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KENT STATE JURY IGNORED WITNESS

Captain Said There Was No
'Shooting Situation'

Special to The New York Times

RAVENNA, Ohio, Nov. 10 — A National Guard officer named in a Justice Department report as being in the middle of the May 4 shooting incident on the Kent State University campus was not called before the state grand jury that absolved the guardsmen of blame.

The officer, Capt. Raymond Srp of G Troop, 107th Armored Cavalry, told the Federal Bureau of Investigation that "the lives of the members of the Guard were not in danger and that it was not a shooting situation." He later told newspaper reporters, "I didn't feel threatened and I was in the middle of it."

Four students died and nine others were wounded in the incident. The state grand jury concluded after its investigation that the guardsmen opened fire in the "honest and sincere belief that they would suffer serious bodily injury had they not done so."

Robert Balyeat, the chief special prosecutor for the 15-member grand jury, declined to comment on why Captain Srp had not been called as a witness. Captain Srp has been named as a defendant in one of the lawsuits filed by parents of one of the slain students and will no longer talk with newsmen.

Didn't See Report

The grand jury did not see the Justice Department report on the shooting incident, which was based on an investigation conducted by the F.B.I. Mr. Balyeat said, however, that the grand jury had used reports of the bureau, the Ohio Highway Patrol and other agencies as guides in determining whom to call as witnesses.

The Justice Department report said, "We have some reason to believe that the claim by the National Guardsmen that their lives were endangered by the students was fabricated subsequent to the event."

It also said, "The apparent volunteering by some guardsmen of the fact that their lives were not in danger gives rise to some suspicions. One usually does not mention what did not occur."

Mr. Balyeat discounted the Justice Department report, saying that the grand jury depended on "first-hand evidence" presented orally by witnesses.

He observed, "We would not normally present to the grand jury conclusions reached by another investigative body such as the Justice Department."

Some witnesses who appeared before the state grand jury were critical of its report and have begun to speak out now that a Federal judge has removed a state court ban on criticizing the grand jury. Bruce King, a student from Euclid, Ohio, said the grand jury did not ask him about the shootings, which he witnessed. However, he said it had pressed him for information about a leaflet that condemned the burning of a Reserve Officers Training Corps building but called for removal of National Guardsmen from the campus.