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LESSON FROM MY LAI

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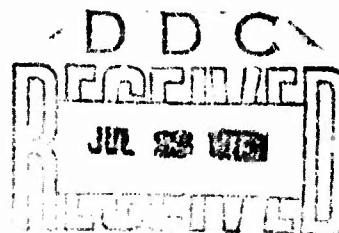
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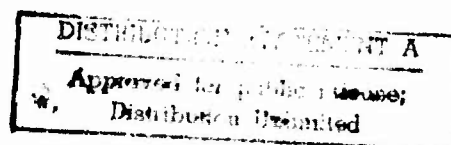
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ABSTRACT

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The publicity accruing to the trials and investigations associated with the My Lai Incident, which occurred in the Republic of Vietnam on 16 March 1968, raises the question: What has the Army learned from My Lai? A limited answer considers: Training in the Geneva Conventions (GC) and Rules of Engagement (ROE); the impact on the Army's professional integrity; and public information considerations. To further strengthen GC/ROE training, the Army needs a text of scenarios adaptable to field exercises and maneuvers. The subject is too important to the Army and the individual to let the subject rest with classroom instruction alone. Professional integrity requires continuing emphasis through positive example, command communication, and an objective officer efficiency reporting system. Periods of peak public information interest, such as that generated by My Lai, require a team of Army Staff agency representatives, capable of 24-hour operation and coordination, to answer media queries and distortions. Finally, the erosion of public confidence in the Army induced by My Lai requires inquiry into the psychological reasons for the incident for subsequent incorporation into Army leadership texts and courses.

LESSONS FROM MY LAI

The My Lai (Son My) Incident has likely been the most publicized event of US participation in the war in the Republic of Vietnam (RVN). The operation conducted on 16 March 1968 by Task Force (TF) Barker, 11th Infantry Brigade (Inf Bde), Americal Division (Div), has generated the two longest courts-martial in Army history--those of Colonel (COL) Oran K. Henderson, Commanding Officer (CO) of the 11th Inf Bde and First Lieutenant (1LT) William L. Calley, Jr., leader of the 1st Platoon, Company C, 1st Battalion, 20th Infantry (C/1-20 Inf). The delayed allegations of criminal actions and command investigative deficiencies arising from the operation at My Lai (4) Subhamlet, Son My Village, Quang Ngai Province, required the Army to initiate investigations that cost the Government well over a half-million dollars. The resulting publicity raised international, as well as national, attention.¹

During November 1969, public concern required the Investigating Subcommittee of the Armed Services Committee of the US House of Representatives, under the direction of Chairman F. Edward Hebert, to conduct an investigation of the incident, concurrently with the inquiry initiated by the Secretary of the Army

¹"The Trial of Lieutenant Calley," Reader's Digest Almanac and Yearbook, 1972, p. 21.

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currently with the inquiry initiated by the Secretary of the Army (SA) and the Chief of Staff, Army (CSA) and conducted by Lieutenant General (LTG) W.R. Peers. The charters directing both investigations were essentially the same -- to determine the reasons for the participating unit's failure to report and investigate promptly an incident whose noncombatant casualties, by several estimates, were numbered at over 300 individuals.^{2, 3}

Now, one may ask: What has the Army learned from the My Lai incident? This paper provides a limited answer under four major topics: (a) Training in the Geneva Conventions; (b) Rules of Engagement for US Forces in Vietnam; (c) Professional Integrity; and (d) Public Information.

TRAINING IN THE GENEVA CONVENTIONS (GC)

Before My Lai, every US Army soldier received at least 1 hour of GC instruction during basic combat training (BCT) and annually thereafter as a regulatory requirement. Such training, consisting of a classroom lecture and short conferences conducted by an officer of the Judge Advocate General's Corps (JAGC), was ²US Department of the Army (DA), Report of the DA Review of the Preliminary Investigations into the My Lai Incident (U) CONFIDENTIAL, Vol 1, The Report of the Investigation UNCLASSIFIED (14 March 1970), p. 1-1 (hereafter referred to as "Peers Report").

³Seymour M. Hersh, "A Reporter at Large (The Investigations of Son My--I), " The New Yorker (22 January 1972), pp. 34, 35.

a prerequisite to oversea assignment.⁴ Beyond the classroom, the integration of GC instruction into BCT and advanced unit training and maneuvers was left to the initiative and ingenuity of the commander in the field.

Regarding Army GC instruction, a field manual and a pamphlet provided comprehensive coverage of the subject.⁵ Perhaps under-emphasized in Army instruction was the gravity of violations of GC, which "constitute part of the 's preme law of the land.' " As stated in the manual:

In consequence, treaties relating to the law of war have a force equal to that of laws enacted by the Congress. Their provisions must be observed by both military and civilian personnel with the same strict regard...required with respect to the Constitution...⁶

However, GC refresher training for replacements was frequently given in US divisions committed to RVN, as in the Americal. About the time of My Lai, from 12 December 1967 to 29 March 1968, the Americal's Combat Center included GC instruction and handling prisoners of war (PW) during the first day of a 6-day in-country orientation and replacement training course.

⁴US Department of the Army, Army Regulation 350-216: Provisions of the Geneva Conventions for the Protection of War Victims of 1949 and Hague Convention No. IV Respecting the Laws and Customs of War on Land of 1907 (28 September 67).

⁵US Department of the Army, Pamphlet 27-1: Treaties Governing Land Warfare (December 1956), p.i.

⁶US Department of the Army, Field Manual 27-10: The Law of Land Warfare (July 1956), p. 7.

However, the US Army, Vietnam (USARV) Inspector General (IG) inspection report of 31 July 1968 scores GC instruction in the Americal as deficient.⁷

One should not prematurely conclude, however, that C/1-20 Inf was inadequately trained by then prevailing Army standards. The commander, Captain (CPT) Ernest L. Medina, had led the company since December 1966. The unit had successfully completed the 11th Inf Bde predeployment training program in Hawaii, to include jungle training and limited amphibious and air mobility exercises. Company C passed its Army training Test (ATT) and "began an accelerated training program" after the bde was alerted in mid-1967 for movement to RVN at year's end. The instruction related to PW treatment centered on the "so-called 5 S's -- Search, Silence, Segregate, Speed, and Safeguard," but emphasis on treatment of civilian detainees and individual responsibility to report suspected war crimes was slight or nonexistent.⁸

The Peers Inquiry's survey of the leadership and combat experience of C/1-20 Inf determined that My Lai was the unit's "first major assault role." Regarding the infantry aptitude and educational experience of C/1-20 Inf's enlisted structure, Peers concluded:

⁷Peers Report, p. 4-3.

⁸Ibid., pp. 4-7, 4-8.

Taken as a whole, the personnel composition of Company C contained no significant deviation from the average, and there was little to distinguish it from other rifle companies.⁹

The Army insists that My Lai is an aberration in the US conduct of the war in RVN, because the evidence associated with other war crimes allegations has not supported a conviction equal in gravity to that of 1LT Calley.¹⁰ In view of Peers' finding that C/1-20 Inf was similar in training and experience to hundreds of similar units committed to combat in RVN, one is led to search for psychological reasons for individual misconduct at My Lai, a pursuit beyond the scope of this paper.

Since My Lai, the Army has revised AR 350-216 to "provide for at least 2 hours' formal training" during BCT, branch basic and career officer courses at Army service schools, the US Army Command and General Staff College (USACGSC) course, and all other officer-producing programs of instruction. Now, the required formal instruction is presented jointly by a JAGC officer and a combat-experienced officer. Practical GC training will be "integrated, where possible in all tactical training and related

⁹Ibid., p. 4-9.

¹⁰Edward A. Lassiter, LTC, US Department of the Army, Office of The Judge Advocate General, memorandum for the Deputy Secretary of the General Staff (Coordination and Reports), Washington, 6 June 1972, p.2.

subjects" and related to Uniform Code of Military Justice (UCMJ) and survival, evasion, and escape training.¹¹

Subsequent to this AR revision, the Army JAG School, employing a team of combat-experienced officers and JAGC officers, rewrote Army Subject schedule 27-1, which provides lesson narratives for the required instruction. These narratives define and emphasize the reporting of war crimes. Maximum punishments under UCMJ are cited. Examples of illegal orders, or violations of the rules of land warfare are related, along with "emphasis on the individual's right and obligation to refuse to obey such orders." An examination is included, to enable field commanders to test their men regarding GC application and the law of land warfare in combat.¹²

A recently published self-instructional text, which provides preparation for the subject schedule examination, enjoins soldiers to heed American tradition in the "humane treatment of enemy soldiers." The foreword urges the reader to comply with the Law

¹¹ AR 350-216: The Geneva Conventions of 1949 and Hague Convention No. IV of 1907 (28 May 1970), pp. 2, 3.

¹² Clay T. Buckingham, BG. Acting Director of Operations, Office of the Deputy Chief of Staff for Military Operations, US Department of the Army, memorandum for CSA, subject: Lessons Learned - Son My Incident (U) CONFIDENTIAL (2 June 1972), Inclosure 2 "Recent Actions Taken to Improve Instruction and Indoctrination of US Army Personnel Regarding Prevention of War Crimes Incidents" (hereafter referred to as "Recent Actions").

of Land Warfare, embodying the Geneva and Hague Conventions, with the same respect accorded Congressional statutes enacted under the Constitution.¹³

RULES OF ENGAGEMENT FOR US FORCES IN RVN

In 1965, the Commander, US Military Assistance Command Vietnam (COMUSMACV), specified rules under which US Forces in RVN were to engage the enemy or his suspected locations. Prescribed were conditions under which targets would be engaged by individual small arms, artillery, direct fire weapons, and aerial munitions. These rules of engagement (ROE) were clarified by over a dozen regulations which specified the treatment of noncombatants, the protection of their property, the reporting of serious incidents, GC refresher training, and the reporting and investigation of suspected war crimes.¹⁴

COMUSMACV stressed repeatedly to subordinate commanders the necessity for adherence to ROE and war crimes prevention. Command correspondence, commanders' conferences, field visits and inspections, and periodic ROE revisions comprised these follow-up actions. Revised about every 6 months, ROE regulations

¹³US DA Pamphlet 27-200: The Law of Land Warfare--A Self-Instructional Text (April 1972), pp. 1, 2.

¹⁴Peers Report, pp. 9-5 through 9-14.

were distributed to battalion level among all US Forces.¹⁵ Subordinate commanders amplified ROE by their own directives. Commanders at every echelon to include company and platoon, were expected to know ROE and prevent war crimes by US Forces operating in RVN. At the time of My Lai, these regulations had been developed over a 3-year period.

The regulations were enforced by disciplinary action. Before 6 September 1969, the date of the first public release regarding the preferral of charges against 1LT Calley, some 50 allegations of war crimes against US soldiers had been made, and 19 of these Army cases resulted in court-martial convictions and appropriate punishment. Offenders were tried in RVN under the UCMJ articles concerned with crimes of violence and abuse against the person, rather than as war crimes per se. (Article 21, UCMJ, provides for war crimes tribunals, but the application of this article is without US legal precedent; hence, such crimes have been tried under the jurisdiction of general courts-martial.)¹⁶ None of these cases even approach My Lai in numbers of victims and accused.¹⁷

¹⁵ADM U.S.G. Sharp, USN, and GEN W.C. Westmoreland, USA Report on the War in Vietnam (as of 30 June 1968) p. 239.

¹⁶Field Manual 27-10, p. 180.

¹⁷Mike Miller, "Calley is One Among 60," The Washington Daily News, 6 April 1971, p. 17.

Since My Lai, Army service school instruction has been revised to emphasize ROE, relate them to GC, and acquaint Army officer students with combat situations likely to generate war crimes. Three 30-minute color training films have been produced to illustrate vividly the prevention of war crimes, individual actions in response to illegal orders, and the courses of action open to the soldier who witnesses or hears of a suspected war crime. The films, prepared and approved for field release at HQ, DA, present scenarios cast in an Asian counterinsurgency environment. The obligations of the soldier to request clarification of an apparently illegal order, to refrain from harming or killing noncombatants, and to report promptly suspected war crimes are graphically portrayed.¹⁸ The response to these films from field units and training centers has been gratifying. Their showings at international law conferences have generated considerable enthusiasm for their acquisition, translation, and selective incorporation into foreign military instruction.¹⁹

In further upgrading GC and ROE training, a recent consideration of the Army Staff has been the preparation of a series of

¹⁸The DA training films (TF) are: 21-4228 "The Geneva Conventions and the Soldier"; 21-4229 "When the Enemy is in My Hands"; and 21-4249 "The Geneva Conventions and the Military Policeman."

¹⁹Interview with W. A. Solf, Chief, International Affairs Div, Office of the Judge Advocate General, US Army, Washington, about 27 July 1972.

scenarios, susceptible to integration into maneuvers and field training exercises (FTX). Each scenario would apply to a specific GC provision in a realistic training situation. Civilian detainees and enemy PW would be introduced into exercise play. Umpire critiques would emphasize GC violations and the corrective actions required to prevent or report suspected war crimes. The Federal Republic of Germany published such a text in 1963. The file of 50 US war crimes allegations before My Lai and over 2 hundred since provide ample research material for identifying crime-inducing situations and realistically incorporating them with GC and ROE applications into maneuvers and FTX.²⁰ It is doubtful that field commanders and staffs have the time, expertise, or materials to devise and integrate such applications into their FTX scenarios, despite current Army emphasis on decentralized training.

PROFESSIONAL INTEGRITY

The most telling impact of My Lai on the Army's image of itself has been the assaults on professional integrity delivered by courts-martial testimony, the Peers Report findings, and a plethora of media criticism. Calley confessed at his trial that he regarded his failure to report his having killed civilians as "no big deal."

²⁰Ibid.

The key testimony that convicted him came from his own men. Calley had displayed an insensate reaction to the utter lack of hostile fire at My Lai and killed a score of civilians.²¹ Denying charges of command responsibility for the killings, after the Yamashita precedent of World War II, CPT Medina was acquitted on 23 September 1971 after a jury deliberation of only an hour.²² However, some Army officers could not help but wonder why an experienced company commander's supervision and training of Calley, a green platoon leader, would be so deficient as to allow him to fall into the role of killing noncombatants and then hide the deed once it had occurred!

Although COL Henderson, the 11th Inf Bde commander, was acquitted of any coverup charges on 17 December 1971, Hersh has characterized his trial as "marked by much self-serving and less than candid testimony."²³ MG Koster, Americal commander, was reduced one grade and censured by SA's pronouncement:

... General Koster clearly must be held responsible for ascertaining the accuracy of the information which he had about My Lai, as that information indicated that his troops might have been guilty of serious misconduct. Any other conclusion would render essentially meaningless the concept of com-

²¹H.D. Quigg, "Calley's Conduct at My Lai--Fact and Fancy," The Washington Daily News, 6 April 1971, p. 17.

²²Reader's Digest Almanac and Yearbook, 1972, p. 30.

²³Hersh, (... Son My -- II), The New Yorker (January 29, 1972), p. 71.

mand. responsibility accompanying senior positions of authority.²⁴

BG Young, assistant commander of the Americal, was censured less severely in not exercising the initiative and assuming the responsibility expected of a general officer in his capacity at My Lai.²⁵

The task fell to GEN Westmoreland, then CSA, to assess the impact of My Lai on the Army's sense of integrity. His personal actions and interest are reflected in a series of letters to Army officers, initiated on 20 November 1969 during the height of news media coverage of My Lai. Concerned about society's diminishing support for "traditional values," Westmoreland charged the Officer Corps with "even more responsibility for the establishment and observance of scrupulous, ethical standards." He followed up a year later with another letter entitled "Special Trust and Confidence."²⁶ These letters were widely published to reinforce CSA's emphasis on multiple studies and development programs: Decentralized training, leadership standards and methods, communication techniques, officer and noncommissioned officer

²⁴Ibid., p. 69.

²⁵Ibid., p. 67.

²⁶W.C. Westmoreland, GEN, USA, CSA, Chief of Staff's Guidance to Officers of the Army, 1972.

educational systems, command tour stabilization, retention of quality junior officers, the administration of military justice, and training of the small unit leader.²⁷ GEN Creighton W. Abrams, Westmoreland's successor, is putting teeth into professional integrity in the Officer Corps by personally reviewing officer efficiency reports (OER) to stem inflationary ratings and ensure "objective professional judgment in every case." His goal is the uniform application of DA standards in rating and developing the professional Army officer. Through samplings and automated reviews of efficiency reports emanating from major Army commands, Abrams has promised the Officer Corps periodic reports on progress toward his goal.²⁸

PUBLIC INFORMATION

The focus of the public news media on My Lai was extensive and recurring over a 2-year period from November 1969 through December 1971. Attention was initiated by Seymour Hersh's self-proclaimed scoop of the story and diminished with Henderson's acquittal in the last of the My Lai courts-martial during December

1971. The peak publicity period occurred during early April 1971

²⁷W.C. Westmoreland, "An Army Taking Stock in a Changing Society," Army magazine (October 1971), pp. 19-22.

²⁸Creighton W. Abrams, GEN, USA, CSA, US DA, message to all Army officers, 7 February 1973.

in reaction to Calley's sentence to life imprisonment on 31 March. Over 100 thousand pro-Calley telegrams were received at the White House. Headquarters, DA, received over 12 thousand letters and messages during the same period. Public reaction to Calley's conviction as the "scapegoat" of My Lai and US involvement in RVN was loud, vitriolic, and censorious of the Army. On 3 April 1971, to quiet the uproar, the President announced he would review the case after military and civilian appeals were completed.²⁹

The media criticism heaped on the Army by its most persistent detractors chiefly centered on the Army's "coverup" of the case. In particular, Hersh indicted every Army official, starting with SA, connected with the My Lai investigation. He alleged the Army covered up another incident at My Khe (4) Subhamlet, a short distance from My Lai (4), which allegedly occurred during the same TF Barker operation.³⁰

In fact, the criminal charges against CPT (then 1LT) Thomas K. Willingham, a platoon leader in B/4-3 Inf, another unit in TF Barker, were preferred, investigated, and dismissed, because the ensuing investigation determined insufficient evidence to warrant his trial.

²⁹"The Trial of Lieutenant Calley, "Reader's Digest Almanac and Yearbook, 1972, p. 21.

³⁰Hersh, (...Son My -- II), The New Yorker (January 29, 1972), p. 71.

Consequently, Willingham was released from active duty during June 1970.³¹

From the outset of the My Lai investigation, the public release of information was restricted by the Army's obligation to protect the accused from prejudicial publicity and its own position as prosecutor and judge in cases of serious felonies. Hence, the Army's releases were "so terse" that the resultant image was "at best uncooperative," or at worst, conspiratorial in concealment of the facts about My Lai. The generation of overwhelming publicity and "severe erosion of the Army's credibility" in the My Lai experience indicate that future cases of high public visibility must have extensive advance coordination with the Army's legal community to assure maximum disclosure of significant facts from the outset.³²

My Lai was complicated by its initial revelation in the form of a former enlisted man's letter sent in multiple copies to various officials in Washington.³³ Long, tedious investigations involving witnesses on active duty and discharged, who were scattered in various countries, further delayed the assimilation of evidence,

³¹Ibid., pp. 63-66

³²Winant Sidle, MG, GS, Chief of Information, US DA, Memorandum for Secretary of the General Staff, subject: Lessons Learned from the Son My Incident (20 June 1972).

³³Peers Report, pp. 1-7 through 1-11.

determination of disciplinary or administrative action, and public announcement of the results. However, undergirding the entire issue of the "public's right to know," is the "accused's Constitutional right not to be prejudiced by undue pretrial publicity. ..."34 The resolution of this problem requires consideration at a higher level than DA. Individual protection, guaranteed by the Bill of Rights and reinforced by instructions from The Attorney General's Office, are involved here.

CONCLUSIONS AND RECOMMENDATIONS

The Army has made significant advances in training content and technique regarding GC and ROE. The team of a lawyer and combat-experienced officer now required to conduct such instruction and the production of three superb training films, along with a suggested examination in these areas, illustrate the increased emphasis since My Lai on the soldier's obligation under the Nation's law-making treaties. However, the Army's RVN experience and the dreadful self-flagellation induced by My Lai dictate a further step: The integration of GC/ROE situations into FTX through a text prepared under DA aegis. Field commands have neither the time nor expertise to devise a comprehensive set of such


³⁴Lassiter, p. 2.

situations.

Since My Lai, the Army has consistently stressed integrity among its members, especially officers. This glaring requirement, arising from the trials and investigations, has forced continuing introspection and internal correction. The demise of the inflated OER through forthright identification and appraisal of individual weaknesses in leadership and character is a necessary step here. Positive leadership and frequent communication with subordinates, exemplified by the CSA and his immediate predecessor, are required at every command level.


The conflict of interest between the Army's requirement to protect accused from prejudicial, inflammatory publicity and to satisfy the "public's right to know" the details of cases like My Lai presents perhaps the thorniest problem of all. The Army's lawyers and information officers need a system of giving the public advance notice of sensational cases and then responding rapidly to the inevitable follow-up queries and press criticisms. A team of knowledgeable officers from concerned Army Staff agencies, capable of 24-hour operation and coordination during peak periods of public interest, is recommended. Distortions published by the media must not be unanswered and unchallenged in the public mind.

One might question whether the Army has searched sufficiently for psychological answers to My Lai. That an average Army unit under a seemingly capable commander could behave so criminally and grossly in combat, requires further examination for causes and future preventive action. The findings of such a study should be incorporated into every leadership course and text in the Army. The aftermath of My Lai has been too traumatic and erosive of public confidence in the Army to risk the recurrence of a similar incident.


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