Reckoning with the Artifacts of Attica
What Was Found, What Wasn’t, and Why It Matters

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In the early afternoon of September 13, 1971, Americans across this country sat stunned as they tried to process the news that came over their car and kitchen radios. The dramatic negotiations that had been playing out for days at the Attica Correctional Facility in upstate New York, those between the nearly 1,300 prisoners who demanded improved conditions and state officials from nearby Albany, had somehow just ended with literally hundreds of those prisoners riddled with bullets. As unfathomably, many of the hostages there, all state employees, also now lay in that prison either dead or dying.

Had these same Americans also been told that mere hours later governor Nelson Rockefeller would place the New York State Police (NYSP), the very same body whose troopers had gone in guns blazing in this disastrous retaking, in charge of collecting all of the physical evidence that would be used to ascertain who was responsible for this carnage, they might well have been appalled.

But they were never so informed. Indeed, every media story that followed the retaking of Attica focused remarkably little attention on the NYSP, nor, even more startlingly, on the horror wrought by the extraordinary amount of buckshot and bullets, including ammunition outlawed by the Geneva Convention, that its troopers had shot into so many bodies, in such a confined space, in such a short period of time (leaving a scene so gruesome that one deeply shaken physician likened it to a “Civil War painting”). Instead, media coverage focused the public’s attention on the prisoners—those “animals” and “barbarians” who, according to state officials, not only slit the throats of those inside, but also had even castrated

1. Interview with John Stainthorp, January 8, 1975, 8. From interviews conducted with members of the New York National Guard and other medical workers, document, Attica Brothers Legal Defense. From the papers of Elizabeth Fink. In author’s possession.
men and buried them alive. This was, it turned out, a complete and utter lie. But it was a lie that would forever cast a shadow over Attica and the story of what actually happened there.

And, so, when the New York State Police suddenly announced in 2011 that it had cleaned out a thirty-foot Quonset hut where a substantial amount of Attica “evidence” was stored, and that it was willing to donate those items to the New York State Museum and Archives, the news was greeted with excitement and gratitude. For so many who had lived through that traumatic day of September 13, 1971, and especially for those who had lost loved ones in the assault on the prison that morning, the release of these items offered new hope that questions about what had gone so wrong there, questions that had plagued them for literally decades, might finally be answered. For years, Attica’s survivors and their families had felt that their lingering questions as well as their shared trauma had been utterly ignored if not outright dismissed by the state of New York, and these artifacts held at least the promise of some desperately needed closure.

But even if one had not lost a brother, son, or father at Attica, or had no direct connection to this terrible place or this now-infamous event, news of the “turning over” of these long-gone artifacts was still most welcome. The truth was that even by 2011, other than the fact that there had “been a riot there,” the story of what exactly happened at the prison back in 1971 remained murky for most Americans. And, importantly, this inability of Attica survivors to get straight answers from state officials as to why so many people had to be hurt and killed at this prison on September 13, 1971, and the nation’s collective ignorance regarding why this event had even happened at all, were related and also hardly coincidental. Both stemmed from the fact that even though forty years had passed since the thick fog of tear gas had cleared from D Yard, and though it been decades since that blood had washed away and those bodies had been laid to rest, not a single member of law enforcement who
carried out the assault had ever been held accountable, and all of the records related to this event, inexplicably, remained sealed.

But buried deep in the mystery of how records pertaining to an event that had taken place in a public institution could remain sealed for decades, as well as how so many members of law enforcement could escape naming or indictment in the deaths of state employees and deaths of those in custody under scrutiny, lies the very reason for why the arrival of these artifacts would be treated with as much caution as elation. The very existence of these artifacts, the very reason these specific items are in this body of evidence that was saved by the NYSP back on September 13, 1971, and why other very specific items were not collected and are not included for us to see now, is itself part of Attica’s own deeply troubled history. Yes, this collection of items turned over by the NYSP is indeed of great historical value, and it does tell an important story. But what, in fact, is most significant about the items dropped off at the cavernous warehouse of the New York State Museum back in 2011, objects that I had the honor of sifting through alongside others back then, is not what these sworn officers of the law had collected, catalogued, and saved from the bloody yard back on September 13,
What Was Found

One of the most iconic images of the Attica Uprising of 1971 may well be the one that shows the nearly 1,300 mostly Black and brown prisoners standing together in D Yard in the prison with fists clenched. Another particularly inspiring photo for so many was that of Attica’s rebels crowded around the negotiating table, demanding better treatment. Uprising images that showed the hostages, disheveled and huddled together in that same yard, sometimes blindfolded, and always wary, clearly unsettled many folks as well when broadcast on the nightly news. But we now know that behind those dramatic images, photos that suggest a simple story of prisoner militancy and hostage vulnerability, in fact lies a much more complicated tale.

We now know, for example, that these same prisoners photographed with their fists clenched had also taken important measures to protect those same hostages from harm over the course of the uprising, and that the prisoners who sat at that negotiating table with state officials had each been democratically elected out of their respective cell blocks to speak on behalf of a set of basic human rights these men so desperately all needed. We also know that, in fact, both groups, prisoners and hostages alike, hoped state officials would remedy the poor conditions at Attica as well as find a peaceful end to the uprising. We know, too, that both groups said as much to the media, in the hope that prison officials and Rockefeller would listen. Perhaps most important, we now know that when Rockefeller nevertheless ordered the forcible retaking of that prison, with guns, that he had been made fully aware that if he chose this path over further dialogue, the hostages would die and much blood would be shed. And we also now know that, despite being given this knowledge and being made aware that within a short time so many men in D Yard, inevitably, were going to be shot with trooper bullets, state officials were instructed to make sure that the prisoners did not know that morning that they were, in fact, being given “an ultimatum” if they didn’t surrender immediately. That way, when the prisoners did not surrender, thinking, of course, that negotiations would simply continue (as they had every day before that one when they had declined the state’s plea to release the hostages and simply give up), the assault could commence without a hitch.

None of the artifacts that the NYSP turned over to the New York State Museum, however, gave even a hint of this complex story, and, indeed, what was “found” on September 13, 1971, and turned over as “evidence” was collected at the time with the intention not of furthering an unbiased investigation, but rather of reinforcing the idea that all that went wrong at Attica could be explained by items that suggested either Black prisoner militancy or violence against white hostages in any future criminal investigation of this debacle. The
The negotiating table in D Yard during the Uprising. Commissioner of Corrections Russell Oswald sits at lower left. Among the incarcerated men at the negotiating table are Frank “Big Black” Smith (standing, #3), Herbert Blyden (standing, #4), and Elliott “LD” Barkley (standing, second from right). Elizabeth M. Fink Attica Archives, courtesy of Michael Hull.

NYSP well knew that its own troopers would soon be in the crosshairs of this same investigation, and since members of law enforcement were the only ones at Attica that day with guns, deflection was an essential legal strategy from hour one.

And yet, even I did not fully grasp just how significant the NYSP’s collection of evidence back on September 13, 1971, was to how the actual history of Attica unfolded, and to how the Attica story was later told and was then understood for forty years thereafter, until I actually walked into the massive warehouse of the New York State Museum. As someone who was trying to write the first comprehensive history of the Attica Uprising, I was beyond excited to hear that these items had been turned over and thrilled that I was asked to help identify them. I, too, still had so many questions about this event that I hoped these artifacts would help me answer. But from the instant I walked through those massive doors, I could see something was not quite right if this was indeed “evidence” of what had gone wrong at Attica.

I was, for starters, utterly taken aback by the sheer number of baseball bats that the NYSP had collected from D Yard back on that bloody day of September 13, when 128 men lay there, some of them with six or seven bullet holes in their bodies or more from buckshot pellets. These items were marked with numbers in case they were needed as exhibits for one of the sixty-two criminal cases that state investigators eventually brought only against
prisoners, not a single trooper, in the wake of the Attica Uprising, because each could have been used as a weapon. Also in this collection of “evidence” that troopers had so painstakingly collected on that horrific day were countless coffee cans that could have been made into incendiary devices, myriad pieces of wood that could have been made into catapults, innumerable screwdrivers that could have been made into shivs, and so on. As I walked from bin to bin and moldy box to box, reading tag after tag on everything from old mason jars to soiled pieces of cloth, my sense of dismay grew. Never had so many items been collected and saved that offered so little to our ability to reconstruct, let alone reckon with, the past.

And yet, there was still so much to see. There was, after all, the “evidence” that the troopers had decided to collect from the prisoners’ cells—items, it turns out, that when placed next to the boxes of glass jars, dirty rags, rusty coffee cans, chunks of wood, and bats from Attica’s ball diamonds, made an ugly kind of sense.

On September 13, 1971, and for weeks after the retaking of Attica, as wounded prisoners were stripped naked, terrorized, and beaten and forced to run gauntlets on their way to empty cells where they were then held, the NYSP investigators ransacked every single other cell in the prison. If that cell happened to be occupied by anyone who had been outspoken in the yard during the uprising (many of whom, right after the rebellion, had been chalked by troopers with an X on their black backs), even though those people clearly had not shot anyone, everything there was now deemed “evidence”—every personal letter, every cherished photograph of a child or mother, every painstakingly hand-duplicated legal document, anything.

And there those items were before me in boxes across the floor of the warehouse, ripped up, spat on, desecrated, and as irrelevant to the crimes committed during the course of the Attica Uprising of 1971 now as they were when they were taken from those men then. What did the photograph of the small little girl smiling for her dad in her school photograph, now torn up and dirty in that “evidence” box, have to do with why the corrections officer Ed Cunningham or the prisoner L. D. Barkley were both shot to death, both leaving behind children without a father? Nothing. But what did the very presence of that photograph in that collection of evidence suggest? Something negative, they hoped. Otherwise, prosecutors and grand jurors might have seen this prisoner as a man and as a father who dared to speak out about the fact that the men in D Yard only had one roll of toilet paper to last them a month and were fed on only 63 cents a day and, instead, focused on those who actually had the guns.

And, in that spirit, even the belongings of the far less visible men at Attica were grabbed up as “evidence,” too—at least their books, their legal papers, as well as anything else that might be used to suggest they were “radicals,” which, somehow, the NYSP hoped, would justify why it was necessary to come in and shoot them. And so, as I waded through the boxes in the warehouse I was struck by how many copies there were of books by of Malcolm X and Mao. Of course there were also Bibles, as well as many copies of people’s handwritten legal writs, the latter of which, of course, could actually have been argued to show
that these men were trying to work through the system to be heard. But the hope clearly was that if a juror saw a copy of Mao’s *Little Red Book* next to a baseball bat and a coffee can with a dirty rag that *might* have been soaked in an inflammatory substance, then Attica’s men didn’t really want better medical care; they wanted to overthrow the U.S. government and, thus, needed to be executed.
And, clearly this motley collection of so many boxes of makeshift “weapons,” a few actual roughly hewn weapons that the prisoners did have to try to protect themselves should there be a forcible retaking, all next to so many books and pamphlets espousing the words of Minister Farrakhan, Malcolm X, and Mao Tso Tong, could pack a powerful punch. This is particularly true if paired with boxes filled with the bullet-ridden clothing, muddied caps, and battered badges of deceased corrections officers and some of those same brash, militant, young prisoners. And, to be sure, these items were also there. And they are heartbreaking. I opened one such box unsuspectingly and will never forget that feeling as long as I live. Forty years after their lives had been so brutally and senselessly ended, I found myself holding clothing still stiff from the blood of a slain corrections officer and a prisoner in my hands. This, of course, was real evidence—likely of murder, perhaps of manslaughter. And so, there is no question that there was, on that day back in 1971, evidence to collect and the NYSP collected some items that really did matter. But because the NYSP officials in charge of collecting this evidence were the same ones in charge of the officers who shot the guns who killed the victims, these officials did something truly unforgivable: they tainted any real evidence that did exist. They actively covered up what actually happened at Attica on September 13, 1971, in order to protect those who had committed the real crimes there, and have tried to prevent the full story of what took place there from being told ever since.

What Wasn’t Found

In fact, what is most remarkable about the artifacts that the NYSP turned over to the New York State Museum and Archives in 2011 is not what is in those boxes of items that one day it could use to curate an in-person exhibit on this critically important event. Rather it is what is not there to help such an exhibit help the public better understand what actually happened at Attica so long ago and why, despite so many men coming together to improve the basic conditions behind bars in America, and so many men being killed on that terrible day, our criminal justice system just got so much worse.

What was not collected by NYSP investigators back in 1971 as “evidence,” and therefore is now not there for us as artifacts to reconstruct the true history of the Attica Uprising, cannot be explained away as a case of bumbling fools placed in charge of something they simply were too clueless to handle. These were seasoned investigators from the Bureau of

2. Notably, the number of actual items that could be easily identified as weapons were put together on one small table, photographed, and shown to reporters right away and, thus, were known by all from the start. Even these, however, were crafted by the men inside on the assumption that if the state sent in armed officers to retake the prison by force, and they had to defend themselves, those officers would be coming in with night sticks. This is what had happened in all other prison retakings. Because they came in with rifles, shotguns, handguns, etc., and despite claims made in trooper statements that were later proven to have been impossible to have occurred, these makeshift prisoner weapons were used on the day of the retaking against a trooper.
Police Investigations unit whose sole job it was to help district attorneys’ offices across the state of New York prosecute cases, including high-profile, complicated, and gruesome multiple homicides. And, for years, including in 2011 when it offered this evidence to the New York State Museum, it was assumed that it had done its very best job, and a totally unbiased job, on these cases, too. But we now know, conclusively, and thanks to myriad documents that indicate what in fact happened in the hours, days, weeks, months, and years after the armed retaking of Attica, that this couldn’t have been further from the truth.

The truth was that within fifteen minutes of Governor Nelson Rockefeller okaying the dropping of countless canisters of the blinding and nauseating CN and CS (tear) gas, and then sending in hundreds of NYSP troopers armed with .270 rifles, shotguns, and personal weapons shooting such deadly ammunition, it was clear to all that this assault had been a catastrophe. In fact, almost immediately, members of the Rockefeller administration, the Nixon administration, the New York State Attorney General’s Office, as well as the highest ranking officials in the NYSP and New York’s Department of Corrections all went into damage control mode. And the sordid details of what transpired next, finally, are known. It was true that the governor called for a formal investigation into what happened at Attica. It was true that he placed highly regarded people in charge of it—namely Attorney General Robert Fischer and Assistant Attorney General Anthony Simonetti. And it was true that from the instant troopers retook the prison, with Simonetti also there, the very same man who had overseen the actual retaking, NYSP Troop A’s Captain Henry “Hank” Williams, as well as key shooters from earlier that day such as NYSP trooper Vincent Tobia, were, along with other NYSP troopers, placed in charge of gathering all of the “evidence such as ballistics information, blood tests, weapons, fingerprints and preparation of diagrams” that would later be used to shift blame for all that had happened at Attica away from those who wielded guns onto those who rebelled for better conditions inside.

It is perhaps not a surprise that Hank Williams, as the man who had been in charge of the actual retaking that day, would go to great lengths to personally thwart state efforts to ask thorny questions about the actions of his men on September 13 that led to so much injury and death. But the decisions he made on that day as an investigator for the Bureau of Criminal Investigation, what he decided to collect, to ignore, and actually to destroy, had a far more significant impact. Indeed, it changed history. Ultimately, with a member of the NYSP fully in charge of investigating why thirty-nine men now lay in the morgue thanks to the bullets and shotgun pellets that riddled their bodies, there were no chalk markings made of where bodies fell on the ground in D Yard or where they had been felled on one of the catwalks above it. No shell casings had been collected, nor had the weapons themselves. No calculations had been made regarding bullet trajectories vis-à-vis those bodies or where a given trooper had been standing. Indeed, no records had been made of which trooper had been given which weapon, or which weapon had been fired, in which direction, to which result.

Quite the contrary. Captain Williams instead decided that every one of Attica’s four
yards, its catwalks, its tunnels, its storage rooms, and all other areas needed to be cleared immediately. And, by 5:00 p.m. on the very same day that his men had entered Attica with guns blazing, they had begun a full-fledged “clean-up operation” of the facility that ultimately resulted in all items that weren’t considered potentially favorable to troopers and their decision to go in with force (which was boxed up and taken away for “evidence” to later indict prisoners for riot-related crimes) being disposed of, some of it bulldozed and literally buried behind the prison. This act had taken place before any independent investigators arrived on the scene and, later it was obvious, had also removed “potentially vital evidence from the yards, from storage rooms, from the tunnels and from other unoccupied buildings.”

And this, most tragically, was only the beginning of, and a part of, a cover-up of what exactly happened on September 13, 1971—who was responsible for it, who had done what during it, who had protected whom after it, who made sure others would be blamed for it, and on and on—that would continue for the next forty-five years. The full scope of those myriad attempts to protect the wrongdoers, and to deny that any prisoners were tortured and that state employees were killed knowingly and their families then swindled, has, no doubt, yet to be fully revealed. Indeed, it is alarming to consider the fact that so much of what I did finally manage to discover that had been kept hidden for forty-five years depended on me locating documents that clearly were not meant to be found. But thankfully, because of what I was able to find, we at least know what is not in those boxes of “evidence” that the NYSP turned over to the New York State Museum. We know that if they were there, those documents would tell a very different story of Attica in any exhibit New Yorkers might one day see.

We know that in them, for example, should probably be the minutes of and final report written about the secret meetings that were held in Rockefeller’s pool house at his lush mansion in Pocantico Hills, where, on a series of weekends after the retaking, his men met with top brass from the NYSP as well as the Department of Corrections to get on the same page about the “timeline” of what had happened at Attica before the actual investigation. We know also that there should actually be several sets of trooper statements indicating why they shot their weapons on September 13—several versions of the same trooper’s statement that say different things but have the same date. And we know there could be many photographs in these boxes that simply aren’t there. We know now that troopers took hundreds of photographs, but we also know that key images in numbered sequences immediately went missing, or were denied ever to exist. And, when some of them did eventually surface, they were damning indeed—gruesome pictures of troopers torturing men, beating them, lining them up naked to run vicious gauntlets. There also might well be reels of film that now could be exhibited—footage and the sounds of guns shooting that we now know was taken, but was then spliced out and also mysteriously disappeared. We could also have the statements of those funeral directors, and other county and town officials, who were threatened and intimidated into lying about whether guards had been shot to death by
NYSP troopers, or not, who eventually came forward to tell their stories, but at the time were too terrified to say anything. We should have been able to access all of the documents that we now know Captain Williams took home and burned in his fireplace rather than turn over to the authorities. And we should have film of the rehousing as well as every later interrogation of the prisoners that would later be used in courtrooms as evidence against them since, years later, it was proven that so many of them were horrifically maimed and tortured during this period of time when “order” was being restored. But the NYSP collected the “evidence” we now have before us today, and the world could no longer see what was happening inside the walls of Attica.

Why It Matters

But the ability of those who committed so much harm at Attica back in 1971 to cover up what they did, to never take responsibility for the bullets they fired so indiscriminately into D Yard that early September morning, and instead to do everything in their power to suggest that those killings were either inevitable, or that we simply don’t know how they happened, or why they happened, or who made them happen, had consequences—both personal and political.

For the people who lived through that ordeal and their family members, be they the prisoners or corrections officers, or the coroners who performed the autopsies and the funeral directors who buried their bodies, or the countless other lawyers, judges, clerks, jurors, reporters, and other community members impacted, the long-term costs of having their trauma and pain denied, their questions left unanswered, and real justice for the harm caused to them rebuffed, were incalculable. It would have been bad enough for all of these many people just to endure the losses and horror of that one day of the retaking. But to then have all that horror immeasurably compounded simply because those who were responsible for it, from the governor’s office down to the men who actually pulled triggers and carried out acts of torture, refuse to own what they had done was an extra blow. And any attempt now—fifty years later, now that we have those previously “missing” but so damning documents, and those “lost” photographs, as well as those “missing” false statements, and so much more—to tell the same old sanitized story of Attica, would be downright dishonest and cruel to those people who have suffered long enough.

The costs for the nation of this decades-long cover-up were equally high. When the 1,300 men at Attica sat at the negotiating table back in September 1971 trying to improve the medical care at the prison, hoping that those who served time might be treated as human, all polling data showed that Americans not only believed that civil and human rights were a good thing for this nation, but also most opposed the death penalty. At the time, we were actually talking about moving away from so much incarceration as a solution to all of our ills. Almost immediately after Attica’s retaking, and in no small part because state officials stood outside of the prison and told every American who could read or watch TV
that prisoners, not their own troopers, had killed the hostages that day and worse—those “animals” had actually castrated a guard and shoved his testicles in his mouth—the country turned away from the plight of those behind bars utterly horrified. That was a lie. But it was a lie that went out on the front pages of the New York Times and the Los Angeles Times, and over the AP Wire, so it reached the front pages of countless small-town newspapers across the country. Soon politicians across the nation were clamoring for tougher and tougher laws so that there would “never be another ATTICA!” Soon the death penalty was back. Soon we had more people locked up than any other time in our nation’s history and than any other country on the planet, thanks to the drug laws that Rockefeller, and every other state, passed right after Attica. And finally, we had prison conditions worse than the ones that propelled those 1,300 men to risk everything to speak out to improve them.

We got Attica wrong then because of the lies told on September 13. And we kept getting it wrong because of who was allowed to collect the “evidence” and, in doing so, was allowed to write the history of who was to blame for Attica and what happened there. And the minute the NYSP dropped off that same “evidence” it had collected so many decades ago to the New York State Museum, and we had the opportunity to use it as artifact, as historical memory, the possibility of getting it wrong one more time loomed, this time for an entirely new generation. It would, however, depend on the museum accepting a very odd narrative that those same boxes of artifacts present—namely baseball bats, coffee cans, and Black Power books—somehow can explain the most important artifact that is also in those boxes: the bloody, bullet-ridden clothes. It would rest on us not asking where the guns are, not asking whose guns they were, not asking whose gun’s bullets killed whose parent or brother or son, and who ordered the person with the gun into the prison that day in the first place. That isn’t history, and, thankfully, we have now seen the documents that those troopers and state officials hoped we would not see. We simply can’t unsee them.