

A State and Its Prison: The Attica Riot of 1971 and Untold Stories Since

Ethan Sachs

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Introduction

“The village of Attica takes as much pride in [its prison] as Niagara Falls does in its cataract, and Gettysburg its battlefield.”¹ – The New York Times. August 2, 1931

Eighty years after its erection, the Attica Correctional Facility looms over the quiet New York town from which it takes its name. Separated from the outside world by a daunting concrete wall, the 22-building complex dominates the surrounding town; the approximately 2200 prisoners housed in Attica represent 34% of the town’s population and many of the facility’s 400 guards come from either Attica or surrounding areas.² As much as the prison — and its troubled history — shapes life in the town, it more powerfully defines Attica’s image in the outside world.

In August 1931, the New York Times’ Wilbur Lewis reported on the excitement and pride of Atticans over the prison’s opening as well as the temporary “fear” in the Attica community caused by recent nearby prison riots. He wrote that these riots “gave the village a hint of what may be expected in any prison town.”³ While Wilbur’s description foreshadowed Attica’s future, he could not have predicted the magnitude of the riot that was to come. Attica’s prison population would indeed break out in riot 40 years later, spreading fear throughout the town and beyond. The riot, lasting from September 9 to September 13, 1971, was of an unprecedented scale. By the time the state police of New York quelled the rebellion and retook the prison from the inmates, 43

¹ Lewis, Wilbur G. "Attica Prison To Be Convicts' Paradise." *The New York Times* 2 Aug. 1931.

² "American FactFinder." www.factfinder.census.gov

³ Lewis, Wilbur G. "Attica Prison To Be Convicts' Paradise." *The New York Times* 2 Aug. 1931.

people – 33 prisoners and 10 correction officers and prison employees- had been killed, all but four at the hands of the New York state police.⁴

Much has been written and said about the Attica riot and the word “Attica” still carries emotional weight and cultural significance 40 years later. The riot, and its associated injustices, has served as a rallying cry among a wide range of politically motivated groups; it is significant both to activists whose motivations lie in supporting inmates, and to those who tend to support the prison and state. Yet, the stories of one group directly affected by the Attica riot -- prison guards and other employees taken hostage and their families – has remained largely unheard.

Thesis Objective

This thesis shares the stories of these “unheard” victims and attempts to understand why certain aspects of Attica’s riot have been conspicuously overlooked. Abused inmates and the employees taken hostage in Attica’s riot, although usually seen in opposition to each other, have both fought to have their stories and grievances heard by the State of New York for 40 years. The inmates’ calls for justice have been supported by organizations dedicated to prisoners’ civil liberties. The hostages’ calls, however, have received less support from activists. Their cries for justice have failed to reach America’s public. Therefore, in my thesis, I focus primarily on the stories of the hostages and their families.

In the work that follows, I raise certain questions to help understand these victims’ stories more completely. The most fundamental question directing my research involves

⁴ Washington, Jerome. *A Bright Spot in the Yard*. New York: Crossing, 1981.

understanding *why these victims' stories remain unheard*. Through my analysis of the victims' stories, I examine the role the State of New York had in "covering up" details surrounding their mistreatment of the hostages. While others have written about the state's mistakes in retaking the prison, and subsequently about its alleged "cover up" of those mistakes, few have tried to understand and analyze *why* the state hid details of its misconduct, and more specifically *how* this misconduct affected the hostages and their families. An obvious answer to this question exists - the State of New York hid details regarding the prison's retaking in an attempt to keep its image clean and "protect its guys" (particularly the state police). At the same time, the state's cover-up of the Attica retaking served the political interest for the conservative "law and order" movement of the era. In particular, I show how the state's top elected official, Governor Nelson Rockefeller, was motivated by aspirations for higher office. Rockefeller viewed the state's handling of Attica as a shining example of a "law and order" approach to disobedience and resistance. For many of Attica's prisoners, the 1971 riot was part of a larger, international, revolutionary movement. For others, the riot was motivated by more immediate concerns over mistreatment and physical conditions in the prison. Yet, for those at the top of New York's state government, most specifically Department of Corrections Commissioner Russell Oswald and Governor Nelson Rockefeller, the riot seemed only to represent the start of a threatening, widespread revolution. This thesis shows how this "anti-revolutionary" view shaped the state officials' decision to retake the prison, and subsequently to cover up the mistakes made during the retaking.

A further analysis of the state's views and motivations ultimately leads to my thesis' most unique conclusion - that behind the state's cover-up lay Nelson Rockefeller's

national political aspirations of the greatest scale, an attempt to reach national office, both as Vice President and President. Much scholarly work has been written about Nelson Rockefeller, his family's great fortune, and his political career. A majority of these works tend to focus on Rockefeller's popularity and widespread appeal as a moderate Republican. My argument, however, based largely on my analysis of previously unknown White House recordings from 1971 between then-president Richard Nixon and Governor Rockefeller, will focus on Rockefeller's attempt to position himself as a more conservative "law and order" Republican. I show how this conservative outlook impacted Rockefeller's view of the Attica riot and prison unrest in general. Most significantly for the hostages and their families, Rockefeller's politically motivated decision-making set the tone for the state's response to the hostages' cries for justice over the next three decades. Not until 2005 would the State of New York award financial settlements to the hostages and their families.

Existing Scholarship

Most of my thesis' arguments come from a personal analysis of primary source material. My work includes analyses of transcripts of various trials and public hearings, private correspondence between the "unheard" victims and the State of New York, personal recollections of the riot, White House recordings of President Richard Nixon and Nelson Rockefeller, and other important primary material.

In addition, I rely on Malcolm Bell's 1985 *The Turkey Shoot: Tracking the Attica Cover Up*, for information on the state's cover-up of the Attica prison retaking. Bell, who worked as a prosecutor in the State of New York's investigation of Attica's riot, served as a "whistleblower" to the state's cover-up. Informative and groundbreaking, the majority

of Bell's book provides details of the cover-up, rather than explaining *why* the state acted as it did. While Bell considers the possibility that Rockefeller's decision to retake the prison was politically motivated, my thesis remains unique because it is based on analysis of more than 30 years of interaction between the hostages, their families and the State of New York.

Chapter Outline

This thesis is divided into three chapters.

In chapter 1, I retell the story of the prison's riot. Every published work on Attica includes its own description of the riot. With consideration to biases, I have carefully selected a few of these re-countings to use in forming my story of the riot. I am aware that all who retell Attica's story, especially those who were there and played a role, include the details they wish to share, and only produce an image they feel comfortable with. I have strived to minimize the bias issue by borrowing from a broad range of sources. I thus draw on first hand observations from prison officials and guards, state officials, inmates, and various other observers.

As this thesis focuses on the stories of unheard victims, my narration makes sure to pay close attention to their experiences. In particular, I give careful consideration to the torture endured by the hostage guards during the riot.

Chapter 2 attempts to understand why the State of New York acted as it did in retaking Attica's prison and covering up aspects of that event in the year that followed. In answering these questions, I provide an analysis and history of Governor Nelson Rockefeller to show how his decisions regarding Attica relate to his broader national political aspirations and his ties with "law and order" conservatism. While my story on

Rockefeller utilizes secondary sources, the most powerful evidence comes from my personal analysis of recently released tape recordings of 1971 conversations between then-President Richard Nixon and Governor Rockefeller. The tapes, and the manner of these leaders' conversations, help emphasize how important the image of law and order was to leading Republicans of this time.

Chapter 3 examines how the State of New York and Governor Nelson Rockefeller's decisions in the Attica retaking and cover-up particularly affected Attica's hostages. Thus, most of this chapter focuses on the post-riot stories of Attica's hostages and their families and specifically focuses on their relationships with the government of the State of New York. In addition to examining the cover-up, the third chapter chronologically describes the efforts of Attica's hostages and their families to obtain justice.

The chapter begins by focusing on the hostages' initial actions in seeking justice from the state – their lawsuits in the 1970's and early 80's to obtain the monetary compensation they felt they deserved. Next, largely because of the unsuccessful outcomes of those lawsuits, the chapter focuses on a “gap” in action, or period of silence on part of the hostage families' efforts to obtain justice. Ultimately, in concluding the hostages' stories, I provide a detailed history of the Forgotten Victims of Attica (“FVOA”), a group of ex-hostages and their families formed in 2001, and chronicle their engagements and correspondence with the State of New York. I rely largely on transcripts of public hearings of the FVOA before a special State Task Force from 2002 in Rochester, New York, and eventually describe the settlement (and process surrounding the settlement) reached between the FVOA and the State of New York in 2002.

In addition to describing the hostages' mistreatment, this chapter analyzes and explains the hostages' post-riot actions from a political perspective. In fact, I propose that the extended period of hostage in-activity or "silence" speaks not only to the "effectiveness" of the state's cover-up, but also to the political, racial and economic make-up of the up-state, rural, and largely conservative culture of Attica's and the surrounding area's society in which most of the hostages lived. Understanding the political tendencies of these hostage families not only works to provide a fuller personal description, but also helps understand the context in which their post-riot decisions were made.

By the conclusion of my thesis, I hope to have made two major contributions. Firstly, through my thorough analysis of Governor Nelson Rockefeller and the state government, I hope to have explained why the State of New York acted as it did regarding the prison's retaking and its subsequent cover-up. Secondly, I hope to take this analysis, in combination with the detailed personal histories of the "unheard" victims and their battles against the state, to show how the State of New York's decisions particularly affected the hostages and their families and continued to treat them as victims for over four decades.

Chapter 1: The Riot

Key People

- **Robert Curtiss:** One of two on-duty Lieutenants at Attica on September 8, 1971. Attacked by inmates from 5-company on September 9, 1971, opening the violence of the inmate uprising.
- **Leroy Dewer:** Inmate who fought with Lieutenant Richard Maroney on September 8th, 1971. Resisted officers' attempts to bring him to segregation (HBZ) on September 9th, causing other inmates to believe he was being abused.
- **Walter Dunbar:** Deputy Commissioner of the State Department of Corrections. Mised reporters on prison tour after the riot, claiming to have witnessed Frank "Big Black" Smith castrating hostage Mike Smith.
- **Arthur Eve:** New York State Assemblyman from Buffalo. One of the leading "observers," who played a major role in negotiations between the state and the prisoners.
- **Louis James:** District Attorney of Wyoming County (under which Attica Prison fell). Denied requests for amnesty in September 11th letter to inmates.
- **Richard Maroney:** One of two on-duty Lieutenants at Attica on September 8, 1971 whose physical altercation with inmate Leroy Dewer eventually sparked inmate uprising.
- **William Ortiz:** 5-company inmate who threw can, cutting officer on September 8th. Was locked in his cell on the morning of September 9th as punishment until being released by fellow 5-company inmate, eventually leading to initial altercation of riot.
- **Russell Oswald:** Commissioner of the State Department of Corrections. Played a major role in negotiations between the state and the prisoners.
- **William Quinn:** Attica Prison guard attacked by rioting inmates in Times Square on September 9, 1971. Died from attack-wounds on September 11, 1971.
- **Nelson Rockefeller:** Governor of New York (1959-1973) during riot. Refused to provide amnesty to inmates and ordered eventual retaking of the prison.
- **Herman Schwartz:** Law Professor from SUNY-Buffalo. Prison rights activist and friend to many of Attica's inmates. One of the leading "observers," who played a major role in negotiations between the state and the prisoners.
- **Frank "Big Black" Smith:** One of the most influential inmate leaders. Falsely accused of castrating hostage Mike Smith. Suffered extreme abuse at the hands of the state police during the prison's retaking.
- **Tom Wicker:** Reporter for the *New York Times*. One of the leading "observers," who played a major role in negotiations between the state and the prisoners. Wrote famous book *A Time to Die* in 1975, detailing his experience at Attica.

Dee Quinn Miller still has the prison keys her father William brought to work on September 9, 1971. She has not had her father, however, for over 40 years.

Until September 9, 1971, William Quinn lived the life of a typical Attica prison guard. Born in Attica, Quinn attended high school two miles down the road from the prison. He joined his father, Albert Quinn, on Attica's staff in May of 1970 and was a member of the local St. Vincent de Paul Church along with his wife Nancy Willard and their two young daughters, Deanne Margaret and Christine Rose.¹ He left for work around 7 AM on the morning of September 9, 1971, strong, healthy, and held in high regard by most of Attica's inmates; by 11 AM, he lay bloodied and beaten at the hands of the rebelling inmates- two days later, he would be dead.

Racial tensions had been brewing in Attica's prison for years. Attica's inmate population was primarily white from the prison's opening in 1931 until the late 1960's; as late as 1969, Attica's inmate population was nearly 80% rural whites. By 1971, however, only 36.6% of Attica's inmate population was white and 43% of all inmates now came from urban New York City.² Attica's staff, however, remained almost completely white and rural. In 1971, 397 of Attica's 398 workers were white. Only 13% of the staff came from urban areas and only 1% from New York City.³ Of the 42 hostages taken in the 1971 riot, 27 came from the town of Attica.⁴ In 1972, the McKay Commission, an official

¹ Oswald, Russell. *Attica – My Story*. Garden City, New York: Doubleday, 1972. 56.

² New York State Special Commission on Attica (McKay Commission). *Public Hearings at Rochester, New York*. April 12, 1972. Albany: SUNY-Albany University Library Government Publications. 32. Note that from this point on, I will refer to this source as the McKay Commission.

³ McKay, 30.

⁴ Oswald, 6.

commission consisting of nearly 100 academics and reformists selected by the State of New York to investigate Attica's riot, found "evidence of racial prejudice still in existence among the predominantly white guard force."⁵ As Attica's Prison became filled with a growing number of African-American, urban and younger inmates, some of the all-white prison staff felt a growing divide, or tension, between the two groups. In 2002, Thomas Fargo, son of hostage officer Richard Fargo, recalled his father's views that these new inmates, "shaped by their poor, underprivileged, inner city environment," held a different "value system" and a "third world mentality," and weren't, like his fellow prison guards, able to see "clearly defined lines between right and wrong." It seems likely, that Attica's prison officers would have been less likely to treat black inmates in the same manner that they treated white inmates. Although specific moments described in the upcoming pages served as catalysts for the violent uprising, racial and class tensions between the inmate and guard populations (in addition to dismal prison conditions) underlay what transpired at Attica in September of 1971.

Yet, although the riot was caused by differences and tensions between the mostly minority inmates and nearly all white prison staff of Attica, the conclusion of the riot would eventually position the state government of New York as a common opposition for each of these groups. This thesis will primarily focus on the uneasy relationships between the state government and Attica's prison staff (and inmates). This first chapter, however, will primarily serve as a fact-based retelling of the 1971 riot, creating a foundation from which to later explore the untold stories of Attica's inmates and guards, and their relationships with the State of New York.

⁵ McKay, 82.

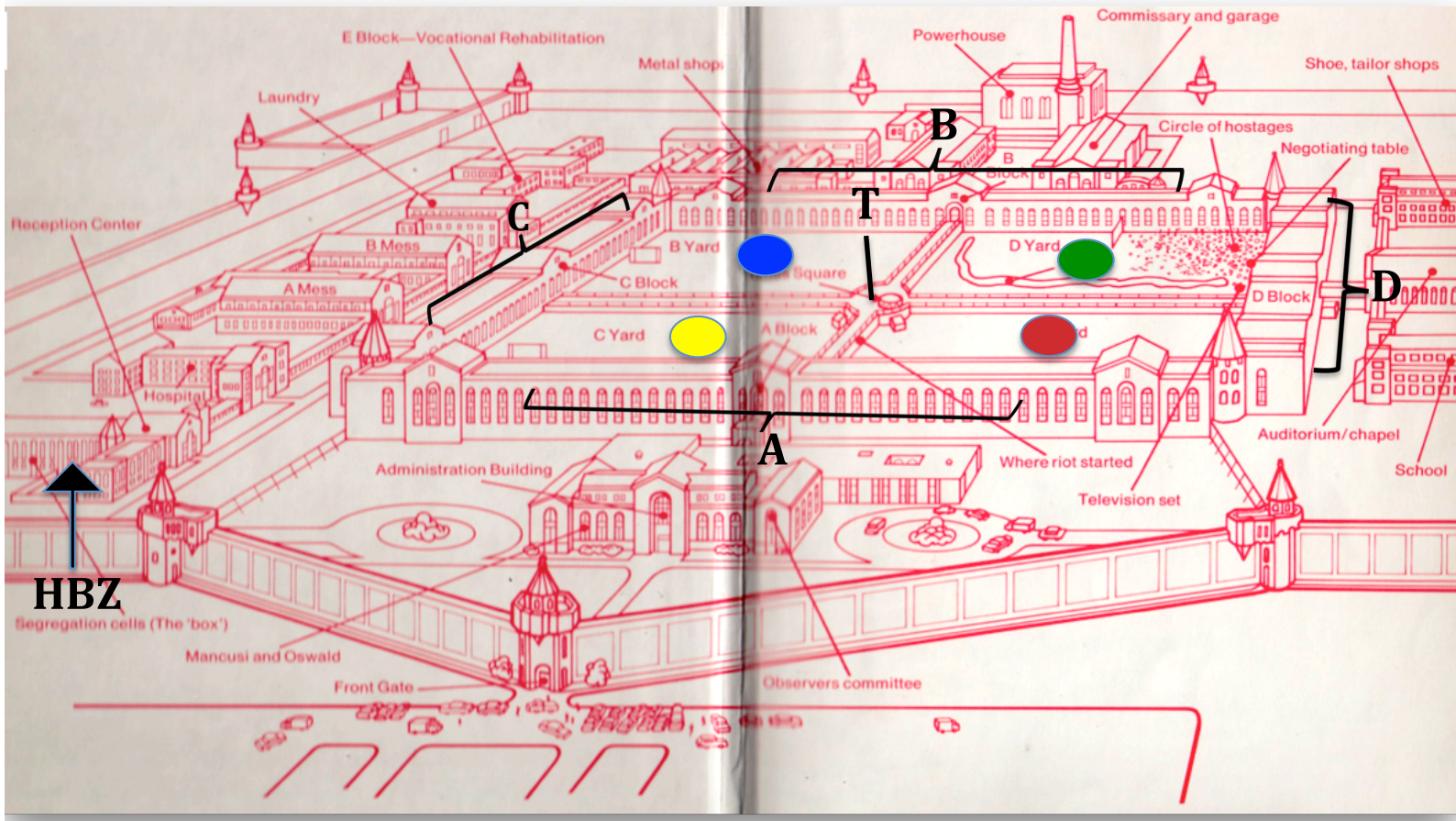


Figure 1

- **A: A-Block**
 - **B: B-Block**
 - **C: C-Block**
 - **D: D-Block**
 - **T: Times Square**
 - **Z: Housing Block Z (Segregation, HBZ)**
- **A-Yard**
 - **B-Yard**
 - **C-Yard**
 - **D-Yard**

In order to comprehend the events of Attica's riot, one must be familiar with the physical layout of the prison. **(Figure 1)** The Attica Correctional Facility was built in 1931, as a state-of-the-art \$7 million project.⁶ A 30-foot high concrete wall (extending 12 feet underground) encloses the 22-building, 1000-acre maximum-security facility.⁷

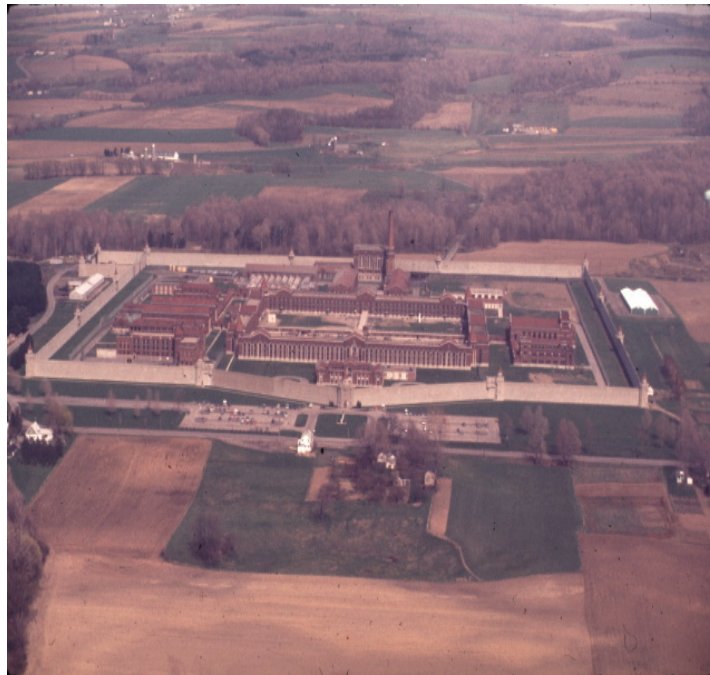


Figure 2

The prison, which lies about a mile down the road from the town's modest center, is surrounded by beautiful, hilly farmland. **(Figure 2)** Houses, in stark contrast to the teeming prison, sparsely dot the surrounding area, providing each of their owners with a seemingly endless plot of land. Attica's prison, however, is far from beautiful.

A few stained glass windows fail to pacify the menacing row of machine-gun turrets perched atop Attica's walls. The building's earthy yellow-brick façade and gloomy-gray cement walls hint at Attica's daily monotony. Most Attica inmates live in

⁶ Lewis, Wilbur G. "Attica Prison To Be Convicts' Paradise." *The New York Times* Aug. 2, 1931.

⁷ Ibid.

the prison's four central cell blocks (A, B, C, and D), each of which stands three stories high and houses around 500 inmates. **(Figure 1)** Each inmate floor is separated into four sections, commonly referred to as "companies."⁸ The blocks do not connect to each other at the corners, but instead connect to a central area called "Times Square" via dimly lit and covered aboveground passageways (called tunnels). These four blocks surround the prisons' central recreation area. **(Figure 1)** "Times Square" sits in the middle of the prison's central recreational space, and the tunnels that run from the middle of each block to "Times Square" split up this recreational space into four separate yards (A, B, C, and D). **(Figure 1)** The roof of each enclosed-passageway serves as a catwalk for patrolling guards.

Scattered outside the prison's center (which consists of the four main blocks and Times Square) lie 18 other prison buildings. Most of these buildings, other than Housing Block Z (HBZ) (used for disciplinary and segregation cells) and E Block (an experimental rehab unit), do not house inmates. **(Figure 1)** Instead, they fulfill a variety of functions, including: dining hall, metal shop, laundry room, auditorium, chapel, powerhouse and a school. Directly inside Attica's towering front gate lies the expansive administration building.

Three flags – the stars and stripes of the United States, the seal of the State of New York, and the somber figure of the Vietnam POW/MIA – fly at the prison's entrance, welcoming its visitors to the unknown world inside the walls. Directly adjacent to the flagpoles stands a granite monument, which alphabetically lists the names of Attica's eleven hostage staff members who lost their lives in the riot of 1971. Only one

⁸ Useem, Bert, and Peter Kimball. *States of Siege: US Prison Riots, 1971-1986*. New York: Oxford University Press, 1989. 22.

of these men, officer William Quinn, was killed by Attica inmates. The rest “were picked off by their fellow guards, co-workers, Attica neighbors, and life long friends when [Governor Nelson] Rockefeller ordered the prison yard to be retaken [on September 13, 1971].”⁹

The Riot¹⁰

Wednesday, September 8

On the afternoon of September 8, 1971, two inmates in Attica’s A-yard recreation area began to play-wrestle. Two on-duty correction officers interpreted the inmates’ skirmish as a legitimate fight and called for help from Lieutenant Richard Maroney. As Lt. Maroney approached the wrestling inmates, one escaped among his peers in the yard; the other, Leroy Dewer, a member of the troubled “3” company (consisting primarily of inmates with discipline histories) verbally confronted Lt. Maroney and then turned his back to walk away. Maroney then began to approach Dewer. As he did, Dewer panicked, resisted Maroney’s advances, and struck the Lieutenant twice. In response, a large crowd of inmates formed around Maroney and Dewer. Lieutenant Robert Curtiss, the only other on-duty Lieutenant at the time, was walking in the tunnel between Times Square and A-Block and saw “quite a bit of hostility” arising among the crowd of inmates.¹¹ He soon arrived to provide Maroney with backup support. Lieutenant Curtiss attempted to persuade Dewer to return to his cell. Dewer refused, sparking more unrest among his

⁹ Washington, 3.

¹⁰ Note that retellings of the riot vary in detail due to bias and unique perspectives; I’ve only included information repeated in numerous credible sources, modeling much of my retelling on Bert Useem’s version in his book *States of Siege: US Prison Riots, 1971-1986*.

¹¹ McKay, 1283.

fellow inmates who, in turn, threatened the authorities by promising Dewer that they were “with him all the way.”¹² One inmate in particular, Ray Lamorie, whose cell was in Curtiss’s 5-company, began to verbally assault both of the Lieutenants.¹³ In an atypical move, Curtiss and Maroney realized they weren’t “getting anywhere” in persuading Dewer to return to his cell and decided to calm the crowd of inmates and “let [the situation] lay,” allowing Dewer to stay in the yard among his inmate peers.¹⁴

Later that afternoon, at around 5:30 PM, Lieutenant Maroney, under the order of Attica’s Deputy Superintendent Vincent, and with the aid of three additional correctional officers, went to Dewer’s cell to bring him to segregation (Housing Block Z, or HBZ **Figure 1**). Dewer resisted the officers, putting up a fight and screaming of abuse. The officers quickly removed Dewer, forcibly carrying him to HBZ; the other inmates of 3-company could not see the altercation, but (possibly because many themselves had previous disciplinary issues with Attica’s staff) believed the officers to be brutally assaulting Dewer. The 3-company inmates began to verbally assault and threaten Maroney and his officers.

After Maroney and his men secured Dewer, another sergeant, acting on orders of Deputy Superintendent Vincent, visited Lieutenant Curtiss in 5-company and alerted him that inmate Lamorie was also to be taken to HBZ. Curtiss agreed to Vincent’s demand, and the sergeant, along with two additional officers, brought a non-resisting Lamorie off

¹² Ibid.

¹³ “Companies” refer to groups (or rows) in which the prison cells are divided. Attica’s prisoners primary live in the four main blocks (A, B, C, and D), each of which has three floors of inmate cells. Each floor is divided into four groups, or companies; each block, therefore, has 12 companies.

¹⁴ Ibid.

to HBZ. The inmates in 5-company, who, like those in 3-company, typically had histories of disciplinary problems, began to verbally assault and throw things at the officers as they escorted Lamorie down the hall. A can of soup, allegedly thrown by 5-company inmate William Ortiz, hit and cut one of the officers, causing him to bleed from his head.

Although the riot did not start until the next day, tensions ran high throughout the night of September 8. As Lieutenant Curtiss made his final rounds of the day, an inmate from 5-company yelled to him that “we will burn this place down in the morning.”¹⁵

Thursday, September 9

The morning of September 9 started like any other day at Attica. The first round of breakfast meals proceeded without any controversy or altercations. At around 8 AM, a young officer arrived alone to take 5-company, scheduled for the second round of breakfast, to their meal. William Ortiz, the 5-company inmate who had thrown a can that cut an officer the day before, was kept locked in his cell (by orders of Superintendent Mancusi) while the rest of his company, under the watch of the young officer, marched to the mess-hall for breakfast. As the company began their walk to the mess hall, an inmate, unknown to the supervising officer, broke the lock on Ortiz’s cell, freeing Ortiz and allowing him to join the rest of his company on the walk to the meal. As Ortiz and the rest of 5-company ate breakfast, the leading on duty officers learned of his removal from his cell. Lieutenant Curtiss, in turn, alerted the on-duty officers of both A-block and Times Square (who happened to be William Quinn) to lock their gates, in effect, trapping 5-company in A-tunnel on their return from breakfast. With 5-company trapped, Lieutenant Curtiss approached the inmates in an attempt to bring Ortiz back to his cell.

¹⁵ McKay, 1295.

According to multiple inmates, Curtiss then shouted at the inmates, “All right niggers, back to your cells.”¹⁶ Curtiss later denied these allegations. Regardless, as he walked down the tunnel, an unknown inmate responded to Curtis, telling him he was a “no good mother.”¹⁷ Curtiss was then hit in the head, dropping the Lieutenant to the floor and inciting the deadliest prison riot in the history of the United States.

After overpowering Curtiss, the 5-company inmates began to chase and assault the surrounding A-tunnel guards back into A-block; the inmates soon obtained the guards’ keys, controlled both A-tunnel and A-block, and looked to spread the insurrection throughout the prison. Realizing what was happening in A-tunnel, a separate group of inmates in A-yard simultaneously began attacking the guards at the A-tunnel doors and, like their 5-company peers, soon obtained the guards’ keys and forced them to flee. By 8:45 A.M., inmates had gained control of A-Block, A-tunnel, and A-yard.

15 minutes later, the 5-company inmates, now armed with makeshift clubs and sticks, attacked the entrance to Times Square. William Quinn, who after Curtiss’s earlier warning had locked all gates connecting to Times Square, sat trapped in the prison’s center. Due to a lack of communication capability among the Attica staff, officers taking a separate group of inmates back from breakfast to their cells in C-block were trapped in C-tunnel at the entrance to Times Square. On the other side of Times Square, at the gate to A-tunnel, the enraged 5-company inmates easily broke through the poorly locked gate. Upon their entrance into Times Square, the inmates clubbed Quinn in the head, striking him unconscious. With control of Times Square, the inmates gained access to the rest of the three main blocks (B, C, and D). Next, some of the 5-company inmates unlocked the

¹⁶ Clark, Richard X. *The Brothers of Attica*. Links Books, 1973. 22.

¹⁷ Wicker, Tom. *A Time to Die*. New York: Quadrangle, 1975. 14.

gate connecting Times Square to C-tunnel, and with the cooperation of the inmates trapped there, attacked the guards on duty. Separate groups of inmates proceeded to overpower the surprised guards in B, C and D blocks and soon gained control of each. Chaos followed the rioting inmates; fires were set to numerous buildings including the laundry, the barbershop and the chapel.¹⁸

Not all inmates chose to join their rioting peers. However, as the rioters reached and broke through the gates of the highly crowded Metal Shops, many of the approximately 500 working inmates decided to flee to a nearby prison field. The guards in the Metal Shops would not be so lucky; they were trapped in the Metal Shop overnight and taken hostage at 9:45 A.M the next morning.¹⁹

Still, the rioting inmates did not yet have free reign over the entire prison. Officers met the inmates with formidable resistance at some of the prison buildings. Off-duty Attica officers, in addition to officers from Auburn Prison and members of the state police, who had been notified of the riot by officers at Attica, began to arrive at the prison around 10 A.M. The newly arriving officers were given weapons as they entered the prison and together with on-duty officers successfully defended or recaptured the mess halls, C block, E block and A block from rioting inmates.²⁰

The rioting inmates decided (through word of mouth) to gather and bring the hostage officers to D-yard. By 10:30 AM, 1281 of Attica's 2243 inmates had gathered in D-yard. While only around 10% of the 1281 inmates participated in the riot voluntarily

¹⁸ McKay, 227.

¹⁹ McKay, 227.

²⁰ Useem, 34.

and were aware of what was happening, the inmates as a whole had managed to gain control of B and D blocks, the state shop, the chapel, the school, the commissary, and Times Square.²¹ Holding Times Square allowed the inmates control over access to the four major blocks and tunnels. The inmates also took 50 (of the approximately 100) on-duty officers as hostages, 11 of whom would be released from the prison by the inmates in the upcoming hours;²² William Quinn, unconscious and badly injured, was taken to “DMZ,” (an area of A-tunnel which became a “border checkpoint” for people entering the prison) where the inmates handed him over to the state authorities.²³

After a brief period of a chaotic “party atmosphere,” the inmates began building the D-yard “society” in which the inmates began to take on different positions and roles.²⁴ The hostage officers were first gathered in a circle and brought to a corner of D-yard; eventually, they were brought to the yard’s center. The hostages, as they would be until the riot’s end, were surrounded, supervised and protected by a group of Black Muslim “security” guards.²⁵ While the Black Muslim inmates controlled the hostages, a society began to form in D-yard without anyone truly in charge. Later Thursday afternoon, the inmates split up by block to elect “qualified and articulate” inmates who they “trusted,” to be their spokesmen;²⁶ a total of seven inmates, five black and two white,

²¹ McKay, 627.

²² McKay, 231.

²³ Ibid.

²⁴ McKay, 653.

²⁵ Useem, 34.

²⁶ McKay, 654.

were elected by the 1281 inmates.²⁷ These “spokesmen” would serve as a form of authority for D-yard in the days to come. First, however, they gathered Thursday afternoon to type a list of inmate demands for the State Commissioner of the Department of Corrections, Russell Oswald.

The inmates’ statement (later known as the “Immediate Demands,”) included six demands. The statement began with an explanation of the riot for “the people of America” which read, “The incident that has erupted here at Attica is not a result of the dastardly bushwhacking of the two prisoners Sept. 8, 1971 but of the unmitigated oppression wrought by the racist administration network of the prison...” Before listing their demands, the inmates made clear that they would “not compromise on any terms except those that are agreeable to us,” and, introducing a theme that they would endlessly rally under over the following four days, proudly stated “We are MEN! We are not beasts and do not intend to be beaten or driven as such...”²⁸

The inmates then listed their demands. They demanded: complete amnesty for actions taken during the riot (1); transportation to a non-imperialist country (2); intervention of the federal government (3); the reconstruction of the Attica prison (4); negotiations to take place through a list of requested civilian-observers (5); and lastly, that all communication or negotiations would take place in the prison (6).²⁹ Notable among the inmates’ requested observers, which included the expected or typically “pro-prisoner” organizations (Solidarity Prison Committee, Black Panther Party, etc), were

²⁷ Useem, 35.

²⁸ Useem, 236.

²⁹ Useem, 237.

Attorney William Kunstler, Assemblyman Arthur Eve of Buffalo and journalist Tom Wicker of the New York Times, all of whom would eventually come to Attica and play leading roles in the negotiations that followed.³⁰

Commissioner Russell Oswald arrived at the prison by 2:30 pm. Shortly thereafter, Assemblyman Arthur Eve, as well as prisoner-right activist and SUNY-Buffalo Law Professor Herman Schwartz, arrived and requested permission from Oswald to enter D-yard. With Oswald's approval, both Eve and Schwartz entered D-yard at about 3 PM.³¹ In D-Yard Eve and Schwartz were presented the list of demands from the inmates and after left D-yard to speak with Oswald. The men returned to D-yard with Oswald at around 4:25 PM and used this meeting to set up future meetings with the prisoners.³² Soon after, Eve and Schwartz left D-yard again, this time to go out and bring back media members and Deputy Commissioner Walter Dunbar, as the inmates had requested; Eve and Schwartz, along with media members and Dunbar, returned to Oswald and D-Yard around 5:45 PM. During this next meeting, after taking advice from Schwartz, the inmates presented Oswald with a new set of demands, which they called "Practical Proposals," that were intended to be less inflammatory and more moderate than those created earlier in the day. Oswald left the yard at around 6:45 PM nervous about the safety of the prison's hostages. He later wrote that he felt "scarcely controlled fury

³⁰ Ibid.

³¹ Useem, 38.

³² Useem, 39.

breathing down my neck” in D-yard. He left the yard feeling that the inmates “were capable of murdering the hostages.”³³

With only Deputy Commissioner Dunbar, who was even less sympathetic to the inmates’ demands than Oswald, left in the yard to represent the state, the inmates moved away from negotiation and instead decided to request a federal injunction that would prohibit state officials from performing acts of “physical or administrative reprisals against any inmates participating in the disturbance.”³⁴ After a request for the injunction had been drafted, Herman Schwartz immediately took it on a plane to Vermont to have the injunction drafted, signed, and made official by the federal district judge of Attica’s county, who was attending a conference in the Green Mountain state.

Beginning to gather outside the prison was a group of the states’ police forces. By the end of Thursday night, State Police Major John Monahan of next-door Batavia stood outside the prison with approximately 1,100 policemen at his command, ready to enter the prison upon the call of higher-ups.³⁵

Friday, September 10

Schwartz successfully had the injunction signed by the federal judge in Vermont early Friday morning and arrived back to Attica at a later-than-expected 10 AM after weather issues.³⁶ Commissioner Oswald, along with 5 observers and the media, entered D-Yard at 11:30 AM to present and discuss the injunction with the inmates. The

³³ Oswald, 88.

³⁴ Ibid.

³⁵ Useem, 37.

³⁶ Useem, 40.

injunction, which granted the inmates protection from reprisals, was rejected and eventually torn up by the inmate-leaders because it did not contain a seal, something inmate “lawyers” (inmates with respected legal knowledge) Jerry Rosenberg and Richard Clark believed absolutely necessary.³⁷ Upset over the lack of the seal, the inmates began to harass Oswald who quickly left the prison yard to safety.

Not much occurred Friday afternoon. Oswald, distraught at the inmates’ rejection of the injunction, waited for the arrival of additional observers to join Eve and Schwartz. By 11:30 PM, nearly all of the eventual 33 observers had arrived at the prison and visited the inmates in D-yard.³⁸ Most of the observers stayed with the inmates throughout Friday night, leaving the prison early Saturday morning with a new list of demands drafted by the inmates for Oswald. While many of the new demands were centered around improving the physical conditions of the prison, the inmates still included the demand for transportation to a non-imperialist country.³⁹ Most importantly, the inmates, aware of previous prison-riot-resolutions that had led to widespread inmate punishment and criminal reprisals, remained adamant on the issue of amnesty for all of the disturbance’s activity.

Saturday, September 11th

On Saturday morning at around 5 AM, the observer-group, with the cooperation of Commissioner Oswald, decided to send a committee of three observers, led by Tom Wicker, to the home of Louis James, the local District Attorney. District Attorney James welcomed the observers to his home for breakfast and began, with their help, to draft a

³⁷ Ibid.

³⁸ Useem, 42.

³⁹ Useem, 239.

letter concerning the inmates' question of amnesty. While James' letter made clear that he would treat the inmates fairly, stating that he "opposed commencement of indiscriminate mass prosecutions..." and would "prosecute only when... there [was] substantial evidence to link a specific individual with the commission of a specific crime," it also made clear that complete amnesty was not, under any circumstances, to be granted to the inmates.⁴⁰ Upon arriving back at the prison around 1 PM, the observers began to debate among themselves whether or not to show the inmates the letter. William Kunstler, a radical attorney, and other observers, argued against presenting the letter to the inmates, believing that it would cause additional resistance against the state. However, a majority of the observers voted to present the letter to the inmates later Saturday night.

While the observers were debating the letter, Commissioner Oswald reviewed the inmates' most recent list of demands. At 3 PM, Oswald met with the observers and provided them with a statement soon to be known as the "28 points." The statement, which served as a type of response to the inmates' newest list of demands, detailed the points on which Oswald would be willing to concede. Like District Attorney James, Oswald was unable to promise complete amnesty from criminal charges. However, he did promise all rioting inmates "administrative amnesty."⁴¹ In fact, Oswald made many promises of prison reform to the inmates; while some of the "points" left room for interpretation and flexibility for the administration (such as #1. "Provide adequate food...for all inmates" and #7. "Allow true religious freedom") others make more explicit promises – Proposal #23 ensured inmates that approval lists for whom they could

⁴⁰ Useem, 241.

⁴¹ Useem, 242.

correspond with and have as visitors will be removed.⁴² At 5 PM, the meeting between the observers and Oswald concluded. Soon after, the observers learned the news that would devastate the negotiations.

News of Officer William Quinn's death arrived at the prison shortly after he died Saturday night. Because New York law called for the death penalty for the murder of a prison officer, it now seemed certain that inmates would now demand full amnesty from criminal prosecution. In addition, under New York law, as Bert Useem has written, "a person who commits a felony is responsible if anyone dies as a result of the felony, whether or not they were present."⁴³ Thus, all of Attica's rioting inmates could now potentially face the death penalty. Oswald's offer of administrative amnesty stood meaningless in the face of such serious potential criminal punishments.

At 9 PM, the observers, led by William Kunstler, re-entered D-yard to present both the James Letter and the 28 points to the inmates. Kunstler also announced the news of Quinn's death to the inmates. As inmates began to panic, the attitude and atmosphere surrounding Attica's negotiations soon became, in the words of hostage officer Frank Wald, "an entirely different ballgame."⁴⁴

As could be expected, the inmates reacted poorly to the lack of complete criminal amnesty in either James' letter or Oswald's proposals. In fact, after the documents were read, an inmate tore them both up as his peers enthusiastically cheered him on.⁴⁵ Inmate

⁴² Useem, 244.

⁴³ Useem, 43.

⁴⁴ McKay, 1399.

⁴⁵ Useem, 43.

compromise on the issue of amnesty, and therefore any of the negotiations, now seemed highly unlikely.

Sunday, September 12

Sunday's attempts at negotiation were fruitless. At around 1 PM, Commissioner Oswald presented the observers with a message he intended to give the inmates. The observers interpreted the message, in which Oswald told the inmates that he would be "willing to meet" *only* once the hostages had been released, as an ultimatum.⁴⁶ Discouraged, a group of four observers decided to take the problem to the state's highest official – Governor Nelson Rockefeller.⁴⁷

Republican State Senator John Dunne was an ally of Rockefeller's and had his home telephone number.⁴⁸ Dunne, together with fellow observers Clarence Jones (civil rights activist), Herman Badillo (US Rep. from the Bronx) and Tom Wicker (NY Times journalist) called Rockefeller at around 1:20 PM.⁴⁹ The observers had hoped to convince Rockefeller to come to the prison. Wicker took the lead in addressing Rockefeller. He told Rockefeller that, "Our last card is for you to come up here and talk with us."⁵⁰ Rockefeller, however, refused, believing that his presence at Attica would be meaningless so long as the issue of amnesty was unresolved. While Wicker and his fellow observers hoped that Rockefeller's presence at the prison would at least buy more time for

⁴⁶ Useem, 245.

⁴⁷ Useem, 45.

⁴⁸ Wicker, 214.

⁴⁹ Ibid.

⁵⁰ Ibid.

negotiations, Rockefeller worried that his arrival might encourage the inmates, leading to further, greater demands than they had made already. The observers, entirely aware of the despair forming a few hundred feet away in D-yard, were willing to take this chance. Rockefeller, at home in his Pocantico Hills estate, was not; he felt he must stay fast in his refusal to travel to the prison.⁵¹

As the observers spoke to Rockefeller on the phone, failing to convince him to travel to the prison, Commissioner Oswald sent in his message (or ultimatum) to D-yard. After speaking to Rockefeller, the observers pleaded with Oswald for permission to re-enter the yard one more time. Once given permission by Oswald, the observers brought reporters into the yard and interviewed hostages in a final attempt to convince Governor Rockefeller to come to Attica.⁵² The hostages, represented by Sergeant Edward Cunningham and Captain Frank Wald as spokesmen, urged Rockefeller to come to Attica. Correctional Officer hostage Lyn Johnson II, in his testimony to the McKay commission a year later, reflected on the hostages' feelings towards Rockefeller: "I don't know if he could have done any good, but... all of the hostages felt like... he could have had the common decency to come down."⁵³

At 6 PM, the observers left the prison for the last time and brought to Oswald a demand from the inmates to continue negotiating.⁵⁴ As darkness set over D-yard, a heavy rain began to fall; officer Johnson had never "spent such a miserable, cold, wet night in

⁵¹ Wicker, 218.

⁵² Useem, 46.

⁵³ McKay, 1133.

⁵⁴ Useem, 47.

his life.”⁵⁵ The next day, however, would be even worse; Governor Rockefeller had scheduled the retaking for the morning.

Monday, September 13

Commissioner Oswald sent in a second message (or ultimatum) at 7:40 AM Monday to the inmates. Again, he urgently requested the hostages’ release, concluding with the lines, “I must have your reply to this urgent appeal within the hour. I hope and pray your answer will be in the affirmative.”⁵⁶

It would not. Only one inmate argued they should accept the ultimatum. The rest began to blindfold hostages. The inmate leaders assigned each member of the hostage group with an inmate to be their executioner; at around 9 AM, a group of inmates brought eight officers to the roofs (or catwalks) of A tunnel, C tunnel, and Times Square, holding knives to their throats.⁵⁷ Many of the hostages had “given up and prepared to die.”⁵⁸ Commissioner Oswald now gave complete control to Sergeant Monahan outside the prison. The re-taking was to begin.

The Re-taking

Helicopters flying above D-yard began dropping tear gas into the prison below at 9:46 AM. State troopers began to fire their rifles at the inmates on the catwalks. Two hostages had their necks badly cut by the inmate executioners; two other hostages, and 14

⁵⁵ McKay, 1134.

⁵⁶ Useem, 246.

⁵⁷ Useem, 47.

⁵⁸ McKay, 1392.

inmates, were hit and killed by trooper gunfire.⁵⁹ After the catwalks were clear of inmates, the troopers began firing into D-yard, killing three more inmates and three hostages in the hostage circle. Troopers next climbed down into D-yard, and continued firing (now shotguns) into the yard; five hostages and ten inmates were killed by shotgun fire.⁶⁰ The state police, now in control of D-yard, stripped the inmates and brought them into A yard, “where they were forced to lie facedown in the mud.”⁶¹

As the state police gained control of the entire prison, they also began to brutally abuse some of Attica’s inmates. Francis Huen, an inmate in D-yard, recalled a trooper indiscriminately firing into trenches dug in the ground;⁶² troopers also forced a naked Huen up against a fence, kicked at his head, and told him they were “going to make [him] suck black cock.”⁶³ Huen and his fellow inmates, at around 10 AM, were forced to run back to their cells; officers on either side of the inmates, spaced out “every six or eight feet,” took vicious club-whacks at the inmates.⁶⁴ Inmates were also verbally assaulted; Huen recalled an inmate “who was hurt very very bad” asking the prison physician, Dr. Sternberg, for a painkiller as he ran by him on the way to his cell. Sternberg responded to the inmate by saying, “You want a pain killer... this is my painkiller,” as he pointed to an officer’s club.⁶⁵

⁵⁹ Useem, 54.

⁶⁰ Ibid.

⁶¹ Useem, 55.

⁶² McKay, 1430.

⁶³ McKay, 1448.

⁶⁴ McKay, 1441.

⁶⁵ McKay, 1445.

By the end of the riot, at approximately 10 AM, state police gunfire had killed (or fatally injured) a total of 39 men - 10 hostage officers and 29 inmates, adding to the deaths of officer William Quinn, and two inmates who had been killed by their peers, bringing the total death count of Attica's riot to 43.⁶⁶ Eighty-eight people had been shot so severely by the state police that they needed immediate surgery.⁶⁷

Cause of Hostages' Deaths

False rumors began to spread about the deaths in the yard. The Commissioner of the Department of Corrections, Russell Oswald, told the public reporters on the 13th that "not only were guards murdered by the prisoners, but atrocities were committed on the hostages. A twenty-two-year-old guard was killed, castrated, and buried in a foxhole."⁶⁸ Oswald's Deputy Commissioner, Walter Dunbar, echoed these falsities while giving a tour to observer Arthur Eve immediately after the riot. Dunbar told Eve that the inmates "had a hostage buried in the ground that they had killed since Saturday."⁶⁹ He also told Eve, as he would later tell the press, that he "saw an inmate take a sharp instrument, cut out [hostage Mike Smith's] reproductive organs and take the young man's organs and stuff them in his mouth."⁷⁰

Oswald and Dunbar's made-up stories had disastrous implications. Inmate Frank "Big Black" Smith was eventually "identified as the man who had castrated [Mike

⁶⁶ Oswald, 370.

⁶⁷ *Ghosts of Attica*. Court TV, 2001. DVD.

⁶⁸ Bell, Malcolm. *The Turkey Shoot: Tracking the Attica Cover-up*. New York: Grove, 1985. 356.

⁶⁹ McKay, 1068.

⁷⁰ McKay, 1062.

Smith].”⁷¹ The state police, after “identifying” Big Black as Smith’s mutilator, began to brutally abuse him. Big Black remembered being “beat in my testicles and burned... They [the state police] put a football up under my throat and told me that if I dropped it that they were gonna kill me. I really felt... that they were really going to do this.”⁷²

(Figure 3)



Figure 3

In addition to causing emotional and physical damage to the inmates, Dunbar’s lies served also to shape the public opinion of Attica’s inmates. While treating an injured inmate after the riot, Dr. Robert Jenks of nearby Batavia, was approached by an officer and asked why he was helping the inmate; the officer explained that, to him, the inmates

⁷¹ Wicker, 291.

⁷² *Eyes on the Prize: A Nation of Law?* PBS Video, 1990. DVD.

⁷³ This photograph, found in the personal online collection of Liz Fink, shows Smith with the football balancing on his neck. Smith is being watched by two men, a state police officer and a state official while his fellow inmates march back to their cell naked.

were not “people,” but rather “animals.”⁷⁴ Even the ever-open minded and honest Tom Wicker, admitted, in his 1975 book *A Time to Die*, that the rumors of inmate-violence towards hostages caused him to view the “Attica brothers” as “killers, outlaws, different- something less than ‘we’ are.”⁷⁵

The false and harmful information easily spread to the public. Deputy Commissioner Dunbar repeated the lies of hostage-execution and mutilation that he told to Eve and the national press gathering outside the prison on the 13th. All the media sources outside the prison therefore reported that night that inmates had killed the hostages; a news show reported that a “revolt, led mostly by black inmates, killed nine hostages.”⁷⁶

As the state police began to remove the nine dead hostages from the prison, they brought their bodies to the office of Dr. John Edland, the chief medical examiner of nearby Monroe County.⁷⁷ Dr. Edland, under the watch of state police officers, removed “bullet after bullet” from the hostage bodies and found “no evidence of slashed throats,” that no hostage “had been castrated” and that all hostages “died of gunshot wounds.”⁷⁸ Yet, although state police officers had witnessed the autopsies, watching Dr. Edland remove the bullets from the hostages’ bodies, the Corrections Department issued a statement late on the afternoon of the 13th claiming an eyewitness had testified to seeing

⁷⁴ Wicker, 309.

⁷⁵ Ibid.

⁷⁶ *Ghosts of Attica*. Court TV, 2001. DVD.

⁷⁷ Wicker, 302.

⁷⁸ Ferretti, Fred. “Autopsies Show Shots Killed 9 Attica Hostages.” *The New York Times* 14 Sept. 1971.

the hostages' throats cut.⁷⁹ Governor Rockefeller, despite being informed of Edland's findings, also issued a statement on the 13th attributing the hostages' deaths to the inmates: he said the inmates "carried out cold blood killings they had threatened from the start."⁸⁰

Worst of all, the prison and state officials lied to the dead hostages' families. Late on the afternoon of the 13th, the State of New York told the hostage families that the hostages - their fathers, sons and brothers - had "had their throats cut by inmate blades."⁸¹

The state did not stop at misreporting the truth. As Edland made his findings public on the following day, September 14th, the state began their search for false evidence to counter Edland's report. On the night of the 14th, state police officers traveled around the area looking for local morticians to claim that some of the hostages had been "stabbed and not shot."⁸² At 11:15 PM, the state police found two local undertakers willing to support the state's lies that the bodies of two hostages (John Monteleone and a fellow officer) were without bullet holes and only had wounds from knife-cuts; the state police presented these findings to the media on the next day, September 15th.⁸³ Yet, when pathologist Michael Baden, called upon by the Department of Corrections to review Dr. Edland's findings, arrived at the funeral home near midnight on the 15th, he

⁷⁹ Bell, 60.

⁸⁰ Wicker, 303.

⁸¹ Wicker, 301.

⁸² Bell, 184.

⁸³ Ibid, 185.

found clear evidence of a deadly bullet hole in hostage Monteleone's back.⁸⁴ On September 19th, Dr. Baden publicly confirmed Edland's findings that all the hostages had been killed by gunfire.⁸⁵ The State of New York had been unsuccessful in their attempt to create false autopsy evidence.

Conclusion

The Attica riot lasted four days, captured the nation's attention, left hundreds of prisoners abused at the hands of the New York state police, and ultimately resulted in 43 deaths. But Attica was far from a closed book. The State of New York's mistakes did not end with their manipulative efforts regarding the hostages' autopsies. In the years following Attica's riot, Governor Nelson Rockefeller and the state government of New York would open investigations of both Attica's riot and the state police's retaking of the prison. Yet, while much of the public would accept the findings of these investigations, and ultimately allow Attica to drift from their focus, major concerns still exist regarding the true intentions of the state government of New York in their efforts to bring justice to those affected by Attica's riot.

⁸⁴ Ibid.

⁸⁵ Shipler, David. "2 Doctors Verify that Guns Killed 9 Attica Hostages." *The New York Times* 19 Sept. 1971.

Chapter 2: Nelson Rockefeller and the Law and Order Movement

“There was more at stake even than saving lives. There was the whole rule of law to consider. The whole fabric of society.”¹ – Nelson Rockefeller

The State of New York’s mistreatment of Attica’s inmates, although unjust, seems unsurprising given the political atmosphere of 1971. The prisoners, largely minority, poor, and from urban areas, could easily be seen as “different” from the rest of society. To many outside the prison’s walls, including the state’s leaders, the inmates – “killers and outlaws” - represented “the underside” or “criminal side” of life and therefore were less deserving of just treatment.²

It is more difficult to label Attica’s hostages as “different.” Largely white, conservative, and faithful state employees, the hostages were viewed by the state, as “our people,” as Governor Nelson Rockefeller said in 1971.³ As this chapter reveals, the State of New York’s lies to the hostage families soon morphed into a more encompassing effort of manipulation. This chapter will attempt to answer why the State of New York was willing to mistreat the hostages and their families.

No element can be singled out as the sole cause of the state’s mistreatment of the hostages. Yet, I propose that Nelson Rockefeller, New York’s Governor from 1959 until 1973 and later the nation’s 41st Vice President, more than any other figure, triggered the State of New York’s decades-long policy of mistreating the hostages and their families.

¹ Bell, Malcolm. *The Turkey Shoot: Tracking the Attica Cover-Up*. Grove Press, New York. 1985. 151.

² Wicker, Tom. *A Time to Die*. Quadrangle, New York. 1975. 309.

³ Richard Nixon – Presidential Recordings. “White House Telephone Tape 8.” 1:30 PM, September 13, 1971.

<http://millercenter.org/scripps/archive/presidentialrecordings/nixon>

Once known for his moderate positions, Governor Rockefeller, as part of his personal political ambition, identified increasingly with the nationally popular law and order movement of the 1960's. This new identification influenced his actions in responding to the crisis at Attica. Rockefeller's focus on his national political reputation among law and order conservatives allowed the state police of New York to act with unjustified force in retaking the prison. While Nelson Rockefeller remained Governor for only two years after Attica, the intensity with which his administration denied just treatment to the hostages, in addition to future state governments' unwillingness to repair the damage done by previous administrations, allowed the mistreatment of the hostages to continue for decades. Hostage correction officer John Stockholm testified in the Attica Task Force Public Hearings in 2002 that he learned from the way he was treated in the riot that even as a "loyal employee," he was still "totally expendable" to the state. Stockholm's feelings were echoed by dozens of his fellow hostages and hostage families members: hostage correction officer Dean Wright, who described himself as a "die hard state man," felt "blown away" once he learned the facts of how the state had treated the hostage. Paula Krotz, wife of hostage officer Paul Krotz, believed her husband to be one of the state's "own." At the hearings, she said, "You do not desert your own. The State of New York should have followed that guideline."

Law and Order Politics: The Early Years

In the 1950's, after 40 years of the "Great Migration"—the movement of over six million, southern African Americans to northern cities—the demographics of many American cities had changed.⁴ Unrelated to this migration, the industrial economies of

⁴ In Chicago, as they did in other cities around the country, African American population percentages increased drastically. In 1910, African-Americans made up less than 2 percent of

these major northern cities severely weakened in the late 1950's, limiting the number of good jobs for these newly arrived, largely unskilled African-American workers.⁵ Further hurt by long standing practices of racial discrimination in education and employment in the urban north, high rates of these young migrants suffered in poverty; a "disproportionate" number of them would also be involved in the era's growing urban crime "wave."⁶ To many white Americans in the late 1950's, young "black men" began to "displace white ethnics as the new face of urban violence," creating a society that "appeared on the verge of a clash between generations - between authority and anarchy, respect and rebellion."⁷ These fears, fuelled in part by southern segregationist politicians, continued, and in many cases increased over the 1960's. Although the nation elected two relatively liberal presidents (Kennedy in 1960 and Johnson in 1964) in the first half of the 1960's, the nation's continuously growing crime rate kept many Americans searching for politicians who provided a "tougher" approach to crime.

Barry Goldwater, Republican Senator from Arizona, would be the first to fill this role. In his campaign for the Republican presidential nomination in 1964, Goldwater focused heavily on crime. At the 1964 Republican National Convention, held in the "Cow Palace" Arena in Daly City, California, Goldwater worked the conservative

Chicago's population; by 1960 that percentage had climbed to nearly 25 percent. ("African Americans." *Encyclopedia of Chicago*. 2005. Web. 27 Feb. 2012. <<http://www.encyclopedia.chicagohistory.org/pages/27.html>>.)

⁵ Although it is harder to measure statistically, it seems unwise to ignore the potential role discrimination (of white northerners) against black migrants had in keeping so many African-Americans job-less.

⁶ Flamm, Michael W. *Law and Order: Street Crime, Civil Unrest, and the Crisis of Liberalism in the 1960's*. New York: Columbia University Press, 2005. 5.

⁷ (Lait, Jack and Mortimer, Lee. *USA Confidential*, New York: Crown, 1952.) (Public Hearing Conducted By Governor George Pataki's Attica Task Force. Volume 1, Page 40. 9 May 2002.)

delegates in the crowd to a “fever pitch” over his bold assertions regarding crime prevention. Goldwater warned that an American society without “order” would “become the license of the mob... the jungle...or our violent streets.”⁸ Goldwater, in the speech’s most famous line, also declared, that “moderation in the pursuit of justice is no virtue.”⁹ In effect, Goldwater had successfully “introduced the language of law and order to national politics.”¹⁰ Many in the Republican Party enthusiastically welcomed Goldwater’s approach; through his “toughness,” Goldwater easily gained the convention’s nomination, and was sent off by former Vice President Richard Nixon as “Mr. Conservative,” ready for the “greatest campaign in history,” one day to become “Mr. President.”¹¹

Nelson Rockefeller – Before Attica

Goldwater’s opponent for the Republican Party’s 1964 presidential nomination, Governor Nelson Rockefeller of New York, provided a more moderate voice to the convention. In his speech to the delegation, Rockefeller “advocated a platform plank denouncing extremism,” and in return, received 16 straight minutes of “boos, catcalls, and heckling” from “conservatives” in the audience.¹²

⁸ Goldwater, Barry. "Nomination Acceptance Speech." Republican National Convention. "Cow Palace" Arena, Daly City, California. 16 July 1964. <http://www.washingtonpost.com/wp-srv/politics/daily/may98/goldwaterspeech.html>

⁹ Ibid.

¹⁰ Flamm, 30.

¹¹ Nixon, Richard. "Richard Nixon Presenting Barry Goldwater" Republican National Convention. "Cow Palace" Arena, Daly City, California. 16 July 1964. http://www.youtube.com/watch?v=y_wZoX63DXM

¹² Perlstein, Rick. "1964 Republican Convention: Revolution From the Right." *Smithsonian Magazine*. Aug. 2008. Web. Feb. 2012. <http://www.smithsonianmag.com/history-archaeology/1964-republican-convention.html>

Nelson Rockefeller had never before experienced this type of harsh criticism and opposition in his political life. Born into one of the nation's richest and most economically influential families in America, Rockefeller studied economics at Dartmouth University, and after college began a successful career in business. Between 1930, when he graduated, until 1944, when President Franklin D. Roosevelt appointed him Assistant Secretary of State for American Republics Affairs, Rockefeller helped run various family businesses and philanthropies, including Chase National Bank, Standard Oil, and the Rockefeller Foundation.¹³ After serving other diplomatic and federal-government roles, such as Coordinator of Inter-American Affairs, Chairman of the International Development Advisory Board, and Under-Secretary of the Department of Health, Education, and Warfare, Rockefeller was elected Governor of New York as the Republican candidate in 1958.¹⁴ In his campaign for the governorship, Rockefeller followed his "basic convictions" and stayed to "the middle of the road" on the issues, appealing to a wide range of New Yorkers.¹⁵ In his first term as Governor, from 1959 until 1963, Rockefeller helped balance the state budget, established the first uniform minimum wage, and most famously created a State University Construction Fund that improved and increased the SUNY-New York system "fourfold."¹⁶ Overall, Rockefeller's first term was considered a wide-ranging success - "even his (Rockefeller's) critics admit[ted]" that his administration was "one of the soundest in the

¹³ Gervasi, 64.

¹⁴ Gervasi, 224.

¹⁵ Gervasi, 215.

¹⁶ Gervasi, 234.

state's history."¹⁷ Fresh off his successful first term, Rockefeller again ran for Governor, this time as the incumbent, in 1962. On November 6, 1962, Rockefeller was elected Governor for the second time, winning by over 500,000 votes; weakened by the creation of a "Conservative Party" in New York, the "progressive" Rockefeller "fell short" of the 800,000 to 1,000,000 vote margin of victory Republican leaders "had hoped for."¹⁸ His national image slightly weakened by the 1962 election, Rockefeller still decided to run for President in the 1964 election.

Two hundred and fifty one days of campaigning later, Rockefeller finally stood in front of the testy delegation in Daly City. Through his "stalwart silence," Rockefeller "gained the respect" of many Republicans. Realizing that the 1964 nomination was lost, Rockefeller understood that "conservatives were plainly the ones to convert if he was ever to win the (Republican Party's) nomination."¹⁹

In turn, as he still aspired to one day be the Republican nominee for President, Rockefeller became much more of a conservative governor dedicated to law and order policies. Although he would oppose, and eventually lose, to future President Richard Nixon in the campaign for the 1968 nomination, Rockefeller became, largely through his growing dedication to law and order policies, a "loyal party regular" of the increasingly conservative Republican Party. Rockefeller's increasingly conservative political approach throughout the 1960's culminated in the New York "Rockefeller Drug Laws" in 1973. The laws, created in response to New York's growing rate of drug crimes, "called for

¹⁷ Gervasi, x.

¹⁸ Egan, Leo. "Lefkowitz Wins: Governor's Margin Is Narrowed by Vote for Conservative." *The New York Times* 7 Nov. 1962.

¹⁹ Bell, 150.

stricter penalties” for drug-related charges, “creating mandatory minimum sentences of 15 years to life for possession of four ounces of narcotics.” (Gray, Madison. “New York’s Rockefeller Drug Laws.”²⁰

The Country’s Move Towards Law and Order

Rockefeller’s rightward turn towards law and order policies coincided with a similar movement within the Republican Party during the 1960’s. Although Barry Goldwater, the Republican nominee, would lose badly to a relatively liberal Lyndon Johnson in the 1964 presidential election, the continuously growing crime rate created more and more of a call for law and order as the decade continued.²¹ In 1966, marked by conservative candidate Ronald Reagan’s commanding victory over two-time incumbent Democrat Pat Brown for Governor of California, “a rising tide of public anxiety over law and order had helped sweep incumbent liberals from power and presented insurgent conservatives with new opportunities” across the nation.²² As violent, largely race-based, urban riots erupted in cities throughout the country (Los Angeles, Newark, Detroit, Washington DC) and popular political figures such as presidential candidate Robert Kennedy and civil rights leader Martin Luther King fell victim to assassinations, many Americans became even more concerned about crime, “convinced that their society was in a meltdown.”²³ This “meltdown,” or the widespread “civil disobedience” that had caused “murders, riots, protests and assassinations,” lay, in the eyes of a growing number

²⁰ “New York’s Rockefeller Drug Laws,” *Time Magazine*.
<<http://www.time.com/time/nation/article/0,8599,1888864,00.html>> 2, April 2009.

²¹ Flamm, 125.

²² Framm, 67.

²³ Flamm, 143

of Americans, unchallenged by the “passive” government currently in power.²⁴

According to the Uniform Crime Reports (UCR) compiled and published by the FBI, the rate of property crime (burglary, larceny, and auto theft) rose 73% between 1960 and 1967. The rate of violent crime (murder, robbery, forcible rape, and aggravated assault) rose 57% and had doubled by 1969. In August of 1968, even with American involvement peaking in Vietnam, *Time* magazine reported that “law and order loomed the number one issue” among Americans,²⁵ a “conservative backlash had crested” in the country.²⁶

In August of 1968, the Republican Party nominated former vice-president Richard Nixon for the second time.²⁷ Capitalizing on the nation’s unrest, Nixon campaigned on the charge that “liberals had promised a Great Society but had delivered great disorder.”²⁸ In his campaign, Nixon attempted to “occupy all available ground on law and order,” delivering a major September speech on CBS and NBC radio, “Order and Justice Under Law,” in which he attempted to capture the “popular side” on law and order.²⁹ Nixon continued with a strong message of law and order throughout his campaign; in late

²⁴ Ibid.

²⁵ Flamm, 162.

²⁶ Flamm, 152.

²⁷ Nixon had won the Republican nomination in 1960 and narrowly lost to Democrat John Kennedy.

²⁸ Flamm, 173.

²⁹ Flamm, 174.

September he even criticized the Supreme Court, claiming the Court should “not raise unreasonable obstacles to the enforcement of the law.”³⁰

Hurt by Johnson’s decision not to run for re-election, by the death of its leading candidate Robert Kennedy, by the increasingly unpopular war in Vietnam, and by the campaign of independent George Wallace, the Democratic Party lost its hold on the White House in 1968.³¹ On November 5, in a “triumph for law and order,” Richard Nixon narrowly defeated Hubert Humphrey for the presidency;³² on January 20 of the following year, Nixon would be sworn in as the 37th president of the United States.

Nixon wasted no time in implementing the law and order policies upon which he had campaigned. He quickly wrote a new “controversial” crime bill that allowed for “the preventative detention of dangerous suspects” and the “use of no-knock search warrants,”³³ eighteen months later, on October 14, 1970, Nixon signed the bill into law.³⁴ As the 1960’s concluded, and the 70’s began, those in power in America seemed determined to keep law and order at the forefront of American politics.

³⁰ Flamm, 175.

³¹ George Wallace, Governor of Alabama, received nearly 14% of the national vote in 1968. His popularity as an independent strict segregationist candidate took votes away from the Democratic Party. More importantly, his success spoke to the negative perceptions of African-Americans among many white Americans at the time. While these racial tensions had always existed, they were heightened by not only the increased crime rates, which many whites typically associated with African-Americans (Diamond, Andrew J. *Mean Streets: Chicago Youths and the Everyday Struggle for Empowerment in the Multiracial City, 1908-1969*. Berkeley: University of California Press, 2009), but also in response to government interventions on matters of desegregation, affirmative action, and busing in the late 1960’s.

³² Flamm, 178.

³³ Flamm, 180.

³⁴ Graham, Fred. “Nixon Finally Gets the Crime Bill He Wanted.” *The New York Times*. 18 Oct. 1970

Nelson Rockefeller, Law and Order, and Attica

On November 3, 1970, Nelson Rockefeller was re-elected to his fourth term as Governor of New York, becoming, in turn, the most dominant figure in modern New York State political history.³⁵ In the words of Tom Wicker:

Rockefeller *was* The Man (in New York). Whoever held title, Rockefeller headed the state government, the state machinery, one of its major political parties; in fact, he headed the state “corrections” system. And that was just the political Rockefeller. The other Rockefeller – all the other Rockefellers of the world, the great owners and proprietors and investors and profit-makers- shaped... society... as nearly as any one human did or could.³⁶

Ten months after his re-election, while he had already begun to shift to the right through new, harsher drug policies, Rockefeller’s response to the Attica riot cemented him as a major player in the national law and order movement. To Tom Wicker, “Attica was a political matter” and “Nelson Rockefeller would be the man who would set the tone of things.”³⁷

Rockefeller did indeed set a political tone towards Attica. His “law and order” approach to the riot appeared from almost his earliest involvement with Attica. On September 12, 1971, three days after the riot had started, Tom Wicker and his fellow leading “negotiators” at Attica called Governor Rockefeller at his Pocantico Hills estate in a last-ditch attempt to convince Rockefeller to come to Attica. Negotiations between the prisoners and the state had reached a standstill over the issue of amnesty. Rockefeller refused Wicker’s request to come to Attica, even if “just to show he cared about what’s

³⁵ “Governor Rockefeller Again.” *The New York Times*. 4 Nov. 1970

³⁶ Wicker, 203.

³⁷ Wicker, 143.

going on up here (in Attica);”³⁸ he also maintained that he would not, under any circumstances provide amnesty to the rioters.

The manner of Rockefeller’s refusal made clear how much his decisions as Governor were now being influenced by a “law and order” approach. Rockefeller told Wicker, while expressing how “grateful” he was to the negotiators, that he would not come to Attica, or negotiate on amnesty, as both would “undermine the basic tenets of our society.”³⁹ Rockefeller continued that, the rioting inmates, whom he viewed as “modern day revolutionaries,” and their actions in creating a violent riot, “pose a serious threat to the ability of free government to preserve order.”⁴⁰ If Rockefeller were to accede to their demands, and arrive at the prison, “(it) could lead to a very serious breakdown of the structure of government.”⁴¹

Rockefeller’s insistence on maintaining order, even from the earliest moments of Attica’s riot, seems to have come from a deep political motive. In justifying his decision to not come to Attica, Rockefeller “expressed fear” that, “if he came to Attica, inmates at other state prisons would revolt and demand his presence...” potentially “set(ting) off a nationwide movement in all the prisons, with inmates demanding that all governors come

³⁸ Wicker, 284.

³⁹ Wicker, 219.

⁴⁰ Wicker, 221.

⁴¹ Ibid.

and negotiate with them.”⁴² Rockefeller worried further that “if he came to Attica,” might not “the inmates then demand the presence of the President of the United States?”⁴³

As he gave Commissioner Russell Oswald and the New York State Police permission to forcefully re-enter the prison on Monday morning September 13th, Rockefeller waited for reports in his Pocantico Hills residence. When news of the retaking began to surface, much of it fabricated by prison and state officials in an attempt to blame innocent inmates for the state’s violent actions, Rockefeller, in echoing the mistaken reports he received from state police officials, wrongfully blamed the inmates for the hostages’ deaths, stating that they “carried out cold-blooded killings they had threatened from the start.”⁴⁴ Although Rockefeller would later retract his statement and admit that the hostages died at the hands of the state police, he continued to spread this false information for days.

Law and Order Politics and Attica’s Earliest Responses ⁴⁵

At 1:30 in the afternoon on the 13th, Governor Rockefeller received a call from President Richard Nixon in the White House.⁴⁶ Without knowing much of the facts

⁴² Wicker, 220.

⁴³ Ibid.

⁴⁴ Wicker, 303.

⁴⁵ The following section relies on previously unknown private recordings of President Richard Nixon in the White House between 1971 and 1973. The recordings, of which many of Nixon’s guests were unaware, were released recently, and only after a Freedom of Information Act request; the participants in the conversations, such as Governor Rockefeller, never intended that their words to the President would one day reach a national or public audience. The recordings and tapes, therefore, provide much helpful detail as to the private thought process and opinions of our nation’s leaders at the time of Attica.

⁴⁶ Richard Nixon – Presidential Recordings. “White House Telephone Tape 8.” 1:30 PM, September 13, 1971. <http://millercenter.org/scripps/archive/presidentialrecordings/nixon>

regarding the retaking, President Nixon quickly and adamantly offered his support for Rockefeller's response to Attica's riot; he began the conversation by telling Rockefeller, "I know you've had a hard day, but I want you to know that I back you to the hilt... the courage you showed and the judgment in not granting amnesty, it was right, and I don't care what the hell the papers or anybody else says."⁴⁷ Nixon continued, voicing concerns similar to those Rockefeller had raised to Wicker the day before: "If you would have granted amnesty in this case, it would have meant that you would have had prisons in an uproar all over this country."⁴⁸

Rockefeller's response to Nixon is alarming. He told the President false information, such as that "quite a few of" the hostages "were killed" by inmates, "prior" to the re-taking, which he claimed "could be proven" by "the hospital." The state police, Rockefeller concluded, had done a "*fabulous* job" in retaking the prison and had performed a "*beautiful* operation."⁴⁹

In turn, Nixon, now the leader of the nation and therefore the most prominent voice for law and order, continued to suggest that Rockefeller keep a law and order approach towards the rioters. Nixon gave his "great admiration" for the state police's "efficient operation," and urged Rockefeller to "keep right to your guns" and maintain "firmness in enforcing the law."⁵⁰

⁴⁷ Ibid.

⁴⁸ Ibid.

⁴⁹ Ibid.

⁵⁰ Ibid.

Rockefeller, with continued Nixon's support, took on a more explicitly political tone in their conversations regarding Attica in the upcoming days. Later in their private conversation, Rockefeller described the group of negotiators to Nixon, the same group he gave his "admiration" to the day before, as mostly a "motley crowd" with only "some good people – some legislators."⁵¹ Regarding the issue of amnesty, Rockefeller told Nixon, while chuckling, that the issue "separated the sheep from the goats" and tried to think ahead to how the New York liberals, particularly New York City mayor John Lindsay, would respond to his actions.⁵² In concluding their conversation on the 13th, Rockefeller, while assuring Nixon that "we'll do the mopping up now," strikingly admitted that "we're really developing this in a way that I think will give a lesson to all of us."⁵³ Thus, even in the first days following the riot, Rockefeller and Nixon had started planning to portray the retaking of Attica in a way that would be beneficial to their cause of law and order.⁵⁴

On the following day, September 14, at around 6 PM, Rockefeller and President Nixon talked again via telephone. In reporting on the day's activity, President Nixon again made sure to offer his support for Rockefeller. Nixon told Rockefeller how, although he didn't "usually stick (his) nose in other (people's) problems," he had called

⁵¹ Ibid.

⁵² Ibid.

⁵³ Ibid.

⁵⁴ Joseph E. Persico, speech writer for Rockefeller, remembered, after learning at the medical examiner's office on the 13th that the hostages had been killed by state police gunfire, that he had been "instructed to call Attica, get the facts and prepare a statement that would, if possible, put the state in a defensible light." (Bell, 200).

upon 19 Republican legislative leaders to join him in supporting Rockefeller.⁵⁵ Nixon also made sure to re-assure Rockefeller that while he thought Rockefeller had “great support” nation-wide regarding his response to the riot, that he would nonetheless “get some people with backbone to stand up to this.”⁵⁶ While Rockefeller seemed to appreciate Nixon’s support, he did alert the President that some of the hostages and inmates were shot by prison guards who had been told not to participate in the prison’s retaking due to potential emotional reactions against inmates they knew.⁵⁷ But it was Rockefeller’s next statement that was telling of his commitment to a law and order approach. He dismissively told President Nixon that, although some prisoners and hostages were indeed shot by un-authorized guards, that was “life.”⁵⁸

President Nixon’s response was equally remarkable. He told Rockefeller that, even though hostages had died, “it was worth it,” considering 32 of them were saved.⁵⁹ Nixon compared Attica’s retaking to recent responses police had taken against demonstrations in Washington DC. Referring to the police action in DC, Nixon made clear his opinion regarding governmental arrests: “So there were some people that were innocent that claimed they were arrested; that’s just too damn bad. We have to keep the government running in the country.”⁶⁰ Nixon continued, as he did the day before, to

⁵⁵ Richard Nixon – Presidential Recordings. “White House Telephone Tape 9.” 6:00 PM, September 14, 1971. <http://millercenter.org/scripps/archive/presidentialrecordings/nixon>

⁵⁶ Ibid.

⁵⁷ Ibid.

⁵⁸ Ibid.

⁵⁹ Ibid.

⁶⁰ Ibid.

further justify Attica's retaking as a political move. He further described the retaking of Attica as setting a national precedent against revolutionary activity, telling Rockefeller to: "Just stand firm there and don't give an inch... The example you set may discourage this kind of riot occurring somewhere else."⁶¹

It was not just to Governor Rockefeller that President Nixon expressed his belief that Attica's riot represented a potential wide-scale movement of anti-government resistance. In fact, leading figures in Nixon's administration, and therefore the Republican Party, viewed Attica through a political prism of law and order. Just hours after the riot had concluded on September 13, before any substantive facts had been reported, President Nixon talked to his Chief of Staff, H.R. "Bob" Haldeman in the Oval Office. In their conversation, President Nixon claimed that the Attica riot represented solely the "cry" of radical activist "Angela Davis."⁶² Haldeman responded in kind, referring to the riot as "a signal for the black uprising" and because revolutionaries "couldn't get enough action on college campuses," an example that "the revolution is (now) moving to the prisons."⁶³

In private conversations with his staff in the days following the riot, President Nixon continued his message of standing "tough;" these conversations, in fact, took on an increasingly explicit political tone. On September 17, in speaking to Henry Kissinger, the National Security Advisor and one of his closest political partners, in the oval office, President Nixon demeaned the liberals in the New York state legislature, claiming "a

⁶¹ Ibid.

⁶² Richard Nixon – Presidential Recordings. "Oval Office Building Tape 571." 12:40 PM, 13 Sept. 1971. <http://millercenter.org/scripps/archive/presidentialrecordings/nixon>

⁶³ Ibid.

bunch of damn liberals are getting ready to climb the walls.”⁶⁴ In response, Kissinger replied to Nixon that because Rockefeller’s staff, included “bleeding-heart liberals,” it therefore was “not nearly as strong as ours.”⁶⁵ Nixon concluded their conversation by restating that Rockefeller must “stick to his guns” in order to prevent “prisons from erupting all over here (the country).”⁶⁶

On September 14, Governor Rockefeller formed a panel of “distinguished, impartial visitors” to investigate whether “constitutional rights of prisoners were protected” during Attica’s retaking.⁶⁷ To head the panel, Rockefeller selected Appellate Division Judge Harry Goldman of the Fourth Judicial Department (covering most of Western New York).⁶⁸ When US Attorney General John Mitchell contacted Governor Rockefeller to express his concern that Rockefeller was going to lose control over the Attica investigation by appointing Goldman, thereby “transferring” the investigation “into somebody’s hands,” Rockefeller made obvious *his* politically-oriented perspective; he told Mitchell, “I’m not worried about Goldman. I worked with him; he’s straight. He’s conservative.”⁶⁹

Rockefeller’s law and order approach to Attica seemed, in late 1971, to be paying off. President Nixon, as the country’s leading Republican, obviously held a strong

⁶⁴ Richard Nixon – Presidential Recordings. “Oval Office Building Tape 575.” September 17, 1971. <http://millercenter.org/scripps/archive/presidentialrecordings/nixon>

⁶⁵ Ibid.

⁶⁶ Ibid.

⁶⁷ Farrell, William. “Rockefeller Asks Panel on Inmates.” *The New York Times*. 15 Sept. 1971.

⁶⁸ Ibid.

⁶⁹ Ibid.

political impact on the increasingly “loyal” and “party regular” Rockefeller.⁷⁰ In fact, Rockefeller and Nixon had become so close politically that on November 3, 1971, only two months after Attica’s riot, Nixon privately told his Chief of Staff H.R. Haldeman in referring to the 1972 presidential election, that “Rockefeller has a straight up deal. If he carries the State, he gets a Cabinet position.”⁷¹

Law and Order Politics and Later Responses to Attica

On September 15, 1971 Governor Rockefeller appointed Deputy Attorney General Robert Fischer to conduct a “broad” criminal investigation, led by prosecutor Anthony Simonetti, into Attica’s riot;⁷² as a criminal investigation, the leaders of this proceeding held legal and prosecutorial power.⁷³ As the major emphasis of the criminal “investigation,” Governor Rockefeller, in coordination with Deputy AG Fischer, created

⁷⁰ Bell, 150.

⁷¹ Nixon is referring to the Republican Party winning New York in the 1972 presidential election; Nixon’s dedication to winning this election, through both legal and illegal means (“Watergate”), is an matter entirely too enormous to analyze in this work. (Richard Nixon – Presidential Recordings. “Executive Office Building Tape 301.” 3 Nov. 1971). Rockefeller did indeed “carry” New York for the Republicans in 1972; however, President Nixon never offered the Governor a cabinet position. Instead, Rockefeller remained Governor of New York.

⁷² In October of 1971 Governor Rockefeller requested the formation of an additional “citizens committee” to also conduct a “full and impartial” investigation of “all aspects” of Attica’s uprising. Governor Rockefeller allowed for Judge Harry Goldman and his fellow panel judges to form the citizens committee. (Farrell, William. “Judges Appoint 9 To Study Uprising at Attica Prison.” *The New York Times*. 1 Oct. 1971). This “committee,” headed by NYU Law School Dean Robert McKay (and subsequently called the McKay Commission), held dozens of hearings in April of 1972. At the conclusion of the hearings, and after a period of deliberation, the Commission released a public report in September of 1972, blaming Governor Rockefeller for not going to Attica before ordering the state police’s retaking. (Kaufman, Michael. “Inquiry on Attica Scores Governor Over 1971 Revolt.” *The New York Times*. 13 Sept 1972). Yet, while the report criticized Rockefeller and other relatively minor details of the state’s retaking, the Commission lacked any prosecutorial power, and held no ability to investigate the legality of the state’s and Rockefeller’s actions.

⁷³ Ferretti, Fred. “Congressional Committee Also Plans Investigation.” *The New York Times*. 16 Sept 1971.

a “special prosecutor’s office,” under the control of the Organized Crime Task Force, to “investigate and prosecute all crimes arising out of the riot.”⁷⁴

Fischer and his staff decided to “investigate the riot chronologically.”⁷⁵ As such, the beginning of the investigation focused first on the riot’s earliest activity - the inmates’ conduct; by the summer of 1973, the staff largely finished investigating inmate conduct and switched to reviewing the actions of state officials and police. As the investigation of the state police began to gain momentum, national politics again altered the way in which the state, and Rockefeller, responded to what had occurred at Attica; also, as a result, it affected how the state treated the hostages and their families. President Nixon, faced with impeachment proceedings based on his and his staff members’ attempts to cover-up an illegal break-in at the Watergate headquarters of the Democratic National Committee, resigned the presidency on August 8, 1974.⁷⁶ Under the terms of the 25th amendment,

⁷⁴ (Bell, 2.) In addition to choosing Anthony Simonetti as chief prosecutor, Deputy AG Fischer, with the permission of Governor Rockefeller, formed a staff of one assistant prosecutor, nine investigators and a few State Police detectives.

⁷⁵ (Bell, 38.) In a completely unrelated move, Governor Rockefeller resigned as Governor of New York in December of 1973 to become the head of the Commission on Critical Choices for Americans. He was replaced by Lieutenant Governor Malcolm Wilson, one of his closest political allies. (“News Summary and Index.” *The New York Times*. 12, December 1973). Wilson would serve as Governor until 1975 when he was replaced by Democrat Hugh.

⁷⁶ (Herbers, John. “The 37th President Is First to Quit.” *The New York Times*. 9, August 1974.) In June of 1972, five men associated with President Nixon’s administration were arrested for breaking into the Democratic National Committee’s headquarters at the Watergate Complex in Washington DC. (Lewis, Alfred. “5 Held in Plot to Bug Democrats’ Office Here.” *The Washington Post*. 18 June, 1972.) In July of 1973, a White House aide revealed that President Nixon had been secretly recording his conversations while in office; (Naughton, James. “Surprise Witness.” *The New York Times*. 16 July, 1973.) tapes of these recordings implicated President Nixon and members of his staff as attempting to cover-up the Watergate break-in of June ’72. (White, Theodore. *Breach of Faith: The Fall of Richard Nixon*. New York: Atheneum Publishers, 1975. 5.) In March of 1974, seven of Nixon’s aides were charged with conspiracy by a federal grand jury for covering up information of the Watergate break-in; the grand jury also named President Nixon as an un-indicted co-conspirator to the cover-up. (Ripley, Anthony. “Federal Grand Jury Indicts 7 Nixon Aides.” *The New York Times*. 2, March 1974.)

Vice President Gerald Ford took over as President;⁷⁷ on August 20th, newly named President Ford nominated the increasingly conservative Rockefeller to be his Vice President.⁷⁸

Fischer and Simonetti's staff continued to investigate the officers' conduct throughout Rockefeller's nomination process. Over the following months, the investigation gathered increasingly incriminating evidence against state police officers. Yet, as the investigation of the officers gained real momentum, Simonetti took efforts to curb its direction and effectiveness.⁷⁹ As Simonetti was limiting the investigation of the state troopers, he warned of the effect their investigation might have on Rockefeller's nomination process. He told his staff that "Rockefeller has devoted his life to public service. We have a great responsibility not to do anything that might unnecessarily hurt his chances to realize his life's ambition."⁸⁰ Yet, Simonetti's warnings do not stand alone; in fact, sources closer to Rockefeller also worried about the investigation's political

⁷⁷ ("The Change of Presidents." *The Wall Street Journal*. 9, August 1974.) Nixon's previous Vice President, Spiro Agnew, had resigned on October 10, 1973 after being charged for accepting bribes as both Governor of Maryland and as Vice President. (Landuaer, Jerry. "Agnew Resigns." *The Wall Street Journal*. 11, October 1973). President Nixon had nominated Rep. Gerald Ford of Michigan to be Vice President. Governor Rockefeller had hoped to be appointed, and was "disappointed" by Nixon's decision.

⁷⁸ Kilpatrick, Carroll. "Ford Nominates Rockefeller." *The Washington Post*. 21, August 1974.

⁷⁹ I gathered this information regarding the state's "limiting" of the investigation from Malcolm Bell's 1985 book, *The Turkey Shoot: Tracking the Attica Cover-Up*. Bell, a private-sector attorney, joined the investigation staff in the summer of 1973 as an assistant to lead prosecutor Anthony Simonetti. Bell was charged with investigating the officers' crimes; his book offers striking detail on the state government's attempts to limit or "cover up" his investigation of officers' crimes. Frustrated by his superiors', especially Simonetti's, decisions to limit and curb his investigation, and "cover-up" the state police's activity, Bell left the investigation staff and went public with his claims of a state cover up in 1975. In particular, Bell accused Simonetti of refusing to "allow witnesses to be called, questions to be asked, leads to be followed and... legal and logical conclusions to be utilized." (Bell, 283).

⁸⁰ Bell, 157.

implications. In August of 1974, in a meeting with the investigation staff, Howard Shapiro, Rockefeller's First Assistant Counsel during the riot, told Simonetti in private, that "it would be a shame if this Attica business impeded Rockefeller's nomination."⁸¹

While no evidence explicitly links Rockefeller's nomination process to the investigation's decision to stop prosecution of state police and government officials, the two events, at least to Tom Wicker, NY Times journalist and Attica "negotiator," seem related. In his words, "Had (the investigation) been able to proceed, Rockefeller might well have been shown to be so culpable for the events of September 13, 1971 that... he would have been discredited (as a governmental figure)."⁸²

The investigation would not impede Rockefeller's nomination; the Senate accepted his nomination and named him Vice President of the United States on December 19, 1974.⁸³ The investigation, though limited by Simonetti's restraints, continued throughout 1974; in December of 1974, however, prosecutor Malcolm Bell resigned from the investigation staff amid his concerns that Simonetti was limiting the cases against troopers.⁸⁴ In April 1975, Bell went public with his claims against Simonetti, and in response, the State of New York selected Judge Bernard Meyer to lead a commission to investigate Bell's claims. On December 21, 1975, Judge Meyer issued a 130 page, three-volume report that, while claiming the investigation made "serious errors

⁸¹ Bell, 163.

⁸² Bell, viii.

⁸³ Bell, 290.

⁸⁴ Bell, 283.

in judgment,” ultimately concluded that there had been “no intentional cover-up.”⁸⁵ Only Volume 1 of Meyer’s Report would ever be released publicly by the state. Volume 1 included largely “background” information and Meyer’s ultimate recommendations. Volumes 2 and 3, which included evidence from the investigation’s grand jury testimonies, remained secret due to a ruling by New York Supreme Court Judge Carmen Ball. According to New York law, only the court, and no other government official, holds power to publicly release grand jury testimonies. As grand jury hearings are held confidentially, the court may only release them in instances when the “public interest” of knowing the discussed information outweighed the hearings’ confidentiality. Judge Ball ruled that the public interest in this instance did *not* “overcome” the hearings’ confidentiality and therefore the volumes remained unreleased. An Appellate hearing was held in May 1979 and Judge Frederick Marshall affirmed the ruling of Judge Ball; in making his decision, Judge Marshall reviewed the two un-released volumes of the Meyer Report *in camera*, and ordered afterword to have them “permanently sealed.”⁸⁶

Without access to these volumes, Attica’s “victims” lacked evidence to potentially sue the state for their mistreatment. In his report, however, Meyer had criticized head prosecutor Simonetti’s handling of the investigation, and had recommended that he be replaced.⁸⁷ In response, Attorney General Lefkowitz appointed Alfred Scotti to replace Simonetti in leading the investigation.⁸⁸

⁸⁵ Bell, 340.

⁸⁶ *Ibid.*

⁸⁷ Bell, 344.

⁸⁸ (*Ibid*) Scotti’s staff was not entirely free from ties to Simonetti. In fact, he was to be assisted by Irwin Rochman and Lewis R. Friedman, who both had served as personal advisors to Simonetti.

Scotti would follow Lefkowitz's request and nearly a year later, in the winter of 1976, concluded the investigation. Although Scotti's investigation claimed that the evidence "strongly suggested...that unjustifiable homicides were committed by individual law enforcement officers," there was insufficient evidence, caused by "flagrant deficiencies" by the state police, to prosecute any law enforcement personnel.⁸⁹ The investigation concluded by only recommending departmental discipline against 12 state troopers and 7 prison guards (who had joined the prison's retaking.)⁹⁰ On March 30, 1976 Scotti dismissed the investigation's staff and grand juries, both groups forever bound to secrecy concerning the investigation.⁹¹

On December 31, 1976, newly appointed Governor Hugh Carey decided to ignore Scotti's advice and took no disciplinary action against the recommended 12 troopers and 7 guards.⁹² With no criminal charges, and therefore no hearings or further legal proceedings, and no public departmental disciplinary action, all evidence found by the investigation against state police officers remained hidden.

Conclusion

Nelson Rockefeller's perception of Attica's riot was influenced, above all else, by his increasing commitment to law and order policies. His beliefs that the riot, the retaking,

⁸⁹ Bell, 364.

⁹⁰ Bell, 367.

⁹¹ The investigation's grand jury would ultimately submit a 118 page final report that was sealed and never released to the public. (Ibid).

⁹² Amidst growing public calls for complete amnesty for all involved in Attica, Governor Carey pardoned the seven previously convicted inmates. In a sense, by pardoning the convicted inmates and choosing not to prosecute any law enforcement officials, Carey had tried to "close the book" on Attica. (Bell, 370).

and its aftermath, were political problems, blinded the State of New York from recognizing and acting on its responsibility to its citizens both during and after the time of the riot. Rockefeller's political stance led to a cascade of events - from his stubborn refusal to go to Attica, to the excessive force of the state police troopers in retaking the prison, to the stonewalling of the "flagrant deficiencies" in investigating the troopers' conduct – that served to keep the truth of Attica hidden from the public and justice from the hostages. This cascade of events was only just beginning. The state's mistreatment of the truth and Attica's hostages would continue for decades to come.

Chapter 3: The Forgotten Victims of Attica

The state's suppression of information regarding the prison's retaking especially affected Attica's hostage families. These families, a group of victims largely forgotten by the public, fought against the state's concealment and attempted to expose the injustice of the state's true actions in retaking Attica's prison. They struggled for decades to hold the state, and specifically the state police, responsible for their excessively violent actions on September 13, 1971. Eventually, their battle against the state would be partially successful. In 2005, through a settlement with the State of New York, the hostage families obtained monetary compensation for their losses and received, for the first time, public recognition of their multi-decade suffering at the hands of the state government.¹

Workman's Compensation

In the months following the riot, the state's manipulation extended to their provision of workman's compensation to the hostage families. Under New York State law, the State Insurance Fund, which functions as a provider of workman's compensation for state employees in New York, may award workman's compensation in two instances – when an employee suffers either injury or death while performing (or on duty at) their

¹ Few works have discussed the hostages' post-riot stories at any length. The most significant of these works, the 1985 book *The Turkey Shoot* by Malcolm Bell, a former special prosecutor for Governor Nelson Rockefeller, served as the "whistle-blow" to the state's cover-up of Attica. Much of Bell's book focuses on state police activity during the riot's retaking and subsequent actions taken by state government officials in "covering up" these actions; however, Bell does make sure to document the lives and stories of the hostages and their families in the post-riot years. While I rely on Bell's book to retell early parts of the hostages' stories, much has developed concerning the hostage families and their relationship with the State of New York since the book's publishing in 1985. Not much has been written about the hostages, their families, and their post-riot stories since Bell's book in 1985. Therefore, much of my retelling of the hostages' stories from 1985 until the present relies on primary documents (trial transcripts, correspondences, public hearing records). I relied heavily on the private collection of documents held by Dee Quinn Miller, daughter of slain hostage William Quinn, of Batavia, New York, copies of which I now possess.

job.² Workman's compensation may be refused by the employee, and often is, when "the employee feels that the injury was of such a nature that he was victimized by [an] intentional assault on him or the extremely dangerous atmosphere in which he happened to be [put by his employer]."³ In these instances, which are referred to under Section 11 of New York's Workman's Compensation law as "intentional torts," employees who refuse the offered compensation are eligible to sue their employer (the State) for its misconduct.⁴ Once an employee has accepted, or cashed, their workman's compensation checks, however, they forfeit their right to sue, regardless of whether the employer can be found guilty of an intentional tort.

Although the rule of "intentional tort" seems to apply quite obviously to Attica's hostages, the State Insurance Fund began, in some instances, to deceptively provide workman's compensation to hostages and their families nearly immediately after the riot had ended. For some hostage families, such as the families of hostages Allen Mitzel and Paul Krotz, the compensation began on the day of the prison's retaking (September 13). Both Mitzel and Krotz had the costs of their hospital visits unknowingly covered by workman's compensation. In a 2002 public hearing, Mitzel's wife Vernise recalled her family's experience at the hospital:

When my husband was released from the hospital, we were told by the hospital staff that his bill was already taken care of and that they didn't need to see his insurance card. We had no idea that it was being taken care of by worker's

² Deposition of Morris Jacobs, 5 (January 26, 2001). The State Insurance Fund lies under the direct control of the State's Workman's Compensation Board and therefore under the control of the governor and state legislature.

³ Ibid, Volume 3, Page 128. 30 July 2002.

⁴ Deposition of Morris Jacobs, 41 (January 26, 2001).

compensation. We just assumed that the insurance information needed for billing was given to the hospital by prison staff.⁵

The state used different discreet measures to provide workman's compensation to the other hostages without their knowledge. Most notably, Commissioner Russell Oswald held a private and secret meeting with the hostages and their families at a Presbyterian Church in Batavia on September 16th.⁶ At this meeting, Commissioner Oswald told the hostages not to "worry about a thing" and informed them that the state would "take care of them" by providing six months of excused and paid leave.⁷ Soon after, the hostages and their families began receiving standard-looking paychecks at their homes.⁸ Nobody from the state, including Oswald during their meeting at the church, said anything to the hostages regarding workman's compensation.⁹ And, according to many of the hostages, the checks they received during their paid leave looked no different than their regular paychecks; "nothing" on the checks referred to "compensation."¹⁰ A large percentage of the hostages' wives, especially those who were suddenly widows, relied on the state's

⁵ Public Hearing Conducted By Governor George Pataki's Attica Task Force. Volume 6, Page 42. 13 Aug. 2002.

⁶ Ibid, Volume 1, Page 127. 10 May 2002.

⁷ (Ibid, Volume 4, Page 47. 31 July 2002.) The hostages and their families were told to keep this meeting secret (Public Hearing Conducted by Governor George Pataki's Attica Task Force. Volume 1, Page 127. 10 May 2002) as the state claimed that they feared attacks on Oswald's life.

⁸ Public Hearing Conducted By Governor George Pataki's Attica Task Force. Volume 6, Page 35. 13 Aug. 2002.

⁹ Ibid.

¹⁰ Public Hearing Conducted By Governor George Pataki's Attica Task Force. Volume 4, Page 49. 31 July 2002.

checks as their family's only source of income; many quickly cashed the checks without wondering about workman's compensation.¹¹

The hostages and their families would soon discover that the state did not act benevolently when it provided them with compensation. The families of the hostages, unaware that the money they had received was workman's compensation, had forfeited any future ability to sue and receive compensation from the state for its potential "intentional tort" in retaking the prison. Commissioner Oswald had said nothing alerting the hostages that their paychecks would constitute workman's compensation. Mary Stockholm, wife of injured hostage John Stockholm testified in 2002 that she and the other hostage families were "never advised that [by] receiving our regular biweekly check, we were accepting compensation."¹² The hostage families, who all worked as faithful state employees, and typically came from families who had long worked as state employees, were led to believe that they would be treated fairly by the state in return for their service; soon enough, however, the hostages would feel "deeply betrayed."¹³

In a 2002 public hearing concerning Attica, Morris Jacobs, a former director of claims for the State Insurance Fund of New York, publicly testified regarding gross irregularities in the workman's compensation process of the Attica hostages.¹⁴ In his

¹¹ Public Hearing Conducted By Governor George Pataki's Attica Task Force. Volume 6, Page 24. 13 Aug. 2002.

¹² Public Hearing Conducted by Governor George Pataki's Attica Task Force. Volume 1, Page 19. 10 May 2002.

¹³ Public Hearing Conducted by Governor George Pataki's Attica Task Force. Volume 1, Page 28. 10 May 2002.

¹⁴ Jacobs worked for the State Insurance Fund from 1943 until his retirement in 1995. Over his 52 year career, Jacobs became familiar with the process of workman's compensation claims. Jacobs worked his way up the organization from clerk to Claims Director and was held in high regard among his co-workers. (Deposition of Morris Jacobs (January 26, 2001)).

testimony, Jacobs categorized the state's providing of un-announced workman's compensation to the hostages as "unconscionable" and "shameless."¹⁵ It had long been the standard practice in workman's compensation claims that a hearing would be held before the state's Workman's Compensation Board, at which the employee would appear, represented by counsel. In fact, presiding judges or ruling claims referees frequently adjourn hearings in which the employee appears without an attorney until they can acquire legal representation.¹⁶ Indeed, Jacobs testified, that in his 50 years of working for the State Insurance Fund he "never came across a single instance where payments were made to a widow prior to the hearing."¹⁷ Yet, in the case of Attica's hostages, no hearings were held before compensation payments (disguised as regular paychecks) were made. And while the speed with which the workman's compensation was awarded for Attica's employees might at first appear to be a sign of the state's unique desire to help the hostage families, Jacobs testified that the state's motivations were malevolent: "It was with malice aforethought," he stated, that the Insurance Fund awarded this compensation, knowing and aware "that the acceptance of Worker's Comp would preclude the possibility of a lawsuit against the State of New York."¹⁸ Jacobs also testified that in

¹⁵ Public Hearing Conducted by Governor George Pataki's Attica Task Force. Volume 3, Page 98. 30 July 2002.

¹⁶ Ibid, Volume 3, Page 110. 30 July 2002.

¹⁷ Ibid.

¹⁸ Ibid, Volume 3, Page 130. 30 July 2002.

cases such as those of the Attica employees, all compensation could “only have been authorized by the highest levels of the executive,” and not simply by a claims examiner.¹⁹

The highest officials of both the State Insurance Fund and the State, however, continued for decades to deny that the quickness with which they provided workman’s compensation was motivated by a desire to thwart any potential lawsuits. In 2002, State Senator Dale Volker of Depew, New York, testified that, “the people who talked to these people [the hostages] about Worker’s Comp weren’t even thinking about lawsuits originally...”²⁰ Yet, Jacobs, who was actually employed as a claims officer with the State Insurance Fund in 1971, remembered that “during the Attica uprising and its aftermath, the number one topic of conversation amongst my supervisors in the claims department [of the State Insurance Fund] was how much liability the State of New York [would] face when the widows and injured guards refused compensation and filed suits.”²¹ Regardless of the state’s intent, however, the result was the same: the families and widows of Attica’s hostages, save for one widow, Lynda Jones, were ineligible to sue the State of New York for liability and damages.

Hostage Family Lawsuits

Lynda Jones’s husband, Herbert “Skip” Jones, worked as an account clerk at Attica Prison; he was taken hostage by inmates during the September 9th riot and was shot in the head and killed by an unidentified New York state police officer during the

¹⁹ Deposition of Morris Jacobs, 38 (January 26, 2001).

²⁰ Public Hearing Conducted by Governor George Pataki’s Attica Task Force. Volume 1, Page 89. 10 May 2002.

²¹ Deposition of Morris Jacobs, 27 (January 26, 2001).

prison retaking on September 13.²² Herbert Jones's life, and his death in many respects, was similar to the rest of the Attica hostages; Lynda Jones's life after the riot, however, followed a different path from her fellow Attica widows.

On the advice of her attorney Bill Cunningham, Lynda Jones decided not to cash the first workman's compensation check she received from the state following her husband's death. Jones's check was no different than those received by any of the other widows. She only refrained from cashing her check due to Cunningham's "gut instinct."²³ On December 8, 1971, Jones filed a claim against the state in the New York Court of Claims, and, after years of pre-trial maneuvering by the state, her trial began on October 17, 1977.²⁴ Jones argued before New York Court of Claims Judge Robert Quigley that the state police of New York had used "unwarranted" and excessive force in its retaking of the prison.²⁵ Jones's attorney argued that the state's excessive force, which he characterized as an intentional assault of the hostages, or an "intentional tort," left the state "liable" for compensating her.²⁶ During the trial, "nineteen troopers" of the New York state police "took the Fifth Amendment and refused to answer questions about the

²² Bell, 392.

²³ Ibid.

²⁴ The state initially filed a motion to dismiss the case in 1972; New York State's investigations and grand jury hearings (which will be discussed later) delayed the trial through 1976. Eventually, after resolving other procedural matters, the trial began in October of 1977. (Opinion of Judge Robert Quigley, at page 20, in *Jones v. New York*, Claim No. 54555 (N.Y. Ct. Claims 1982))

²⁵ Bell, 392.

²⁶ Opinion, at page 3, in *Jones v. New York*.

retaking.”²⁷ In addition, Major John W. Monahan of the New York State Police, the officer responsible for planning the prison’s retaking, who was subpoenaed by the court to bring to trial any “writings, memoranda, notes... or other information in his possession pertaining to the retaking of the Attica Facility,” came to trial empty-handed.²⁸ Although he had once possessed many documents pertaining to Attica, he testified that, “he had burned them in the fireplace at his home” years ago.²⁹

On September 1, 1982, Judge Quigley ruled that, “the force used [in retaking the prison] was indeed excessive.”³⁰ The evidence presented, he stated, led him to rule “overpoweringly” in “favor of the claimant.”³¹ Judge Quigley eventually decided that Jones “had been damaged in the sum of \$550,000.”³² In 1985, after the New York Court of Appeals rejected the state’s appeal of Quigley’s decision, Jones received a check for \$1,062,000, which included Quigley’s ruling of \$550,000 worth of damages plus the interest accumulated over the 14 years since 1971.³³

The other Attica widows and families of the hostages would not be so fortunate. Twenty-four other widows and family members had filed claims on behalf of their

²⁷ Judge Quigley held these officers in contempt of the court for refusing to testify because these officers had earlier been granted immunity from prosecution by the state and therefore had no basis to fear prosecution for their testimony. (Bell, 392.)

²⁸ (Opinion of Judge Robert Quigley, at page 26, in *Jones v. New York*, Claim No. 54555 (N.Y. Ct Claim 1982))

²⁹ Ibid.

³⁰ (Opinion of Judge Robert Quigley, at page 76, in *Jones v. New York*, Claim No. 54555 (N.Y. Ct Claim 1982))

³¹ Ibid, 79.

³² Ibid, 83.

³³ Bell, 393.

injured hostage relatives.³⁴ In 1981, however, the New York Court of Appeals decided unanimously that because all of these claimants had at some point accepted (albeit unknowingly) workman's compensation payments, they were not eligible to recover additional damages from the state; the workman's compensation served as the "exclusive remedy" for these claimants.³⁵ Notwithstanding the legal basis for the Court of Appeals' decision, the result left the hostage families unable to receive any compensation from the State of New York, even though all had suffered great injustices at the hands of the State Police. Judge Quigley's decision applied to all the state police's actions in Attica's retaking; in other words, he found the state police at fault for the injuries and deaths of *all* the hostages. Nonetheless, the workman's compensation process – in which the hostages and their families were continuously manipulated – became the sole determining factor in a hostage's ability to receive compensation from the state.

A Gap in Action

Denied compensation by the courts in the early 1980's, many of the hostage widows and families now believed that their chances of "getting money [from the State]

³⁴ Bell, 392.

³⁵ The cases of these other hostage widows and families did try to undo the effects of having received worker's compensation by filing a claim with the Worker's Compensation Board. In *Werner v. State* (with Juanita Werner, wife of slain hostage Ronald Werner, serving as claimant), the hostage widows/families were given the opportunity to prove that they had been "misled into prematurely accepting Workers' Compensation benefits." (Goord, Glenn. *Draft of Attica Task Force's Recommendations to Governor Pataki*. Report, New York Department of Correctional Services, 2003). All of the hostage widows/families were "unsuccessful in their attempt to convince the Workers' Compensation Board that they were misled [into accepting benefits];" however, many of the widows/families called foul, noting that they had to prove they were misled to the same Board that they claimed had misled them. (Goord, Glenn. *Draft of Attica Task Force's Recommendations to Governor Pataki*. Report, New York Department of Correctional Services, 2003).

were done.”³⁶ As they still had their families to run and kids to care for, their focuses largely turned to “rebuilding their lives.”³⁷

Helen Cunningham, wife of slain Sergeant Edward Cunningham, was the only widow to continue fighting against the state throughout the 1980’s and 90’s on behalf of the hostages. She was, according to Dee Quinn Miller, daughter of slain hostage William Quinn, “the only fire burning [for the hostages] during this period.”³⁸ Cunningham continuously wrote to state legislators and newspapers to keep the hostages’ fight for compensation alive and in the public light.³⁹ Cunningham attempted to organize with her fellow Attica widows. However, their meetings were never formalized; they never resulted in the formation of any official group or legal action on behalf of the hostages.⁴⁰ So while Cunningham attempted to keep the hostages “fire burning,” a “gap” of nearly two decades occurred in their movement to gain compensation from the state.

This period of inactivity on part of the hostage families’ inactivity seems in part to have been caused by a few obvious factors. From an economic perspective, with their primary wage earner now either injured or dead, many hostage families struggled to make a decent living; without much money, the families were not able to afford substantial help from attorneys. In addition to financial concerns, many of the hostages and their relatives

³⁶ Quinn-Miller, Dee. Telephone Interview. 19 Jan. 2012.

³⁷ (Quinn-Miller, Dee. Telephone Interview. 19 Jan. 2012.) Many of the hostage widows soon remarried and started new families.

³⁸ Ibid.

³⁹ Ibid.

⁴⁰ Life after Attica was not easy for the widows and some refrained from partaking in related activities. Dee Quinn Miller, in one of our conversations, remembered asking her mother why she hadn’t gone to any of Cunningham’s widows’ meetings; her mother had simply responded that she was “too busy raising you girls.”

suffered from emotional issues, and in an effort to move on and “rebuild their lives,” tried to put the riot and all of its concerns behind them.

Yet, this period of inactivity seems to also suggest something about the political perspective of these hostage families. In other words, this extended period of silence, which, can be seen as a form of reluctant “acceptance” on behalf of the hostage families, emphasizes the faithful view of government that these conservative New Yorkers held. This political approach of the hostage families, that is, the view that they were part of the state’s “own,” makes the state’s actions in Attica’s retaking and cover-up even more surprising. However, it also helps make clear the political differences between Attica’s conservative prison employees and its increasingly young, minority, and more politically-radical inmates.

Inmate Settlement

In 1974, Attica inmate Akil Al-Jundi filed a class-action lawsuit against the State of New York on behalf of himself and 1200 inmates involved in the violence surrounding Attica’s retaking.⁴¹ These inmates, who were “killed or wounded by gunfire during the retaking of the prison, or beaten during and after the retaking,” claimed that their civil rights were violated by the state police.⁴² Their suit, therefore, sought compensation for those violations from the state.

The inmates’ case (*Al-Jundi v. Mancusi*) included numerous trials and appeals, resulting in a “long, complex procedural history.”⁴³ In 1979, the court narrowed the suit

⁴¹ Goord, Glenn. *Draft of Attica Task Force's Recommendations to Governor Pataki*. Report, New York Department of Correctional Services, 2003.

⁴² Ibid.

⁴³ *Al-Jundi v. Mancusi*, 113 F.Supp.2d at 443

to cover only those inmates who were in D-yard on September 13th, and not those injured in other areas of the prison that day, reducing the number of claimants to 502.⁴⁴ In 2000, after more than two decades of “intensive negotiations,” the State of New York and the class of inmates covered by the lawsuit reached a settlement.⁴⁵ Under the settlement agreement, the state was not required to admit any “liability” for its actions; it was, however, required to provide a fund of \$8 million for the court to apportion to the inmates in proportion to the severity of their injuries.⁴⁶ A “significant benefit of the settlement process” was allowing each inmate “to testify publicly and to bring this case to a conclusion without establishing fault or responsibility.”⁴⁷

The public testimony of the inmates was a “highly emotional experience,” allowing the inmates more than the ability to express their views on the settlement. For many of the inmates, the hearings served as the first time that their stories of the riot and police would be heard publicly. Although each inmate gave a unique recounting of his riot experience, a “common” factor did arise from the testimony as a whole – that “the treatment they received stripped them [all] of their dignity; they felt dehumanized and ‘like garbage.’”⁴⁸ Despite the emotionally challenging experience of testifying, the

⁴⁴ *Al-Jundi v. Mancusi*, 113 F.Supp.2d at 446

⁴⁵ *Al-Jundi v. Mancusi*, 113 F.Supp.2d at 443.

⁴⁶ *Ibid.*

⁴⁷ An additional fund of \$4 million was to be provided to the Court by the state in an attempt to compensate the inmates’ lawyers, many of whom worked on these cases free of charge for the past 25 years. Judge Telesca created four categories of injury in which to separate the inmates and divide the \$8 million compensation; an additional category was created for the 29 inmates (only 20 of whom entered claims in the case) who died in D-Yard during the retaking.

⁴⁸ *Al-Jundi v. Mancusi*, 113 F.Supp.2d at 448

inmates “expressed gratitude for the opportunity to finally tell their stories [of the riot.]”⁴⁹ Indeed, the court found that “[f]or many, the privilege of recounting their odyssey was of greater value than achieving compensation.”⁵⁰

The Forgotten Victims of Attica (FVOA)

News of the impending Al-Jundi settlement caused many of the hostage family members, after decades of “very little interaction” with each other, to begin meeting as a group in the fall of 1999.⁵¹ The inmate settlement served as a “spring board” for fifty hostage families to form an official group in 2002 called the “Forgotten Victims of Attica.”⁵² Dee Quinn Miller, daughter of slain hostage William Quinn, who grew up in Attica and now lived in Batavia, Attica’s neighboring town, served as Director for the organization. Michael Smith, the former hostage whom state officials had falsely claimed was mutilated during the riot, served as the group’s spokesperson. Gary Horton, the Public Defender of nearby Genesee County, served as the group’s pro-bono attorney. While there was a range of reactions among the group members to the inmates’ settlement, most felt it another example of the state’s mistreatment of the hostages. Hostage Dean Wright, a correction officer at Attica, expressed a common opinion: “The inmates did millions and millions of dollars in damage, besides hurting people and killing people and everything. Then they were paid millions and millions of dollars for doing it.

⁴⁹ *Al-Jundi v. Mancusi*, 113 F.Supp.2d at 447.

⁵⁰ *Ibid*

⁵¹ Quinn-Miller, Dee. Telephone Interview. 19 Jan. 2012.

⁵² Public Hearing Conducted by Governor George Pataki’s Attica Task Force. Volume 1, 32. 10 May 2002.

And that just made me mad as hell.”⁵³ Hostage correction officer John Stockholm echoed Wright’s anger; he believed that, “by compensating the inmates that took us [the guards] hostage,” the state had “insulted the memories of my fallen brothers.”⁵⁴ While Wright and Stockholm’s claims represent some of the strongest anti-inmate sentiment among the group, even the more “moderate” of the Forgotten Victims were motivated by the inmate settlement to re-start efforts to gain compensation from the state. Susan Fargo, daughter of hostage Richard Fargo, stated the widely-held belief among the Forgotten Victims: “If inmates can receive such a payment, then shouldn’t the employees and/or their families? It won’t bring back my dad, but it will help the healing process.”⁵⁵

Soon after their formal organization, the Forgotten Victims began contacting state officials in hopes of having their voices officially heard. In September of 2000, the Forgotten Victims, defining themselves as, “the New York State Corrections Officers and civilian employees... slain or injured while held hostage in the Attica Prison Riot of 1971 and our families,” each of whom had “been injured in our own way,” formally requested a meeting with Governor George Pataki’s Chief Counsel James McGuire.⁵⁶ McGuire met with the group once, on October 18, 2000, but failed to keep his commitment for further

⁵³ (Public Hearing Conducted by Governor George Pataki’s Attica Task Force. Volume 1, Page 72. 10 May 2002.) Mr. Wright’s statement, while accurately reflecting his emotions, misrepresents the facts of the inmate settlement. The inmates were not, in fact, paid for doing “millions and millions of dollars in damage, hurting people, and killing people,” but rather, as discussed earlier, received compensation for civil rights violations at the hands of the state.

⁵⁴ Public Hearing Conducted by Governor George Pataki’s Attica Task Force. Volume 1, Page 72. 14 May 2002.

⁵⁵ Ibid, Volume 1, Page 29. 14 May 2002.

⁵⁶ The Forgotten Victims of Attica. Letter to James McGuire, Esq. 6 Jan. 2001. Bliss, New York

meetings, despite repeated inquiries by the Forgotten Victims.⁵⁷ Instead, Governor Pataki waited until March 13, 2001 to publicly announce his formation of a “Task Force,” a group of government officials selected to “review issues raised by the Forgotten Victims of Attica.”⁵⁸ Pataki announced Glenn Goord, Commissioner of the New York State Department of Corrections, as Chairman of the Task Force. Soon after, Pataki announced that Goord was to be joined on the Task Force by Arthur Eve, a well-known and popular African-American Democratic Assemblyman from Buffalo who had served as an observer and negotiator during the riot, and Dale Volker, a conservative Republican State Senator from Wyoming County, in which Attica fell. The Forgotten Victims met with the newly selected Task Force on June 29, 2001, during which the Task Force agreed to allow public hearings for each member of the Forgotten Victims to “give testimony as to how the event changed their lives.”⁵⁹

After three meetings with the Task Force, the Forgotten Victims’ public hearings began on May 9, 2002, in Rochester New York. Commissioner Goord opened the hearings, stating that Pataki had “charged” the Task Force with “looking into the issues of concern to the Forgotten Victims of Attica.”⁶⁰ The Forgotten Victims, in private meetings before their public hearings, had, with assistance of their attorney Gary Horton, come up a “Five Point Plan For Justice” – five areas of concern that the group felt

⁵⁷ Ibid.

⁵⁸ State of New York. Office of the Governor. *Governor Creates Task Force to Review Attica Victims’ Issues*. 2001

⁵⁹ The Forgotten Victims of Attica. Letter to Attica Task Force. 2 July 2001. Attica, New York.

⁶⁰ Public Hearing Conducted by Governor George Pataki’s Attica Task Force. Volume 1, Page 3. 14 May 2002.

necessary for the state to address: They asked the state for access to the still-hidden findings from the post-riot investigations, monetary compensation for their injuries resulting from the state's "intentional tort" during the riot, free psychiatric counseling for emotional and mental difficulties caused by the riot and the retaking, permission to perform a yearly memorial service in front of the prison, and lastly an apology from the state over its treatment of both the hostages in the retaking and its manipulative approach towards the hostage families over the 40 years since.

After six meetings and testimony from 85 victims, the hearings concluded on August 13, 2002.⁶¹ After thanking the victims for their "touching" testimony, Task Force member Arthur Eve ended the hearings with a prayer; he asked God for "wisdom, guidance, and truth," as the Task Force would now try "to do your [God's] will for those who suffered so long."⁶²

Task Force Recommendations

Although Eve spoke powerfully at the conclusion of the hearings, the Task Force left the Forgotten Victims "waiting and waiting" for its formal response.⁶³ Finally, in September of 2003, more than a year after the hearings had concluded, the Forgotten Victims obtained a private draft of the Task Force's recommendations to Governor Pataki addressing the "Five Points" of the Forgotten Victims. While details of how the Forgotten Victims received this draft are unclear, Dee Quinn Miller said that the Draft Report showed up on her doorstep in September 2003. While she does not know who delivered

⁶¹ Public Hearing Conducted by Governor George Pataki's Attica Task Force. Volume 6, Page 1. 13 August 2002.

⁶² Ibid. Volume 6, Page 102.

⁶³ Quinn-Miller, Dee. Telephone interview. 19 Jan. 2012.

the Report, it seems likely that someone from the state who did not like how the Task Force was treating the hostage families dropped off the Report. The Task Force's recommendations for Pataki were divided into Five Sections, each correlating with one of the "Five Points":

- **Access to State Records**

At their 2002 public hearings, the Forgotten Victims of Attica requested that the state overrule Judge Frederick Marshall's 1979 decision to permanently seal Volumes II and III of the Meyer Report. In essence, they argued that the original ruling (by Judge Carman Ball) no longer applied. Instead, they viewed it necessary for the public to understand what went wrong in Attica's retaking so that a recurrence could be better avoided in the future.⁶⁴ The Task Force, however, decided to stick with the decision made by Judge Marshall in 1979 and kept Volumes II and III of the Meyer Report sealed and inaccessible to the public. In essence, the Task Force deferred to the courts, as they had ruled "that state law precludes [the volumes'] public release."⁶⁵ The Task Force had rejected the Forgotten Victims' request. The most important state document pertaining to Attica would remain private and hidden from the public and therefore the hostage families.

- **Monetary Compensation**

The courts had previously denied the hostage families' attempts to gain monetary compensation because of their inability to prove that they were misled or manipulated into accepting workman's compensation for the hostages' injuries. The Task Force,

⁶⁴ Ibid.

⁶⁵ Ibid.

however, ignored those denials in their report to Pataki; claiming it unnecessary for them to determine whether hostage families were misled about workman's compensation, the Task Force recommended that Governor Pataki award the hostage families \$8 million, an amount equal to that granted to the inmates in their settlement with the state three years earlier.⁶⁶ As the State of New York was in a financial crisis, the Task Force recommended that the \$8 million be awarded over the coming five years.⁶⁷ Following the model of the inmates' settlement negotiated in *Al-Jundi v. Mancusi*, the Task Force recommended that the Forgotten Victims be categorized into five groups, each receiving compensation proportional to the severity of their injuries.⁶⁸

- **Counseling**

Many of the victims that testified had either already received counseling or felt that they would benefit from beginning counseling. The Task Force agreed; however, they did not believe additional money should be granted by the state for counseling, and instead recommended to Pataki that payment for counseling should be made through the \$8 million appropriation, in effect, allowing the state to “close the proverbial book” on this issue.⁶⁹

- **Annual Memorial Service**

⁶⁶(Attica Task Force. *Recommendations on Forgotten Victims of Attica*. Draft Response to Governor George Pataki. 2003) I received a copy of this unreleased draft response from Dee Quinn Miller; my citations all come from this document.

⁶⁷ Ibid.

⁶⁸ Ibid.

⁶⁹ Ibid.

Of the five main issues put forth by the Forgotten Victims, the request for an annual memorial service was met with the least resistance by the state. The Task Force told Governor Pataki that there was “no question” the hostage families “must be accorded the respect and dignity of being allowed to conduct a private, commemorative ceremony each September 13 on the Attica grounds.”⁷⁰

- **State Apology**

Finally, the Forgotten Victims of Attica requested that the current government of New York officially apologize for the way they had been treated by the state for over the 40 years since the riot. The Task Force certainly agreed that the Forgotten Victims had been mistreated by the state; they wrote to Governor Pataki that:

There can be no dispute that [the hostage families] suffered horrendous consequences as a result of actions taken by state officials at the time of the riot and for many years thereafter... there is a plethora of evidence that, by today’s standards, reveals mistreatment by the state toward the Attica victims.⁷¹

The Task Force’s acknowledgement of the victim’s mistreatment was significant, as it signified a change from the state’s previous efforts to cover-up their wrong doings. Yet, although they acknowledged past mistakes by the state, the Task Force did not recommend that the state (or Governor) apologize now for their actions; as the mistakes regarding Attica were made by previous administrations, apologizing for them now, the Task Force argued, would be descending a “slippery slope” of retroactively applying today’s standards to previous decisions.⁷² Although the Task Force agreed with the Forgotten Victims that some of the state’s actions regarding Attica were “wrong by

⁷⁰ Ibid.

⁷¹ Ibid.

⁷² Ibid.

today's standards," they believed the Governor had "no grounds" to apologize and therefore imply that "those actions were inherently evil or illegal."⁷³

Response to Recommendations

On January 13, 2004, the Forgotten Victims of Attica wrote an official response to the Draft Report to the New York State Legislature. Their response followed the same "Five Point" approach of the Draft Report:

- **Access to State Records**

The Forgotten Victims rejected the Task Force's decision to uphold the decision of the courts and keep the Meyer Report private. The truths of Attica, the group argued, would be "best served by a statutory enactment requiring the placement of all New York State Attica records in [public] Archives."⁷⁴ They believed that substantial "public interest" could serve as just "cause" to release confidential Grand Jury testimony. In turn, they set forward a precedent for public interest allowing the release of Grand Jury testimony. Their response to the Draft Report mentioned the 2001 decision in *People v. Lindsay*, a capital murder case in New York, in which access to grand jury testimony was given to an attorney "for ensuring accuracy in a motion picture based on the case."⁷⁵ Therefore, the Forgotten Victims argued, that if a motion picture constituted compelling public interest, "then certainly there (was) a compelling public interest in having the truth of Attica accessible."⁷⁶

⁷³ Ibid.

⁷⁴ Ibid.

⁷⁵ Ibid.

⁷⁶ Ibid.

- **Monetary Compensation**

The Forgotten Victims rejected the Task Force's recommended \$8 million compensation. Instead, they proposed that each widow and each surviving hostage was entitled to \$1,200,000, an amount comparable to what Lynda Jones received in 1985. The Forgotten Victims proposed that the state put the compensation into a fund to be divided amongst the hostage families by an arbitrator; they recommended Judge Michael Telesca, who had handled the inmate settlements, to serve in that role. To provide each family with satisfactory compensation, the Forgotten Victims requested a minimum fund of \$20 million.⁷⁷

- **Counseling**

The Forgotten Victims rejected the Task Force's recommendation that the cost of counseling be paid from their reparations. They proposed that the state should instead "pay directly" for the costs of counseling hostage family members.

- **Annual Memorial Service**

The annual memorial service was the only issue accepted completely by the Task Force; the Forgotten Victims responded kindly to the Task Force's acceptance, describing it as not only "acceptable" but also "meaningful" to the group. Yet, the Forgotten Victims used their response to mention how they found it "interesting" that the sole issue "met in any meaningful way by the Draft Report... is the issue that can be met at no cost to the state in either money or accountability."⁷⁸

- **State Apology**

⁷⁷ The Forgotten Victims of Attica. "Response to Attica Task Force Recommendations." Letter to New York State Legislature. 13 Jan. 2004.

⁷⁸ Ibid.

The Forgotten Victims rejected the Task Force's reasoning in denying them an official state apology. While the Task Force admitted that the state had wronged Attica's hostages, they believed it dangerous for government to apply today's "social standards" to the past. Yet, the Forgotten Victims disagreed, stating that there were no "prevailing social standards that would condone the death, injury, pain, anguish, and neglect inflicted upon the Forgotten Victims by the State of New York," in 1971.⁷⁹

Forgotten Victim Settlement

Frances Whalen, wife of slain hostage Harrison Whalen, died in December of 2004; she was the fourth of the 11 Attica hostage widows to die.⁸⁰ While Governor George Pataki and state legislators had deliberated for nearly a year, the push for a settlement did not truly "intensify" until Whalen's death; on January 14, 2005, the state of New York and the Forgotten Victims reached a \$12 million settlement.⁸¹ Two of this twelve million was given immediately to the over 50 hostage families who suffered injury or death at the hand of the state police. The remaining ten million was to be awarded to these families over the following six years by Judge Michael Telesca, the same man responsible for completing the inmate settlement in 2000.⁸² Although Governor Pataki provided the Forgotten Victims with a settlement larger than what had been recommended by his Task Force, he followed their recommendations regarding counseling, state records and a state apology. The state still refused to formally apologize

⁷⁹ Ibid.

⁸⁰ Precious, Tom. "Pataki to Ask Aid for Staff in Attica Riot." *The Buffalo News* 14 Jan. 2005.

⁸¹ Quinn-Miller, Dee. Telephone interview. 19 Jan. 2012.

⁸² Fried, Joseph. "To Victim of Attica, Settlement is Apology." *The New York Times*. 22 May, 2005.

to the hostage families, kept the Meyer Report sealed, and required funding for counseling to come directly from the Forgotten Victims' settlement.⁸³

Conclusion

The Forgotten Victims were finally "happy to see a resolution."⁸⁴ Yet, they still remained without any official public recognition of wrongdoing or mistreatment by the State of New York. Also, while their decades' long pursuit of justice had been rewarded monetarily, they remained without any form of public apology from the state. No longer forgotten, the hostages of Attica remained in some respects still victims to the suppressive hand of the New York state government. Long after Governor Nelson Rockefeller had left office, the hostage families still lay subject to future administrations' unwillingness to completely reverse and apologize for his excessive dedication to order.

⁸³ Precious, Tom. "Pataki to Ask Aid for Staff in Attica Riot." *The Buffalo News* 14 Jan. 2005.

⁸⁴ Associated Press. "State and Prison Workers Settle Attica Riot Claims." *The New York Times* 14 Jan. 2005.

Conclusion

The Attica Task Force, in recommending that the State of New York not apologize for its treatment of the Forgotten Victims of Attica, wrote to Governor George Pataki that, “Government descends a slippery slope if subsequent administrations believe they have the authority to take their view of today’s standards and apply them retroactively to apologize for the decisions of their predecessors...”¹ Yet, the hostages and their families were not seeking the “retroactive” application of “standards.” The “standards” the hostages demanded were applicable at the time of the riot. In fact, other state officials and documents had already acknowledged this. While his investigation may have overlooked a seemingly obvious cover-up, Alfred Scotti, in 1976, criticized the state police for committing “unjustifiable homicides” at the time of riot. Judge Robert Quigley, the ruling figure in Lynda Jones’s 1982 settlement, had also “overpoweringly” claimed that the state police acted “excessively” at the time of the riot. Both the Scotti investigation and Judge Quigley’s ruling applied judgment to “standards” of behavior in 1971; those “standards” were not 21st century “standards.” They only served as 21st century “standards” to allow the state the opportunity to avoid admitting their mistakes and apologizing directly to the hostages.

The Task Force’s recommendations were also not consistent with past decisions of the US federal government. Forty-six years after President Franklin D. Roosevelt authorized the internment of Japanese Americans during World War II, President Ronald Reagan signed the Civil Liberties Act of 1988, a law that, in addition to paying

¹ Attica Task Force. *Recommendations on Forgotten Victims of Attica*. Draft Response to Governor George Pataki. 2003.

reparations to those Japanese Americans who had been interned in camps, officially apologized “on behalf of the people of the United States for the evacuation, relocation, and internment of such citizens and permanent resident aliens.”² With this act, the 100th United States Congress, in 1988, apologized for the decisions of the President in 1942, made under the “standards” of that time. Now, almost 25 years later, it seems hard to find any negative implications from this bill. There is no evidence of the government having descended a slippery slope.

Obviously, the State of New York’s decisions regarding Attica- from retaking the prison, to covering up the retaking’s investigation – cannot be compared equally with the multi-year long internment of over 100,000 Americans. Yet, the situations have similarities. The respective governments responded only after protest from each of the victimized groups. The federal government of the United States did not apologize to Japanese Americans from the will of their own motivation; it was only after pressure from the “Redress Movement,” a multi-decade movement, based of the Civil Rights Movement, and led by the Japanese American Citizens’ League, that the United States Congress passed the Civil Liberties Act of 1988 and apologized for interning Japanese-Americans. In the situation of Attica, the state government of New York, while they still have not apologized for their actions, only granted “reparations” or settlements to the hostages (and inmates) after years of protest and pressure from activist groups like the Forgotten Victims of Attica.³ In each instance, it was only once the previously politically

² 100th Congress, S. 1009. Found at internmentarchives.com Accessed 15 March 2012

³ In fairness, credit for this continued protest must also be given to the inmates’ and their attorneys who kept their fight against the state alive for over 40 years. It was only through their undying will, and after their eventual settlement, that the hostage families would receive compensation from the State of New York.

“powerless” – the Japanese-Americans and the hostage families – gained some “power” (through decades of challenging the ruling powers) that their grievances were finally answered.

40th Anniversary

On September 13, 2011, exactly 40 years after Attica’s prison was retaken, the Forgotten Victims held a public memorial outside Attica’s prison for their slain hostage relatives.⁴ Mark Cunningham, son of killed correction officer Edward Cunningham, and now a correction officer at Attica himself, read the names of the 10 killed hostages as a bell rang 10 times in the background, once for each hostage.⁵ After four decades of fighting the state, the gathered families of the Forgotten Victims had finally received monetary compensation. Yet, they had still not received the “most important” aspects of what they requested from the state back in 2004: access to sealed state records and an official state apology.⁶ Although the Forgotten Victims have continued to lobby the state for both an apology and access to the records, neither current Governor Andrew Cuomo nor the state legislature has done anything in regards to either. While they are no longer forgotten, as they have joined together to have their voice heard, the hostage families still remain victims at the hand of the state’s un-sympathetic hand, lacking an apology, and lacking answers to why they were mistreated by the state for so long.

To find these answers, one must place the story of Attica’s hostages in a larger historical context by appreciating the strict law and order rule that dominated American

⁴ McKinley, Dave. "Ceremonies Mark Anniversary of Attica Prison Riot" WGRZ.com Buffalo, 14 Sept. 2011.

⁵ Ibid.

⁶ Quinn-Miller, Dee. Telephone Interview. 19 Jan. 2012.

politics in the late 1960's and early 1970's. In particular, one must understand the connections of New York State's highest power, Governor Nelson Rockefeller (who had the ultimate say on Attica's retaking) to this law and order movement.

Nelson Rockefeller's view that the riot, the retaking, and its aftermath, were political problems, blinded the state from recognizing and acting on its responsibility to its citizens both at the time of the riot and through the present. His political stance led to a cascade of events - from his stubborn refusal to go to Attica, to the excessive force of the state Police troopers in retaking the prison, to the disguising of workmen's compensation payments to the hostages, to the lack of integrity in Simonetti's criminal investigation, and ultimately to stonewalling the "flagrant deficiencies" in investigating the troopers' conduct - that served to keep justice from the hostages and the truth of Attica hidden from the public.

To this day, the State of New York has still not taken complete responsibility for its actions during the retaking. It has still not admitted that the state police troopers wrongfully used excessive force and worse, it has never admitted to misleading its faithful prison guard employees for over three decades. Attica's riot, one of the defining events in New York's and our nation's history, deserves to be treated with the upmost honesty, especially from those in positions of power. The State of New York has still not met that obligation.

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