

# Probers Critical Of Attica

By Examiner

ALBANY — (UPI) — The citizens' commission named to investigate the Attica prison riot reported today there was "no justification" for the "clearly indiscriminate firing" which put an end one year ago to the nation's bloodiest prison riot in which 43 men died.

"With the exception of the Indian massacres in the late 19th century," the commission said, "the state police assault which ended the four-day prison uprising was the bloodiest encounter between Americans since the Civil War."

Releasing its findings on the first anniversary of the rebellion, the "blue ribbon" McKay Commission also held that the revolt was spontaneous, not planned; that the demand for amnesty was the main barrier to a peaceful solution; and that Gov. Nelson Rockefeller should have gone to the scene.

## Reforms Recommended

It recommended a series of prison reforms, but also suggested that in case of such outbreaks prisons be retaken quickly, if possible, or that negotiations not include outside influences.

Highlights of the 550-page report, plus photographs and films, were scheduled for viewing tomorrow night over National Educational Television.

In San Francisco, the report will be shown tomorrow at 10:30 p.m. on KQED, Channel 9.

## Could Happen Again

The nine-member panel, headed by Robert McKay, dean of the New York University Law School, spent 10

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months interviewing 2500 persons in both public and private sessions.

The commission warned a prison riot could happen again at Attica. It said it saw some improvements in prison life since the riot, but little reduction of the hostilities and frustrations that led to the riot.

The commission noted that the best evidence that things had not changed greatly at Attica was this summer's strike by 900 of the 1200 Attica inmates over the firing of a nurse and other conditions at the prison. The demonstration was peaceful.

"The possibility the Attica townspeople will again hear the dread sounds of the powerhouse whistle is very real," the report said.

It added: "Attica is every prison, and every prison is Attica . . . that the explosion occurred first at Attica was probably chance."

## Grand Jury Probe

The report did not name anyone still subject to criminal prosecution. Volumes of private testimony are still being sought, however, by Deputy Attorney General Robert Fischer for his Grand Jury investigation of the riot.

There was no immediate reaction to the report from either Rockefeller or Correction Commissioner Russell Oswald, who had command at Attica.

The McKay Commission was appointed by the state's top five judges.

The assault force of 211 state troopers (and unauthorized correction officers) had .270 - caliber hunting rifles, .38 - caliber pistols and 12 gauge shotguns, the report said.

## 'Lethal Missiles'

Most of the shotguns used 00 shells, each of which has nine or 12 pellets — "each a lethal missile," the report said. With 1200 inmates holding the 38 hostages in "D" yard, it said, conditions "should have prohibited the use of shotguns."

With troopers given individual discretion to fire if



**RUSSELL G. OSWALD**  
In command at Attica



**ROBERT McKay**  
Headed probe group

"overt acts" of violence were committed, the force attacked under clouds of tear gas dropped by helicopters.

The report said 2200 lethal missiles (counting each shotgun pellet) were fired. Almost 10 percent of those in the yard were killed or wounded, including 13 of the hostages.

The assault team recovered 1400 weapons, including two tear gas guns, spears, Molotov cocktails, baseball bats, scissors, knives, razors and clubs, but no firearms.

"A spontaneous burst of violent anger . . . not planned or organized in advance," caused the riot, the report said.

A group of inmates attacked a lieutenant they believed was involved in putting a comrade into isolation. A bad weld in the central "Times Square" gate gave the initial group access to the whole prison. Because of bad communications and lack of planning among guards, the inmates had their hostages and were grouped in "D" yard within 90 minutes, the report said.

Fearing loss of the hostages, Oswald tried to negotiate — but an observers' committee of more than 30 members was "unwieldy," the report said. Oswald's final offer of 28 points did not include amnesty, and inmates feared "mass prosecutions" after the death of

an injured guard, William Quinn.

Rockefeller refused amnesty because it would "undermine the very essence of our free society," the report said. Although observers and Oswald asked Rockefeller to fly to Attica from New York City to meet with them — not the prisoners — the governor said he doubted his presence would "contribute to a peaceful settlement."

But the commission concluded that Rockefeller "should not have committed the state's armed forces against the rebels without first appearing on the scene and satisfying himself that there was no other alternative and that all precautions against excessive force had been taken."

## Might Have Calmed Cons

"It is possible that, even without a grant of amnesty, the governor's presence at Attica would have overcome inmate mistrust of the state's commitment to reform, and induced acceptance of the 28 points," the report said.





**GOV. ROCKEFELLER**  
"Should have gone"

The commission also made these points:

- **Guards:** Although Rockefeller and Oswald decided not to use guards in the assault, "This order never reached the state police or correctional supervisors," the report said. "When guards participated," their gunfire killed "at least one inmate and one hostage."

- **Medical:** With 120 dead or wounded just after the assault, there were only 10 medical personnel (two doctors) inside the walls.

- **Reprisals:** When order

was restored, there were "widespread beatings, prodings, kickings, and verbal abuse of the vilest nature," the report said. "No effective steps were taken on Sept. 13 to see that reprisals did not occur, and no satisfactory explanation has been given for that failure," the report said.

- **Negotiate:** Besides recommending that authorities develop more "non-lethal" weapons, the commission offered several suggestions for officials confronted with future prison riots.

They included:

- **Retaking the institutions immediately,** when possible, to prevent inmates from making weapons.

- **Including outside monitors for any assault;** to have negotiations on "neutral ground" directly between the state and the inmates, using outside mediators only in a "clearly defined" role.

- **Barring the news media from talks,** but giving regular briefings to reporters; having a "regular procedure for dispelling rumors."

- **Before beginning an assault,** making clear to the prisoners that the only alternative to not settling is an armed attack.





Scene from the Attica riot a year ago . . . dead and wounded inmates lie unattended on catwalks of prison

—AP Photo