

months before I became President, that Calley, a small hamlet about 100 miles northeast of Da Nang, was a Vietcong stronghold, and our forces had been ordered to clear it out. Calley had his men round up the prisoners and ordered that they be shot; many were left to die in a ditch.

It was a terrible and unusable. But I felt that many of the common-sense people who professed outrage about My Lai were not asking the moral questions raised by the Calley case as to whether it was right to make political attacks against the Vietcong. The Vietcong had been noticeably uncritical of North Vietnam's role in the calculated and continual role that terror played in the Vietcong strategy was one of the main reasons for the failure of the entire Vietnam war. Much to the disappointment of antiwar activists, this side of the story was largely omitted in the descriptions of Vietcong policy and practices.

Calley was eventually sentenced to life in prison at hard labor. The announcement was emotional and sharply criticized. Telegrams arrived at the White House, running in the thousands.

Ford³ recommended in strong terms that I order the President in Chief to reduce Calley's prison time. Calley had been served by the sentence, and that now the public support for the armed services and for the war was under serious consideration. I talked to Carl Albert and other members of the House. All of them agreed that emotions in Congress were running high in favor of presidential intervention.

On April 1 and ordered that, pending Calley's release from the stockade and confined instead to a cell. When this was announced to the House of Representatives, there was a spontaneous round of applause on the floor. The reaction was strong and positive in the South. George Wallace, Governor of Alabama, said that I had done the right thing. Governor Jimmy Carter said that I had made a wise decision. Two days later I announced that I would personally review the case and the sentence was carried out.

Calley's sentence had been reduced to ten years, with parole possible at the end of that year. I reviewed the case

Richard Goodwin, Democrat, was Nixon's secretary of the treasury in 1971; Carl Albert, Republican, was a congressional representative from Michigan; George Wallace, Conservative Democratic governor of Alabama.

as I had said I would but decided not to intervene. Three months after I resigned, the Secretary of the Army decided to parole Calley.

I think most Americans understood that the My Lai massacre was not representative of our people, of the war we were fighting, or of our men who were fighting it; but from the time it first became public the whole tragic episode was used by the media and the antiwar forces to chip away at our efforts to build public support for our Vietnam objectives and policies.

68

WILLIAM C. WESTMORELAND

From A Soldier Reports

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In his memoirs, General William Westmoreland, commander of United States forces in Vietnam from 1964 to 1968, recounts his role in the investigation of My Lai.

In April 1969 the Department of the Army and a number of legislators and government officials received letters from a former soldier who had served in Vietnam, Ronald L. Ridenhour, alleging war crimes by American soldiers in an operation in March 1968, in the hamlet of My Lai (referred to as "Pinkville") in the village of Son My in Quang Ngai province. Involved was a component of the Americal Division's 11th Infantry Brigade.

Despite the obvious sincerity displayed by Ridenhour, I found it beyond belief that American soldiers, as he alleged, engaged in mass murder of unarmed South Vietnamese civilians. I directed an immediate check with MACV headquarters in Saigon. When the MACV inspector general reported that something untoward might have occurred, the Inspector General of the Department of the Army began an immediate investigation, which was subsequently pursued by the Army Criminal Investigation Division. It resulted in charges against four officers and nine

William C. Westmoreland, *A Soldier Reports* (New York: Doubleday, 1976), 375-80.

enlisted men and trials of two officers and three enlisted men. Twenty-five former enlisted men were implicated, but since they had already been discharged from the Army, they were beyond the Army's jurisdiction.

Almost as deplorable as the events alleged was the possibility that officers of the 11th Brigade and the Americal Division had either covered up the incident or failed to make a comprehensive investigation. The developing evidence in the criminal investigation and the indications of command dereliction led [Army] Secretary Resor and me to arrange for an additional formal inquiry into the adequacy of the criminal investigation and the possible suppression of information. When I learned that some members of President Nixon's administration wanted to whitewash any possible negligence within the chain of command, I threatened through a White House official to exercise my prerogative as a member of the Joint Chiefs of Staff to go personally to the President and object. That squelched any further pressure for whitewash.

My first thought was to propose a civilian commission to enhance the credibility of the findings, but upon reflection I decided that the situation in Vietnam was so complex, the terminology and experience so alien to civilians, that it would be better to have a board headed by a military man assisted by civilian lawyers. To head the board the Secretary and I selected the former I Field Force commander, General Peers, who had a reputation throughout the Army for objectivity and fairness. Ray Peers had also been a division commander in Vietnam and thus was thoroughly familiar with conditions; he had never had jurisdiction over any activity in Quang Ngai province. Because he had entered the Army through ROTC at the University of California at Los Angeles, there could be no presumption that ties among brother officers from West Point would be involved. For the civilian legal counsel we obtained the services of two distinguished New York attorneys, Robert MacCrate and Jerome K. Walsh, Jr., who assisted General Peers but reported directly to Secretary Resor.

As a result of evidence developed by the Peers board, charges were brought against twelve officers, primarily involving dereliction of duty in suppressing information and failing to obey lawful regulations. These included the former Americal Division commander, General Koster, who at the time of the investigation was Superintendent of the Military Academy. Lest any findings reflect adversely on the Academy, he requested relief from that post.

Under usual courts-martial practice, the pretrial investigations would have been assigned to the Army commanders in whose commands the officers were serving. To simplify procedures and assure that all would

be judged by the same criteria, I instead transferred all the officers associated with charges stemming from the Peers investigation to the First Army and assigned the investigation to its commander, Jack Seaman. I am sure it was for him a demanding assignment. After detailed review of the Peers board findings and further investigation, Seaman concluded that evidence was insufficient to bring any of the officers to trial for dereliction of duty except the former 11th Infantry Brigade commander, who was subsequently court-martialed and acquitted after a lengthy trial.

Even though the evidence as reviewed by a man of honesty and courage proved insufficient for trial or conviction, something had to be remiss in the Americal Division's chain of command if anything so reprehensible and colossal as the My Lai massacre occurred without some responsible official either knowing or at least suspecting.

It was true that at President Johnson's direction the 11th Infantry Brigade had been deployed to Vietnam before completing its training, in order to get the troops there in advance of an arrangement the President was hoping — vainly, as it turned out — to achieve with the North Vietnamese for a cease-fire and a freeze in troop strength. Although I committed the brigade in a quiet sector so training might continue, just over a month later the troops were caught up in the enemy's Tet offensive. It was also true that the unit at My Lai was part of a temporary or *ad hoc* task force lacking the unity of an established organization. Yet those were no more than mitigating factors, not excuses. Although the division commander did order an investigation, he made a basic error in assigning the investigation to the commander of the responsible unit, the 11th Infantry Brigade.

Contrary to my standing directive, not even the fact that an investigation, however perfunctory, took place was reported either to the intermediate headquarters, the III Marine Amphibious Force and the United States Army, Vietnam, or to my headquarters; and reference to my records reveals that I visited the Americal Division and the 11th Infantry Brigade on April 20, 1968, only a few weeks after the massacre, and nobody intimated to me that anything was under suspicion or even remotely remiss except a Red Cross official who complained about mail service.

As with civilian justice, the United States Army is committed to due legal process under which an individual must be presumed innocent until proven guilty. Indeed, the Uniform Code of Military Justice gives the accused extraordinary protection. The Army cannot bring a man to trial simply on the basis of unsubstantiated allegations, however plausible, however widely publicized. If pretrial investigation fails to produce substantiated evidence sufficient to warrant trial, the accused must be pro-

tected against prejudicial statements made during the investigation, for the investigation itself is no trial. Thus the full details of the Peers board, even as the proceedings of a grand jury, have been kept secret.

The U. S. Army does have another pretrial procedure not usually available to civilian authority: administrative review to determine if the performance of the person under investigation conformed to established standards of the military profession. If the charges against him are dropped, it means only that further criminal proceedings are unwarranted, not that his performance has been found adequate. As with the court-martial system, administrative review is not the province of the Chief of Staff but of the Secretary of the Army, although the Secretary has the benefit of the Chief of Staff's recommendations. As a result of administrative review, Secretary Resor took administrative action against two general officers of the Americal Division and eight others whose performances in connection with the investigation and reporting of My Lai were deemed to be below the standards expected of individuals of their positions, grades, and experiences.

In the criminal cases, acquittal resulted in all but that of a platoon leader, First Lieutenant William L. Calley, Jr. Charged with the murder of more than a hundred civilians, he was convicted on March 29, 1971, of the murder of "at least" twenty-two. He was sentenced to dismissal from the service and confinement at hard labor for life, but the latter was reduced by judicial review to twenty years and further reduced after my retirement by Secretary of the Army Howard Callaway to ten years, an action that President Nixon sustained. The case was subsequently and for a long time under judicial appeal in the federal courts.

Lieutenant Calley was legally judged by a jury whose members all were familiar with the nature of combat in Vietnam and well aware that even the kind of war waged in Vietnam is no license for murder. The vast majority of Americans in Vietnam did their best to protect civilian lives and property, often at their own peril. That some civilians, even many, died by accident or inevitably in the course of essential military operations dictated by the enemy's presence among the people was no justification or rationale for the conscious massacre of defenseless babies, children, mothers, and old men in a kind of diabolical slow-motion nightmare that went on for the better part of a day, with a cold-blooded break for lunch. I said at the time of the revelation: "It could not have happened—but it did."

Although I can in no way condone Lieutenant Calley's acts—or those of any of his colleagues who may have participated but went unpunished—I must have compassion for him. Judging from the events at My Lai, being an officer in the United States Army exceeded Lieutenant Cal-

ley's abilities. Had it not been for educational draft deferments, which prevented the Army from drawing upon the intellectual segment of society for its junior officers, Calley probably never would have been an officer. Denied that usual reservoir of talent, the Army had to lower its standards. Although some who became officers under those conditions performed well, others, such as Calley, failed.

An army has a corps of officers to insure leadership: to see that orders are given and carried out and that the men conduct themselves properly. Setting aside the crime involved, Lieutenant Calley's obvious lack of supervision and failure to set a proper example himself were contrary to orders and policy, and the supervision he exercised fell far short.

In reducing standards for officers, both the United States Army and the House Armed Services Committee, which originated the policy of deferments for college students, must bear the blame. It would have been better to have gone short of officers than to have accepted applicants whose credentials left a question as to their potential as leaders.

Some of the public sympathy that developed for Calley may be attributed to a rash of intemperate allegations that followed the revelation of the My Lai massacre. If Calley was guilty, why not also his superiors, including Westmoreland? Citing the Nuremberg and Yamashita trials⁵ of the World War II era as precedents, the chief proponent of such a concept, Telford Taylor, professor of law at Columbia University, who had been chief counsel for the prosecution at Nuremberg, pondered whether not only Westmoreland but also civilian officials in Washington should be tried for war crimes. On a television talk show promoting his book *Nuremberg and Vietnam: An American Tragedy*, he said that if the same standards had been applied to the My Lai trial that had been in the trial of General Tomoyuki Yamashita, "there would be a very strong possibility that they [myself and civilian government officials] would come to the same end as he did."

His was an emotional outburst. Many a jurist as schooled in the law as Professor Taylor responded that the critics were ignoring two cardinal principles of the Nuremberg and Yamashita cases: intent and efforts to prevent war crimes. It was declared at Nuremberg, for example, that in order to establish a commander's criminal liability for atrocities there had to be "... a personal neglect amounting to wanton, immoral disregard of the actions of subordinates amounting to acquiescence." In any

⁵The Nuremberg war crimes trials in 1946 convicted many high-ranking Nazi leaders for crimes committed by Nazis throughout World War II. Twelve were sentenced to death. Also following World War II, Japanese General Tomoyuki Yamashita was convicted of atrocities committed by his troops and was hanged in 1946.

event, while lamenting My Lai and any other war crime or felony with every fiber of my being, I am convinced that my actions in Vietnam and the efforts I made to forestall the kind of thing that happened at My Lai will stand every moral and legal test before both the bar of justice and the court of history.

During the investigations of the events at My Lai, it came out that within a few days of the action I had forwarded the 11th Infantry Brigade a commendation. It was based on the brigade's official report of 128 enemy killed at My Lai and four⁶ weapons captured. Why had such a disparity between killed and weapons failed to alert me that something untoward might have occurred?

The report on My Lai that reached my headquarters, where it was accepted in good faith, attracted no special attention for two reasons. As opposed to warfare against the enemy's big units, high body counts and low numbers of weapons collected in the war against the guerrilla in hamlet and village were not uncommon (the dead were presumed to be armed combatants, not civilians). To assure accurate reporting, I had had several reports like that investigated; the investigations revealed that guerrillas were adept at disposing of weapons in paddy or canal, and many guerrillas often were armed only with grenades and explosives. Secondly, in keeping with my desire to reward men and units for good performances, it was a practice in my headquarters either for me or my staff to select from among the volume of daily field reports those that appeared particularly noteworthy, whereupon numerous routine commendations would be prepared for my signature. Having passed up the chain of command, the reports gained added credibility from at least implicit endorsement of the intermediate headquarters: company, battalion, brigade, division, field force, and United States Army, Vietnam. We had to rely on the presumed and generally established veracity of the reports and the chain of command.

Despite excellent communications and speedy transport, no one person could know everything that happened in Vietnam nor be at the scene of every action. Any senior commander has to depend upon subordinates—especially commissioned officers—for local supervision. In naming General Koster the commander of the Americal Division I had acted not from personal knowledge of him but from the recommendation of the Army's Chief of Staff, General Johnson, and my deputy, General Abrams. I nevertheless had no reason to question Koster's ability—nor that of his subordinate commanders—to control his troops and comply with my

⁶The official report stated three, not four, weapons.

regulations on reporting irregularities that might be revealed following a routine survey of the battlefield, a normal duty of a field commander. Although the press on several occasions alerted me to events warranting inquiry, not so on My Lai.

Over the years a number of other battlefield irregularities, some of which were war crimes, were reported or alleged. The Army investigated every case, no matter who made the allegation, with professionally qualified, noninvolved parties. Some investigations resulted in disciplinary administrative action, some in courts-martial. Yet none of the crimes even remotely approached the magnitude and horror of My Lai, and many of the allegations, principally those leveled by individuals testifying under the aegis of such organizations as the Vietnam Veterans Against the War and a so-called Citizens Commission of Inquiry into U. S. War Crimes in Vietnam, were backed by no responsible evidence.