

Guard Major at Attica Says State Waited 2½ Years

By MICHAEL T. KAUFMAN

Dr. John Cudmore, a surgeon who as a major serving with the National Guard entered the Attica prison just after the inmate rebellion in September, 1971, was quelled, said yesterday that despite his public disclosure of seeing atrocities committed by guards, he was not questioned by state investigators until nearly two and a half years after the event.

Although the face of one guard he saw beating inmates appeared to him "in nightmares" for six months, he said, the image receded, and by the time the prosecutors finally did show him photographs of correction officers, he could identify no one.

"I could not identify my children if I hadn't seen them for two and a half years," said the surgeon yesterday from his office in Buffalo.

Others Not Called

Two other Guardsmen who had been at Attica on the day of the assault, also said that they were surprised that they had never been called by investigators from the special state prosecutorial force inquiring into Attica crimes.

Dr. Cudmore, who is still a National Guardsman, said his memory of the events of Sept. 13, 1971—the day of the state troopers' assault—was fresher when he testified in a public



The New York Times
Dr. John Cudmore, in 1972, telling about Attica.

televised hearing of the McKay Commission on April 27, 1972.

"At that time he told the commission, which was appointed to study Attica from a historic rather than prosecutorial perspective, that "that day tore from those guards the shreds of their humanity."

Violence Recalled

He entered the prison a half hour after the firing stopped, the doctor told the panel headed by Robert B. McKay. As he directed his unit of 45

Guardsmen on litter removal, the doctor said, he saw inmates struck "with blows to the elbows and genitalia."

One inmate, he testified, "had his leg fractured by such a blow." The 37-year-old surgeon said then: "For the first time I understood what had happened at My Lai."

Yesterday, he said in an interview with The New York Times that despite his well-publicized testimony, he was not contacted by the prosecution's investigators until Jan. 14, 1974, when Donald Schecter, a special assistant attorney general who has since quit, visited him and showed him photographs of correction officers.

Problem of Identification

Dr. Cudmore said he was unable to single out anyone from the photographs. The next day he was brought before the Attica grand jury, and then again, on Jan. 22, he was called to the grand jury, sitting in upstate Warsaw.

Dr. Cudmore said that he was satisfied with the questioning before the Grand jury, but that he had expressed his amazement to friends as to why he had not been called earlier.

A second Guardsman who was in the prison just after the assault was James P. Watson, who now runs a restaurant in Buffalo.

Two days after the assault, he testified in Federal court that he had seen prisoners forced to run a gantlet of correction officers who struck them. Mr. Watson was testifying in regard to an application for an injunction in which a committee of lawyers sought access to the prison and to inmates. That injunction was ultimately granted.

Reached at his restaurant

to Call Him Despite Disclosure of Public Beatings

yesterday, Mr. Watson said he had never been contacted by investigators for the prosecution.

In an interview in Buffalo five weeks ago, Anthony G. Simonetti, chief prosecutor in the Attica investigation, said that during his three-and-a-half-year inquiry attempts were made to interview all inmates, all officers and all guardsmen who were in the prison between Sept. 9 and 13, the time be-

tween the inmates' uprising and the state troopers' assault.

"It was really strange," said Mr. Watson, who was a law student at the time of the assault. I always assumed I'd be questioned, but I never was. It bothered me. I used to ask myself why. But now I've put it to the back of my mind."

Mr. Watson said that now he was sure he could not make any identifications, and he is not certain whether he could

have immediately after the quelling of the insurrection.

A third Guardsman, Sgt. Marvin Smith, a full-time employe of the Guard, said he had been with Dr. Cudmore's unit. Although he had spent the entire day working with the wounded in the prison infirmary, Sergeant Smith said, he had also thought he would be interviewed. "They never reached me," he said.

The office of Mr. Simonetti,

a special assistant attorney general, was asked yesterday about the reasons for the delay in questioning Mr. Cudmore and for not interviewing others.

A spokesman replied that the office would have no comment until Mr. Simonetti finished reviewing the 160-page report critical of the prosecution written by his former aide, Malcolm Bell. Mr. Simonetti received a copy of that report yesterday.