

Just Who Were the Good Guys at Attica?

By MICHAEL T. KAUFMAN

When the McKay Commission opened its public hearings on the uprising last September at the Attica Correctional Facility, Walter N. Rothschild, chairman of the New York Urban Coalition and one of the panel's nine commissioners, remarked in questioning a witness, "We may never know who were the good guys and who were the bad guys." After three weeks in which inmates, guards,

state troopers, state officials and civilian observers all told of their involvement and perceptions of the five days last September when the prison was in turmoil, Mr. Rothschild's prediction is holding up.

But if no single set of individuals emerged from the hearings with a monopoly on culpability—and certainly none emerged with any glory—some contradictions in testimony and viewpoints did arise.

With the hearings now over, the commission staff has sequestered itself at its offices at 99 Park Avenue to compile a report to be published within three months. In the interim the commission will be releasing additional testimony taken in private, and some of it reportedly will add to the contradictions already put on the record.

A Summing Up

But staff members of the commission, most of them young lawyers, have responded to a reporter's questions on the hearings and, in a sense, summed up what had come to light in the hearings so far. These are the highlights of the testimony that now seem uncontroverted:

¶No prison official knew why a white inmate from Five Company in A Block was sent to segregation on the day before the riot, not even the superintendent who ordered him sent there. The riot started in Five

¶Commissioner Russell G. Oswald of the Department of Correctional Services overrode the opposition of all his advisers in deciding to negotiate from the outset.

¶The ammunition and weapons called for in the assault plan were not determined by tactical considerations, but rather by the normal state police arms issue. This included expanding bullets and deer slugs.

¶There was no civilian review of the assault plan and apparently no one questioned how the scatter barrage of the heaviest shotgun pellets was to be used in a yard where inmates and hostages were jammed together.

¶Governor Rockefeller was asked to come to Attica, not only by the citizen observers but also by his own staff members.

Role of Observers

But there was much clashing testimony.

On the roles of the citizen observers, for example, Mr. Oswald said he had told them they were to be neutral. State Senator John R. Dunne of Garden City, L. I., one of the observers, said this was his understanding, too.

But, William M. Kunstler, the lawyer, and other observers said they assumed from the start that they were to be advocates, relaying the inmate demands and negotiating for them.

Mr. Kunstler further told the commission that on the day before the assault he had been told by an inmate leader that the prisoners had been willing to bend somewhat on their demand for total amnesty. He said he communicated this to Mr. Oswald. But Mr. Oswald said he never heard this from the lawyer, and none of the other observers could recall such a position by the inmates.

Governor Rockefeller testified, in private, that it was his understanding that the inmates were hardening rather than becoming more flexible.

The Governor also said that statements made by Mr. Kunstler, Assemblyman Arthur O. Eve of Buffalo and Bobby G. Seale to the prisoners had been inflammatory. But every other observer witness who was in the yard with these men said their comments were restrained.

Democracy or Not?

As to the mood in the yard, one inmate witness said many people were not paying any attention to the speeches. Another said all decisions were voted on by all.

A physician who went in daily said the prisoner structure seemed to be dictatorial. Some of the observers, however, referred to it as "an Athenian democracy." A commission survey of the inmate survivors indicated that 63 per cent did not want to be in the inmate-held yard during the rebellion.

The idea of whether the inmates knew that any assault

would be made with lethal force was similarly explored. Some inmates said they knew it would, some thought only sticks would be used and one told of a prisoner who pointed at tear gas-laden military helicopters, saying they were manned by Young Lords, a militant Puerto Rican group, bringing arms to the inmates.

As to the reprisals that took place, Mr. Oswald said the responsibility for seeing that they would not occur fell on Superintendent Vincent Mancusi. But Mr. Mancusi, who did issue orders for restraint after the retaking of the prison, reported that he was told by the Commissioner not to leave his office.

None of the witnesses from the Department of Correctional Services was able to answer why correction officers, who were held to be too emotionally

involved to be allowed to participate in the assault, were allowed to direct the rehousing of the rebel inmates.

Mr. Dunne said he had pointed out certain beatings of inmates to Deputy Correction Commissioner Walter Dunbar during a tour after the successful assault. Dunbar said he could not remember that happening.

From the lines of questioning taken by many of the commissioners, direction the commission is leaning seemed apparent. In private discussions the commissioner, talk of the "inept assault plan" and the skewed and confused lines of command among the observers and among the state officials.

Said one staff member: "All of the forces that operated here say you cannot tolerate an uprising in a prison. Mr. Oswald resisted these forces for a

while. When it became apparent that negotiations were impossible, these forces remanned. And you could not say what the priorities were—to save the hostages or to retake the prison."

At one point last week, Robert Carter, another commissioner and the co-chairman of the Conference of Black Lawyers, sharply berated Mr. Dunbar, who was on the witness stand, or what the Mr. Carter called Mr. Dunbar's "impassioned and elequent defense of the brutalization" by guards of prisoners after the assault.

Mr. Carter said at that point that it had become apparent to him that there were two separate riots that took place at Attica—"one by the inmates when they took over the prison, the second by police and correction officers when they retook it."