

U.S. Reopens Kent State Death Probe

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The Justice Department has begun a new investigation into the 1970 fatal shooting of four Kent State University students by Ohio National Guardsmen and may empanel a federal grand jury to conduct an inquiry.

Assistant Attorney General J. Stanley Pottinger, chief of the civil rights division of the department, said federal authorities will use "investigative techniques and pursue areas of inquiry that I am not satisfied we have fully exhausted."

His announcement was a turnabout from the administration's posture on Kent State as recently as May 25, when presidential Counsel Leonard Garment wrote student leaders that "the answer on convening a federal grand jury is negative."

Although the FBI established probable cause for the filing of criminal charges against the guardsmen who fired their weapons during a demonstration May 4, 1970, against the entry of American troops

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in Cambodia announced four days earlier by President Nixon, former Attorney General John N. Mitchell decided against launching a grand jury probe in August, 1971.

Pottinger said yesterday that while he believes that decision "reflects integrity and probity," it was a "close prosecutive judgment" that requires review.

He said that on the basis of a personal month-long review of the Kent State file, he recommended to Attorney General Elliot L. Richardson that the case be reopened.

Richardson said his decision to renew the investigation rested solely on "the need to exhaust every potential for acquiring facts relating to this tragedy.

"This does not mean that we have reason to believe that the prior decision to discontinue active investigation was wrong, or (was) made for improper reasons; nor does it mean that we think the additional inquiry is likely to lead to different prosecutive judgment," Richardson said.

Under questioning by newsmen, Pottinger persistently refused to say whether the Justice Department had uncovered new evidence in the case.

"I cannot speculate on any new evidence we may or may not have," he said.

"We want to make sure, doubly sure, that the file does reflect that everything was done that possibly could be," Pottinger said.

He stressed, however, that the new investigation would not include a review of possible political considerations in Mitchell's 1971 decision to halt the inquiry.

There have been repeated suggestions that Mitchell's decision was motivated by the administration's partisan concerns about the 1972 presidential election. Since the recent disclosures of the political cli-

mate in the White House at that time, and of White House countermeasures against antiwar groups, these suggestions have intensified.

However, Sen. Birch Bayh (D-Ind.) disclosed yesterday that he had sent Richardson a letter he received from an Ohio National Guard Company commander, purporting to implicate a civilian undercover FBI informer as having fired the first shot in the 13-second-long fusilade at Kent State.

The company commander, whose name was withheld by Bayh, quoted a lieutenant in his unit as saying he overheard the civilian telling police, "I think I shot one of the students."

The civilian, identified in the company commander's letter as Terrence B. Norman, never was called to testify before a state grand jury, Bayh said. Additionally, ballistics tests never were made on Norman's revolver, according to Bayh.

A congressional source said last night that Bayh's staff investigators had learned that Norman, who allegedly was at Kent State posing as a newspaper reporter while at the same time claiming to be working for the FBI, is now an officer in the District of Columbia's metropolitan police department.

Police authorities here verified last night that a Terrence Brooks Norman joined the department on Aug. 24, 1970, and is assigned to the special operations division, a riot-trained detail that handles major demonstrations.

Police refused to provide any further information on Norman, who could not be reached last night.

A Justice Department spokesman declined to say whether the company commander's letter to Bayh had influenced Richardson's decision to reopen the Kent State case.

"We have received a lot of

things in recent months. This may have been one of them," the spokesman said.

Pottinger said the decision to reopen the case was influenced, in part, by a number of events that have occurred since Mitchell's decision. These include, he said, civil suits brought by parents of the victims, congressional inquiries, student petitions, lobbying by the academic community, increased pressure for reform of National Guard procedures, and continual inquiries by the press.

Pottinger attempted to dispel those suggestions, saying, "This is a forward-looking inquiry — not designed to go back and look at internal discussions."

While declining to characterize the new inquiry, Pottinger said, "A grand jury, acting as an investigative function, is a possibility . . . The FBI is also a possible resource for us to use."

An Ohio grand jury was convened just after the shooting by Republican Gov. James A. Rhodes. It indicted 25 persons, mostly Kent State students and faculty, but exonerated the guardsmen. Charges against 20 later were dropped. In contrast, the President's Commission on Campus Unrest concluded that the shootings were "unnecessary, unwarranted and inexcusable" and recommended a grand jury probe.

Significantly, Pottinger hinted yesterday that the Justice Department may even assist the parents of the slain students in their lawsuits against Ohio officials. The U.S. Supreme Court is scheduled to hear a suit charging deprivation of civil rights this fall.

Asked whether his division would intervene as a friend of the court on behalf of that lawsuit, Pottinger said, "It is possible the civil rights division will make a recommendation to the solicitor general re-

garding intervention." He said a decision on that issue has not been made.

Pottinger disputed a suggestion that the case was being reopened to defuse an impending investigation by Congress into the Justice Department's handling of the incident. He said the department will cooperate with congressional committees probing the matter.

In a telephone interview from Pittsburgh, the father of one of the Kent State victims applauded Richardson's decision, saying that it may be a turning point for the Justice Department.

"I feel good that there is an indication that justice is returning to the Department of Justice," said Arthur S. Krause, whose daughter, Allison Krause, 19, died in a hail of rifle fire during the antiwar protest.

"I know it wouldn't have happened under Mitchell or Kleindienst," he added. Richard G. Kleindienst was Richardson's predecessor as the Attorney General.