

Attica Inquiry Finds Prison Guards Ignored Battle Plan to Join Assault

By MICHAEL T. KAUFMAN

The McKay Commission, investigating the uprising at Attica prison last September disclosed yesterday that correctional officers took part in the assault to retake the prison's D yard, violating a battle plan drawn up by the state police.

In questioning John W. Monahan, the now retired state police major who prepared the plan for ending the inmate's siege of the yard, Arthur Liman, general counsel to the state investigatory panel, said:

"We now know that correctional officers did participate in firing. We heard that and we also heard that there was some lethal firing [by these officers]."

Guard's Death Cited

Mr. Monahan agreed that this now was his understanding as well. The former police official said that in preparing the deployment of troops he had specifically ordered that no correctional staff be used in the assault because he felt the previously announced death of one guard "had left an adverse effect on them."

Nonetheless, Mr. Monahan said, while he led one of two assault teams out on catwalks into the yard the morning of Sept. 13, he heard bursts of fire coming from a cellblock to his right. Mr. Monahan said he was unable to "attribute" the firing.

Later in the hearing, an Attica guard, Carl Jamalkowski, said he had seen three troopers and perhaps a dozen guards, whom he could not recognize,

in the general area of the cellblock where the firing originated.

Mr. Monahan said he ordered a cease-fire on his radio when he heard the shots he could not explain. Ten hostages and 29 inmates were killed in the assault. Three other inmates and one guard were killed before the assault retook the yard.

The 62-year-old former major also shed light in his testimony on what has been one of the key unanswered questions arising from the Attica rebellion. He was asked who ordered the use of "0-0 buckshot" by the troopers making the assault.

This type of ammunition is a shotgun shell containing from nine to 12 pellets, each the size of a .38-caliber slug. It is regarded as extremely lethal and its spray effect is difficult to control when targets are a good distance away. After the assault, there was some criticism that perhaps smaller pellets should have been used.

No Discussion on Shells

Mr. Monahan said he knew of no discussions at all on what kind of ammunition was to be used. He said the 0-0 shells were normally issued to troopers. "We used what was available," Mr. Liman observed that the National Guard forbade the use of 0-0 shells by its men.

The witness was then asked if it was part of state police regulations for troopers not to fire warning shots and to "shoot to kill instead of maim." Mr. Monahan said these were division regulations, but that he did not know where they originated.

He said that in the morn-

ing, just before the assault, he briefed his men advising them to avoid "indiscriminate shooting" and "hand-to-hand combat." He said he told the troopers, "Don't shoot fish in a barrel."

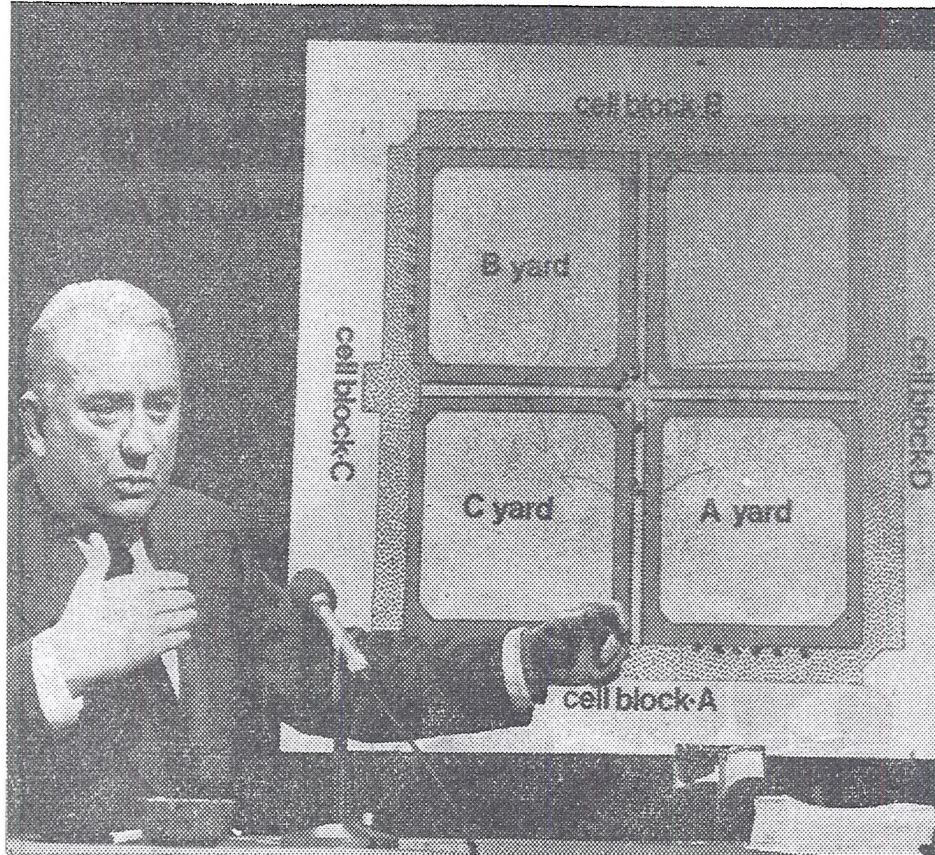
Mr. Monahan said there was no procedure to determine which trooper was issued which gun, nor was there any way set up to account for ammunition used. Mr. Liman said that through interviews by the McKay Commission staff, it had been established that "more than 300 rounds" had been fired by the assault force of 289 troopers.

No Discussion on Clubs

The witness further said that there was no discussion he knew of about having the troopers enter the yard armed only with clubs. He said intelligence had ascertained that inmates had fashioned swords and spears and that he could not endanger his men.

Two other members of the assault force, Capt. Anthony Malovich and Sgt. Joseph Christian, testified that as they entered the yard on separate rescue routes they had seen inmates rise in attack with baseball bats, spears and homemade axes. Sergeant Christian was struck by one of the shotgun slugs fired at an assailant, who, he said, also was wounded.

The McKay Commission, headed by Dean Robert McKay of New York University's Law School, has been charged with determining the truth of events surrounding the rebellion at the upstate prison. Its televised hearings, being held at the studios of Channel 13 at 433 West 52d Street, will continue for the rest of this week.



The New York Times.

EXPLAINS ASSAULT AT ATTICA: John W. Monahan, retired state police major who prepared plan to end siege, testifies at McKay Commission hearing with prison diagram.