

MITCHELL DROPS KENT STATE CASE

Cites Lack of Proof of Plot by Guard as He Refuses to Empanel Grand Jury

Special to The New York Times

WASHINGTON, Aug. 13 — Attorney General John N. Mitchell announced today that no Federal grand jury would be empaneled to investigate the fatal shooting of four Kent State University students by Ohio National Guardsmen in May, 1970.

Mr. Mitchell said that a review by the Justice Department had persuaded him that "there is no credible evidence of a conspiracy between National Guardsmen to shoot students on the campus and that there is no likelihood of successful prosecutions of individual guardsmen."

The decision virtually eliminates any possibility of criminal action against the guardsmen involved in the shootings. Four students were killed and nine others wounded during disorders on the Kent State campus in northeastern Ohio when guardsmen suddenly opened fire on a crowd of demonstrators protesting the United States's incursion into Cambodia. One of the surviving students is a paraplegic.

The Attorney General agreed with the conclusion reached by the President's Commission on Campus Unrest that the rifle

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fire had been, in its words, "unnecessary, unwarranted and inexcusable."

Declaring that further action by the Justice Department "would not be warranted," Mr. Mitchell said that "in view of the massive Federal investigative resources already committed . . . further investigation by a Federal grand jury could not reasonably be expected to produce any new evidence which would contribute further to making a prosecutive judgment."

The shootings were investigated last year by a special state grand jury in Portage County, Ohio. The grand jury issued 25 indictments, none for guardsmen, and an 18-page report that sharply criticized the school's administration, faculty and students.

In absolving the guard, the jury said it had found that the Kent State administration had fostered "an attitude of laxity, overindulgence and permissiveness with its students and faculty," and added that the guardsmen had "fired their weapons in the honest and sincere belief, and under circumstances which would have logically caused them to believe, that they would suffer serious bodily injury had they not done so."

The grand jury's report was later ordered expunged by a Federal judge because, he said, its unwarranted assertions violated the rights of the indicted persons to a fair trial. The judge allowed the indictments

to stand until they could be ruled on by trial courts. None of the 25 cases has yet come to trial.

Investigations of the incident were also made by the Presidential commission, headed by former Gov. William W. Scranton of Pennsylvania, and by the Federal Bureau of Investigation.

Several members of the Presidential commission, including Mr. Scranton, have called for a Federal investigation. Mr. Scranton said that he was "personally quite disappointed with the results of the state grand jury investigations."

A Justice Department summary of the F.B.I. reports contradicted the Ohio jury's conclusion that the guardsmen had fired out of fear for their lives, adding, "We have some reason to believe that the claim by the National Guard that their lives were endangered by the students was fabricated subsequent to the event."

Last month a branch of the United Methodist Church released a private report, prepared by Peter Davies, a New York insurance broker, which argued that the decision to fire on the students had been made in advance by a small group of guardsmen.

The Justice Department has acknowledged that it has reviewed the Davies report, but apparently concluded that it contained no new information.

According to Mr. Davies, the signal to fire was a single shot from a .45-caliber pistol carried by a noncommissioned officer.

In his statement today, Mr. Mitchell said: "A sense of tragedy over the events which took place at Kent is as common to everyone in the department as it is to the American

people, but this incident cannot be undone. I am satisfied that the department has taken every possible action to serve justice.

"I have communicated this decision to the parents of the four students who died and restated my sympathy with the full knowledge that nothing can be said to mitigate their sorrow and remorse.

"We can only hope that any type of recurrence can be avoided by this experience and the incidents like this will never again be a part of our national life."

The four slain students were Allison Krause, 19 years old,

Pittsburgh; Sandra Lee Scheuer, 19, Youngstown, Ohio; Jeffrey Glenn Miller, 20, Plainview, L.I.; and William K. Schroeder, 20, Lorain, Ohio.

They were shot by guardsmen who had drawn up on a grassy knoll above the Kent State University "commons" when the demonstrators refused to obey an order to disperse. The guardsmen later said that they had heard sniper fire.

On Aug. 9, 1970, Jerris Leonard, then Assistant Attorney General in charge of the Civil Rights Division, said that at that time the department lacked "sufficient evidence to

support the presence of a sniper."

Parents Deplore Decision

WASHINGTON, Aug. 13 (UPI) — The parents of the four slain students said today that they had suffered a "loss of faith in our Government" because of Mr. Mitchell's decision.

The loss in this instance, they said in a joint statement, "is nearly as great as the loss of our own children. We now have sorrow for both."

The statement was signed by Mr. and Mrs. Arthur Krause, Mrs. Elaine Miller, Mr. and Mrs. Martin Scheuer, and Mr. and Mrs. Louis Schroeder.