

Clemency Being Considered For Attica Riot Defendants

By William Clairborne
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NEW YORK, Feb. 18—The chief prosecutor in the Attica prison riot trial said today he is considering recommending to Gov. Hugh L. Carey that defendants who were convicted or pleaded guilty to charges stemming from the 1971 uprising be granted clemency.

Deputy State Attorney General Alfred Scotti also said he is reviewing the evidence against 14 former Attica inmates and one guard still under indictments to determine whether the cases should be dismissed "in the interest of justice."

Scotti said a third option he is considering is whether evidence in the bloody takeover of the prison by state police, in which 39 persons died, should be turned over to the state police and the State Department of Corrections for administrative action.

Scotti emphasized in a telephone interview that he had not made up his mind on the alternatives and had made no recommendations to Carey.

A spokesman for the governor confirmed this, saying Carey would not make a judgment without a recommendation from Scotti.

The possibility of clemency and dismissal of pending charges against Attica defendants arose earlier today when state Supreme Court Justice Frank Bayger said in Buffalo that Scotti was "reviewing with the governor the granting of clemency" to convicted Attica prisoners.

Bayger also disclosed in court that state prosecutors had asked for more time to review pending indictments before deciding what action to take.

Bayger granted three Attica defendants charged with kidnaping the right to a hearing to argue for dismissal of charges against them.

He said he granted the hearing because "there is the possibility that the defendants have already been punished enough, and any further punishment would be cruel and inhumane . . ."

"I have a legal problem to decide whether this case

should be dismissed in the interest of justice—whether Gov. Carey thinks so or not," Bayger said.

So far, two persons have been convicted in connection with the riot and eight have pleaded guilty to reduced charges. Four defendants were acquitted after trial, and charges against 31 others were dismissed, for the most part because of insufficient evidence.

Scotti was named special prosecutor of the Attica cases in December, replacing Anthony G. Simonetti after a special state investigative panel issued a report criticizing the prosecution for "mistakes in judgment."

The report, ordered by Carey, was written by former supreme court Justice Bernard S. Meyer.

Although the 39 Attica victims included 11 correctional officers, only one died at the hands of the inmates. The others died in a fusillade of bullets when state police stormed an inmate yard known by the prisoners as Time Square.

Scotti said today he would attempt to decide first whether pending indictments should be dismissed "in the interest of justice," and then would take up with the governor the matter of clemency and referral of evidence.

Scotti noted he previously recommended the dismissal of 11 indictments against Attica defendants.