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U. S. Will Not Call Federal Jury in Kent State Deaths

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WASHINGTON. — The government has virtually decided against convening a Federal grand jury to investigate the killing of four Kent State University students by Ohio national guardsmen last May.

Only approval by Attorney General John N. Mitchell is needed to ratify a decision, reached reluctantly by the Justice Department's civil rights division, that the government should not enter the case.

Justice officials said that criminal action against the guardsmen involved in the fatal shooting during the campus disorders would require establishing their "intent" to violate the civil rights of the demonstrators.

INDICTMENTS SOUGHT

Filing a civil action against the guardsmen was also ruled out, a source said, because the Guard during the last 10 months has corrected many of the procedures that permitted the incident to occur.

He was referring to the assignment of non-lethal weapons now used by the Ohio National Guard, and such corrective practices as prohibiting soldiers from loading their weapons without orders from superior officers.

Seeking indictments against individuals who actually fired at the students last May was termed by one justice official as "scapegoating."

'A HARD THING'

"It was a panic situation, and a lot of things were bad and wrong," a Justice official said. "But to prosecute one or two soldiers in that type of situation would be an awful hard thing to do."

He added that arriving at the recommendation not to prosecute was "unsatisfying."

The legal requirements were

tested and found insufficient, he said, "but the law really doesn't cover those who probably should be prosecuted." He said he had in mind those responsible for the ill-trained and poorly equipped Guard and some of the judgments of high public officials prior to the shootings.

Justice sources said the convening of a Federal grand jury simply to "clear the air" was ruled out because it would have the effect of raising the temperature of the Kent incident during a period when the nation's campuses traditionally have been disruptive.