Now, I found that Roy Banks' body had been  
23 located and that he had been shot a complete block from  
24 where the Police report said his body had been found. I  
25 found that Roy Banks was a deaf mute and could not have

1 heard even if somebody had shouted at him to halt.

2 I interviewed the manager of the tavern in  
3 which Policemen and National Guardsmen said he had been  
4 seen inside as a looter, and the manager told me that he  
5 had personally boarded up and nailed up the windows and  
6 padlocked the doors of that tavern many hours before this  
7 man had ever been killed. In fact, the manager told me  
8 if this man was looting inside of here he would have had  
9 to break out and then re-padlock the door, or nail the  
10 windows from the inside in order to have been in there.

11 And, let me say one thing more. The Police  
12 report -- the Police issued a subsequent report on Roy  
13 Banks' death. The second report correctly placed the  
14 position of the body where the witnesses I had talked to  
15 found him. In that they contradicted their first report,  
16 but both Police reports failed to mention entirely that  
17 the man was a deaf mute. They never did mention that.

18 MR. SERRIN: Without citing, you know,  
19 death after death, which you can, it just seems to me that  
20 these kind of things were flagrant and each of us turned  
21 up five or six or seven of these kind of deaths and I for  
22 one, I would never again, writing a story, fully believe  
23 a Police report.

24 MR. WILSON: In the actual coverage of the  
25 riot activity, while the riot was in progress, was it the

1 practice of each of you as reporters to generally report  
2 in the newspaper the substance of the Police reports as  
3 to the deaths?

4 MR. SERRIN: That's correct. Our Police  
5 Reporters would call in the Police report and some would  
6 be checked out, but in the press of the riot, some were  
7 not, and I think those -- if we made a mistake during the  
8 riot, it's my opinion this was a mistake we made. It may  
9 have been a mistake we could not have helped, but we did.  
10 The death of Clifton Prior is a perfect example of this:  
11 A white boy, Tennessee kid, which the Police and Guard  
12 said was a sniper and so I myself wrote the story. I got  
13 the call from the Police beat that -- saying a sniper had  
14 been shot. I wrote the story, saying he had been shot as  
15 a sniper.

16 Well, in the investigation of these 43  
17 deaths I found out this was not the case. I found out  
18 he was walking down the stairs and he was shot.

19 MR. GOLTZ: I had another example of that.  
20 I wrote a story during the riot of the death of Helen Hall,  
21 who was killed in a motel.

22 Our headline said that -- something to this  
23 effect: "White Woman Killed By Sniper." This sniper  
24 verdict came directly from the Police Department, and there  
25 was no reason during the crush of the news for, including,

1 the Police, in all fairness, to doubt that she had been  
2 shot by a sniper.

3 I spent several days on that case and the  
4 County Prosecutor's Office and the County Medical Examiner's  
5 Office agreed with my conclusion, as written in the news-  
6 paper article, that she could only have been killed by a  
7 National Guardsman or a Policeman, accidentally, of course.

8 MR. SERRIN: An example of repercussions of  
9 this, as in Prior's death; when the AP took our story and  
10 the Detroit News story and put them together, wrote an  
11 account of the Tennessee boy who had been slain as a  
12 sniper, put it on the wire, it was picked up in Tennessee.  
13 All the Tennessee papers, "Tennessee Boy Killed As Sniper,"  
14 and this poor kid went down there buried as a sniper and  
15 one of the reason's for this investigation was that boy's  
16 father came back to Detroit and told us his boy was not a  
17 sniper and he had witnesses already lined up which were  
18 interviewed and from that we decided -- I think that was  
19 a major point to force us to investigate all 43 deaths.  
20 We feel we cleared his name.

21 MR. BIRENBAUM: On the basis of your inves-  
22 tigation of these 43 deaths what were your conclusions as  
23 to the number of persons killed by snipers?

24 MR. SERRIN: We did not conclusively prove  
25 that anyone -- I can answer this off the top of my head,

1 anyone was killed by a sniper. We doubt that anyone was  
2 killed by a sniper, isn't that correct?

3 MR. GOLTZ: In our forward there we made  
4 some very conservative estimates, but we have discussed  
5 this many times since --

6 MR. SERRIN: (Interrupting) Amongst our-  
7 selves.

8 MR. GOLTZ (Continuing): -- yes, and I  
9 cannot recall any single incident at all where a sniper  
10 was proved to have killed any of these people.

11 MR. SERRIN: This is what we said: "Only  
12 one sniper was among the riot victims and only three of  
13 the victims may possibly have been killed by snipers, and  
14 of these -- two of these are doubtful."

15 MR. BIRENBAUM: Off the record.

16 (Whereupon a discussion was held off the  
17 record.)

18 MR. BIRENBAUM: Gentlemen, thus far you  
19 have testified with respect to investigation carried out  
20 after the riot ended. During the course of the riot  
21 itself did each of you have occasion to cover the riot  
22 area as a report?

23 MR. GOLTZ: Yes. We were both pretty much  
24 in the thick of it all during the riot week. The first  
25 day, Sunday, July 23rd, that the riot started, I did not

1 get in to the riot scene until six p.m. or after, but  
2 Bill Serrin was there from about, what, Bill?

3 MR. SERRIN: Nine o'clock on. Nine A.M.

4 MR. BIRENBAUM: Is that nine a.m. on  
5 Sunday?

6 MR. SERRIN: Sunday morning, the first day.

7 MR. BIRENBAUM: I see. Did you, Mr. Serrin,  
8 observe the looting that was taking place?

9 MR. SERRIN: I did.

10 MR. BIRENBAUM: What was the location?

11 MR. SERRIN: This was on Twelfth Street,  
12 about a four-to-five block area in the Twelfth Street-  
13 Clairmount-Pingree area, Detroit's lower Northwest side.

14 MR. BIRENBAUM: And where were you yourself  
15 located?

16 MR. SERRIN: I was up and down that area.

17 MR. BIRENBAUM: On foot or in a car?

18 MR. SERRIN: On foot.

19 MR. BIRENBAUM: Did you have occasion to  
20 observe the crowds?

21 MR. SERRIN: I did.

22 MR. BIRENBAUM: About how many people then  
23 were engaged in looting?

24 MR. SERRIN: It's my opinion that the  
25 looters themselves might have numbered 100, 200 active

1 looters at this time.

2 MR. BIRENBAUM: In that area?

3 MR. SERRIN: This is on this street between,  
4 say, nine a.m. to eleven a.m. Sunday morning.

5 MR. BIRENBAUM: What was their general  
6 mood?

7 MR. SERRIN: I think it's been pretty  
8 accurately described by Mayor Cavanagh as though they were  
9 in a circus; gay, carefree, you know, the one great chance  
10 to get even and get all the things they wanted.

11 MR. BIRENBAUM: Were there stores identified  
12 as Negro establishments in the area?

13 MR. SERRIN: I don't think that the term  
14 Soul Brother was on the -- was at that time on the windows  
15 with the frequency as it was later on, and to the best of  
16 my recollection the looting was pretty indiscriminate.  
17 I mean, that all stores that were worth looting were  
18 looted.

19 MR. BIRENBAUM: Is that your impression too,  
20 Mr. Goltz?

21 MR. GOLTZ: Yes. During both Sunday,  
22 Monday, and whatever looting there was Tuesday.

23 MR. BIRENBAUM: Notwithstanding identifica-  
24 tion as, or attempting to identify the establishments as  
25 Negro-owned businesses?

1 MR. GOLTZ: Well, I saw some stores with  
2 Soul Brother written on them that had been broken into and  
3 looted. I saw other stores, such as real estate offices,  
4 which from the outside apparently had no valuable goods  
5 that you could easily haul away, such as -- well, all they  
6 had in there was desks and chairs and so forth, in which  
7 the looters didn't even bother to break the windows and  
8 these stores were oftentimes sandwiched right between other  
9 stores, such as pawnshops, super markets, sporting goods  
10 stores, clothing stores, which had been completely ransacked.

11 MR. BIRENBAUM: Did you, Mr. Serrin, have  
12 occasion to observe the behaviour of the Police --

13 MR. SERRIN: (Interrupting) I did.

14 MR. BIRENBAUM (Continuing): -- in the area  
15 during your presence?

16 MR. SERRIN: Yes.

17 MR. BIRENBAUM: And what were they doing?

18 MR. SERRIN: The Police strategy at this  
19 point --

20 MR. BIRENBAUM (Interposing): What point?

21 MR. SERRIN: This is Sunday morning between  
22 nine a.m. and one p.m. Their strategy was to, one, affect  
23 a kind of loose cordon around the Twelfth Street area; two,  
24 hold the intersections with large numbers of Policemen, say  
25 50 to 60 Policemen, all helmeted, uniformed, at each of the

1 intersections on Twelfth Street and also roving patrols,  
2 mounted patrols in scout cars and cruisers were roaming  
3 the area, coming in from the side streets, answering  
4 radio calls that such-and-such a store had been looted.  
5 They would drive up and attempt to put that specific  
6 looting down.

7 The Negroes, themselves, I would say, you  
8 know -- 100 to 200 looters themselves, but the Negroes,  
9 themselves, large numbers, perhaps a thousand or two  
10 thousand or more, were back on the side streets, Pingree,  
11 Clairmount, that was their area. And from that area they  
12 would hurl rocks, bottles, potatoes, at the Policeman,  
13 like mortar shells over the buildings, bottles crashing  
14 down onto the squad cars and the Policemen.

15 MR. BIRENBAUM: Did the Police make any  
16 effort to disperse that group?

17 MR. SERRIN: On some occasions -- on a  
18 small number of occasions, Police would get together and  
19 they would decide, usually on their own; there were no --  
20 the instances I saw there would not be a high-ranking  
21 officer there, but a sergeant or corporal, say, or just  
22 even a Policeman would say, "Okay, let's rush them," and  
23 then, like, 15 or 20 Policemen would rush an area and  
24 quell that particular bottle throwing incident, say.

25 MR. BIRENBAUM: Could we go off the record

1 for a second.

2 (Whereupon a discussion was held off the  
3 record.)

4 MR. WILSON: I would like to get some  
5 testimony from you gentlemen as to the restraint or lack  
6 of restraint exhibited by the Police, and specific  
7 instances of each if you know of them.

8 MR. GOLTZ: Why don't we start chronologically.  
9 Bill, you talk about Sunday morning, I have got something  
10 to say about Sunday night.

11 MR. SERRIN: All right.

12 Sunday morning and early Sunday afternoon  
13 I think the Police used the least possible restraint they  
14 could use. I know that individual officers I talked to  
15 and were unhappy about this.

16 MR. BIRENBAUM: Excuse me. You mean  
17 restraint against the rioters?

18 MR. SERRIN: Against looters and bottle  
19 throwers.

20 MR. WILSON: You mean they used the least  
21 possible restraint they could use in trying to restrain  
22 the activity of the looters?

23 MR. SERRIN: Right.

24 MR. WILSON: There was no attempt to  
25 restrain them?

1 MR. SERRIN: There was a limited amount of  
2 it, like I just described. The limited amount of rushing  
3 the bottle throwers and that, but they tried, I am sure,  
4 to use the least possible amount of restraint against the  
5 looters and the bottle throwers, and this dates back in  
6 the Police Department, because in the Summer of '66 they  
7 had a small Negro disturbance on the West Side -- East  
8 Side of Detroit, and at that point --

9 MR. BIRENBAUM (Interposing): What was that  
10 area called?

11 MR. GOLTZ: Kercheval.

12 MR. SERRIN: That was the Kercheval and  
13 Pennsylvania area and they had quelled that disturbance  
14 by using a minimum amount of force and I think the Police  
15 therefore, top echelon, assumed that would be a good  
16 policy to use here.

17 MR. WILSON: May I interrupt you for just  
18 a moment, with a question kind of off the point. Is the  
19 Kercheval-Pennsylvania area a higher income or lower  
20 income area than the Twelfth Street area?

21 MR. GOLTZ: It's pretty shabby, isn't it?

22 MR. SERRIN: Yes. It's similar to Twelfth  
23 Street. It's a shabby area. I don't think there is a  
24 high incident of crime --

25 MR. GOLTZ (Interrupting): I don't know.

1 MR. SERRIN (Continuing): -- in that area.  
2 It's a similar area, though, on the East Side, as Twelfth  
3 Street is on the West Side.

4 MR. WILSON: All right. Could you continue  
5 your answer as to the amount of force or lack of force  
6 shown by the Police?

7 MR. GOLTZ: Shouldn't we bring in that  
8 John Conyers and Congressman Diggs and some other Negro  
9 leaders early Sunday morning made an attempt to -- you  
10 tell them.

11 MR. SERRIN: So, about ten or eleven  
12 o'clock you had a pretty stabile situation on Twelfth  
13 Street in which you had some looting going on, some good  
14 bottle throwing, but it wasn't a full-fledged riot and it  
15 was still quarantined to this Twelfth Street area.

16 Late Sunday morning the Negro leadership  
17 asked the Civic leadership if some of the Police could not  
18 be drawn out of the area and they were, according to the  
19 Police, but this didn't work. Conyers came down about  
20 eleven. He came down at 11:20, I recall exactly. 11:20,  
21 Conyers, he is a Representative, got up on the hood of a  
22 car with a bullhorn and asked them to disperse, go back  
23 to their homes and the Police would be withdrawn, and they  
24 hooted him down. One or two rocks and bottles were thrown,  
25 not at Mr. Conyers, but at -- one Policeman, I recall, got

1 hit in the head.

2 MR. BIRENBAUM: You actually saw this?

3 MR. SERRIN: Yes. So, Mr. Conyers put the  
4 bullhorn under his arm and got in his car and left the  
5 area. Also at the scene at this time is Hubert Locke,  
6 who at that time was a Negro -- he is a Negro, and at that  
7 time was a special assistant to Mr. Girardin, also cruising  
8 the area on foot was Congressman Diggs.

9 MR. BIRENBAUM: Could one in the area fairly  
10 assume that the attitude of the Police and their failure  
11 to attempt vigorously to suppress the riot at that time  
12 was one of lack of concern about what was going on? In  
13 other words, a disposition merely to observe or watch  
14 what was going on without accompanying efforts to take  
15 action about it?

16 MR. SERRIN: I talked to one Police sergeant,  
17 who, by his actions, I considered a good officer, and he  
18 said that the fact that the Police waited so long after  
19 the blind pig raid, this would be about a period of two to  
20 three hours, to move in in force as they did about eight  
21 o'clock, or 8:15, he said this killed us. I think that  
22 was his exact words, that this killed us, they waited so  
23 long.

24 And the second point is that the individual  
25 Policemen who were on the scene were, one, embarrassed, and

1 two, disgusted that they could not move against the rioters  
2 and looters in force, and, you know, with power.

3 MR. BIRENBAUM: What general appearance did  
4 this disposition of the Police give to the crowd?

5 MR. SERRIN: Well, the crowd realized that  
6 it was in charge on Twelfth Street and I am sure they also  
7 realized that there were -- really were not enough Police-  
8 men on the scene to really, you know, put that small  
9 rebellion down. There just weren't enough officers, there  
10 weren't enough uniformed bodies there.

11 MR. WILSON: Could you estimate, Mr. Serrin,  
12 how many Police officers were actually on the scene at,  
13 say, ten o'clock in the morning?

14 MR. SERRIN: As many as 50 to 75 at each  
15 intersection; about five intersections of those guys, all  
16 the streets coming into Twelfth Street were manned by, you  
17 know, barricades and there were roving patrols.

18 That's awful hard, maybe 500 or so, but I  
19 am sure the official Police reports will say exactly how  
20 many were there.

21 MR. GOLTZ: I think that I should register  
22 what might amount to a desenting opinion on whether the  
23 Police were lax or not. I think there are two things that  
24 have to be considered. One is that similar, if not exactly  
25 alike, similar Police action a year previously in the

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Kercheval area had worked.

MR. SERRIN: And Girardin will say what had happened had I instructed them to go in and use maximum force?

MR. GOLTZ: Like shooting, for example.

MR. SERRIN: What would have happened then? Would the entire City have gone up? Would the deaths not have been 43, but would the deaths have been 500 and, you know, who is to say? I don't know. I can't say, I am sure Girardin can't say.

MR. BIRENBAUM: Did you talk with any of the Police on the scene at that time?

MR. SERRIN: Yes, a number of them, yes.

MR. BIRENBAUM: And was it their impression that they were under any special orders pertaining to the riot with respect to the use of force, or were they carrying out what they conceived to be the general standing order?

MR. SERRIN: I think they were doing what they conceived their mission to be, that was to use a minimum amount of force.

MR. GOLTZ: We should point out that according to Police Commissioner Girardin and other Police officials, and Mayor Cavanagh, they claim that the Police were given no special orders all through the riot as to

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1 whether or not to use force at any particular instance;  
2 whether or not to fire on looters or rioters and simply  
3 that each Police detail was supposed to react to each  
4 specific situation as it saw best.

5 MR. SERRIN: But the point -- that is true,  
6 but the point does remain that some time early Monday  
7 morning somehow the word went through the Department that  
8 it was all right to open fire, because that's when the  
9 firing opened. Now, I can't say whether that was -- it  
10 went, you know, informally or a formal secret directive  
11 went out, but the fact does remain that that's when the  
12 firing started and the firing continued for the rest of  
13 the riot.

14 MR. BIRENBAUM: You were on the scene at  
15 that point as well?

16 MR. SERRIN: That's correct.

17 MR. BIRENBAUM: Now, was there -- going  
18 back to Sunday, to your knowledge had a cordon been  
19 established around the area where the riot was occurring?

20 MR. SERRIN: All the streets leading into  
21 Twelfth Street, the cross streets, were manned by, say,  
22 a cruiser and one or two officers who were directed non-  
23 essential traffic, I think, out of the area, yes.

24 MR. BIRENBAUM: But was it your impression  
25 that -- strike that.

1                   Was this cordon successful in preventing  
2 persons from coming into this area or from leaving the  
3 area?

4                   MR. SERRIN: I am trying not -- you know,  
5 I don't want to be led into saying something.

6                   I can't tell you -- I don't know what  
7 criterion the officers were using for letting people in  
8 and out of the area. I am sure that people who lived in  
9 that area could get in and out, and it seems to me if I  
10 was a Negro bent upon getting into that area, I could have.

11                   MR. BIRENBAUM: What is your impression on  
12 that, Mr. Goltz?

13                   MR. GOLTZ: Well, remember, I didn't get  
14 to the riot area until six or seven o'clock Sunday night  
15 and I went up to the Tenth Precinct, but when I went out  
16 on the street, something like nine o'clock Sunday night,  
17 the riot had completely burst the bounds of Twelfth Street.  
18 I saw rioting on Joy, Grand River, I think Livernois, all  
19 over the place, and I saw hundreds of rioters, myself,  
20 actually looting.

21                   I witnessed them breaking in stores and I  
22 saw that the Police were not able to contain them any more  
23 at all.

24                   MR. SERRIN: I think I can make a valid  
25 comparison like this: Neither the Police nor the National

1 Guard barricades were as effective as was -- were the  
2 barricades of the Federal Paratroopers. When they set up  
3 a barricade nobody moved.

4 MR. GOLTZ: That's right.

5 MR. SERRIN: And this was much different  
6 from the Police and National Guard barricades.

7 MR. WILSON: Mr. Goltz, am I correct in  
8 understanding from your testimony that between the hours  
9 of six p.m. and nine p.m. you were physically at the Tenth  
10 Precinct Stationhouse?

11 MR. GOLTZ: Yes, inside it.

12 MR. WILSON: Were large numbers of  
13 arrestees being brought in at that time?

14 MR. GOLTZ: Yes, dozens, maybe hundreds,  
15 plus Police cars jammed full of loot. There were  
16 tremendous piles of clothing, TV sets, liquor, every kind  
17 of portable merchandise, practically, that you can think  
18 of. The Police were hauling it in to the Precinct  
19 Station along with prisoners.

20 MR. WILSON: Did you have occasion during  
21 that three hour period to observe the conduct of the Police  
22 toward the arrestees?

23 MR. GOLTZ: Yes. That is, I saw the  
24 conduct of the Police outside, in that they had set aside  
25 what was the maintenance garage, and made it into a

1 temporary jail for the prisoners. I did not see what went  
2 on in the private interrogation rooms in the Tenth  
3 Precinct Station.

4 The conduct of the Police outside was all  
5 right. I did not see any brutality at all. I saw instances  
6 where I am sure some of the prisoners would have charged  
7 brutality, such as a woman, a Negro woman with her handcuffs  
8 -- her hands handcuffed behind her back and she was  
9 screaming and crying very hysterically and telling the  
10 Police that they were being very cruel to her, but it  
11 seemed to me there was no way on earth to control her and  
12 actually after she calmed down they released the handcuffs.  
13 Things like that.

14 MR. WILSON: Were you in the Tenth  
15 Precinct Stationhouse at other times during that week?

16 MR. GOLTZ: Yes, but not very much. I did  
17 take testimony -- that is, I interviewed three white boys  
18 who said they had been beaten up by Policemen inside a  
19 private interrogation room in the Tenth Precinct Station.  
20 I checked their injuries with Detroit General Hospital.

21 The Hospital confirmed that at the time  
22 these boys claimed they were beaten up, that is, a little  
23 afterwards, they were admitted to the Hospital with the  
24 nature of bruises and cuts on the head and injuries that  
25 these boys claimed they had received from billyclubs

1 inside a closed door, in a room at the Tenth Precinct  
2 Station. I never witnessed any particular brutality by a  
3 Policeman myself.

4 I saw a couple of instances in which  
5 National Guardsmen stabbed pretty hard at Negro men walk-  
6 ing along the street and it appeared to me the probings  
7 were pretty vigorous and unnecessary.

8 MR. BIRENBAUM: With a bayonet?

9 MR. GOLTZ: Sir?

10 MR. BIRENBAUM: With a bayonet?

11 MR. GOLTZ: Yes, with a bayonet.

12 MR. SIRREN: Can I make an observation  
13 here?

14 MR. BIRENBAUM: First, can you give us the  
15 names of those three boys you mentioned?

16 MR. GOLTZ: Yes. Ronald Schuster, 23 years  
17 old. Do you want the addresses?

18 MR. BIRENBAUM: Please.

19 MR. GOLTZ: Of 13527 Riverview; John  
20 McErlane, 20, of 14088 Riverview; and Gary P. Mezgec, 21,  
21 of 12827 Woodbine.

22 MR. BIRENBAUM: Thank you. You were going  
23 to amplify on that, Mr. Serrin?

24 MR. SERRIN: I feel compelled to make this  
25 observation, one from talking to the officers on the scene;

1 from watching that -- these are Detroit Police Officers,  
2 watching them, their actions, from watching the Federal  
3 Troops, the National Guard, the State Police. These are  
4 my observations:

5 One, that I never fully realized this  
6 before, there are a large number of Policemen who do not  
7 like Negroes. Negroes have always been a lot of problems  
8 to them, and I think that this feeling was just, you know,  
9 gross exhibition on the streets.

10 Secondly, the State Police I thought  
11 handled themselves with great admiration, even though  
12 there is not a Negro on the force. They are all whites,  
13 but still, they are really pros. They are quiet, they  
14 don't talk to anybody they don't have to talk to. They  
15 go about and do their job, kind of steely-eyed. They are  
16 really pros.

17 Third, the National Guard, I think was  
18 incredibly inept. The National Guard is virtually all  
19 white. I think at that time there were 127 Negroes in  
20 the National Guard.

21 MR. BIRENBAUM: In the State?

22 MR. SERRIN: In the State. This is a  
23 force of about 10,000, offhand, almost all white. They  
24 didn't want to be down here. A large number were from  
25 outstate, they had no feeling for the City of Detroit.

1 They did not want to be here. They don't like Negroes  
2 themselves. This was just obvious.

3 And Fourth, the Federal Troops. Well,  
4 there was just a difference of black and white. That's  
5 kind of a pun, night and day between the Federal Troops  
6 and the National Guard. These are troopers from the  
7 82nd and 101st Airborne Divisions. As pro soldiers as  
8 you could find, and I think that especially the National  
9 Guard, I think their behavior was really inept.

10 MR. GOLTZ: I saw many instances where I  
11 felt that the National Guardsmen were entirely irrespon-  
12 sible. It looked like to me, mass hysteria or something.

13 It looked to me like these people were  
14 people who had had no -- had no idea how to conduct them-  
15 selves in what was admittedly a very wild and unreal  
16 situation, by Tuesday night of the riot I came into the  
17 Detroit Free Press and I told the City Editor, Neal Shine,  
18 I said, "Neal, if the reporters go back out there any more  
19 they are going to get killed and it won't be by the  
20 rioters, it will be by the National Guardsmen." They were  
21 that bad.

22 MR. SERRIN: I recall General Noble Moore  
23 -- there was one taskforce commander of the National Guard  
24 unit at Central High School, this was when the Guard was  
25 first coming down, and you could look and you could see

1 the whole skyline of Detroit on fire, east and west, you  
2 could see just pink sky. General Moore said -- this is  
3 almost an exact, if it is not an exact quote it is really  
4 close. "Well," he said, "This has been burning a long  
5 time, so we might as well go and get it over with," and  
6 the implication was obvious, that it was time to come  
7 down here and just get this whole race thing over in  
8 Detroit.

9 MR. GOLTZ: If you want to talk about the  
10 National Guard, General Throckmorton of the Federal Troops,  
11 who was placed in command of the entire military operation  
12 here, including the National Guard; General Throckmorton  
13 gave orders that everyone should unload his weapon, didn't  
14 he?

15 MR. SERRIN: Correct.

16 MR. GOLTZ: The National Guard almost  
17 entirely disobeyed his order. Why I don't know, but they  
18 were really shooting up the place.

19 MR. SERRIN: The joke going around was the  
20 only thing that saved us was that the Guard couldn't hit  
21 anybody.

22 MR. WILSON: Let's go off the record just  
23 a minute.

24 (Whereupon a discussion was held off the  
25 record.)

1 MR. BIRENBAUM: Each of you gentlemen has  
2 testified that the Police and the National Guard during  
3 the course of the riot manifested anti-Negro attitudes.  
4 Would you care -- could you be more specific and give us  
5 some instances where this was the case?

6 MR. SERRIN: I can recall Sunday morning at  
7 the scene, when the cops themselves -- the Policemen were  
8 embarrassed and disgusted, they could not go rush them.  
9 They would say then, why couldn't they go and get them.  
10 You know, always them. And then during the week on the  
11 street you would hear -- they would look at the burning  
12 buildings and say, "They are savages, why do they act like  
13 that?" "That they are savages," and that was amplified  
14 time and time again.

15 MR. BIRENBAUM: Mr. Goltz.

16 MR. GOLTZ: Yes. I was standing in the  
17 Tenth Precinct Station one night and I overheard a group  
18 of Policemen talking and they made such remarks as this,  
19 I remember specifically, "Those black son-of-a-bitches,  
20 I'm going to get me a couple of them before this is over."

21 It was my impression that -- it was my  
22 observation throughout the riot that the National Guard  
23 was much wilder in that respect than the Detroit Police  
24 were, although that's just a matter of degree. One night  
25 at a National Guard outpost I overheard -- well, I was

1 standing right there among them, I didn't overhear them,  
2 it was general conversation.

3 One corporal was telling how he was going to  
4 get his Negro rioter. He said, "I am going to say halt  
5 and then bang, bang, bang," and another guy standing there  
6 says, "No, that's not the way you do it. You say bang,  
7 bang, bang, halt." And they were joking in what may be  
8 described as a very serious manner.

9 MR. SERRIN: I recall a few days after the  
10 riot was over when the Guard was disbanded and I was in a  
11 store in the Detroit area and Guardsmen came in and the  
12 owner of the store, recognizing them as Guardsmen, and he  
13 said, "I heard that you guys got a lot more down there than  
14 43. Did you get any?" And the kid just kind of knowingly  
15 smiled, and a couple of more smiles. "Did you get any?  
16 Did you get any? You guys got a lot more than 43, didn't  
17 you?" And the kid just smiled his knowing self-satisfied  
18 smug smile that he did not, but just wanted to say that  
19 he did.

20 MR. BIRENBAUM: During the course of the  
21 disorder on Sunday was there to your knowledge an effort  
22 made to control the field of newspaper reporting about the  
23 riot that was taking place?

24 MR. SERRIN: Only radio and TV did at the  
25 request of certain City officials, including Mr. Keith,

1 Damon Keith from the Civil Rights Commission. They  
2 limited their mention of the disturbance to say a -- one  
3 single line that there was a disturbance at that time in  
4 the Twelfth Street area and that embargo, that TV and  
5 radio embargo stayed in effect until early evening, say  
6 Sunday night when it was obvious that the word was going  
7 around town anyway and the Free Press would have been on  
8 the streets about nine p.m. that night and the News would  
9 have been on the streets Monday morning, so an embargo  
10 was no longer effectual.

11 MR. GOLTZ: Yes. I believe it's been  
12 acknowledged here in Detroit several times by the radio  
13 and TV media and by local officials that they cooperated  
14 in voluntarily not really saturating the air waves with  
15 the news of the riot during the early hours on Sunday. I  
16 was home all day on Sunday and I didn't even know there  
17 was a riot until about six o'clock when the City Desk  
18 called me, and I had both the radio and TV on all day  
19 long, and if there had been any extended coverage at all  
20 I certainly would have noticed it.

21 MR. BIRENBAUM: Off the record.

22 (Whereupon a discussion was held off the  
23 record.)

24 MR. BIRENBAUM: All right, gentlemen, we  
25 thank you. (Whereupon the depositions were concluded.)

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STATE OF MICHIGAN )  
                          ) SS.  
COUNTY OF WAYNE )

CERTIFICATE OF NOTARY PUBLIC

I, Gerald Hanson, of the firm of BETZ, ROWLEY and SUMMERS, Qualified Court Reporters, a Notary Public within and for the County of Wayne, State of Michigan, duly commissioned and qualified, do hereby certify that the witness whose attached sworn deposition was taken before me on Monday, January 8, 1968, was by me first duly cautioned and sworn to testify the truth, the whole truth, and nothing but the truth; and that the said deposition is a true and correct transcript of the whole of the testimony so given by the said witness upon his oath.

I do further certify that I am not connected by blood or marriage with any of the parties, that I am not employed by either of them, nor interested, in this matter in controversy, directly or indirectly, in any way.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my notarial seal at Detroit, County of Wayne, State of Michigan, this 12<sup>th</sup> day of January, 1968, A.D.

Gerald Hanson  
Gerald Hanson  
Notary Public, Wayne County, Michigan  
My Commission expires November 12, 1968

NACOCD  
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NATIONAL ADVISORY COMMISSION ON CIVIL DISORDERS

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I-N-V-E-S-T-I-G-A-T-I-O-N  
Re: Detroit, Michigan  
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The Deposition of JUSTINAS BAVARSKIS, taken before Patricia J. Miller, a Notary Public within and for the County of Wayne, State of Michigan, at 457 Federal Building, Detroit, Michigan, on Wednesday, January 10, 1968, commencing about 1:15 o'clock in the afternoon.

FOR THE NATIONAL ADVISORY COMMISSION:

MR. DAVID BIRENBAUM

- - -

Detroit, Michigan

Wednesday, January 10, 1968

About 1:15 o'clock, P. M.

- - -

J U S T I N A S B A V A R S K I S,

a witness herein, after having been first duly sworn by the Notary Public to tell the truth, the whole truth, and nothing but the truth, testified as follows:

- - -

MR. BIRENBAUM: May the record show that the witness was sworn.

- - -

E X A M I N A T I O N

BY MR. BIRENBAUM:

Q Would you please state your name and give us your address?

A Justinas Bavarskis. My address is 150 West Euclid, Apartment 616, Detroit.

Q What is your occupation, Mr. Bavarskis?

A Reporter and newsman for United Press International.

Q For how long have you been a reporter?

A For about a year. I was with the Associated Press for seven months and then I went to United Press International.

Q In July of 1967 were you then employed by the Associated

1 Press?

2 A I was.

3 Q Were you assigned by Associated Press to cover the riot  
4 then occurring in Detroit?

5 A Yes, I was.

6 Q And in that connection did you have occasion to visit  
7 the riot area?

8 A I was on the street for about twelve hours a day during  
9 the riots.

10 Q When did you first enter the riot area? I take it by  
11 riot area you mean the Twelfth Street area where the  
12 riot was?

13 A I first entered the Twelfth Street area at about nine  
14 o'clock Sunday morning, the Sunday when the riot broke  
15 out.

16 MR. BIRENBAUM: Off the record.

17 (Whereupon a discussion was held off the  
18 record.)

19 Q (By Mr. Birenbaum, continuing): While you were in the  
20 riot area starting on Sunday morning did you have  
21 occasion to observe the behavior of the crowds that were  
22 then forming?

23 A I did, yes.

24 At first the crowds were generally quiet  
25 at about nine o'clock. There was very little actually

1 what you may call riotous action or disorderly action.  
2 There was simply small groups of people running around  
3 and most of the people, of course, almost entirely the  
4 group were Negroes and the vast majority of them were  
5 under 20 and some were under ten.

6 Now, let's see, as the morning gradually  
7 wore on little disturbances would break out and there  
8 seemed to be a general pattern of disturbances.

9 In other words, as well as I can guess  
10 at about ten or eleven o'clock a minor disturbance would  
11 break out at one end of the street. What I mean by  
12 "the street" is the Twelfth Street area bounded on one  
13 end by Clairmount and on the other end, I don't know  
14 the name of the street, but I would guess about twelve  
15 or thirteen blocks down. Clairmount to the north and  
16 the other end to the south.

17 And the police had barricaded both ends  
18 of Twelfth Street and a little disturbance would break  
19 at one end of the street, say the north side and squad  
20 cars and policemen would rush over to that area of  
21 disturbance and very shortly after another minor  
22 disturbance would break out at the other end. So, many  
23 of them would rush back to the other end again.

24 Q By a disturbance what do you mean?

25 A By disturbance there would be generally shouting. I

1 was very rarely close enough to the disturbance when it  
2 began to say that there was anything much else going on  
3 at the time than shouting.

4 Q And how did the people respond to the entrance of the  
5 police?

6 A At first early in the morning quietly; later on the people  
7 would start throwing bricks and bottles and go into  
8 grocery stores and get fruit and vegetables and so on and  
9 throw them at any white person who happened to be in the  
10 area including police.

11 Q Were there a large number of people then on the street?

12 A At about nine o'clock I would guess there was around  
13 200. By about twelve o'clock again I would guess that  
14 it had grown to about five or 600, perhaps even more.

15 Q When did the looting first begin?

16 A The first instance of looting was even before nine  
17 o'clock when I got there.

18 Q That you saw.

19 A Well, now again, what I saw, I saw evidence of looting  
20 when I got there, but I didn't see actual looting.

21 And the store that had been looted then  
22 was a shoe store on Twelfth and Clairmount.

23 Q This was --

24 A (Interrupting): And the windows of the drug store had  
25 been broken into toonext to the shoe store and there

1 were various other windows smashed and guard railings  
2 and so on smashed from buildings all down the block.

3 Q While you were in the area did you see any fire bombing  
4 or other incendiary activity take place?

5 A I saw seven or eight fires start and it seemed to me  
6 that they started too quickly to be accidental fires.  
7 In other words, it seemed they had definite -- the  
8 buildings had definitely been fire bombed.

9 Q But you didn't actually see any buildings fire bombed?

10 A I didn't actually see anyone throwing a fire bomb into  
11 the building, no.

12 Q As the day wore on did the crowds grow?

13 A The crowd grew generally until about twelve o'clock.

14 Q Twelve o'clock noon?

15 A Eleven or twelve o'clock noon.

16 Then the police started disbursing crowds  
17 and there were very few people on the streets after  
18 twelve o'clock.

19 Q When did the people return to the streets?

20 A Let me amend that. There were very few people in the  
21 streets in the cornered off area after twelve o'clock,  
22 but in the area specially to the south, just outside  
23 the police corner was a great deal of looting going  
24 on and a lot of bottle throwing and rock throwing and  
25 so on at the police.

1 Q In this other area that you mentioned where there was a  
2 good deal of looting take place, what were the police  
3 doing about it?

4 A The police were doing nothing. The police were standing  
5 watching and quite frequently saying to one another of  
6 the reporters that they wished they could do something  
7 about it, but that they just couldn't fire and many of  
8 them said then that one shot would break the whole thing  
9 wide open and that is why they were not firing.

10 Q How would you characterize the mood of the crowd?

11 A Ugly, and to quote Mayor Cavanaugh, "Something of a  
12 carnival spirit".

13 In fact, I would say it was one of the  
14 things that did strike me about it very much was the  
15 carnival spirit.

16 One example I can give is on three or four  
17 different occasions in the morning teenage Negroes would  
18 run by me and ask me, "Is this as bad as Newark yet?".

19 Q Were there any signs that the people who were engaged  
20 in looting were being -- were organized or being  
21 directed by anyone?

22 A I could not specifically pinpoint that anyone was  
23 organizing or that anyone was directing, but there did  
24 seem to be a panel of diversionary activity in that the  
25 disturbance would break out at one end of the cornered

1 off area and police would rush over to that end and a  
2 few minutes afterward another minor disturbance would  
3 break out at the other end of the cornered off area and  
4 the police would rush down to that end.

#2 5 Q I see. Now, did there come a time when you yourself were  
6 arrested?

7 A Yes, I was arrested twice. Once temporarily and once  
8 for about ten hours.

9 Q Would you describe the circumstances surrounding your  
10 first arrest? When did it occur?

11 A The first arrest occurred on Tuesday night roughly at  
12 about nine o'clock. That is as well as I can guess.

13 What happened there was that I was at  
14 Herman Kiefer Command Post and the inspector in charge  
15 of the Command Post, Inspector Donnelly had told newsmen  
16 to stay out of the Command Post and had told all the  
17 newsmen they wanted to stay around the area to stay on  
18 the steps outside the immediate Command Post and that  
19 cut off the communications with the office by phone  
20 and so on and so I walked around the Command Post to  
21 a nurses' residence, I believe it is at the western  
22 side of Herman Kiefer, and the nurses' residence and  
23 the Command Post are connected by a semi underground  
24 tunnel.

25 I climbed up onto the roof of the tunnel

1 making plenty of noise to make sure the police guarding  
2 the residence could hear me and went over to them and  
3 talked to them for awhile and told them I wanted to make  
4 a phone call.

5 So, they told me to go ahead and I walked  
6 across to the Receiving branch of Herman Kiefer Hospital  
7 which is roughly 30 yards away from the nurses' residence.

8 There is a wide open yard separating the  
9 two. I went over there and made the phone call and about  
10 ten minutes later on the way back I was told to put my  
11 hands in the air and walk forward slowly.

12 Q Told by the police officers?

13 A Yes, told by the police officers which I did and when I  
14 got back to the spot which the three police officers  
15 originally had given me permission to go across to their  
16 Receiving branch, I found that the three who had allowed  
17 me to make the phone call had been relieved by three  
18 others and the three other officers said they knew nothing  
19 about my being there or having permission to make a call.

20 So, they arrested me and refused to see  
21 my press identification.

22 Q You presented your credentials to them?

23 A I had my credentials in my back pocket and I said, "Please  
24 let me show you my credentials". And they said no.

25 And they took me from the nurses' residence

1 -- when I say nurses' residence, I mean outside the  
2 nurses' residence. They took me from there to the  
3 arrest center of the police.

4 On the way over there we had to pass  
5 through quite a lot of police who were milling around the  
6 area and many of them urged the person who was taking me  
7 in to "Shoot him immediately".

8 Q Do you recall their exact words?

9 A Oh, yes, I could clean up the language slightly. "Shoot  
10 the bastard right now". And another example would be,  
11 "So you got yourself a sniper? Shoot the bastard".  
12 That was basically it.

13 Anyway, I was taken in to the arrest  
14 center and told --

15 Q (Interposing): Where was the arrest center then?

16 A The arrest center is just south of the Command Post.  
17 It faces the Command Post and is about 20 yards away  
18 from it.

19 Q What kind of a building was this?

20 A It looks something like a low warehouse where possibly  
21 the people in the hospital or the people may store goods  
22 inside there. It seems to me there was a gymnasium,  
23 I believe, and police had laid out cots on it so they  
24 actually had the police lined up there and talked over  
25 plans for organization during the riot and so on.

1 In the arrest center my hands, I was told  
2 to put my hands up against the wall above my head and  
3 keep my feet the regulation distance away from the wall  
4 and so on and my full weight was on my hands, getting  
5 rather uncomfortable after awhile.

6 And I stayed there until a Lieutenant was  
7 called and the Lieutenant came over and I showed him my  
8 press identification and that was it.

9 Q He released you?

10 A He released me.

11 Q Did you have occasion at this point to observe whether  
12 or not the police officers were wearing badges or other  
13 means of identification?

14 A As far as I could observe no police officer was wearing  
15 badges or any other means of identification.

16 Q Was this true within the station? Within the detention  
17 center itself as well as on the street?

18 A As well as I can remember, yes.

19 Q Did you notice whether the police vehicles were  
20 identifiable? Were the license plates visible and the  
21 numbers on the sides of the vehicles visible?

22 A I cannot really answer that. There were many unmarked  
23 vehicles, many plain black cars, but I cannot definitely  
24 say that no cars were identifiable.

25 Q Now, you mentioned earlier that you were arrested another

1 time. Would you tell us when that occurred and describe  
2 the circumstances surrounding that arrest?

3 A The second arrest occurred at about 11:30 Wednesday night.  
4 The second time I was arrested I was instructed by the  
5 Associated Press to go out and cover the riot area again.  
6 I got to the Central Command Post of the Michigan National  
7 Guard --

8 Q (Interposing): Excuse me. You meant that you went back  
9 to the area at the request of the Associated Press after  
10 you were arrested the first time, is that correct?

11 A Yes, yes.

12 Q Would you continue.

13 A Yes. I got to the Command Post of the Michigan National  
14 Guard which was at Central High School shortly before  
15 nine o'clock and I tried to -- I did manage to get into  
16 the Command Post and tried to talk to some of the officers  
17 there to see about two dispositions in the riot areas,  
18 but I could get no information.

19 So, I left the Command Post and walked  
20 about a block south to a fire station close to the Command  
21 Post and I stayed at the fire station for about two  
22 hours talking to National guardsmen there and Fire  
23 Commissioner Robert Tighe, that is T-i-g-h-e.

24 At about eleven o'clock I decided to  
25 leave the fire station and go down to Herman Kiefer, the

1 Command Post, to see what was going on there.

2 On the way to Herman Kiefer I took a  
3 circular route looking for riot activity and so on and I  
4 arrived at the gates of Herman Kiefer at approximately  
5 11:30 and the sentry there -- I noticed that the lights  
6 at Herman Kiefer were all turned off and when I pulled  
7 into the gate a sentry told me that all newsmen had been  
8 ordered to leave the area.

9 So, I reversed my car and went north along  
10 the southbounds of the side road of the John Lodge  
11 Expressway heading for a telephone at the Receiving branch  
12 of Herman Kiefer.

13 At that time a squad of police cars pulled  
14 in front of me, ordered me to step out of the car with  
15 my hands up.

16 I managed to get my press card out of my  
17 pocket and I was holding the press card in my right hand  
18 when I climbed out of the car.

19 I told the officers that I was a newsman  
20 covering the riot, but one of them, I think it was  
21 Sgt. Fred Wright said that -- scorned at the press  
22 credentials and said his grandmother could get one of  
23 these.

24 The officers asked me where I was going  
25 and I said to get to a telephone at Receiving branch.

1 They asked me where I worked and I told them the  
2 Associated Press downtown.

3 They said, "If you work downtown, then  
4 you should be going the other way."

5 One of them said, "The guy said he is lost."  
6 And this comment eventually found its way into the report  
7 of the arrest as a statement coming from me to police  
8 that I was lost.

9 The police told me at the time of the  
10 arrest that they have a report that a car fitting the  
11 description of my car and with the same license plates  
12 had been cruising around the Command Post for the past  
13 two hours and they had received a call over the police  
14 radio to stop the car.

15 I was handcuffed and frisked.

16 One of the officers asked me if my hand-  
17 cuffs were tight enough.

18 Q Were they?

19 A They were too tight. My hands were numb for a couple  
20 of days afterwards, but I made no complaint. I knew  
21 what would happen if I did.

22 So, I was put into the back of the police  
23 car, taken to the Tenth Precinct.

24 At the Tenth Precinct I repeatedly told  
25 police, a lieutenant who made out the arrest warrant and

1 officers who I think were detectives, that I was a  
2 newsman lawfully covering the riot and showed everybody  
3 who would look at it my press card.

4 I was assured by various officers that  
5 the matter would be investigated.

6 I repeatedly asked to be allowed to call  
7 the Associated Press and tell them where I was, but the  
8 police repeatedly told me that the phones were out of  
9 order.

10 I suggested that they could contact the  
11 Associated Press over the police radio if the phones  
12 were out of order, but they declined to do this.

13 I was eventually put into a cell where  
14 there were about as well as I can guess about a hundred  
15 and fifty other prisoners.

16 Q Could you tell us how large this cell was?

17 A I think it was, it was something of a block of cells  
18 and I believe the cells were back to back and about  
19 five cells on each side and the corridor running around  
20 them. Two bunks, I think, in each cell -- no, there  
21 was one bunk in each cell.

22 Q One bunk containing how many beds?

23 A Well, one bunk is one bed.

24 Q One bed?

25 A Most of the other prisoners were Negro.

1                   There were three white prisoners, at  
2                   least three white prisoners excluding myself. These were  
3                   Albert Hammonds, a Ray Rubin, R-u-b-i-n, I think, and  
4                   either his brother or cousin, also a Rubin. I don't  
5                   know his first name.

6                   They were all teenagers about 16 or 17  
7                   all of them. And they had been arrested for allegedly  
8                   shooting at a Michigan National Guard tank.

9 Q               Did you talk to the Rubins?

10 A              I didn't talk to the Rubins, I talked to Albert Hammonds.

11 Q              I see. Anything unusual happen to the Rubins while you  
12                   were there?

13 A              Yes. The Rubins and Albert Hammonds were taken outside  
14                   the cell.

15 Q              All together or one at a time?

16 A              Taken outside the cell one at a time. I think Albert  
17                   Hammonds went first and then one of the Rubins and  
18                   then another one and they were propped up against the  
19                   wall.

20 Q              By police officers?

21 A              By police officers immediately outside the cell door.

22                   I could not actually -- let's say for  
23                   example Hammonds is the one outside the cell. I could  
24                   not see Hammonds, but I could see the police officers  
25                   standing around him and each time one of them was taken

1 out the police officers would stand around them for  
2 awhile and ask him, "Why did you shoot at the tank?"  
3 calling him a "Filthy sniper".

4 Q You could hear those accusations?

5 A Yes. And then one police officer was called. He was  
6 very light skinned, very short, crew cut, about five feet  
7 eleven or six feet, weighing roughly 200 pounds and he  
8 was called to interrogate the prisoners and he beat them  
9 severely.

10 He beat Albert Hammonds and one of the  
11 Rubins severely. I could not actually see the blows  
12 landing, but I could see the raised fist and the fist  
13 coming down and I could hear Hammonds and Rubin crying  
14 out as the fists were landing.

15 Then I gathered that the prisoners being  
16 beaten would fall to the floor and then he'd be  
17 thoroughly kicked by all the officers standing around.

18 Q Were they returned to the cell following?

19 A Following the beatings they were all returned to the cell  
20 and each one of them was bleeding profusely.

21 Q This had not been true before?

22 A Pardon?

23 Q Had you seen them before they were removed from the cell?

24 A Yes. They were not bleeding before they were removed  
25 from the cell.

1 One of the Rubins was, after he was  
2 returned to the cell, was still bleeding about two or  
3 three hours afterward.

4 Hammonds was still vomiting at about  
5 five or six o'clock in the morning.

6 Q And this occurred at what time?

7 A The beatings as well as I could judge occurred about  
8 one o'clock in the morning.

9 Q When did you first become aware of the identity of the  
10 prisoners who were beaten?

11 A A turnkey would come to the cell door and call out the  
12 prisoners' names and tell them to come to him.

13 Q Do you know the name of the officer who was called to  
14 interrogate the prisoners?

15 A No, I don't. I have tried to find it out, but I couldn't.  
16 I could, however, identify him.

17 Q You talked to Mr. Hammonds after he returned to the cell?

18 A Yes.

19 Q And what did he tell you?

20 A I asked him what had happened and if he had actually been  
21 shooting at a tank.

22 Hammonds said he hadn't and that one of  
23 the Rubins had fired a .22 at the tank.

24 MR. BIRENBAUM: Off the record.

25 (Whereupon a discussion was held off the

1 record.)

2 Q (By Mr. Birenbaum, continuing): Did Mr. Hammonds tell  
3 you why a shot was fired at the National Guard tank?

4 A No, he didn't. I didn't ask him and he didn't tell me.

5 Q Why was that? Why didn't you pursue it?

6 A He seemed to be in no condition first of all to be asked  
7 questions and secondly to answer any questions.

8 Q Was he frightened?

9 A He was very frightened and all the time while I was talking  
10 to him he was half crying and half hysterical and bleeding  
11 and I even doubt if he knew, if he was fully aware that it  
12 wasn't a police officer talking to him.

13 Q I see. So that he might have confused you for a police  
14 officer?

15 A Possibly.

16 Q Was one of the Rubins subsequently removed again from  
17 the cell?

18 A One of the Rubins was removed from the cell about three  
19 hours after he was beaten and that was because the  
20 prisoners in the cell had told the turnkey that there  
21 was a man in there who needed attention. And as Rubin  
22 walked out of the cell then he was still bleeding.

23 I went over to where he had been lying  
24 and there was quite a large pool of blood.

25 Q What happened -- could you see what happened to him after

1 he was removed from the cell the second time?

2 A I couldn't see what happened to him.

3 Q Was he returned?

4 A He wasn't returned to the cell.

5 MR. BIRENBAUM: Off the record.

6 (Whereupon a discussion was held off the  
7 record.)

8 Q (By Mr. Birenbaum, continuing): In each of the three  
9 cases that you have just described, was it a police  
10 officer who came to the cell to remove the prisoner?

11 A No, in the third case it was -- a police officer came  
12 to remove the prisoner in each of the cases, yes, but in  
13 the case of one of the Rubins and this was the last case,  
14 the sergeant of the, I believe, the Michigan National  
15 Guard was called in to do the interrogating.

16 Q I see. Were the National Guardsmen in prominence in the  
17 jail?

18 A Yes, there were two National Guardsmen guarding the  
19 cell block in the corridor outside the cell.

20 Q Did they have anything to do with the prisoners?

21 A Yes, they were selling cigarettes to the prisoners for  
22 a dollar a pack.

23 Q I see. Were you subsequently released from jail?

24 A I was released from jail about eight o'clock in the  
25 morning. That was because I had not contacted the office

1 for a long time and I normally, out in the field, when  
2 I was out in the field I normally called in two or three  
3 hours to tell them what was going on and where I was  
4 going next and I had not called since 11:30, since the  
5 night before, because I had not been allowed to make a  
6 phone call.

7 So, the office tracked me down and one  
8 of them came down to pull me out of the jail.

9 Before being released I was interrogated  
10 by detectives and basically told them what happened and  
11 I was then released.

12 Q Were any charges brought against you subsequently?

13 A No charges were brought against me. All the charges,  
14 as far as I know, have been dropped as I have heard  
15 nothing since.

16 Q You have had no further contact with the police?

17 A No.

18 Q Prior to your arrest the second time, during the course  
19 of your contact with police officers, did you again have  
20 occasion to observe whether or not they wore badges or  
21 any other signs of identification?

22 A As well as I can remember I saw no badges or no signs  
23 of identification.

24 Q Was this true in the station house as well as outside?

25 A As well as I could see, yes.

- 1 Q Now, while you were in the cell with approximately a  
2 hundred and fifty other prisoners did you have occasion  
3 to talk to people about the circumstances surrounding  
4 their detention?
- 5 A I did, yes. I occasionally -- I asked two or three  
6 prisoners why they were arrested and many of them told  
7 me that they were doing nothing, so apparently since  
8 they were brought into the cell after eleven o'clock  
9 they had been violating the nine o'clock curfew and they,  
10 most of those I talked to, told me that they had been  
11 slightly brutalized by the police and that they would  
12 get themselves a cop when they got out of the cell.
- 13 Q Did they have any complaints about their detention  
14 arrangements?
- 15 A Other than the slight beatings there were few complaints  
16 and most of them to the conditions of the surroundings.
- 17 Q You saw no other episodes of brutalities other than the  
18 three you have just described, is that correct?
- 19 A In the cell itself, no, I didn't.
- 20 Q Did you see incidents involving police brutality outside  
21 of the cell on the street?
- 22 A Yes. On Wednesday night before my arrest or -- I am  
23 sorry, on the same Wednesday night as my arrest at about  
24 ten o'clock at night one Negro teenager was arrested  
25 just outside the fire station.

1 He was arrested by National Guardsmen,  
2 at the fire station.

3 They ordered him to lie face down on the  
4 concrete. He was not allowed to move his face to the  
5 side, but stick his nose into the concrete.

6 The National Guardsmen called police and  
7 the police car arrived. The prisoner was still lying  
8 on his face, was told to spread eagle his legs and put  
9 his arms behind his back.

10 The squad car drove up to within an inch  
11 of one of his legs, that is, the front wheel of the  
12 squad car was within an inch of his legs, right between  
13 his legs.

14 The police officers jumped out of the  
15 squad car and handcuffed him with his hands behind him  
16 and then took hold of the handcuffs and jacked him up  
17 like that.

18 Q Do you know what he was charged with?

19 A He was walking around the street after curfew and the  
20 National Guardsmen told him to get off the street.

21 About fifteen minutes after they first  
22 told him to get off the street a Negro from one of the  
23 nearby buildings ran out and told National Guardsmen  
24 that there was someone prowling around in the area.

25 The National Guardsmen ran out and brought

1 him back.

2 MR. BIRENBAUM: Okay. Thank you very  
3 much.

4 (Whereupon the deposition was concluded.)

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1       STATE OF MICHIGAN     )  
   )  
 2       COUNTY OF WAYNE    )   SS.

3                                   CERTIFICATE OF NOTARY PUBLIC

4                   I, Patricia J. Miller, of the firm of BETZ,  
 5       ROWLEY and SUMMERS, Qualified Court Reporters, a Notary  
 6       Public within and for the County of Wayne, State of  
 7       Michigan, duly commissioned and qualified, do hereby  
 8       certify that the witness whose attached deposition was  
 9       taken before me in the before-entitled cause on January  
 10      10, 1968, was by me first duly cautioned and sworn to  
 11      testify the truth, the whole truth, and nothing but the  
 12      truth in the cause aforesaid, that the testimony contained  
 13      in said deposition then given by said witness was by  
 14      me reduced to writing in the presence of said witness by  
 15      means of Stenography, and afterwards transcribed upon a  
 16      typewriter under my personal supervision; and that the  
 17      said deposition is a true and correct transcript of the  
 18      whole of the testimony so given by the said witness as  
 19      aforesaid.

20                   I do further certify that I am not connected  
 21      by blood or marriage with any of the parties, or their  
 22      attorneys, or agents, and that I am not an employee of  
 23      either of them, nor interested, directly or indirectly,  
 24      in the matter in controversy, either as counsel, agent,  
 25      attorney, or otherwise.

1 IN WITNESS WHEREOF, I have hereunto set my  
2 hand and affixed my notarial seal at Detroit, County of  
3 Wayne, State of Michigan, this 16<sup>th</sup> day of January,  
4 1968, A. D.

5  
6 Patricia J. Miller  
7 Patricia J. Miller  
8 Notary Public, Wayne County, Michigan  
9 My Commission expires April 17, 1971.  
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NATIONAL ADVISORY COMMISSION ON CIVIL DISORDERS

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 I-N-V-E-S-T-I-G-A-T-I-O-N  
 Re: Detroit, Michigan.  
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The Deposition of ALBERT J. DUNMORE, taken before Gerald Hanson, a Notary Public within and for the County of Wayne, State of Michigan, at 479 Ledyard Street, Detroit, Michigan, on Tuesday, January 9, 1968, commencing about 11:35 o'clock in the forenoon.

FOR THE NATIONAL ADVISORY COMMISSION:

MR. HERMAN WILSON

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Detroit, Michigan  
Tuesday, January 9, 1968  
About 11:35 o'clock, A.M.

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A L B E R T J. D U N M O R E, a witness  
herein, having first been duly sworn by the Notary Public  
testified as follows:

EXAMINATION BY MR. WILSON:

Q Would you state your name and home address for the record,  
sir?

A Albert J. Dunmore.

Q And your home address?

A My home address is 16810 Muirland, Detroit.

Q And what is your business, Mr. Dunmore?

A I am the managing editor of the Michigan Chronicle.

Q And what is the business address of the Michigan Chronicle?

A 479 Ledyard, L-e-d-y-a-r-d.

Q And how long have you been in that position, Mr. Dunmore?

A Six years.

Q Have you been engaged during that six year period primarily  
in covering the news in the Detroit area?

A My major assignment as managing editor is to direct the  
news coverage activities of the members of the Chronicle  
staff.

Q In connection with those activities, sir, did you have

1 knowledge -- do you now have knowledge of a murder committed  
2 in Detroit in the latter part of the month of June of 1967  
3 involving one Danny Thomas?

4 A I have fairly thorough knowledge through my various news  
5 sources and conversations that I have had with members of  
6 the Thomas family, with members of the Police Department  
7 and members of the Prosecutor's Office.

8 Q Can you tell me briefly, Mr. Dunmore, the facts of that  
9 particular case prior to the actual slaying and the reaction  
10 immediately afterwards of the Negro community in Detroit?

11 A From Police reports and from investigation by members of  
12 my repertorial staff I learned that Danny Thomas and his  
13 wife with another couple were enjoying a late evening  
14 outing in Rouge Park, which is a public park located near  
15 the City of Detroit.

16 During this outing Thomas, who was a War  
17 veteran, had with him a portable record player and was  
18 playing some of the latest tunes when a group of white  
19 males were attracted to the scene by the music and at first  
20 the relationship between the groups was ammeniable and  
21 they began to share in some beer which both parties had  
22 available, but during the course of the -- what was obviously  
23 a social gathering of strangers who had met in the park,  
24 some of the white youths suggested that they would like to  
25 have a colored woman and seemed to feel that Danny Thomas

1 should have permitted his wife to have sexual relationships  
2 with members of the party. And, according to witnesses  
3 from both sides, they couldn't understand why a Negro  
4 would not make his woman available to whites who wanted  
5 her.

6 Thomas resented this attitude and attempted  
7 to stand off the advances, but they ultimately got out of  
8 control and he and his wife sought refuge in a shelter in  
9 the park, but the park caretaker refused to allow them to  
10 come into the building. The caretaker, incidentally, was  
11 a Negro.

12 In the course of the pursuit of the couple  
13 by the white group, one of the white group, whose name I  
14 don't have available, but it's very easy for us to check  
15 through the news stories, fired a shot which proved fatal  
16 to Thomas. They also roughed up Mrs. Thomas, and as a  
17 result of this experience, the shaking up and the physical  
18 activity in attempting to escape the grasp of the white  
19 youths and the shock of the death of her husband, Mrs.  
20 Thomas had a miscarriage.

21 Q And can you tell me what the immediately reaction in the  
22 Negro community was to that once the news was pretty widely  
23 known?

24 A The Negro community was very upset, that here was another  
25 case where Negroes were victimized by whites and the reaction

1 was that if this had been to the contrary, Negroes mobbing  
2 a group of whites, that there would have been immediate  
3 prosecution and persecution of the Negroes involved.

4 Q What was the reaction of the Detroit Police Department?

5 A The Detroit Police Department went to work immediately,  
6 realizing that this was a sensitive area. They did go  
7 out immediately and it was through excellent Police work  
8 arrests were made.

9 The gun was found in a sewer and as a  
10 result of fingerprint testing an arrest was made of the --  
11 several of the youths, including the man who was charged  
12 with pulling the trigger and through investigation an  
13 arraignment was made and a first degree murder indictment  
14 was brought against the suspect, who proved to be a young  
15 business man.

16 Q How did the Detroit daily newspapers handle this story?

17 A Well, they handled it as an objective -- in as objective a  
18 manner as possible, although after the arrest of the young  
19 man, who was identified as the triggerman by the Police  
#5 20 Department, there was some indication in the writing of  
21 the stories that they were trying to prove that this man  
22 had no criminal record and generally it was handled in a  
23 way that here was a good living, upright young white man  
24 who was caught up in a sort of a crime of passion.

25 Q Were there any material witnesses arrested in connection

1 with this murder?

2 A There were about five material witnesses arrested.

3 Q Were their names ever released?

4 A Their names were not released, nor their addresses, nor  
5 was any identification given as to who they were. This  
6 aroused a great deal of concern in the Negro community,  
7 because it was felt that if they had been Negroes their  
8 identification would have been given and they would have  
9 been kept under arrest and they would also have been  
10 arraigned and indicted as accessories before and after the  
11 fact.

12 Q Have you had any indication in connection with your  
13 activities as a newsman that the community or any segment  
14 of the community ever sought a planned revenge of this?

15 A I have indication that there ~~were~~ several attempts at  
16 gathering people together to go out to Rouge Park to seek  
17 revenge for the death of Danny Thomas.

18 Q Was there any indication that this was to be aimed at  
19 people or at whites who were there that evening, or just  
20 whites in general?

21 A They were going out to get some white person in return for  
22 the life of Danny Thomas, but through the work of some  
23 people concerned about community peace, the people were  
24 convinced that an arrest had been made, that the Police  
25 had gone out of their way to get evidence and that the

1 guilty person had been apprehended and that justice would  
2 be brought.

3 I might point out, however, that the  
4 members of the black community are still not convinced  
5 that justice will be brought as far as this -- the white  
6 man is concerned, because he has not yet been brought to  
7 trial, although he was indicted on a first degree murder,  
8 because to go back in the City of Detroit where no white  
9 man has yet been found guilty of a first degree murder  
10 charge where a Negro was the victim.

11 Q We have been talking, Mr. Dunmore, about community feelings  
12 with regard to the Danny Thomas murder. I would like to  
13 ask you whether or not the Michigan Chronicle has taken  
14 opinion surveys of the Negro community, or do you have  
15 some other barometer of Negro feelings?

16 A Well, my barometer would come through the number of  
17 telephone calls and letters that we have received, and we  
18 have a number of telephone calls of people calling and  
19 wanting to know -- or just expressing their opinions about  
20 the Danny Thomas situation and most of them were concerned  
21 about the fact that -- or, expressing concerns, which I  
22 have already gone over, that nothing would be done about  
23 it, and that the community would be expected to forget the  
24 situation and they would probably not bring the man to  
25 trial until the situation had cooled over.

1           They thought that it would be a repetition  
2 of a number of similar instances which happened in this  
3 community.

4           One of them was the Cynthia Scott situation  
5 which happened several -- in '63, on the 4th of July  
6 weekend, incidentally, and there were other situations.

7           It seems about every 4th of July, or during  
8 that period there would be some murder either involving a  
9 white policeman or a white citizen of a Negro. There were  
10 about seven rather highly publicized situations involving  
11 white and Negroes which happened during the summer months,  
12 during the last -- or, since I have been managing editor  
13 of the newspaper.

14           There was one concerning a white Policeman  
15 who killed a very popular fight handler-owner. I would  
16 have to get you the name of that situation, my memory  
17 isn't what it used to be ten years ago, but this was quite  
18 a historic thing. This was a white Policeman who killed  
19 this Negro and he was -- it was the white Policeman who  
20 was off duty at the time, contended that this Negro had  
21 pulled a knife on him and at the trial he was let off  
22 free in spite of the fact that he had taken the body of  
23 the Negro and put it in the trunk of his car and was  
24 attempting to take it off someplace in the country, and he  
25 was arrested in Mount Clemens, which is a suburban area,

1 and they arrested him and the jury believed his story,  
2 that this Negro had pulled a knife on this man and that  
3 he had shot him.

4 Then there was the Cynthia Scott situation  
5 in which, again, the Policeman claimed that there was a  
6 knife pulled on him and they had shot her, and this  
7 situation had created such tension that the Commissioner  
8 at that time, George Edwards, felt it was necessary to take  
9 up a fifteen-minute television program to explain to the  
10 people why they had vindicated the Policeman in this  
11 situation.

12 There was another situation involving the  
13 death of a man who had -- was fighting with his son and  
14 when the Policemen came on the scene, one of the Policemen  
15 shot the father in what the community believed was cold  
16 blood, but the Policeman was exonerated because he was --  
17 said he was in pursuit of duty and that this man was  
18 supposed to have gone at the Policeman with a butcher  
19 knife, although witnesses testified to the contrary. The  
20 Policeman's story was believed.

21 Then there was another situation. This  
22 happened during the winter months, in which a white Police-  
23 man, this was Machowski, a group of white Policemen shot  
24 this murder suspect after a chase on the Expressway and  
25 one of the Policemen knocked down a Negro photographer and

1 this was quite a -- caused a furior. A jury awarded the  
2 photographer \$9,000 damages in this Machowski case, but  
3 Machowski was, after a brief suspension with the Police  
4 Department, was put back on the Police Force and is now in  
5 recruiting, which is a favored job as far as the Police  
6 Department is concerned, and even some of the Negro Police  
7 men resent this because Machowski seemed to have been  
8 rewarded in his action for fracturing the jaw of this  
9 Negro photographer who, incidentally, was a City photo-  
10 grapher, but the City in general has been aware of this  
11 situation and when the Danny Thomas situation came up they  
12 felt it would be only just a repetition of this ultimate  
13 exoneration of the white man for having killed a Negro.

14 Q Can you tell me, Mr. Dunmore, whether within the week or  
15 two weeks following the Danny Thomas slaying there was  
16 another slaying which particularly aroused the Negro  
17 community?

18 A Yes. This involved a prostitute, 18-year-old prostitute  
19 named Viviane Willians, who was shot under mysterious  
20 and still unexplained circumstances just three blocks from  
21 where the July 23rd disturbances broke out, and I might  
22 also mention to you that the Danny Thomas family lived  
23 within just a five-block area of the location of the blind  
24 pig raid, I don't think I mentioned that to you.

25 But, the Viviane Williams situation happened

1 three blocks -- it happened in the 8900 Block of Twelfth  
 2 Street and the blind pig raid was in the 9300 Block of  
 3 Twelfth Street, but the Viviane Williams situation, which  
 4 happened over the weekend on July the 1st; according to  
 5 the Police report, Viviane Williams was shot by two  
 6 unidentified Negroes who had approached Viviane Williams,  
 7 a prostitute, and a companion, and in the course of her  
 8 conversation Viviane Williams attempted to escape from  
 9 them and ran up the steps of the address where the murder  
 10 took place, and the unidentified Negroes, one of them  
 11 took an object from the other and began firing through the  
 12 doorway and the bullets hit Viviane Williams in the back.

13 A story circulated through the community  
 14 that a white plain clothes detective had shot Viviane  
 15 Williams. Investigation revealed that the companion of  
 16 Viviane Williams had testified originally that a white man  
 17 had shot Viviane Williams, but later after questioning she  
 18 changed her story to the effect that there were two  
 19 Negroes and not a white man who had fired the fatal shots.

20 The corroborating witnesses also agreed  
 21 that there were two Negroes and not a white man, but the  
 22 description given of the two Negroes was very general, and  
 23 to date no arrests have been made in the case.

24 Again, I had a barometer of community  
 25 reaction by the number of telephone calls I received from

1 the people who said that they had heard that a white police  
2 man had shot this Negro prostitute in cold blood on Twelfth  
3 Street.

4 Q You described a number of incidents that had -- earlier  
5 which in your opinion created a sort of disbelief in the  
6 Negro community as to the effect of the Police in solving  
7 racial murders, if you want to call them that, did all of  
8 these incidents happen during the last six years, or during  
9 the time which you have been managing editor?

10 A All of the situations which I mentioned to you happened  
11 during the last six years. I worked directly on several  
12 of the stories. The Cynthia Scott story I worked directly  
13 on, did a great deal of investigating on it and talked to  
14 a number of witnesses; several of the witnesses, including  
15 the young man who was with Cynthia Scott at the time of --  
16 that she was shot, whom I talked to directly and ran  
17 testimony in the newspaper, was never put on the stand  
18 when the Policeman was tried, and here again you have the  
19 question in the minds of the general Negro community as to  
20 the witnesses who were called to testify by the Police  
21 Department, because most of them were people who had Police  
22 records, and their continued operation in illicit activities  
23 would have been affected by their relationship with the  
24 Policeman, and this is why there has been some suspicion  
25 in the minds of the people who know this kind of relationship

1 and who feel that when people who are involved in illicit  
2 activities are called as witnesses, that their stories  
3 certainly will be influenced by their relationship with  
4 the Police and they have the feeling -- now, I say this as  
5 an attitude, I am not saying whether it's true or not true.

6 Q Yes.

7 A But this is an attitude which I know is existent from the  
8 people who I have talked to who are in what is loosely  
9 referred to as the underworld, that they certainly will  
10 tell, give testimony that the Police -- that will favor  
11 the Police because they feel if they give testimony to the  
12 contrary that their -- they will become the target of  
13 Police reprisal.

14 Q Were there any other things, Mr. Dummore, regarding the  
15 Thomas slaying and the Williams slaying which you think  
16 had bearing on the attitudes in the community prior to the  
17 July disorder?

18 A Only that they were cases which caused a great deal of  
19 concern.

20 Now, I didn't mention to you the King  
21 situation which we had given quite a bit of coverage to  
22 in the past year, which also happened in that particular  
23 area which had caused a great deal of community concern,  
24 and which the Civil Rights organizations, particularly  
25 WCO, which has been very -- has been a focal point of

1 activists in the community.

2 This was the King situation in which a boy  
3 was brutally beaten and it was felt that it was through  
4 excess action on the part of the Policemen involved. The  
5 name of the party was Harold King and in the course of  
6 this situation there was a Policeman, a Negro Policeman  
7 named Johnson who changed his story, and ultimately,  
8 because he had witnessed this situation as a Negro Police-  
9 man, he originally testified that the Policeman who had  
10 delivered the beating to the boy was justified and had  
11 done it in a sort of a self-defense because the boy had  
12 attacked him. He later changed his story and he became  
13 the target of tremendous inter-Departmental reprisal.

14 We carried that information in our paper  
15 and one of my reporters, Miss Carol Schmidt, could give  
16 you a full outlining of this particular story, but the  
17 reason why I mentioned this case, this situation too had  
18 become a sort of a celebrity and what I am trying to say  
19 is that you have one case after another of this type of  
20 Police-community relationship and as soon as one dies  
21 down another one comes up and the attitude of the  
22 community, well, here is another case of either Police-  
23 community relationship or another case of the Police getting  
24 away from something.

25 Then in the case of the Danny Thomas thing

1 it became white against black, you see, and the fact that  
2 the police didn't care, a Negro's life means nothing as  
3 far as the Police are concerned, and even where it's a  
4 white civilian involved in some kind of action against a  
5 Negro, the idea is that a Negro's life is worth nothing;  
6 and this is the prevailing attitude that comes out of the  
7 community. This is the kind of thing that I get in the  
8 telephone calls.

9 "What's a Negro's life worth," and so the  
10 Negro begins to feel, "Well, if I'm going to lose my life  
11 I am going to take some white life with me," or, "I am  
12 going to take something with me," and it becomes this kind  
13 of -- and this increases the attitude against authorities,  
14 that they didn't care anything about black lives, you see.

15 This whole idea that we serve our Country,  
16 and this was the thing that came out in the Danny Thomas  
17 thing, that here is a man who went over to Vietnam and put  
18 his life on the line and, incidentally, as far as the  
19 Thomas family was concerned, another member of the family  
20 had lost his life in Vietnam, you see, and so the idea is  
21 even if we go to Vietnam and give our lives, see, we are  
22 much better off losing our lives here in -- for something  
23 worth while than going over and fighting in Vietnam.

24 This is an attitude that prevails in that  
25 community and the Thomas thing pointed this thing out.

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Here is a man that had lived according to the patterns that had been set down by Society and yet when he was killed nobody cared anything about the fact that he even lost his life and that he was actually a victim of the racist thinking because the motivating force in the Danny Thomas situation was that these white boys thought that they had a right to his woman and when he tried to protect his woman, see, he became the victim of racist thinking, that you should permit your woman to be made available to us because we are white and you are black.

MR. WILSON: Off the record a second.

(Whereupon a discussion was held off the record.)

MR. WILSON: Thank you, very much, Mr.

Dunmore.

(Whereupon the deposition was concluded.)

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STATE OF MICHIGAN )  
                          ) SS.  
COUNTY OF WAYNE )

CERTIFICATE OF NOTARY PUBLIC

I, Gerald Hanson, of the firm of BETZ, ROWLEY and SUMMERS, Qualified Court Reporters, a Notary Public within and for the County of Wayne, State of Michigan, duly commissioned and qualified, do hereby certify that the witness whose attached deposition was taken before me on Tuesday, January 9, 1968, was by me first duly cautioned and sworn to the truth, the whole truth, and nothing but the truth; and that the said deposition is a true and correct transcript of the whole of the testimony so given by the said witness upon his oath.

I do further certify that I am not connected by blood or marriage with any of the parties, that I am not employed by either of them, nor interested, in this matter in controversy, directly or indirectly, in any way.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my notarial seal at Detroit, County of Wayne, State of Michigan, this 16<sup>th</sup> day of January, 1968, A.D.

Gerald Hanson  
Gerald Hanson  
Notary Public, Wayne County, Michigan  
My Commission expires November 12, 1968

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NATIONAL ADVISORY COMMISSION ON CIVIL DISORDERS

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I-N-V-E-S-T-I-G-A-T-I-O-N  
Re: Detroit, Michigan  
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The Deposition of LORETTA SMITH, taken before Patricia J. Miller, a Notary Public within and for the County of Wayne, State of Michigan, at 457 Federal Building, Detroit, Michigan, on Wednesday, January 10, 1968, commencing about 2:30 o'clock in the afternoon.

FOR THE NATIONAL ADVISORY COMMISSION:

MR. DAVID BIRENBAUM

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Detroit, Michigan  
Wednesday, January 10, 1968  
About 2:30 o'clock, P. M.

- - -

L O R E T T A S M I T H, a witness  
herein, after having been first duly sworn by the Notary  
Public to tell the truth, the whole truth, and nothing  
but the truth, testified as follows:

- - -

MR. BIRENBAUM: May the record show that  
the witness was sworn.

- - -

E X A M I N A T I O N

BY MR. BIRENBAUM:

Q Would you please state your name and give us your  
address?

A Loretta Lee Smith, 9385 North Martindale, Detroit 4.

Q Mrs. Smith, where are you employed?

A Manufacturers National Bank.

Q And were you previously employed in the City Assessor's  
Office, City of Detroit?

A Yes, I was.

Q And were you -- did you occupy that position in July  
of 1967?

A Yes.

1 Q Where is your home located in relation to the Twelfth  
2 Street area where the riot took place?

3 A It must be about twelve blocks, twelve blocks from  
4 Twelfth Street.

5 Q So that the rioting was not actually taking place in the  
6 immediate vicinity of your residence?

7 A No.

8 Q Did there come a time during the course of the riot in  
9 Detroit, July of 1967, when you were arrested?

10 A Yes,

11 Q Would you please describe the background of that arrest?

12 A On July 27th approximately 4:30 P.M. I was on my way  
13 home from work a block north from my home and on both  
14 sides of the street I saw people standing outside and  
15 in the block in which I lived I saw approximately fifteen  
16 police cars lined up with officers on both sides of the  
17 street.

18 And I asked one of the neighbors standing  
19 outside if there were shooting in my block because I  
20 was afraid to go any further and she said she hadn't  
21 heard any shooting.

22 So, I walked to the corner and then I saw  
23 a police officer standing on my porch, policemen in my  
24 yard and I asked them what were they doing there and  
25 they asked me my name and where did I live. And I told

1 them and he told me to go inside and talk to the officer  
2 there.

3 They told me that they had a report that  
4 I had a gun and they wanted to come inside and look.

5 Q Well, you mentioned that you went inside to talk to the  
6 officer. Did you mean inside a hallway or entranceway?

7 A Yes, inside the entranceway.

8 Q And the officer wanted to go into your own apartment?

9 A Yes. They were upstairs, outside of my apartment door  
10 waiting for me. And they wanted to go inside the  
11 apartment.

12 I asked if they had a search warrant and  
13 they told me no, that due to the circumstances it wasn't  
14 necessary.

15 So, I told them that they could come in  
16 and look and they came in and they searched the apartment  
17 and they asked my permission to tear open the basement  
18 door to go in and look.

19 Q Did they tell you what it was they were looking for?

20 A Yes.

21 Q What was that?

22 A A rifle.

23 Well, they said a gun. They said a gun.

24 Q And did they ask you whether you in fact owned a gun?

25 A Yes, I believe they did ask me.

1 Q What did you tell them?

2 A I told them yes.

3 Q Did they tell you anything further about it?

4 A Pardon?

5 Q Did they ask you how you had acquired the gun?

6 A No.

7 Q Did you offer to explain to them the circumstances  
8 surrounding your acquisition of the gun?

9 A I told them the gun wasn't in the apartment and that I  
10 did have some receipts for the guns if they wanted to  
11 see it, but they wanted to go down and tear open the  
12 basement door.

13 Q Did they tell you why it was they wanted to see this gun?

14 A No, they didn't say. No, they didn't say anything other  
15 than they had a report that there was a gun there.  
16 That's all they said.

17 Q And your offer to explain to them that you had purchased  
18 the gun and show them the receipts that you had been given  
19 after you purchased the gun was refused by them? In other  
20 words, they weren't interested?

21 A That's right, they weren't interested.

22 Q And did you then go with them to the basement?

23 A Yes, I went out of the apartment and down the hallway  
24 to the basement where they proceeded to take the lock  
25 off the door with a crowbar.

1 Q Was your husband home?

2 A No, my husband hadn't got home from work yet.

3 The only reason why I was home half an  
4 hour earlier than I normally get home is because I had  
5 been given a ride by one of my co-workers.

6 Q Did you ask the police to wait until your husband returned?

7 A Yes, I did.

8 Q What was their response?

9 A They said they didn't have time. I asked them three or  
10 four times because I didn't have the basement keys in  
11 the apartment.

12 Q And did they nonetheless insist?

13 A Right, they said they didn't have the time to wait and  
14 so they told me I had to go down into the basement with  
15 them.

16 So, they tore open the lock, they went  
17 into the basement corner and they got the guns, they  
18 said, "Well, here they are", and they told me that I had  
19 to come along with them and they took me to the Elmhurst  
20 Precinct.

21 That was approximately five o'clock and  
22 I thought maybe they were going to question me, but he  
23 asked me my history, where was I born and so forth and  
24 I was fingerprinted and he told me that in case I was  
25 interested I was being charged with assault and intent to

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murder.

So, I asked if I could make a telephone call and they told me no, that the phone was out of order.

Then they took me back into this bull pen where there were sixteen other women.

Q By bull pen you mean a large open room?

A Yes, a large open room.

And, oh, let's see, there was so many things that happened. What are you interested in primarily?

Approximately twelve o'clock one of the girls in the cell with me called me over to the door to look at this man that they were bringing back out of the beating room, I guess, and his back was covered with blood.

Q Was that the only such case that you saw?

A Yes, that was the only one that I saw. I could hear the yelling.

Q How were your fellow prisoners treated, the other women who were with you in the bull pen?

A Well, we were all treated pretty rough. We were called names. "Animals" we were called and the police were -- they were just acting insane, you know.

I refused one of the sandwiches that was

1 brought in there to me because it wasn't wrapped and they  
2 were all piled in a cardboard box and the officer was  
3 passing out the sandwiches with his hands and I wanted to  
4 reach in and get my own sandwich and he told me he didn't  
5 have time for that and they said, "As soon as this thing  
6 is over, why don't you get the hell on out of Detroit  
7 because we don't want you around here anyway. You think  
8 you're too good to be eating these sandwiches."

9 Q Were there adequate toilet facilities for the women?

10 A There was one toilet in there and a water fountain  
11 located right over the toilet.

12 Q Did there come a time when a woman by the name of Jackie  
13 Murdock was admitted to your cell?

14 A Yes. Jackie Murdock was brought into the cell approximately  
15 3:30 or four o'clock in the morning and I recognized her  
16 because she went to school with me at Southwestern High  
17 and when she came in her blouse was torn and she didn't  
18 say anything too much at that time, but she was called  
19 back out of the cell by one of the police officers and  
20 when she returned she said that they accused her of  
21 being a man or something and that they wanted her to take  
22 off her blouse so they could see and at that time they  
23 took a picture of her without her blouse and when she  
24 came back in she was wearing a man's sweater.

25 Q I see. Approximately how long were you so held?

1 A Well, I was in there from approximately five o'clock  
2 Thursday afternoon until ten o'clock Friday morning.

3 Q During that period of time were you allowed to -- did  
4 you make any effort to contact your family or call a  
5 lawyer?

6 A Well, I asked several times if I could make a phone call  
7 and they told me the same story, that their phone was out  
8 of order and at that time my parents, my husband and my  
9 in-laws were trying to locate me and they told them that  
10 I wasn't at that particular jail.

11 Q I see. Now, you were released from jail when?

12 A Ten o'clock Friday morning.

13 Q How did that happen?

14 A Well, an officer -- they had been coming back there  
15 about four or five times and calling out my name and I  
16 would say "Here" and then they'd walk away and the last  
17 time they came back he opened the door and asked me to  
18 step out and I did.

19 I thought I was going to be taken for  
20 questioning about the rifles and he told me to have a  
21 seat and wait a few minutes and I said when he came back --  
22 he said, "Okay, you can go". Just like that.

23 I said, "What do you mean? I can go home?"  
24 And he said, "Yes".

25 So, I told him there was something in the

1 cell I wanted to get and I went back and got my sweater  
2 and then I walked home.

3 Q Did you have any subsequent contact with the police  
4 regarding this case?

5 A Well, I went to the Citizens' Bureau of the police  
6 department and I filed a complaint. I went to the police  
7 headquarters building and I got my fingerprints back,  
8 but other than that, no.

9 Q So, as far as you know the case was actually dropped?

10 A Yes.

11 Q You were never called before a Judge and there was never  
12 any further investigation?

13 A No, as far as I know.

14 Q Were your rifles returned?

15 A Yes.

16 Q Mrs. Smith, have you ever been arrested before?

17 A No, not before this.

18 Q Then what happened with your complaint, do you know?

19 A Well, I called them about two weeks ago and they told  
20 me it was still pending, that they consolidated my  
21 complaint with things that I had witnessed in the  
22 police department and that it was taking quite awhile  
23 because they couldn't find witnesses.

24 Q What other matters did you complain of other than your  
25 own arrest?

1 A Well, I complained about a nurse who had been arrested  
2 and she told me she had been arrested Wednesday night.  
3 I think she was on her way to work and her husband was  
4 arrested too and she told them that she was a nurse and  
5 that she was supposed to report to this hospital, but  
6 they wouldn't call and verify it and they kept her there  
7 until, oh, it must have been about three o'clock Friday  
8 morning when they finally called her job and then released  
9 her.

10 Q Any other such cases?

11 A Well, there was another girl in there who told me that  
12 her building had been raided by the police department  
13 and she was arrested because her wedding gown was hanging  
14 in the closet. She had only been married about a month  
15 and she was arrested for looting because of that wedding  
16 gown she said.

17 And there was another girl, I can't  
18 remember their names, but she told me her and whoever  
19 she was with was arrested for curfew violations and  
20 then the police released them and let them go home and  
21 it was approximately two o'clock in the morning when the  
22 police broke into the girl's apartment and told her that  
23 they should have kept her the first time and that she  
24 was arrested and she mentioned this man. I don't know  
25 whether he was her husband or boyfriend or what, but she

1 said that when they were taken, brought to the police  
2 station, Elmhurst Precinct, that she was in the back  
3 yard where they have the garage and they were taking  
4 the men prisoners out and putting a noose around their  
5 necks and having a little fun, games with them. They  
6 were pretending to hang the prisoners.

7 She didn't say whether they were hurt bad  
8 or not. And she told me also that the fellow she was  
9 with when he was thrown into the police car that they  
10 took a rifle butt and rammed it into the private parts  
11 of his body.

12 And I noticed another thing when I was in  
13 jail, that some of the men prisoners did have busted  
14 zippers and it was after she told me what happened that  
15 I realized the reason why they were busted like that.

16 MR. BIRENBAUM: Off the record.

17 (Whereupon a discussion was held off the  
18 record.)

19 Q (By Mr. Birenbaum, continuing): Did you forward a  
20 complaint to any other agencies than the Citizens'  
21 Complaint Bureau?

22 A Yes, the Common Council of the City of Detroit,  
23 Congressman Conyers, I think I sent one to Congressman  
24 Diggs.

25 Q Congressman Conyers?

1 A Congressman Conyers, yes, and I think I sent one to  
2 the Detroit News, but I was interviewed by them  
3 anyway.

4 Q And did they subsequently write a story about your  
5 objections?

6 A Yes, they took some excerpts from the article I wrote  
7 and they printed it.

8 Q You wrote an article?

9 A Yes.

10 Q For whom?

11 A Well, I just sit down and wrote as much as I could  
12 remember from the time I got off work until the time  
13 that I was released.

14 Q Mrs. Smith, I think I neglected to ask you what your  
15 position was in the City Assessor's Office?

16 A I.B.M. key punch operator.

17 Q Thank you.

18 Did the police do any damage to your  
19 house during the course of their search?

20 A Yes, before I got home a policeman had cut a portion  
21 out of my storm door to break into my apartment and,  
22 well, they tore the lock off the attic door and they  
23 tore the lock off the basement door.

24 Q How do you know it was the police who had cut the hole  
25 in your door?

1 A Because my neighbor witnessed it.

2 Q Did you ask the police what evidence they had to support  
3 the charge of attempted murder which was placed against  
4 you?

5 A Yes. Well, as soon as he told me that I was being charged  
6 with assault and intent to murder I asked him on what  
7 ground did he base the charge. I said, because he hadn't  
8 even checked the guns to see if they had been fired and  
9 he just walked away.

10 Q Did he respond to that at all? Did he answer?

11 A No, no, he just walked away. He just told me that one  
12 fact, that I was being charged with assault and intent  
13 to murder in case I was interested.

14 MR. BIRENBAUM: Okay. Thank you.

15 (Whereupon the deposition was concluded.)  
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1 STATE OF MICHIGAN )  
 2 ) SS.  
 3 COUNTY OF WAYNE )

4 CERTIFICATE OF NOTARY PUBLIC

5 I, Patricia J. Miller of the firm of BETZ,  
 6 ROWLEY and SUMMERS, Qualified Court Reporters, a Notary  
 7 Public within and for the County of Wayne, State of  
 8 Michigan, duly commissioned and qualified, do hereby  
 9 certify that the witness whose attached deposition was  
 10 taken before me in the before-entitled cause on January  
 11 10, 1968, was by me first duly cautioned and sworn to  
 12 testify the truth, the whole truth, and nothing but the  
 13 truth in the cause aforesaid, that the testimony contained  
 14 in said deposition then given by said witness was by  
 15 me reduced to writing in the presence of said witness by  
 16 means of Stenography, and afterwards transcribed upon a  
 17 typewriter under my personal supervision; and that the  
 18 said deposition is a true and correct transcript of the  
 19 whole of the testimony so given by the said witness as  
 20 aforesaid.

21 I do further certify that I am not connected  
 22 by blood or marriage with any of the parties, or their  
 23 attorneys, or agents, and that I am not an employee of  
 24 either of them, nor interested, directly or indirectly,  
 25 in the matter in controversy, either as counsel, agent,  
 attorney, or otherwise.

1 IN WITNESS WHEREOF, I have hereunto set my  
2 hand and affixed my notarial seal at Detroit, County of  
3 Wayne, State of Michigan, this 15<sup>th</sup> day of January,  
4 1968, A. D.

5  
6 *Patricia J. Miller*

7 Patricia J. Miller  
8 Notary Public, Wayne County, Michigan  
9 My Commission expires April 17, 1971.

10 - - -

STATE OF MICHIGAN  
IN THE RECORDER'S COURT FOR THE CITY OF DETROIT

PEOPLE OF THE STATE OF MICHIGAN

VS

ROBERT LEROY RUBIN,  
RAYMOND CLAYTON RUBIN AND  
ALBERT THOMAS HAMMONDS,

A-139458

Defendants.

---

EXAMINATION held before the HONORABLE  
JOSEPH E. MAHER, Judge of Recorder's Court, on August 7, 1967, in the  
Recorder's Court Municipal Building, Detroit, Michigan.

APPEARANCES:

MR. RICHARD LAMB, Assistant Prosecuting  
Attorney, Appearing on behalf of  
the People.

MR. SHELDON OTIS, Appearing on behalf  
of the Defendant.

- - -

Marilyn A. Morawa,  
Official Court Reporter.

Typist: Joanne M. Troup

Detroit, Michigan.

August 7, 1967

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F R A N K    E.    S T O R E R

was thereupon called as a witness, and being first duly sworn by the Court clerk, was examined and testified as follows:

\* \* \*

DIRECT EXAMINATION

BY MR. LAMB:

Q    What is your name, sir?

A    Frank, Captain Frank E. Storer.

Q    And, on July 26, 1967, what activity were you engaged in?

A    Supporting the Detroit Police Department in restoring law and order.

Q    What, = Are you a member of any organization?

A    Company Commander of C Company, First Battalion Air-Borne, 225 Michigan National Guard.

Q    Were you on duty as such an officer on this date of July 26, 1967?

A    I was, sir.

Q    And, at about approximately 9:30 a.m. on that date, do you know what part = where you were on duty? What address?

A    Yes, sir.

Q    What did your duty consist of? That is, were you in charge of a unit?

A    Oh, yes. I was in charge of a patrol reinforcement tank patrol.

Q    Were you in a tank?

A    No, sir, I was in a jeep.

Q    Was there a tank present?

A Yes, sir.

Q And, when you = were you in the vicinity of = when you were in the vicinity of 7477 La Salle, what happened?

A We had received information that people were in there, they had blockaded themselves in, and were going to start shooting after dark. This came through via headquarters. We were sent over there with police officers to investigate. When we got over there, the general opinion, in my general opinion, =

MR OTIS: I am going to object to the officer giving a narrative testimony and ask that this testimony be by questions and answers and that the officer be confined to what he did and saw, rather than to state his opinions.

THE COURT: You heard what he said. You will try to answer the questions rather than to go into narrative form.

Q (By Mr. Lamb, continuing): Sometime prior to 9:30 p.m. on July 26, 1967, were you dispatched to 7477 La Salle in the City of Detroit?

A I was, sir.

Q And, at the time you were dispatched where were you when you received the orders?

A In our headquarters.

Q That was located where?

A Hutchinson School.

Q When did you leave the Hutchinson School? Did you eventually leave the Hutchinson School?

A Yes, sir.

Q Did you take a unit with you?

A Yes, sir.

Q Under your direction and command?

A Yes, sir.

Q Did you leave in a vehicle?

A Yes, sir.

Q What type of vehicle?

A Unit truck quarter M151WACRC10.

Q You were accompanied by yourself and other members of your unit in that vehicle?

A Yes, sir.

Q How many?

A There were four of us in that quarter ton.

Q Was there a second or other vehicles that were dispatched under your command?

A Yes, sir.

Q What other vehicles?

A Two and one-half = a 135 containing 20 men.

Q And any additional vehicles?

A One tank, M48A1WA, with a crew of five.

Q Now, the vehicle that you were in, that was the first one in this convoy?

A Yes, sir.

Q And, were you armed at the time?

A Yes, sir.

Q Were the members of your unit armed?

A Only allowed armed on order.

Q Only allowed on order. Would that be your order?

A Yes, sir.

Q When you left, did you have a definite destination?

A Yes, sir.

Q That was from your superiors?

A Yes, sir.

Q And, the second vehicle in the unit, how many men were in that?

A The second vehicle, in the convoy, there were two jeeps, the tank and the truck. The second was a jeep with four men in it.

Q Were those men armed also?

A They had =

Q They were armed as you have described?

A Yes, sir.

Q What was the third vehicle in the convoy?

A The third vehicle was the truck.

Q Is that the one you occupied? Is that the one you were in?

A No, sir, I was in the first one.

Q How was the truck equipped?

A I described with 20 men.

Q And, did they have arms?

A Yes, sir.

Q And, were the orders the same for that?

A Yes, sir.

Q The fourth vehicle was the tank?

A Yes, sir.

Q And, how was the tank armed?

A It had a 30 caliber machine gun.

Q Now, when you approached this address, what did you do?

A Upon arriving at the address, we dispersed our troops with the tanks facing the corner of the house.

Q What type of a building was it?

A Residence. Sort of a tier-type residence. Three story building with an eight foot cyclone fence surrounding it.

Q Was it a = was it daylight or dark at the time?

A It was still daylight. Dusk hours. A little darker than it is = growing dark.

Q When you = were you and your unit attired in uniform?

A Yes, sir.

Q And, when you approached the premises, what was the next action taken?

A We have a device similar to the firecracker and we placed it in the front lawn to attract the attention. We use it in training, it does not damage anything. There is a little explosion. I called to the people in that house to come out.

Q Did anyone come out?

A No, sir.

Q And, following that?

A I gave a count of ten for them to come out and I heard a shot.

I didn't see it hit.

Q What happened when you heard the shot? Anything?

A I didn't see it come from the house. I heard it. So, I kept on counting and then, I heard a second shot. And, I saw that from the third floor window.

Q Of the house?

A Of that house.

Q And, are = when you saw that house, are we talking about the premises at 7477 La Salle in the City of Detroit?

A That's correct, sir.

Q And, when you saw the shot come from the third floor, what did you do next?

A Gave orders to commence firing.

Q Were shots fired?

A Yes, sir.

Q At the house or =

A Directly at the bulk of the house, sir.

Q Following that, what happened?

A After thirty seconds of fire we ceased fire.

Q And, all weapons ceased fire?

A And, I heard from the right side of my column, would be the north side of the house, someone said to hold fire, they are coming out.

Q You heard a voice?

A From my men. They called "don't shoot, they are coming out".

Q Did you see anyone come from the premises?

A I went around in the = over to the north side of the house. I was on the southeast corner and there were three men proceeding from the house.

Q Do you see those three in the courtroom today?

A Yes, sir.

Q Step down and point them out for the Court please.

A They changed their appearance. They have had haircuts. This is one. This is one, and he was wearing his glasses at the time, sir.

Q You say this one?

A The first one.

Q How was he dressed? Here in court you pointed out =

A When I say this is one, =

Q How was he dressed?

A Right now?

THE COURT: Mr. Lamb, will you stop the proceedings for a moment, there is some commotion in the courtroom and I would like to be able to hear this. Thank you gentlemen, you may proceed.

Q (By Mr. Lamb, continuing): Where is this first one?

A The gentleman behind the attorney.

Q What is he wearing today?

A Wearing a black shirt and a yellow sport coat.

Q That defendant is which one here?

A This one.

Q That is Albert Thomas Hammonds. Do you see any of the others?

A The gentleman in the gray sport coat with the white shirt.

Q That is Raymond Clayton Rubin. And, the third one?

A The gentleman with the glasses and the dark tie.

Q The defendant, Robert Leroy Rubin. Which one did not have a haircut at that time?

A The one in the gray coat and the older gentleman, either he had it combed differently.

Q When you saw him it was all pushed up. But, these are the same three people you saw come from the building?

A Yes, sir.

Q Did you place, = you may be seated again. Did you place them under arrest, Captain?

A No, sir, we don't have that authority. Detained them for the police.

Q Police officers of the City of Detroit came and took them into custody?

A We had a lieutenant with us.

Q And, did he effect the custody of the prisoners?

A Yes, sir.

Q Now, following this did you enter the premises?

A Yes, sir.

Q Did you cause the premises to be entered by men under your command?

A Yes, sir.

Q Was there a search of the premises conducted?

A Yes, sir.

Q And, what resulted, if anything, from the search of the premises?

A You mean what did we find, sir?

Q Yes.

A A small caliber rifle about ten feet from the window that the shot came from.

Q And, did you find any ammunition that would fit a firearm of that description?

A Some bore ammunition in a gun case on the first floor.

Q And, was that gun found = where was it found with relation to the part of the building from which you heard the shot fired?

A About ten feet from the front window that = where the shot was fired, resting on a chair muzzle up.

Q Any other persons in the house?

A No, sir, we did not see any.

Q Now, when these people, these three defendants came from the house, did they make any statements as they came out?

A Yes, sir, they said they thought we were looters, that that was why they fired.

Q Who made that statement, which one, if you know?

A As the three men were there I was talking, it was the older one with the glasses that came out first, he was in front of me, it seems he was the one that did the talking but I can't recall. Well, =

Q When that statement was made, was it contradicted by anyone =

MR. OTIS: Object as calling for a conclusion, your Honor, it is an admission to which it is irrelevant, =

MR. LAMB: I will withdraw the question in that form.

Q (By Mr. Lamb, continuing): When that statement was made, did you yourself hear a contradiction of it?

MR. OTIS: I will object for the same reason and ask that the previous statement be stricken as assuming = any such statement made, it would be binding on him and not on the other defendants. If the witness cannot recall who made a statement, it could not be admissible for any purpose.

THE COURT: Well, I will let the answer stand. He believes it was the man with the glasses, as to the others what might be contradiction would be calling for a conclusion of the witness. If it was believed, it would be a conclusion. I will sustain the objection on that basis.

MR. LAMB: Cross examine.

CROSS EXAMINATION

BY MR. OTIS:

Q Captain, have you had a haircut since the 26th of July?

A Yes, sir.

Q What is your occupation, sir?

A Professional photographer.

Q And where do you live?

A Madison Heights.

Q How long have you lived in Madison Heights?

A Eight years. Fifteen, = since '58.

Q Are you married?

A Yes, sir.

Q How long have you been married?

A Fifteen years.

Q Where is your professional photography studio located?

A Woodrow Avenue.

Q How long have you been in the Michigan National Guard?

A Nineteen years.

Q Where were you stationed on the 26th of July, 1967, before the patrol that you testified to?

A At Hutchinson School.

Q Where is that located?

A Well, =

Q Is that located at 7477 La Salle?

A On Byron, I don't recall the address.

Q What occurred when you left the Hutchinson School to go to 7477 La Salle?

A You mean what direction?

Q What direction did you take, what route?

A Route?

Q Route.

A I went through to 14th and down around 14th Street.

Q You took 14th Street north, isn't that a one-way street going north and south? You did take Buchanan Street to 14th Street?

A We went through to 14th, Buchanan or east or west to 14th Street.

Q Buchanan?

A Yes, sir. I believe we went over to 14th Street, I don't recall what street we took. We went south on 14th Street to Lothrop, south to Lothrop.

Q What did you do to make a turn. How far before you got to 7477 La Salle?

A One block over.

Q You were in the lead motor vehicle?

A Yes, sir.

Q You were in charge of these four motor vehicles that traveled there?

A That's correct.

Q Who was in your motor vehicle?

A My driver, my radio man, and my clerk.

Q Let us have there names.

A John Roder.

Q Who was he?

A The driver.

Q Where did he live?

A I don't know. It is in my records.

Q Do you have the records?

A I had a description indicating his address.

Q How long have you known him?

A He has been my driver for a year. He was in the Company. Outside of this I don't know him personally.

Q The names of the other gentlemen in your motor vehicle?

A Daniel Kirskhe. He is my radio operator.

Q Do you have his address in the Company? Can you tell us the spelling of his name, if you know?

A I don't really, all I can tell you is I think it is K-I-R-S-K-H-E, or something.

Q Who else was in the motor vehicle?

A Byankowski.

Q Do you know his address?

A No.

Q How long have you known him?

A I don't recall.

Q Your motor vehicle approached 7477 La Salle about 9:30 at night, is that correct?

A It was 9:20.

Q When did you make a notation of the time?

A At that time.

Q At the time you arrived there?

A Yes, sir.

Q Where were you writing out = were you writing out notes?

A Yes, sir.

Q Do you have those notes with you?

A No, sir.

Q Where are they?

A They are at home.

Q One last time, when was the last time you looked at them?

A This morning.

Q To refresh your recollection about your testimony today?

A Yes, sir.

Q Well, will you produce those notes for us please for the defense in this case?

A Well, I will produce those notes = will I produce those notes?

Q Yes.

A If they are called for.

Q Well, I am calling for them now.

MR. LAMB: If, your Honor, please at this time, he is not using the notes to refresh his memory. He has testified this morning that he refreshed his memory by the utilization of those notes. What are in those notes?

A All there is is the statements about the time we arrived and the time we left.

MR. LAMB: This is what he is going to use, something to do with darkness and lightness.

THE COURT: It may be pertinent. If you wish to adjourn until he can tract them down, =

MR. OTIS: I will try and continue. But, will reserve my right to request it at a future time.

THE COURT: I think the witness is cooperative.

CROSS EXAMINATION (CONTINUED)

BY MR. OTIS:

Q It is your testimony that only, = the only things those notes contained were the times that you arrived and the time that you left?

A That's correct.

Q Those are the only things that the notes contained, nothing during the operation? I had assumed that pursuant to Army National Guard regulations, you were to keep notes.

A A patrol officer files a report after a patrol, yes.

Q The only thing you put on your report is the time you arrived and the time you leave?

A No. We make out a report after the patrol is completed.

Q Did you make out a report after this operation had been completed and yet you haven't started writing out this report?

A Yes.

Q Isn't it customary to write up these reports shortly after the operation itself, when your memory is clear?

A That's true.

Q Is there any reason you took, need almost a day or two or three or four or five after July 24 of 1967 in this case?

A It is rather difficult when you are riding, sir.

Q When you are riding?

A Riding.

Q When did you stop writing?

A Riding. We were on patrol from the time we were on duty until we

were relieved.

Q When did you leave?

A We left the southeast command post, I think it was Friday or Saturday morning.

Q Of this past week?

A Yes, sir, or =

Q Or August 3rd or 4th?

A August 5th. Saturday.

Q Between then and now, you have not written out your notes concerning this operation?

A They are not completed.

Q What other then the times when you testified to is on there, that is all you have written out so far?

A I don't follow your line of questioning, sir.

Q Your notes are not completed. What is written out right now?

A As of this moment, times of the operation. Sectors of it. The address, that's all.

Q Now, we know the times and the address and the sectors are written out. You just think and tell us what else you have written out so far. How many pages of notes have you written out so far?

A I don't count them. I don't see what interest you have in my notebook.

Q Well, officer, I would ask that you answer the questions and let the prosecutor rule as to whether they are proper. Do you have any objection? Now, what is the procedure?

A There is no set procedure for what notes an Army officer must take.

Q Is there any procedure? Do you have any regulations with relation to an obligation to write up a report or notes of an operation in which you are involved?

A Yes, sir.

Q What regulations are that?

A You are required to file a report after an operation, after action report. After action.

Q Can you by your memory, sir, remember the number of reference of that regulation?

A I cannot.

Q Is it contained in a book of your regulations?

A It is contained in a Field Manual on Operational Procedure.

Q On August the 7th of 1967, this report was information containing this operation, the time sector. What else?

A We keep a journal, this is when a battalion unit does file the information into them, the battalion knows what is going on and where.

MR. OTIS: If the court please, at the last answer = I will ask that the last answer be stricken as to the non-responsiveness. He was asked what else if anything he has written out, and before the prosecutor can object, =

THE COURT: Well, he has answered that question in part.

MR. OTIS: Only a few minutes ago, he

insisted that all there were in those notes were the times. Now, we find the location and other things written out. I would like to know what he has written out. I am entitled to know that. This is for the purpose of cross examination.

MR. LAMB: Well, to begin with, I am going to object to any part being deleted, he stated what he put in his notes. This is not a report, but notes at the time, stating the location and the sector. That is the answer. And, he is without the assistance of the notes to give the testimony relating to what he has stated.

THE COURT: Do you want a ruling on this answer, his answer in part regarding he had something there that perhaps is objectionable, and he stated that he didn't keep the journal unless he was, I think, well, I am going to let the answer stand.

A If we were detached, and operating away from the battalion, not connected, without any radio, for two days, the previous week we keep a journal following so the battalion can see. However, if we were operating apart, the journal is copied and the operation given over to S3, what we do is file our report with them.

Q O.K., Captain. Is it your testimony that you have no report other than what you have testified as of this moment and you would have filed a report with what you call S3 section or battalion?

A That's correct.

Q Have you filed such a copy with the S3 section?

A There is a report and a record on the journal.

Q Was that report submitted by yourself?

A Yes.

Q And to whom did you submit it, if you can tell us the name of the description other than these numbers that you have been giving us, which mean nothing to me.

A The Operations Officer first BA225 infantry.

Q What is his name?

A Major Mc Nally.

Q When did you submit that report?

A There was a report submitted after the operation was completed.

Q Approximately when? Time and date?

A That will be at the conclusion of the patrol, about 6:00 the next morning.

Q You wrote it in your own handwriting?

A No.

Q Just give him the highlights, a verbal report?

A That's correct.

Q He noted it as you were talking, in his journal?

A Later on after a full complete report.

Q When was that?

A I haven't filed it yet.

Q You haven't written it yet? Any reason why you haven't written it yet?

A Yes, sir, a matter of time.

Q You haven't had an opportunity when you = you haven't had an opportunity to prepare it?

A That's correct.

Q You are now preparing it?

A Not this minute.

Q Are you in the process of preparing it?

A Yes, sir.

Q Did you tell whoever it was you spoke to around 6 a.m. the following morning of July 26, that you also heard a shot coming from a window?

A Yes, sir.

Q Did you tell whoever you spoke with that 6 a.m. or thereabouts after July 26 that the occupants, = that you talked with the three defendants or one of them?

A Yes, sir.

Q You are sure about that answer you just gave?

A Yes, sir. They thought it was real funny.

Q I didn't ask what they thought, Captain. I asked you whether you are sure of your answers? Who was riding in the second motor vehicle behind yours?

A I don't recall.

Q Was this motor vehicle the one that contained 20 men?

A No, sir.

Q How many men did it contain?

A Four, it was =

Q Was it the tank?

A No, sir.

Q Jeep?

A Yes, sir.

Q What = Who was driving it?

A I don't recall.

Q Do you recall any of those people in that jeep?

A No.

Q Any from your unit?

A Yes.

Q Had you worked with them from time to time?

A Yes.

Q And had you worked with them from the time that you arrived in Detroit on this particular operation around July 24th, 1967?

A That's correct, sir.

Q You commanded these four men in this particular patrol?

A I don't summon the = I give the details to the first sargent.

Q Did you have any discussions or give any instructions before you embarked on this particular patrol?

A I don't follow you, sir.

Q You don't understand my question. Did you give an instructions to the men who were going with you on this patrol before you left on the patrol?

A What kind of instructions?

Q I haven't any idea what kind of instructions you may have given them.

A Just more of less, we have a report of trouble, that's all.

Q Is that what you said?

A I gave them an order for a patrol, to patrol a sector.

Q What other instructions did you give them?

A The weapons were to be unloaded until they were ordered to load.

Q What other instructions did you give them?

A Just to follow me.

Q Would there be a record in your notes of the four men who were in the jeep behind your motor vehicle?

A I doubt it.

Q Who were in the motor vehicle directly behind the second jeep?

A Twenty men.

Q Can you name one?

A Yes. First Sargent Michael and Al Vero.

Q Third, can you name a third?

A No.

Q You can only name two out of twenty people who were in that vehicle?

A Those were the only ones that I gave orders to.

Q Only ones who were in that vehicle?

A That's who was in the tank. The five men that came to us with the tank.

Q Can you name any of them?

A I think, Haruja, I think the = he was the = Haruja, he was the tank commander.

Q He was the tank commander with your unit?

Would there be a record of who was in the tank? Where would that record be?

A I can get that from the battalion.

Q Is there any reason why you can get that information for me and you can't get the information as to who was in the second jeep behind yours?

A That's correct, under tank commander is listed, when it comes the jeep case of getting the vehicles and letting them know the detail, this is done by squad.

Q And in your company who would know the names of the people in that second jeep?

A The first sargent may.

Q What is his name?

A I gave it to you, that is Sargent Groner.

Q Anyone else who might know?

A I don't know. I imagine I could get you a list of the infantry people that were on that patrol.

Q I could. Would you do that for me between now and the time of the trial, if there is a trial in this case?

A When will the trial be?

Q Later, sometime in the near future.

A If I got a week or so to work on it, yes, I can do it.

Q Now, you had a report that someone or some people had barricaded themselves in a house on La Salle and intended to engage in

sniping that evening, is that the gist of the report you had?

A You had stricken that from the record.

Q I am asking you if that is the gist of the report that you had?

A I started to tell you and you didn't want to talk about it at that time.

Q I am asking you can you answer that?

A The report came from our intelligence section, the S2.

Q What does that mean?

A Well, from S2 section through and down to the patrol commander.

Q Who is S2 commander and battalion patrol commander so I know their names?

A S2 Captain Fred Roberts.

Q You got the report that some people or some men or someone were barracaded in this address at 7477 La Salle intending to do some shooting from there that evening, is that generally the gist of the report you had?

A Generally, yes, sir, they had thrown out the people that were occupying, that were occupying the house.

Q Do you know the name of the people who were occupying the house?

A No, sir.

Q When you say they threw out the names of the people occupying =

A I didn't say that, I said threw out the people.

Q I don't understand what you said, threw the people out, explain that to me.

A May I?

Q I don't follow you. Can you?

A I can if I may.

Q Would you?

A The report came into our headquarters that the house at that address had these people, = that these people had taken the house from the ones that were renting it and had occupied, barricaded themselves in and were going to start shooting after dark and that they had weapons.

Q That was the information that you operated on, acted on?

A Yes, that's correct.

Q Did, = is it permissible to varify that information?

A I took my patrol and it looked barricaded to me.

Q You set off a firecracker? You didn't go up to the door and ring the bell?

A No.

Q Did you check into who the owner of that house was?

A If it was difficult = what you just =

MR. OTIS: Your Honor, I am going to ask the Court now, I am going to ask the Court that this witness be allowed to complete his answer and instruct the witness not to elaborate, and if the prosecution wants to elaborate, he is capable =

MR. LAMB: I am going to ask for just what Counsel has asked for, allow the witness to answer the questions, that is what he was asked of him. This is explanatory of his answer.

THE COURT: I will permit the answer to it, if it is on the record, it may not be because of your objection. I would also like to tell the witness to answer the questions as close as possible and not to elaborate.

A Yes, sir.

MR. OTIS: Thank you, your Honor.

Q (By Mr. Otis, continuing): Captain, you received the report that you acted on and took your patrol out. Did you make an effort to determine who the owner of that building was other than by taking your patrol out there? Make any telephone calls to check who the owner of that building was?

A No.

Q As to the source of the report, you claim to have received, that is to say, who made the initial report?

A It is not my job, sir, =

Q You didn't check to find out the source of the report?

A That is not my job. I am just =

Q You just didn't check. You did not check, you say, you didn't because it is not your job, is that correct?

A You are trying to make me look like an idiot. He carries out orders. He doesn't check him.

Q Captain, it doesn't hurt to be yourself on the stand and answer the questions. If that comes in in a different way, and I appeal this just for it, you will be looked at by what you say. You took your patrol and four motor vehicles, approximately 30 men,

and went to 7477 La Salle; is that correct?

A That's correct.

Q Then, you immediately proceeded to surround that address, is that correct?

A That's correct.

Q You deployed your men, in other words?

A That's correct.

Q Can you describe how you deployed them?

A We had some covering each side of the house.

Q How many on each side, if you can recall?

A We split down the middle, about 12 on each side.

Q How many sides of the house we covered, two or four?

A Two. We covered the other side by fire.

Q By fire. If it is necessary to fire =

A If it is necessary to fire, that's what they are deployed for.

Q You had 12 men on one side, would it be the southern side?

A That's correct.

Q You had 12 men on the northern side?

A No, wait, it would be the east side of the house. The La Salle side.

Q Twelve men on the La Salle side and 12 men on the west side, the north side?

A North side.

Q You covered the other two sides with fire, with lanes of fire = with lanes of fire that a clear area, you can see to shoot, you don't necessarily have to shoot there. You had more than 12 men on each side, you had other men who were prepared to use these

lanes of fire?

A No, there are people on the side that fire if it is necessary.

Q When you arrived at the house, you observed the situation, you went onto the grass, did you?

A That's correct.

Q And, you set off a firecracker?

A That's correct.

Q What did it sound like when it went off?

A What did it sound like? Like a firecracker, like an explosion, a small explosion.

Q And, after you set off this small explosion nothing seemed to happen, is that correct?

A That's correct.

Q So you then went over it with a microphone or loudspeaker, is that correct?

A No, I hollered.

Q You did not use an amplifier?

A No, I didn't use an amplifier.

Q All you did was holler from where you were standing at whoever was in the house and that they had ten seconds to come out?

A At the count of ten.

Q At the count of ten, I assume when you were through with ten, this is as you were counting?

A That's correct.

Q When you were through, = were you = where were you standing at the time you hollered in relation to the front of this house?

A On La Salle. On the southeast corner.

Q Right under the window?

A On the sidewalk. Sidewalk curb, in that area.

Q Did you see someone standing in any of the windows as you were hollering?

A No, sir.

Q Anyone standing in the windows after you hollered?

A No, sir.

Q At any time before you hollered, what you described as holler, did you see anyone in the windows?

A No, sir. The window shades were drawn.

Q The window shades were drawn?

A Yes, sir.

Q Any light on?

A No, sir.

Q Any of them in the rooms?

A Not that I saw.

Q None of the lights were on?

A No.

Q What about on the second floor?

A I saw no lights.

Q You continued to count of ten and you hollered out to ten?

A That's right.

Q And after that nothing happened when you got to the number ten, you then issued an order to open up fire?

A No.

Q You then heard a shot?

A That's right.

Q You didn't see it?

A That's correct.

Q You were standing under the window?

A Standing, I didn't see a flash.

Q Were you standing on the sidewalk, where were you standing when you heard the shot?

A I wasn't under the window. You forget there was an iron fence.

Q When you hollered that you were going to ask at the end of ten for them to come out, you counted. Where you = You weren't = Weren't you under the window?

A Where was I? I went between the curb and the sidewalk.

Q You said under the window, which is it, not the front of the window?

MR. LAMB: I am going to object to the offering of this. I think that =

MR. OTIS: I will withdraw it.

It is argumentative.

Q (By Mr. Otis, continuing): Now, witness, if I can understand, the window, it was out by the = under the third floor in front of the third floor window? You weren't near the house, you tried

to tell us before.

A I didn't try to tell us anything. I was at the house. There was an iron fence around the house. You don't get to the house, that is, in a line with the house.

Q You weren't next to the house, is that correct?

A That's correct.

Q And, that is where you hollered to them to come out, before you counted to ten and you said you would open up fire?

A That's correct.

Q And, that is where you counted to ten?

A That's correct.

Q Without the benefit of any amplifier whatsoever?

A That's correct.

Q You hadn't seen anyone in that third floor window?

A No.

Q In fact, you hadn't seen anyone in that window, is that correct?

A That's correct.

Q Your testimony that you called up to the third floor window, is that your testimony?

A That's correct.

Q That you went up, called up and hollered to the third floor window?

A No.

Q You called out generally to the house? What kind of house was that, Captain?

A I would describe it as a three floor residence.

Q What kind of construction, if you know?

A I would say brick.

Q Rather large?

A Yes.

Q On a rather large lot?

A Yes.

Q Now, you are going to =

A The men at the back alley could hear me.

MR. OTIS: I will ask your Honor, I ask that that answer be stricken, it was voluntary and called for a conclusion. I will ask that that answer be stricken.

THE COURT: That answer will be stricken.  
How much longer will you be?

MR. OTIS: About a half hour.

(Whereupon a short recess was had.)

THE COURT: You are still under oath.

CROSS EXAMINATION (CONTINUED)

BY MR. OTIS:

Q Captain, so I am clear, you were standing at the southeast corner of this house during the time you hollered these instructions to come out?

A Yes, sir.

Q And, did you see = did you stay at the southeast corner for most of the time of this action?

A This is outside the fence?

Q That's correct.

A Yes, sir.

Q And, it was from the southeast corner that you heard what you described as a shot?

A That's correct. It was at the southeast.

Q It was at the southeast that you saw what you described as a shot?

A Yes, sir.

Q Were there any Detroit Police in this patrol of yours?

A Yes, sir.

Q Do you know any of their names?

A Yes, sir. Lieutenant Robert Heidtman was.

Q He was riding with you?

A Yes, sir.

Q In your jeep?

A Yes, sir.

Q As you were standing at the southeast corner, you described what you observed to be a chimney on this house?

A Yes, sir.

Q It was from the third floor window that you heard the action coming from the house?

A Yes, sir.

Q That would be the floor, sort of even with the chimney in a line with the chimney?

A Is that a question?

Q Yes, sir. Is that correct?

A It was a dormer on the roof.

Q A dormer on the roof.

A Which was the third floor.

Q That was along side of the chimney?

A Near proximity to the chimney.

Q Did you see any openings in this fence around the house?

A Only one opening was on the north side and there was a chain across that.

Q Was that a chain that you couldn't go under or over?

A Yes, sir.

Q Witness, you didn't =

A That's correct.

Q Now, =

A There was an opening but it was blocked with a car.

Q What kind of car was it blocked by?

A I think it was a red and white car.

Q Do you remember the make of the car?

A No.

Q Do you remember the license number of the car? Or do you make note of license numbers in your notes at home?

A No.

Q Ever give the make or license number to the police?

A No, I wasn't interested in the license.

Q Ever have a discussion about the car to your superiors in the Guard?

A No.

Q You found the gun on the third floor?

A That's correct, sir, propped against a chair with the muzzle up.

Q Propped against a chair with the muzzle up?

A That's correct.

Q About ten feet from the window?

A That's correct, sir, maybe eight feet back from the window.

Q Did you ever see a cedar closet on the third floor?

A I don't recall a cedar closet. There was a closet.

Q Who went with you when you went up for these people or for weapons?

A A squad of men, four that were with me in = two of my men that were in my jeep, Kirske and Byankowski were with me.

Q How about Lieutenant Heidtman?

A He was = had charge of the prisoners. He did not go, he came into the house later.

Q Where was he when you found the gun?

A I don't recall. The gun was turned over to him.

Q By you?

A Yes, sir.

Q Yes, sir, is that your answer, yes?

A Yes, sir.

Q Did you see any dresses or clothes that were hung out or flung out of the window after you started shooting?

A Dress or clothes?

Q Yes.

A I did not.

Q How many spent shells did you find on the third floor, Captain?

A I didn't find any spent shells. We didn't look through =

Q You didn't look, you found the gun and you made no search for any spent shells?

A It was dark up there.

Q You found the gun in the dark?

A With a flashlight, yes, sir.

Q You didn't put your light on the floor to see if there were any spent shells, you didn't?

A No.

Q Nor did you turn the lights on?

A There were no lights up there, sir.

Q Did you look for a switch? Where did you look?

A Around the walls. We found a switch. We assumed it was, but it would light, but it didn't work.

Q You didn't turn any lights = you were up there with your flashlights?

A That's correct.

Q How long were you up there?

A Five minutes.

Q How long were you outside, before you set off the firecracker?

A I would say five to ten minutes.

Q How long after you set off the firecracker before the three men came out of the house?

A Probably less than ten, five minutes.

Q How long after you set this off, did you hear the shot you have described?

A A few seconds, a few minutes. I don't recall.

Q There is a difference there.

A I don't recall.

Q You don't recall. Could it have been a few minutes? Could it have been a few seconds, think about it a minute. Strike that question. Was it a relatively short period of time?

A Yes, sir.

Q The explosion and then a bit of silence and then the shot you have described?

A The shot was after I started counting.

Q After you started counting?

A Yes, sir.

Q How long after the firecracker did you start counting?

A I would say a very short time afterwards.

Q To your knowledge were any men in your patrol injured by any bullets on that operation?

A We had no casualty report on that operation.

Q To your knowledge was any damage done by bullets other than done to any of your equipment or machinery during that operation?

A No.

Q To your knowledge was any damage done to any property in front of 7477 La Salle, other than by your own shooting during that operation?

A Nothing that I know of.

Q Was that third floor window open or closed?

A Open.

Q Was it open when you arrived there?

A From what I could see it looked =

Q Describe it being open for us. Was it raised up high?

A Looked like it was open all the way.

Q Would it = it would be raised vertically. A flat window being raised up directly up all the way as you have described?

A Seemed to me it was a hinged window, it would open from the side, like the windows in this court. This is, it seemed it was a hinged window. It would open, it would be open, it wouldn't be, wouldn't have =

Q Wouldn't have to be raised up? Is it your testimony, your recollection is that it was all open much like the window off to your right in this courtroom, it opens on hinges on the side, is that your testimony?

A I don't recall.

Q It seemed it was a hinged window?

A Seemed to me the window, whether it was up or hanging, it seemed to me it was open wide.

Q Was, = what was immediately behind the window as you were standing

on the southeast corner looking up?

A Behind it?

Q Yes, sir, or in front of it. Is there a shade, Captain, or a curtain?

A There were two shades on the right one as I faced the house there was a shade on the right one.

Q Your testimony is that there were two windows on the roof then?

A One of them had a shade and one was open.

Q Is that right, one of them had a shade and one was open?

A Yes, sir.

Q You are sure about that?

A I think there were two, side by side in that same dormer, one had a shade.

Q That was down?

A That's correct.

Q Was there anything in front of the second or behind the second story opening inside or in front?

A I didn't see anything.

Q Completely open. So, when you arrived at the scene, Captain, all the shades, according to your testimony, weren't drawn, were they?

A Pardon?

Q Reporter read back the question please.

(Whereupon the last question was read back by the reporter.)

Q (By Mr. Otis, continuing): Would you like me to rephrase that,

Captain?

A Uh-huh.

Q When you arrived at the scene there was at least one window that did not have a drawn shade according to your testimony. Now, is that what you are telling us?

A Didn't I say in the first place that all the shades were drawn?

Q You sure did.

A With a hole cut in the screen on the third floor =

MR. OTIS: I didn't mean to interrupt you, Captain, but the record will speak for itself.

MR. LAMB: I will speak for the people. I am going to object to the argument with the witness.

MR. OTIS: I am not arguing, but now he is trying to cover up.

MR. LAMB: I will object to the statement "trying to cover up". The record will speak for itself, your Honor. The record will speak for itself. He asked = He was asked a question and gave you an answer and apparently you =

THE COURT: My memory earlier was that he objected to the narrative form. What happened and Counsel did object to his continuing a narrative form, and perhaps during the interruption he may have said what he claims he said. He was instructed to answer the questions asked. He is testifying that all the shades were drawn. We can take it from there.

MR. OTIS: Very well, your Honor.

Q (By Mr. Otis, continuing): Captain Storer, is it now your testimony that there was a screen on the window with a hole in it, is that right?

A That's correct.

Q Did you take that screen down and turn it over to the Police Department?

A No.

Q How many screens were there on the third floor?

A I don't recall.

Q Were there more than one screen?

A I don't recall.

Q All you recall is one screen?

A That's right.

Q It had a hole in it?

A That's the one the bullet came through.

Q I asked you if that was your testimony. You saw the bullet come through that hole from where you were standing on the southeast corner of the house?

A I saw a fire streak, a fire streak. The fire from the propulsion of the bullet. I didn't see the actual bullet.

Q You never did see the bullet, did you, as you have testified earlier?

A I never said I saw the bullet. I saw the shot fired.

Q You saw what, a fire coming from what you described as a hole in a screen in the third floor window along side of the chimney?

A That's correct.

Q I take it, Captain, that when you issued the order to open up fire, you directed your men to open up at the source of the firing?

A Yes.

Q Therefore, you directed your men to open up fire at the third floor window. You claim you saw a shot fired?

A Yes, some fired at the third floor window.

Q That is where you directed your men to fire, you saw the shot fired, isn't that right?

A They didn't all fire at that window.

Q They sure didn't. Did you see any from the first floor?

A No.

Q Did you see any shots from the second floor?

A No.

Q You walked through the first floor after your men opened up fire?

A Yes, sir.

Q Was there any damage to the first and second floor?

A Yes, sir.

Q Was it confined then, the damage, to the third floor?

A Yes, sir.

Q Very little damage to the third floor, isn't that true?

A That's correct.

Q Most of the damage was on the first and second floor? Isn't that true?

A Yes.

Q Captain, when you = strike that. When the three men came out of the house, I assume their hands were in the air?

A Yes, sir.

Q Or, were they on their heads? If you can remember?

A They were raised.

Q Let's get the sequence if we can. Three men came charging out of the house?

A I didn't see them leave the house.

Q In any event, you gave the order to stop firing, didn't you?

A That's correct.

Q How long after you gave those orders did the men stop firing, if you can remember?

A Within five seconds.

Q How many rounds of ammunition had been fired up to that point, if you know?

A Probably two hundred. Two hundred and fifty, something like that.

Q You didn't go around checking afterwards, you can't give us an exact answer at this time, is that right?

A Two hundred, two fifty.

Q That would be a guess rather than an accurate count that you made following the occurrence?

A That's correct.

Q Within five seconds or so after your giving the order to stop firing, the firing stopped?

A That's correct.

Q Then the men, three defendants came out of the house?

A That's correct.

Q And as they were coming out of the house someone yelled hold your fire, is that correct?

A I =

Q Did you yell it?

A Yes, sir.

Q You yelled, "Hold your fire?"

A I yelled, "Hold all fire."

Q What was hold your fire as the three defendants were coming out of the house, as you testified?

A Someone on the right front of the platoon had the firing ceased by that time.

Q He told them hold your fire?

A That's correct.

Q Three men came out of this house, you were not in there when they came out of the house?

A No.

Q Do you know personally why they came out of a = whether they came out of a window or whether they came out of a door or from which room they came out of?

A The sargent on the north side said they came out of the window.

Q You personally don't know? You don't personally know which door they came out of, is that right? Do you personally know which door,

did you see them come out of the door?

A Did I see them come out of the door? My sargent said they came out of a window.

Q You didn't see them come out of a door or a window?

A I personally did not.

Q Thank you. How long from the time you heard someone else yell hold your fire did you see the three defendants?

A As long as it took me to get around the corner.

Q You had to leave the southeast corner onto the side, you went to the north side?

A North side.

Q Who was there, if you remember?

A Those three gentlemen.

Q Anyone else?

A Some of my troops.

Q Can you name them for us, any of them?

A Sargent Groner.

Q You approached these three men?

A Yes, sir.

Q Did you give orders for these three men to lay on their stomachs immediately?

A Yes, sir.

Q You gave that order?

A Right.

Q There had been no conversation from the time you gave the order, =

from the time you saw them and the time you gave that order, is that correct?

A That's correct.

Q You made them lay flat on their stomachs with their guns pointed at them?

A I told them until they were searched.

Q Is that standard procedure?

A Yes, sir, standard procedure.

Q Is it standard procedure to avoid their being hit by fire, by shots?

A Yes, sir.

Q Who was shooting?

A No one was shooting.

Q You made your guns pointed at them to keep out of a line of fire?

A That's correct, sir.

Q Is that your testimony that the men were not shooting any other shots?

A No.

Q How long did your men stand over them as they lay on their stomachs?

A Well, as soon as we found they are clear of weapons. Then we got them up and stood behind the garage.

Q They went to the garage?

A Yes, sir.

Q Did you make them stand up against the wall with their hands against the garage? They got from there, and then they went to the garage,

was there no particular conversations with you?

A With me?

Q Yes, sir.

A We got them back behind the garage and asked what they were shooting at behind the garage, =

Q What they were shooting at? Is this your testimony?

A No, well, I will take it back. It was at the side of the house.

Q When they were laying on their stomachs? Or was your conversation as they were running out of the house, Captain?

A No conversation was had as they were running out of the house because they laid down first.

Q Right now, Captain, at the time they laid down, your men stood with their guns, these three defendants were all instructed, were under arrest, were they not?

A No, sir, they were detained.

Q They were detained. Well, you wouldn't say they were free to go, were they?

A No, sir.

Q If they had you would have shot them in all probability?

A No, sir.

Q In any event, you would have prevented them from leaving?

A I will agree but they wouldn't have been shot.

Q Would they, = they were in custody, were they not?

A That's a good word for it, sir.

Q Fine. They were in your custody not under Detroit Police custody?

A Yes, sir.

Q It was after they were in custody, at that point you had a conversation with the defendants, you have testified to that, isn't that true?

THE COURT: Mr. Otis, will you please defer a few minutes.

MR. OTIS: Yes, your Honor.

( Whereupon a short recess was had.)

Q (By Mr. Otis, continuing): This operation, Captain, that you were engaged in was a joint effort with the Detroit Police Department, National Guard and United States Army?

A That's correct.

Q You were in connection, = working in connection with the Detroit Police Department?

A That's correct.

Q At the time you had custody of these gentlemen, = withdraw the question. I = I assume at the time you started talking with these defendants, as you have testified, you advised persons you spoke with that he did not have to make any statements = withdraw the question. Isn't it true, Captain, at the time you talked with this witness, or with the defendants, you spoke with them, you did not advise him that he had, did not have to make any statements and that through =

MR. LAMB: Well, I think that that question is premature. There is no showing here whether it is an

investigative stage or after an arrest.

MR. OTIS: Well, your Honor, the record shows clearly the point that there is nothing here to argue about, they were in custody. It clearly shows all the facts and I don't see that = these men were in custody. They were not free to go and I am prepare to argue Miranda and get the language, it is awfully clear.

MR. LAMB: In this particular matter, if your Honor please, the premises were ordered out. Three people came out and the Captain talked to them and at that time, we don't know the testimony hasn't shown whether it was an investigative stage or whether it was under arrest.

MR. OTIS: I = the facts are so. The investigation had stopped after the firecracker was set up and the countdown had been made, these men were held physically in custody. There was no question that they were not free to go. In any event, we are entitled to the answer.

THE COURT: Counsel, Miranda talked about the person making the so-called arrest. Now, I don't know whether it goes into the subject of soldiers, Army or National Guard. I think it went into uniformed policemen seeing that they are deputized by the police.

MR. OTIS: It states from Miranda, 384, page 436 from the majority opinion that by custodial interrogation we mean questioning by law enforcement officers

after a prisoner has been taken into custody or otherwise deprived of his freedom in any way. When he is deprived of his freedom of action in any way =

MR. LAMB: This Captain has testified, your Honor, that custody or the arrest was made by the lieutenant of the Detroit Police Department, I believe that was his statement.

MR. OTIS: His is acting in connection with the police. He turned them over to the police. There is no question they can't go, there is no question he has them in custody. He says so himself. What else can we have? At the moment their arrest = their freedom to go is deprived. Miranda addresses itself to questioning initiated by law enforcement officers. It doesn't say after an arrest, after a person has been taken into custody or otherwise deprived of his freedom of action in any significant way, they are not talking about an arrest. In this situation the Court's judgment was if they talked to the defendant or a person and let them go, there is no interrogation. There is no alleged admission which is subject, which is the subject of being excluded.

MR. LAMB: We are not even clear that they weren't ordered from there for their own protection in the gun fire.

THE COURT: Well, =

MR. OTIS: When it is perfectly evident

that the police were clearly investigating to determine whether a crime had been committed or who had committed it, it is now clear that wasn't = The officer testified a crime had been committed. He claims he saw, he heard these three defendants come out of the house. He had reason to believe there was no wrong in investigating. This Court knows that the basic inquiry is where the police nearly are seeking information from persons detained in order that they might have suspicion for questioning and to determine whether a crime was committed. Well, anyone, that was there expected to determine =

THE COURT: I don't think this particular situation was foreseen in the Miranda case, of course, it applied to most cases where the police are involved in taking testimony. This is a peculiar situation alright, it was peculiar and I don't think that Miranda foresaw this thing at all. The officer, perhaps, at the time in the interest of saving him men from being shot at, if they were shot at at all and found if there were people in the building other than the three who came out =

MR. OTIS: He hasn't testified to that.

THE COURT: We are under battle conditions.

MR. OTIS: One thing has to be made clear. If this Court says Miranda is not applicable because of the fact of the case, if that is the Court's ruling I would like to argue the point.

THE COURT: Miranda hasn't foreseen a situation like this.

MR. OTIS: It is this = it is a simple proposition. What is behind Miranda is two things, first, that any in custody interrogation is really deemed coercive in nature, and here is the point that the evidence to convict shall not unwillingly be obtained from the mouth of the accused. Now, I just don't see any way out of that legal box.

MR. LAMB: I don't = I don't consider that we are in a legal box. Three men came out. The question I don't understand is that three men came out and when they came out, where was the line drawn between the investigative stage and the custody stage. The Captain and the National Guard testified that he did not have the authority to make the arrest. He was asked the question by Counsel as to what they said or something to that effect, but there is no showing that a Detroit Police officer with the power of an arrest was even present at the time.

Now, there is a showing that they were ordered on the ground. There is also a showing that they were ordered, that the order might have been given for the purpose of protecting them from gun fire. There is no showing that there was any knowledge on the part of anyone that there were not more people in that house and these were not prisoners of others in the house and that there may have been future danger from that house. It was an investigative stage with Captain Storer at that time.

He knew, had no way of knowing who, what was in the house. If the house had been vacated by the exiting of these three defendants.

MR. LAMB: It had to be investigative stage and there is no question about it being proper.

MR. OTIS: It is interesting for the Captain, that he didn't even remember what point he spoke with them but clearly remembers it was after the point they were in custody and not free to go. That in my view is no longer being investigative, that is precisely in custody.

THE COURT: Well, again, this position is under battle conditions. There are three men on the ground. You are not going to advise them of their constitutional rights. This would be a far-fetched thing to expect anybody to do. This might be an interesting thing for the Supreme Court to iron out.

MR. OTIS: I would be glad to test it, your Honor. It would be very interesting to find out whether or not Miranda goes that far into it. It is a very clear interpretation of Miranda under ordinary police custody. The man is under arrest. He is, should be advised of his constitutional rights. If there is any battle, the Court described Mr. Lamb's as battle conditions. The battles were prompted by law enforcement agents. I am not going to go into that two hundred and fifty against two isolated shots.

THE COURT: The conditions by way of gunshots, = it would be foolharded not to consider it a subject of a target.

MR. OTIS: I don't argue with that. It does not justify suspension of the Constitution, it just doesn't.

THE COURT: I say Miranda was intended for = what Miranda was intended for was not foreseen in this particular situation at the time that Miranda was adjudicated. Let's go on.

CROSS EXAMINATION (CONTINUED)

BY MR. OTIS:

Q At last, is it correct, Captain, at the time you talked to and questioned the defendant, when you spoke with him you did not tell him that he did not have to make a statement if he chose not to do so; or did you tell him that with a gun on his back.

A No, we did not tell him that.

Q You did not tell the defendant with whom you spoke that any statements they made might be used against them?

A I did not.

Q You did not tell the defendant with whom you spoke that if he made any statement he might not have to make a statement without the advice of Counsel?

A That's correct.

Q Nor did you tell him if he did not, could not afford Counsel, Counsel would be furnished before he would have to make a state-

ment?

A We did not go into it right then.

Q I am sure you didn't. I appreciate your frankness.

A I didn't even consider them under arrest until we turned them over to the police.

Q You didn't consider them free to go, did you?

A No.

Q You were holding them for the police?

A That's correct, sir.

Q As soon as the police were to arrive, you turned them over?

A This man was on the other side of the building. We turned them over to him.

Q That was your intention as you were holding them?

A That's correct.

Q That was one of your assignments?

A That's right.

Q You were acting under those orders, Captain. Did you see any bullets in a cedar closet or shots, or bullet holes?

A I told you I didn't notice a cedar closet.

Q You turned the defendants over to whom, Captain?

A Lieutenant Robert Heidtman. Lieutenant Robert Heidtman of the Detroit Police Department.

Q After you turned them over to Heidtman, you had no further contact with this until today in Court?

A That's correct, sir.

Q May I see the file in this matter, your Honor? At the scene of the occurrence, did you tell Captain, Lieutenant Heidtman what had transpired up to that point?

A He was there.

Q I asked you whether you told him what transpired?

A He heard it.

Q What you don't have are his ears, do you, Captain?

A No. But, I figured he has good ears and he was about 20 feet away.

Q You figured his hearing is = he should have heard everything you heard, is that your testimony?

A That's correct.

Q You didn't hear that he heard one or two shots, did you, at that time?

A I didn't tell him.

Q Nor did you tell him you had seen one shot?

A No.

Q Nor, at that time, what you claimed one of the defendants had said, =

A At which time?

Q How many times did you talk to the defendants?

MR. LAMB: Just a minute. I am going to object to that question. The principle is based on the conversation with the lieutenant and then subsequently based on a conversation with the defendants, how many times did you talk to the defendants? I think that should be clarified. The Captain gave

a clear answer.

THE COURT: Mr. Otis?

MR. OTIS: I am trying to ask, your Honor, simply what you told Lieutenant Heidtman at the scene, what statement allegedly you claim was made by one of the defendants?

A I don't recall.

Q What, Captain, = was Lieutenant Heidtman there when this statement was made that you have testified to?

MR. LAMB: What statement are you referring to? The witness doesn't seem to have any trouble answering any questions. He is hesitant about what statement Counsel is referring to.

THE COURT: Has there been any statement as to the statement made by the respondent at any time? I don't recall any.

MR. OTIS: I withdraw the question then.

THE COURT: Counsel, I don't recall any statement, was there any statement to your knowledge?

MR. LAMB: I have a recollection of this witness, saying one of the defendants said something. I can't recall.

MR. OTIS: I withdraw the question.

Q (By Mr. Otis, continuing): Captain Storer, I show you a slip of

paper which I just removed from the Court file with some handwriting. I ask you whether that is in your handwriting?

THE COURT: Let the record show that the witness has nodded his head in the negative.

A No. It = this is not my handwriting.

Q May I have it, Captain?

MR. LAMB: Well, I think he should have an opportunity to examine the whole statement. You have asked him if it is in his handwriting.

A That is not my handwriting, sir.

MR. OTIS: Let the record show, Mr. Lamb, that I am replacing this slip of paper in the file.

Q (By Mr. Otis, continuing): I show you what purports to be a complaint charge, assault with intent to kill and murder in this cause. I ask you whether your signature appears thereon?

A I didn't find it.

Q Where = you did not find it?

A No.

MR. OTIS: Your Honor, I am looking at this file. I don't know = I want to raise it with the Court. I examined this file about a week ago, at which time the complainant in this file signed and I quote as follows, "by detective Theodore Wolnie for Lieutenant Heidtman". I looked at this file today. I see a signature of Theodore Wolnie for detective Heidtman or Lieutenant Heidtman. I wonder if Mr. Lamb

has knowledge of any complainant being changed in this file from July 26, 1967?

MR. LAMB: No, really now.

THE COURT: Is the original signature = is this the original signature of Judge Gillis as appears on the signature there.

MR. OTIS: I wouldn't know, it reads purporting to be Judge Gillis's signature. It is an original, it is not a copy. I see where it does say in typing upon the complaint of detective Wolnie for Lieutenant Robert Heidtman MTB. Wolnie is the complainant and not Mr. Heidtman.

A Yes, sir.

Q (By Mr. Otis, continuing): You know Theodore Wolnie?

A No, sir.

Q You have any idea why he was there at the scene?

A Well, sir, I would be assuming, I don't know everybody that was there.

Q You don't know whether or not he was there or not? Is that your answer?

A I can't say he was there.

THE COURT: Are you through cross examining this witness?

MR. OTIS: Yes, your Honor. There is one point regarding the complaint and warrant. Well, the complaint in this case = the complainant is supposed to be Lieutenant Heidtman.

Heidtman never signed the complaint. The complaint was signed by Theodore Wolnie. How can someone else sign for someone else under oath. Wolnie is the complainant.

MR. LAMB: Well, Wolnie was the one = is the officer in charge who requested the warrant. The complaint is signed by police officer, by Wolnie, that the defendant fired upon Lieutenant Robert Heidtman, he is making the allegations. I see nothing irregular.

MR. OTIS: I have no further questions of this witness.

MR. LAMB: Nothing further of this witness.

(Whereupon the witness was excused.)

MR. LAMB: If your Honor please, I will move the Court to bind over the defendants for trial on the charge of assault with intent to kill.

MR. OTIS: Unbelievable. The only witness that you are going to have, I feel, is not enough. We have conveyed four military vehicles with all these men and as many as 20 on one. They are coming in uniform and we find that the shots are fired from the house. One flash of fire is seen. They have to surround the house to drive them out. The firing of the shot is =

MR. OTIS: Are you through, Mr. Lamb? You note two things. First of all, the elements of the offense is the assault with the intent to kill or commit murder, meaning putting

in fear of life, of the life of another, putting in fear of a life of another with premeditation and deliberation and with the intention of taking the life of another. This witness has not testified, and I suggest they haven't got such testimony and that that's why they are not offering any others. The prosecutor is trying to bind over these defendants without any evidence whatsoever in support of the charges against them. There is still some anger and hate over the occurrences that happened during this horrible week. The Court after listening to the testimony is duty bound to dismiss the complaint and warrant. What the testimony is that they heard an officer, or guard receive a report that someone was supposed to take action, suspected sniping going on at a place that night. They went to the scene on a patrol. At best, this man heard a shot and then he saw what direction it was going. Who it was fired at, or where, we don't know that. The bullet could have been in the air, with no intent whatsoever to shoot or kill. And the prosecutions case at this point, there isn't enough to show anything. The mere fact that the three defendants were present has never been enough to bind over a defendant. There must be positive proof that each of the defendants did something. That either he fired the gun or bated or abetted or something. He must have done something more than just being present. All they have here is that these three defendants were present in a house from which a shot was fired. No assault, no intent to commit murder whatsoever. Which one of these three defendants fired the shot,

there is no proof on that score.

Now, your Honor, I am sorry Mr. Lamb, you haven't got the proofs here.

MR. LAMB: I am sorry, Mr. Otis, but as much as you have had to say, this afternoon, there are some important issues in this case as far as the testimony goes. The officer was assigned to go to this area to this particular home on this particular command. He went to the house with a unit of the Army, with as many as 20 men to a unit, four of them. He ordered the people out of the house and fired a firecracker. One shot was fired, he heard it. The shades were drawn. The report they received was that the people in the house had thrown the occupants out and there was going to be some sniping after dark.

MR. OTIS: So the shot was fired, they= they were't directed at anyone. There is no assault with intent to commit murder.

THE COURT: Is there any included offense?

MR. LAMB: We have two witnesses right here in the Courtroom. We can go on. May I have a minute, your Honor?

(Whereupon a short recess was had.)

MR. LAMB: Captain Storer tells me in his testimony he testified the shots were fired at us.

MR. OTIS: I am going to object and ask

that the record be printed. I say that is not true.

THE COURT: Do you have any other witnesses?

MR. LAMB: Yes, we have two more officers, Lieutenant Heidtman and one other Detroit Police officer. I would like to recall Captain Storer.

MR. OTIS: I am going to object. He has testified fully. He is present = he was present between Counsel and the Court. The Court knows what the elements of the defense are.

THE COURT: I will deny your motion to bring him back to the stand. He has testified to everything that is necessary. What about your two other witnesses?

MR. LAMB: We have two police officers that we can produce.

THE COURT: What do you want me to do?

MR. LAMB: I will move the Court for an adjournment and give us an opportunity.

MR. OTIS: There is no testimony about these people.

THE COURT: Well, I feel there was ample time for the prosecution, despite the fact of the hectic situation that we have had. Because of this situation, there was an examination set for Friday, and it was adjourned until today, and I can presume from that that the prosecution has had plenty

of time to bring in the necessary witnesses to make out a case; and I don't think they have done it to this point, despite the good testimony of the Captain. The alledged element of the crime are not shown by his testimony and I think I am going to go along with Mr. Otis' motion.

I am going to dismiss without prejudice at this time. If you wish to get a new warrant or whatever you feel is necessary, I am going to dismiss without prejudice. Again, in the interest of justice and fairness to these defendants, they are entitled to this. And, if you see fit to issue another warrant, that is up to you but this case is dismissed without prejudice.

(Whereupon the examination was concluded.)

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C E R T I F I C A T E

I HEREBY CERTIFY that I reported stenographically the proceedings had at the time and place hereinbefore set forth; and that the foregoing 66 (sixty-six) typewritten pages from these proceedings were later reduced to typewritten form by me and is a true, full and correct transcript of my stenographic notes so taken.

  
Marilyn A. Morawa  
Marilyn A. Morawa  
Official Court Reporter

Date: January 13, 1967