

Report on Alleged Attica Cover-Up Cites Possible

By M. A. FERBER

The confidential report to Governor Carey on the alleged cover-up by the chief Attica prosecutor, Anthony G. Simonetti, cited at least two cases in which murder charges might have been brought against law enforcement officers.

The cases detailed in the report by Malcolm H. Bell, a former key Attica prosecutor,

involved the suspicious deaths of two inmates, Kenneth B. Malloy and Ramon Rivera.

Mr. Malloy was shot by two law enforcement officers on the Attica prison "cat-walk" where hostages were held during the prison riot in 1971. Mr. Rivera was shot by a state trooper as the inmate crunched in a trench in the prison yard.

The controversy over the cover-up charge by Mr. Bell

continued yesterday as Governor Carey considered appointing a special investigator or prosecutor to look into the allegation.

Mr. Carey, at an impromptu news conference yesterday morning, said his office was studying whether he had the power to establish an independent inquiry "in a situation where a grand jury is empaneled and sitting under the supervision of a judge."

It was understood that Mr. Carey's counsel, Judah Gribetz, was told this week by Cyrus R. Vance that Mr. Carey had such authority under the law. Mr. Vance, who is an adviser to the Governor or criminal-justice matters, is president of the Association of the Bar of the City of New York. A spokesman for Mr. Carey described the conversations between Mr. Gribetz and Mr. Vance as "general in nature."

Special Prosecutor Urged

Other developments yesterday included the following:

¶ Representative Edward I. Koch said he was planning an appeal to all Congressmen from New York to support the appointment of a special prosecutor to investigate the cover-up charge. The Manhattan Democrat, who helped spur a special state investigation of the nursing-home industry through a similar appeal to his colleagues last winter, said the State Legislature should consider impeaching Attorney General Louis J. Lefkowitz if Mr. Lefkowitz does not act more aggressively to have the cover-up charge explored.

¶ A State Supreme court judge in Buffalo said he would grant a defense motion to subpoena Mr. Bell in a pretrial hearing Monday on a case in-

volving several Attica inmates. There was some confusion as to whether Mr. Bell's testimony would be relevant to the case.

Simonetti Denies Charge

Mr. Bell, who was once Mr. Simonetti's chief assistant, resigned as an Attica prosecutor last Dec. 11 and charged that Mr. Simonetti was covering up possible crimes by law enforcement officers who quelled the four-day Attica riot in September, 1971. The accusation, made in Mr. Bell's letter of resignation to Mr. Lefkowitz and amplified in the former prosecu-

Murder Charges Against Law Enforcement Officers

tor's 160-page report to Mr. Carey on Jan. 30, has been denied by Mr. Simonetti.

The charge by Mr. Bell, who had conducted most of the grand-jury hearings on possible crimes by state troopers or correction officers at Attica, was first reported in The New York Times last Tuesday. At the direction of the Governor, Mr. Simonetti is preparing a "line by line" response to Mr. Bell's allegation. It is expected to be ready in two weeks.

Although 39 inmates were killed by gunfire from law en-

forcement officers at Attica on Sept. 13, 1971, no officer was indicted.

The deaths of Mr. Rivera and Mr. Malloy were under investigation by the Attica prosecution for more than a year and may still be under investigation. Without elaborating, a former Attica prosecutor—not Mr. Bell—described the Malloy case as "a beaut."

Mr. Malloy, according to persons close to the investigation, was shot five or six times by one state trooper and then shot a number of times by

a second trooper. The persons said that one, and possibly, both troopers had acknowledged firing at Mr. Malloy, presumably in self-defense.

Mr. Rivera, according to the official state commission that originally investigated the Attica rebellion, bled to death after being hit by eight shotgun pellets. The commission—known as the McKay Commission—indicated that the firing had been at "close-range."

Mr. Bell was said to have contended that murder charges—or possibly lesser charges—might have been brought in

the Malloy and Rivera deaths if he had not been prevented by Mr. Simonetti from calling witnesses or obtaining other evidentiary material.

Cross Burned at School

HOUSTON, April 11 (UPI)—

An eight-foot cross was burned on the front lawn of Aldine High School to protest the slaying of a white student by a black. The authorities said J. Edwin Threadgill, Grand Dragon of the Ku Klux Klan of America, Inc., took responsibility for the cross burning.