

Justices Refuse to Halt Questioning Of Attica Prisoners by State Aides

By FRED FERRETTI

The United States Supreme Court refused yesterday to order a halt to the state's interrogation of prisoners at the Attica Correctional Facility. Justice William O. Douglas dissented in a 6-to-1 decision.

Lawyers for a group of Attica inmates had appealed to Justice Thurgood Marshall last week for a temporary restraining order that would have forced state investigators to end their questioning until a lower court decided whether inmates' rights were being violated. They said that prisoners were being beaten and subjected to a "continuing pattern of assaults and threats."

Justice Marshall and other members of the Court rejected the application for a temporary restraining order without expressing an opinion on the questions raised in the application.

McGrath Confirms Policy

In addition to the Supreme Court ruling, there were these other developments yesterday:

¶New York City Correction Commissioner George F. McGrath confirmed that it was official city policy to enter prisons quickly to put down inmates' revolts should they occur; but Mayor Lindsay, in Elmira, said the city policy was what he called one of "maximum flexibility."

¶Attorneys for the state filed memorandums in Federal District Court in Buffalo opposing the right of newsmen to enter Attica prison to interview inmates.

¶A group called the National Committee for the Defense of Political Prisoners said it would attempt to take the cases of the Attica prisoners to the International Court of Justice or to a "people's court."

¶Herbert X. Blyden, identified as one of the leaders of the Attica revolt, appeared in State Supreme Court here to begin his trial for taking part

in the Tombs riots last year.

Justice Douglas in his dissent from the Supreme Court majority noted that the plea of the lawyers for the Attica prisoners had alleged that although the inmates had been given the opportunity to ask for a lawyer before being questioned, attorneys had not been present during interrogations.

He said prisoners were entitled to constitutional protection under *Miranda v. Arizona*, the court's 1966 decision that specifies the right of suspects to attorneys and the right to remain silent during interrogations. He wrote "Miranda is part of a prisoner's Bill of Rights."

The Supreme Court ruling in effect upholds rulings in two lower courts—the Western District Court in Buffalo and the United States Court of Appeals for the Second Circuit here. Late in September Judge John T. Curtin declined to issue an injunction that would have halted interrogations by state investigators of Attica inmates. His decision was affirmed last week in the Court of Appeals.

Judge Curtin left open the right of individual inmates to seek relief in the courts.

In that same court yesterday state attorneys filed memorandums opposing allowing newsmen to interview inmates inside Attica prison. Judge Curtin will listen to counter arguments from Herman Schwartz, University of Buffalo law professor, today before rendering a decision.

Flexible, Mayor Says

Commissioner McGrath's acknowledgement of the city's policy with regard to prison disturbances was echoed by Leo Zeferetti, president of the Correction Officers Benevolent Association, but Mayor Lindsay refused to characterize the "swift entry" policy as that.

Several times in an Elmira news conference he said the policy was one of "maximum flexibility," although at one point, under questioning, he said: "If there is an incipient insurrection of some kind, immediate instant action may be called for."

Both the Mayor and Commissioner McGrath agreed with William J. vanden Heuvel, who said on Monday that the most important concern of the policy was the preservation of human life.

Mr. McGrath, however, said that he differed with Mr. Zeferetti who, he said, had given the impression that "there would be no negotiations, just attack."

"We would hope our reaction would be immediate," Mr. McGrath said. "We would move right in in most cases, but each case must be decided on its own merits."

Like the Mayor, he used the word "flexibility" several times.

Blyden's court appearance was marked by a jockeying for position among lawyers who either represent him or who appear to want to represent him. Blyden told Supreme Court Justice Harold Birns that he wanted different lawyers for the two charges pending against him. Justice Birns set the issue aside until next Tuesday.