

Governor Asks U.S. Study Of Attica Inmates' Charges

NYTimes

By FRED FERRETTI OCT 7 1971

Governor Rockefeller has formally requested Attorney General John N. Mitchell to have the civil rights division of the Justice Department investigate charges by inmates of the Attica Correctional Facility that "their rights have been violated."

In a letter to Mr. Mitchell dated Oct. 5 and released yesterday, the Governor said he was making the request "to assure public confidence in the objectivity and fairness of the entire Attica investigation."

Legal observers said the Governor's action was unusual and could even be the first of its kind. In matters concerning alleged violations of civil rights, state officers have generally opposed calling in Federal investigators, contending that state functions would be usurped.

In Washington, the Justice

Department said no decision had been reached yet on the Governor's letter.

Mr. Rockefeller's request appeared to head off the possibility that Federal authorities themselves might initiate a monitoring system in Attica, where a four-day revolt led to the death of 42 prisoners and hostages.

In Buffalo, Federal Judge John T. Curtin was informed by lawyers for the state that the Justice Department was being asked into the Attica investigation. He was told shortly before he refused to issue a writ requested by Attica inmates' lawyers enjoining the prison's officials from what the lawyers described as physical abuse of the inmates and destruction of their legal papers.

In other developments yes-

Continued on Page 54, Column 2

Continued From Page 1, Col. 3

terday:

The state argued before the Supreme Court in Washington that lawyers for a group of Attica prisoners were attempting to impede the criminal investigation by Deputy Attorney General Robert E. Fischer. The state contends some of the volunteer lawyers do not represent some of the prisoners they claim as clients.

Mr. Fischer held his first news conference since the Attica revolt. He outlined his staff and the areas of his inquiry and said he would investigate the decision-making process that led to the assault and retaking of the prison on Sept. 13 to learn "if the facts reveal anything of a criminal nature."

The nine-member committee appointed last week by a five-judge panel headed by Chief Justice Stanley H. Fuld of the State Court of Appeals breakfasted in Albany with the Governor, then held a news conference to outline its fact-finding scope. It said that it would have subpoena powers, but that it was not yet sure it would have the power to grant legal immunity.

Late today a spokesman for the Governor said it was "still being worked out in the law books" just how the committee—headed by Robert B. McKay, dean of the New York University Law School — and the yet to be appointed commission of correctional reform would be given the power of subpoena.

Governor Rockefeller, in his letter to Attorney General Mitchell, said inmates' allegations of mistreatment had been received by the five-man panel, headed by Justice Harry D. Goldman of the Appellate Division Fourth Judicial Department.

Panel Criticized

Justice Goldman's panel was appointed at the request of the Governor after the uprising, and was set up to protect inmates' constitutional rights. It was recently criticized as ineffective by the National Attica Observers Committee, a group of citizens who tried to negotiate a settlement in the prison before the assault that ended the uprising.

The Governor told Mr. Mitchell that Justice Goldman had informed Mr. Fischer of the complaints, and that Mr. Fischer had asserted "that a possible conflict would exist if the inmates making allegations of assaults committed against them were also possible defendants and the targets of the broader criminal investigation he is conducting."

Justice Goldman asked Mr. Fischer to request participation of the United States Justice Department, the Governor wrote, and the Governor's request followed "in order to relieve the pressure that the potential conflict between certain inmates' rights and the criminal investigation now under way imposes" on Mr. Fischer and his staff.

Mr. Fischer, in his Buffalo news conference yesterday, announced that his investigative staff would include nine New York City detectives, who have retired or are about to retire. He also defended the transfer of state police Capt. Henry Williams to Albany as an Attica investigator. Captain Williams had directed the troopers' assault on the prison, and his appointment was criticized by some who said he would be investigating himself.

Mr. Fischer said his inquiry would look into three broad areas: the initial riot, identification of the leaders and the cause of the death of the guard William Quinn; the death of inmates before the troopers' assault; and the assault itself, including the force used.

Asked why newsmen had been barred from the Attica prison, he replied, that "I'm not running the correctional facility" and that it was "not my decision."

The McKay commission, charged with fact-finding in the Attica trouble's met for the first time in Albany. Dean McKay said later that his group's inquiry would be conducted in public and would have a \$325,000 budget. He said he hoped it would finish its work and issue its report in three to six months.

He said the committee would have two headquarters, one in New York City and the other in Buffalo, Rochester or Batavia. Some of the public hearings are expected to take place in Attica, Mr. McKay said.