

F.B.I. Is Reported to Find No Need for Kent Shooting

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Special to The New York Times

WASHINGTON, July 23—A Justice Department analysis of the shooting incident in which four students were killed at Kent University last May is reported to suggest that it was unnecessary for National Guardsmen to fire at the students to protect themselves.

This view, reported in a copyright article by The Akron Beacon-Journal, differs markedly from that of Ohio National Guard officials, who maintained after the incident that the guardsmen had to shoot to defend themselves from snipers and hostile crowd threatening them with rocks and bottles.

The Justice Department analysis was prepared by the civil rights division and was based on an investigation by the Federal Bureau of Investigation.

The Justice Department turned the 14-page analysis over to Ronald Kane, prosecutor for Portage County, Ohio, where the university is situated.

In its memorandum to Mr. Kane, the department suggested

options for possible prosecution. The key point is understood to involve the question of whether or not the crowd action at Kent State could legally be classified as a riot.

If it was a riot, the guardsmen who fired at the students cannot be prosecuted under Ohio law. If it was not a riot, the memorandum indicated, the guardsmen may be liable for criminal prosecution, although the possible charges were not clear.

The Beacon-Journal obtained a copy of the analysis and published a summary of its contents today. In a copy-right article, the newspaper said the document made the following points:

¶About 200 demonstrators heckling the guardsmen could have been turned back by tear gas or arrests.

¶The guardsmen were not hurt by thrown rocks, and none was in danger of losing his life.

¶A guardsman shot at a student making an obscene gesture

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while another fired at a student getting ready to throw a rock.

¶Thirteen students were hit by bullets in 11 seconds, and all but four were shot in the back or side.

¶One guardsman became hysterical after the shooting, shouting, "I shot two teen-agers. I shot two teen-agers."

A spokesman for the Justice Department confirmed that the memorandum to Mr. Kane contained options for prosecution but would not comment on the details published by The Beacon-Journal.

The F.B.I. report was part of an investigation ordered by President Nixon and Attorney General John N. Mitchell.

Maj. Gen. Sylvester Del Corso, adjutant general of the Ohio National Guard, declined today to comment on the analysis, except for one point. When told that the analysis asserted that no guardsmen were hurt, he said: "That sounds somewhat far-fetched." He maintained that many guardsmen had been injured.

On another development, a senior official of the bureau, representing the director, J. Edgar Hoover, told the Presidential Commission on Campus Unrest today that the nation would become a totalitarian society if students were permitted to form an elite force above the law.

William C. Sullivan, the number three man in the bureau, said a militant minority of students and professors had lost their capacities for thinking and self-discipline.

He contended that there could be no permanent solution

to the problem of campus unrest and violence unless the students could be persuaded to discipline themselves. He offered no suggestions as to how this might be done.

Mr. Sullivan maintained that the challenge from the students was directed against all political, economic, educational and social institutions in the nation. He said that dissent over the war in Vietnam was but one cause.

He absolved the Communist party of fomenting unrest, saying there was "no centralized conspiratorial plot stemming from the Communist party behind this." But he said that the Communists had tried to exploit the unrest.

Charles D. Brennan, assistant director of the F.B.I. for domestic intelligence, was asked by William Scranton, chairman of the commission, if there was an underlying cause for campus unrest.

Mr. Brennan said that the causes were interwoven but that if he had to pick one, he would select the "permissiveness" that had developed throughout American society in the last 25 years.

Mr. Sullivan said the problem of campus unrest was not limited to this country but was a contagion sweeping one country after another. He said American students had been comparing notes and discussing tactics with their counterparts in Europe.

Mr. Sullivan criticized the university authorities for hesitating to call law enforcement officers when trouble occurred on their campuses. He said that some university officials had not realized that students no longer considered the university their home away from home.

Mr. Brennan said that the concept that universities could handle their own internal disciplinary problems had disap-

peared but that university presidents and deans had not recognized this. He urged greater liaison between university officials and law enforcement officers.

Asked how the bureau could avoid the appearance of being a repressive force, Mr. Sullivan said, "We have never had any agents in the classroom cataloguing ideas."

He said that he had explained this many times to students but that they did not believe it.

He also said that the bureau limited its infiltration of agents into student ranks to situations where there was sufficient cause to believe that the law was being violated and that violence might result.

Mr. Sullivan said that during the academic year 1969-70, there were 1,785 demonstrations, 313 seizures of buildings, 7,200 arrests, 14 bombing attacks, 8 deaths, 462 injuries and \$9-million worth of damage. All the figures showed substantial increases over the previous year.

Mr. Brennan said that because all of the elements leading to unrest were still present, more disorders could be expected during the coming academic year. But he did not predict how many.

Sidney Hook, professor of philosophy at New York University, testified that the most serious threat to the universities "comes not from the criminal violence of extremists but from measures of appeasement and capitulation in the vain hope of curbing their frenzy."

Gov. Robert D. Ray of Iowa testified that if violence on the campus continued, "there are forces that stand ready to seize upon these disorders as an excuse to impose a death sentence of sterile conformity on higher education."

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