

THE MY LAI MASSACRE AND THE PRESS:
AN EVALUATION OF THE PRESS
IN REPORTING A NATIONAL DISGRACE

A DISSERTATION

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Dedication

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Table of Contents

Acknowledgements.....	i
Dedication.....	ii
List of Tables.....	iv
Chapter One: Introduction and Conceptual Framework.....	1
The Government: Issues of Disclosure.....	22
Citizens: Issues of Access to Information.....	26
Research Approach and Methodology.....	29
Chapter Two: The My Lai Massacre: The Historical Narrative.....	32
Chapter Three: The My Lai Massacre: The Press Narrative.....	66
Discovery of the Massacre.....	67
The Peers Commission Coverage.....	80
The Hébert Panel Coverage.....	85
The Courts Martial Coverage.....	91
Coverage of “The Nuremberg Principles”.....	107
Conclusion.....	117
Bibliography.....	126
Appendix.....	131
Americal Division and Task Force Barker Chain of Command.....	131
Timeline Of Events.....	132

List of Tables

Americal Division and Task Force Barker Chain of Command.....	131
Timeline of Events	132

Chapter One: Introduction and Conceptual Framework

The My Lai massacre occurred on March 16, 1968, when members of the U.S. Army killed over 450 Vietnamese villagers.¹ However, it wasn't until November 1969 that the U.S. press began following the story and it finally caught national interest.²

In all, 28 soldiers faced court-martial for the events at My Lai, but only Lt. William L. Calley was found guilty of any crime. Charges against other soldiers were dropped because the Department of Justice and the Department of Defense could not agree on how to deal with them. Additional participants in the massacre were never charged because by that time because they had left military service and found protection under the U.S. Supreme Court decision in *Toth v. Quarles*, which prevents soldiers from being charged with crimes they committed while in service once they have been discharged.³

What did the American public make of these events? The results of a December 1969 *Minneapolis Tribune* poll revealed that most of the respondents were more disturbed by the manner in which the media covered the massacre than by the facts of the massacre itself.⁴ Many of the polls conducted after Calley's conviction revealed that

¹ Seymour M. Hersh, *My Lai 4: A Report on the Massacre and Its Aftermath*, New York: Random House, 1970, 75.

² *Ibid.*; 194, 217.

³ *Toth v. Quarles*, 350 U.S. 11 (1955).

⁴ Hammond, William M., *Public Affairs: The Military and the Media, 1968-1973*, Washington, D.C.: Center of Military History, 1996, 230-231.

three-quarters of those responding believed he should have been acquitted; other polls revealed that over half of those questioned thought then-president Richard Nixon should pardon him, and another quarter thought that Calley's sentence should be reduced.⁵

There was also confusion about the events themselves. Even scholars have erroneously written that Nixon pardoned Calley, wiping out the soldier's conviction.⁶ For example, Robert E. Vadas wrote in his book, *Cultures in Conflict: The Vietnam War*: "Nixon would eventually pardon Calley, but the trial, during January and February 1971, added to the deepening cynicism of the American public." The passage is not footnoted, so it is not clear where Vadas obtained his information.

These and other misconceptions, together with ignorance about the events of March 16, 1968, raise questions about how well the press covered the My Lai massacre. In an effort to determine why there was so much confusion over the events and the outcomes surrounding the massacre, this dissertation will take the form of a case study, examining print coverage of the My Lai massacre, the subsequent investigations and courts martial, and offer an evaluation and analysis of the depth and completeness of that reporting. A study of the coverage of the My Lai massacre is valuable because it would reveal any shortcomings in the press's reporting of the incident, leading to recommendations for journalists when reporting similar crises in the future, thereby making them better able to effectively inform the public of such issues. Three major US

⁵Belknap, Michal, *The Vietnam War on Trial*, Lawrence, University Press of Kansas, 2002, 193.

⁶ Vadas, Robert E., *Cultures in Conflict: The Vietnam War*, (Westport, Connecticut: Greenwood Press, 2002). On page 41, Vadas writes, "Nixon would eventually pardon Calley, but the trial, during January and February 1971, added to the deepening cynicism of the American public." As the passage is not footnoted, it is unclear where Vadas obtained his information.

newspapers will be reviewed as part of this study – *The New York Times*, the *Chicago Tribune*, and the *Los Angeles Times*.

Few case studies of this nature exist in the field of press or media criticism. Many case studies are devoted to general topics, such as the reporting of crises generally, the coverage of medical science news, bias in the news, market-driven journalism, or sexism in the newsroom. There also have been many books written about the press coverage of the Vietnam war. While many of them deal with the history of the war in general and a few with My Lai in particular, none of them offer any criticism of the press. Many of them are memoirs of journalists who reported from Vietnam. Daniel Hallin's book, *The Uncensored War* grapples with the subject of press criticism, but he writes about coverage of the Vietnam War in general, and half of his book focuses on television coverage of the war, rather than the press.⁷

However, one study had a similar scope and purpose as the one proposed here, although it is not a study of Vietnam war coverage. Cited by Bill Kovach and Tom Rosenstiel in their book, *The Elements of Journalism*, it is an article written by Walter Lippmann for the August 4, 1920 issue of *The New Republic*, entitled, "A Test of the News."⁸ Lippmann's work was an examination of the coverage of the Russian Revolution from March 1917 to March 1920, examining over one thousand stories from *The New York Times*.⁹ Lippmann chose this topic because "of its intrinsic importance, and because

⁷ Hallin, Daniel, *The Uncensored War: The Media and Vietnam*, New York: Oxford University Press, 1986.

⁸ Kovach, Bill, and Tom Rosenstiel, *The Elements of Journalism: What Newspeople Should Know and the Public Should Expect*, New York: Three Rivers Press, 2007, 39.

⁹ Lippmann, Walter, "A Test of the News," *The New Republic*, 4 August 1920, 1.

it has aroused a kind of passion which tests most seriously the objectivity of reporting,”¹⁰ and because “the insurance to a free people of such a supply of news that a free government can be successfully administered . . .”¹¹

Without reliable information, Lippmann argued, citizens can not intelligently indicate to their government the path their representatives should take in matters on their behalf. Providing reliable information to citizens about the actions of their government is a vital role for the media in a democracy. At the time of Lippmann’s study, the questions that U.S. citizens faced with regard to the Russian revolution was whether or not to send support in the form of war materiel and whether to vote to intervene.¹² Lippmann asked, “What prevented these opinions [that citizens had at the time about the Russian Revolution] from ripening into insistence upon a re-assessment of American policy toward Russia?”¹³ At the end of his study, Lippmann found that reporters were too accepting of statements made by officials (for example, he cites the Russian Minister of War as saying that the Russian Army had never been stronger, but the veracity of that statement was never confirmed); that reporters relied too much on government leaders as sources; that reporters used too many uncredited, anonymous statements, such as “Officials of the State Department”; that reporters often lacked objectivity, insight and credibility, and that at times reporters lacked the expert knowledge and education required to give them insights into the events they were covering.¹⁴ In addition,

¹⁰Ibid.

¹¹Ibid., 3.

¹² Ibid., 38.

¹³ Ibid.

¹⁴ Ibid., 41.

Lippmann found that editors “profoundly and crassly influenced their news columns.”¹⁵

Lippmann concluded that the “professional standards of journalism were not high enough,” and that “the discipline by which standards are maintained was not strong enough” to inform the public about the intricacies of the Russian Revolution.¹⁶

Lippmann claimed that although “a definitive account of the Russian Revolution does not exist,”¹⁷ his research sought to discover “whether the reader of the news was given a picture [of the events] or whether he was misled into believing that the outcome of event would be radically different from the actual outcome.”¹⁸

Similar confusion and even controversy surrounds the events of the My Lai massacre.¹⁹ At the time it occurred, I was living in Germany, the dependent of an American military serviceman. Among the American military, there was a sense that a handful of rogue men had brought dishonor to the Army and the nation, and their punishment should be determined and meted out by the military alone. German nationals asked us if Americans were going to try our soldiers for what they had done at My Lai on the same principles that the Nazis had been tried at Nuremberg. Although the American and German positions were different, they bore a similar bottom line: U.S. soldiers had allegedly committed war crimes and, if guilty, they should be held accountable.

On the other hand, the *Stars and Stripes*, published with funding from the Department of Defense and the American newspaper most widely available to U.S.

¹⁵ Ibid., 41-42.

¹⁶ Ibid., 41.

¹⁷ Ibid., 1.

¹⁸ Ibid., 2.

¹⁹ Eckhardt, William George, “Essay on the Trials of the Century: My Lai: An American Tragedy” in the *University of Missouri-Kansas Law Review*, v.68, Summer 2000; 674.

military overseas, carried stories which expressed denial that American soldiers were capable of such acts. For the most part, *Stars and Stripes*'s stories were gathered from sources such as *The New York Times* and the *Washington Post* and wire services such as the Associated Press and United Press International. Was it because living in a different country and culture shaped our opinions differently, or was it something about the coverage? Did the coverage, as Lippmann asked, give readers a true picture of the events or was the coverage so skewed and inadequate that readers were led to believe the outcome could be different than it actually was?

Lippmann found that reporters relied too much on government sources, sources that were often identified only as "officials of the State Department" or "government and diplomatic sources."²⁰ Lippmann claimed that information from these sources was actually "controlled by special purpose" and never should have been taken by reporters as "judgments of fact."²¹ Reliance on government sources alone resulted in an overly optimistic viewpoint of the facts that Lippmann wrote was really a form of "propaganda in the news."²² "[A] matter of vital importance is a challenge to independent investigation,"²³ Lippmann concluded.

As Lippmann pointed out in his research, such "matters of vital importance" raise concerns for U.S. citizens. In the case of My Lai massacre, two concerns are evident for U.S. citizens. The first is the lapse of nearly 20 months between March 1968 when the

²⁰ Ibid., Lippmann, *The New Republic*, 41.

²¹ Ibid., 41

²² Ibid.

²³ Ibid.

massacre occurred and November 1969 when the story was finally widely reported by the press. Such silence could be interpreted as an attempt by government officials to cover up the incident. This is troubling in a democracy, where government officials' actions should not be hidden, because they have been entrusted to act on citizens' behalf. Any attempt to cover up information, especially information that would not harm national security, runs counter to democratic principles. The second concern is the accusations of American soldiers killing innocent civilians, which raises questions about the commitment of the U.S. to international laws of war and adherence to the principles set forth at Nuremberg, especially when the United States was so instrumental establishing that war crimes tribunal following World War II.

It also puts U. S. soldiers as well as civilians at risk of retribution from anyone who chooses to use violence as a protest, as the Baader Meinhof Gang did in Germany, bombing U.S. military installations in that country during the Vietnam war.²⁴ Scholars such as Vincent Iacopino cite other risks, including jeopardizing the effective legal prosecutions of suspected terrorists, undermining the capacity for the United States to hold other countries accountable for human rights abuses; and the dishonor it brings American men and women in uniform as well as “[the] stain on the moral identity of all Americans.”²⁵

²⁴ See “Interview: Scott Tatina, Witness to May 1972 Frankfurt Bombing,” Baader-Meinhof Gang Dawn of Terror, accessed May 29, 2012, <http://www.mustardayonnaise.com/baadermeinhof/essays/TatinaInterview.html>, about the bombing of the I.G, Farben building which housed the Supreme Allied Command of the US military in Frankfurt on 11 May 1972.

²⁵ Iacopino, Vincent, “US Torture and National Security: The Imperative of Accountability,” *Zeitschrift für Psychologie/Journal of Psychology*: 219 (3): 191.

Some have attributed war crimes during the Vietnam War to U.S. military attitudes regarding Vietnamese nationals.²⁶ Although official military policy did not condone mistreatment of Vietnamese civilians, mistreatment was rarely discouraged. These practices included a focus on body count to measure American military success, the dehumanizing of Vietnamese nationals, for example by the use of epithets such as “gooks,” and a view that any Vietnamese civilian was the enemy, leading to a “doctrine of atrocity.”²⁷

Knowing what policy the military promoted among its soldiers, how that policy was implemented, and the reactions of those who opposed that policy are all matters of great concern for citizens, who vote the Commander in Chief into office and whose taxes support the war effort. A critical study of the newspaper articles written about My Lai should provide insight into the accomplishments as well as the shortcomings of the press in reporting on these matters, and suggestions for better journalism practices in the future.

Constructive criticism of the press, such as Lippmann’s study provided, can be invaluable to media scholars. Wendy N. Wyatt, author of *Critical Conversations: A Theory of Press Criticism*, defines press criticism as “the critical yet noncynical act of judging the merits of the news media.”²⁸ Wyatt writes that press criticism is important, citing scholars such as Marion Tuttle Marzolf who wrote that press criticism is “a journalistic conscience” and a “civilizing voice;” Wyatt Edmund Lambeth who called

²⁶ For example, see Bilton, Michael and Kevin Sim, *Four Hours in My Lai*, (New York: Viking Press, 1992), 40.

²⁷ Turse, Nicholas, “Kill Anything That Moves: U.S. War Crimes and Atrocities in Vietnam, 1965-1973,” (New York: Columbia University, 2005); unpublished dissertation, taken from abstract.

²⁸ Wyatt, Wendy N., *Critical Conversations: A Theory of Press Criticism*, Cresskill, New Jersey, Hampton Press, 2007, 6.

press criticism “the Fifth Estate;” and Everette Dennis, who believes it is a method of accountability. Whether acting as a conscience, a civilizing voice, or a member of the Fifth Estate, media critics have challenged “tabloid sensationalism, gossip, invasion of privacy, commercialization, trivia, outsider manipulation and editorial timidity, bias and propaganda, sloppiness, ignorance, missing the big stories, insensitivity to people involved in news events and just plain lies.”²⁹

Wyatt acknowledges that although journalists are rarely receptive to criticism, many have acknowledged its value, realizing it is preferable to press regulations, calling it “a practice that ensures press freedom and respect for the First Amendment, yet provides a mechanism for press accountability” and can “serve as a kind of self-regulation – a way for the press to be accountable without sacrificing the precious freedoms of speech and press to any organized form of outside control.”³⁰

There are a number of scholars in the field of media criticism working today, including Ben Bagdikian, Noam Chomsky, Robert Entman and others, but Wyatt writes, “relatively few [of them are] asking crucial questions about what we can expect of both the press and the public in a society that is increasingly complex and further removed from the vision set forth by the founding fathers.”³¹ There is, however, one press critic whose work most resonates with this research, and that is Robert M. Entman.

In his book, *Democracy Without Citizens: Media and Decay of American Politics*, Entman writes: “The press [in the United States] is supposed to enhance democracy both

²⁹ Ibid., 10-11.

³⁰ Ibid., 18

³¹ Ibid., 15.

by stimulating the citizenry's political interest and by providing the specific information they need to hold government accountable." Yet, Entman finds, "[T]he news media fall far short of the ideal vision of a free press as civic educator and guardian of democracy."³² Why is that?

According to Entman, there are four "paradoxes" that hinder the press's performance. First is a jamming of the "idea marketplace" by a large number of video and print media. This glut of information is further increased by computer and communication technology that allow journalists to gather and transmit more information more quickly than before. Although one would expect this would enable citizens to know more, the opposite is true. Entman writes, ". . . Americans do not know more about politics now than they did twenty years ago. They vote less. . . [T]he public's knowledge of facts or reality has actually deteriorated, so that more people are prone to political fantasy and myth transmitted by the very same news media."³³

The second paradox is what Entman calls "the puzzling inability of a powerful press to hold government to account."³⁴ As an example of how the media did not exert its power, Entman notes that every U.S. president has ended his term in office "seriously weakened, drained of authority, or defeated." Noting, however, that the media were not the only reason for such failures, Entman nevertheless continues, "If the media had

³² Entman, Robert M., *Democracy without Citizens: Media and the Decay of American Politics*, New York: Oxford University Press, 1989, 3.

³³ *Ibid.*, 4.

³⁴ *Ibid.*

highlighted the right information from the start, the foreign entanglements and scandals that crippled each administration might have ended before they escalated. . .”³⁵

Edward S. Herman and Noam Chomsky claim that the media’s inability to hold the government to account is rooted what they call a “propaganda model.” Today, the majority of the media is owned by only a few centralized corporations (such as Disney, AOL Time Warner, Viacom, News Corporation, Bertelsmann, General Electric, Sony, AT&T Liberty Media, and Vivendi Universal), which, like many other big businesses, enjoy governmental protection and favoritism.³⁶ That, together with a drive towards marketing products globally, has resulted in a media that focuses on commercialism. Because sensational news sells and therefore supports the commercial trend, political news is minimalized. Furthermore, reporting political matters offends the wealthy and the powerful in both business and government, and offers no products to sell the middle-class, who are a source of income through their purchasing power.³⁷

An example of this is when then-popular magazine *The New Yorker* began publishing stories about the failure of American involvement in Vietnam, its advertising revenue plummeted. But it also shows that if such controversial matters are to be covered, they normally are not covered by reporters working for media outlets owned by big businesses. Badgikian noted that the controversial *New Yorker* stories were written by “independent American observers,” not journalists who worked for the magazine.³⁸

³⁵Ibid.

³⁶ Bagdikian, Ben H., *The New Media Monopoly*, Boston: Beacon Press, 2004, 14.

³⁷ Herman, Edward S. and Noam Chomsky, *Manufacturing Consent: The Political Economy of the Mass Media*, Kindle edition; New York: Pantheon Books, 2002, Introduction: Updating the Propaganda Model.

³⁸ Ibid., Bagdikian, *The New Media Monopoly*, 86.

Mark Pedelty discusses this phenomenon in his book, *War Stories*. “Staff journalists” – reporters who have jobs with corporate-owned media outlets – must support the goals of the corporate system and its profit paradigm, and must not question U.S. policy, creating a reality that shows United States policies and its leaders in the best possible light.

Reporters who do not do this are restricted to writing for alternative media outlets such as the *Village Voice*, *The Nation*, or *The Progressive*.³⁹ (It is worth noting that Seymour Hersh was instrumental in reporting both the story of the My Lai massacre as well as the story about the abuses at Abu Ghraib. He wrote the former while a free lance reporter, and the latter while working with *The New Yorker*, which had already established its reputation for speaking truth to power in reporting about the failures of U.S. involvement in Vietnam, discussed above.)

Entman’s third paradox is the failure of journalists to learn from their mistakes. These mistakes include not only failing to hold the government to account, but of providing superficial “horse-race coverage” of elections (polarizing election candidates and issues rather than explaining them on a deeper level); personalizing and sensationalizing the news, practicing pack journalism where a number of reporters say nearly the same thing (often the result of each reporter using the same sources and editors who are fearful of reporting different information than other media outlets report), and neglecting to step back and identify emerging trends and patterns in the news, and instead

³⁹ Pedelty, Mark, *War Stories: The Culture of Foreign Correspondents*, New York: Routledge, 1995, 76-77.

narrowly focusing on daily events. Entman's research shows these practices continue, even though journalists themselves wished the trend would change.⁴⁰

The fourth paradox centers on the notion that journalists often inject biases into the news, biases that are powerful enough to affect the outcome of elections or bring about the undoing of presidents. But journalists respond by saying they are merely holding up a mirror to reality, and that their strict adherence to objectivity in reporting the facts prevents bias from entering into their messages. Entman says that both sides of the argument have their points, stating, "The national press corps is biased and objective, a passive, dependent reflector and [at yet the same time it is] an active force."⁴¹

But some scholars believe objectivity itself is a culprit in faulty reporting. Kovach and Rosenstiel have written that citizens are not looking for "mere accuracy." Journalists must both get the facts straight and make sense of them. People are tired of the "polarized discussion" that so often characterizes the reporting accompanying political reporting in the United States and would prefer to be presented with the whole picture.⁴²

Despite the negative effects these paradoxes have on the public to remain informed, Entman writes: "Given the way politics is practiced in the late twentieth-century United States, the media became crucial to any theory that government can be made responsive to genuine, independently considered (rather than manipulated) public preferences. America lacks effective political parties or other mechanisms to mobilize

⁴⁰ Ibid., Entman, *Democracy without Citizens*, 7.

⁴¹ Ibid., 8.

⁴² Ibid., Kovach and Rosenstiel, *The Elements of Journalism*, 42-43.

the participation of the average person in politics. The only real avenue of participation available and acceptable to most people is voting regularly and knowledgeably. For most, the information necessary for intelligent voting can come only from the mass media, or from friends who themselves scan the news. There are few alternative sources of information about candidates, policy issues, or government actions. . . .⁴³ Entman is saying that citizen's influence in the political arena lies in their ability to vote, but in order to vote intelligently, they must have access to the mass media, imperfect though it may be. Few other entities provide the sort of political information that can properly equip citizens for the polling booth.

The work of German philosopher Jurgen Habermas is also useful for this study because he connects citizens, the information they receive, and the effect of that connection on democratic systems. In his book *Between Facts and Norms*, Habermas explains the journey from individuals' values to law in a deliberative democracy, a system where citizens work out problems and resolve conflicts by discussion that leads to decision. The cycle begins when citizens (meaning those who are legally permitted to vote) gather information. That step is followed by discussion so that issues are clearly defined and understood, a step Habermas calls "mutual understanding." Mutual understanding does not take place where solitary citizens ponder issues and problems alone, but is a phenomenon Habermas calls the "public sphere." He describes the public sphere as "a network for communicating information and points of view (i.e., opinions expressing both affirmative as well as negative attitudes). The streams of communication

⁴³ Ibid., Entman, *Democracy without Citizens*, 9.

are, in the process, filtered and synthesized in such a way that they coalesce into bundles of topically specified *public* opinions. . . . [T]he public sphere is reproduced through communicative action . . . it is tailored to the *general comprehensibility* of everyday communicative practice.”⁴⁴ (Italics in the original.)

Habermas continues: “Influence develops in the public sphere and becomes the object of struggle here.”⁴⁵ The public sphere can be as formal as a meeting at city hall or as casual as the regulars at the local coffee shop or employees gathering around the water cooler. As mutual understanding is reached, further discussion of the information and issues leads to “will formation,” the compromising and shifting of values that eventually lead to the decisions that citizens then take to the voting booth, resulting in a majority consensus.⁴⁶ Will formation ties the will as well as the values of individual citizens to the actions taken by their representatives for the benefit of all. Habermas explains: “The idea of self-legislation, which implies moral autonomy at the level of the individual will, takes on the meaning of political autonomy at the level of collective will formation.”⁴⁷

Another aspect of will formation is the society’s agreement of what constitutes acceptable behavior, known as its “norms.” Norms can and do include a society’s laws because a society’s standards of acceptable behavior is encapsulated in its laws.⁴⁸ In a deliberative democratic system (as is found in the United States) laws are legitimated by a majority vote that signifies citizens’ support. This legitimization by the people ensures

⁴⁴Habermas, Jurgen, *Between Facts and Norms: Contributions to a Discourse Theory of Law and Democracy*, Cambridge, Massachusetts: The MIT Press, 1998, 360.

⁴⁵Ibid., 363

⁴⁶ Ibid., 154

⁴⁷ Ibid., 157

⁴⁸*Black’s Law Dictionary*, ed. Bryan A. Garner, Seventh edition, St. Paul, MN: West Group, 1999, pg. 1083

that the law belongs to and must be obeyed by all citizens collectively.⁴⁹ Because there are too many citizens for each to participate in law-making for him- or herself, laws are drafted and passed by means of a legislature made up of representatives elected by citizens. These representatives are elected on the basis of citizens' belief that the representative they have elected will best represent their values and interests.⁵⁰ In this way, the will of citizens is carried on by their elected representatives, representatives they believe share their values and would decide matters in the same way they would if they could themselves, whether those decisions involved writing and passing laws or appointing ambassadors and other officials.

Examples of “norms” in the United States that are related to the incidents at My Lai include the Nuremberg principles and the Geneva Conventions. Telford Taylor, chief counsel at the Nuremberg war crimes trials following World War II, and author of *Nuremberg and Vietnam: An American Tragedy* wrote: “As the principal sponsor, organizer, and executants of the Nuremberg trials, the United States is more deeply committed to their principles than any other nation.”⁵¹ And yet, barely 25 years later, U.S. soldiers at My Lai committed war crimes that violated the “Nuremberg Principles” – what Taylor defines as “not limited to the precise rulings of the Nuremberg courts, but in its broad sense, as standing for all the war crimes trials that followed in the wake of the Second World War, and the ideas they have generated.”⁵²

⁴⁹ Ibid., Habermas, *Between Facts and Norms*, 93

⁵⁰ Ibid.

⁵¹ Taylor, Telford, *Nuremberg and Vietnam: An American Tragedy*, New York: The New York Times Company, New York, 1970, 14.

⁵² Ibid., 13.

Taylor indirectly blames the advisors that accompanied President Kennedy to the White House and who remained there following Johnson's inauguration for the policies that led to the massacre.⁵³ By blaming presidential advisors, Taylor implies that the problems that led to My Lai lay at the feet of presidential administrations. Without leaders who are willing to uphold the Nuremberg principles and other international law regarding war crimes and the preservation of human rights, the deterioration of these laws and principles will continue.⁵⁴

There have been other instances of U.S. government failure to realize the norms that were established with the Nuremberg Principles. Even before the massacre at My Lai, for example, U.S. adherence to the principles of Nuremberg were called into question. In March 1940, Stalin signed an order that led to the massacre of over 20,000 Polish Army reserve officers, considered prominent citizens and leaders of the country.⁵⁵ Later, Stalin framed the Nazis for the murders, going so far as to include the Katyn massacre in the trials at Nuremberg and coaching witnesses to lie when the matter came before the court. Although the American chief prosecutor advised the Soviets to drop the Katyn matter, there was no further American involvement in the incident⁵⁶ until Representative Ray J. Madden (D.-Ind.) held hearings nearly ten years later, hearings that

⁵³ Ibid., 205.

⁵⁴ Davanzo, Jeannine, "An Absence of Accountability for the My Lai Massacre," Hofstra Law & Policy Symposium, vol. 3, 1999, 309.

⁵⁵ Rees, Laurence, *WWII Behind Closed Doors: Stalin, the Nazis, and the West*, New York: Vintage Books, 2008, 51-52.

⁵⁶ Ibid., 397.

brought the deceit behind the massacre to light.⁵⁷ Despite Madden's efforts for Congressional Support for a joint Senate-House inquiry as well as efforts to bring the matter before the United Nations and the International Court of Justice, nothing came of his inquiry, and the matter was dropped.⁵⁸

The abuses at Abu Ghraib prison in Iraq bear a striking resemblance to the events at My Lai. That story broke in the spring of 2004, when it was broadcasted by "60 Minutes II."⁵⁹ Like Ron Ridenhour reporting the events at My Lai, the torture and other abuses came to light through a U.S. Army soldier who gave Army investigators photographs of other American soldiers abusing detainees at the prison. And like the soldiers at My Lai, the abuses at Abu Ghraib were the result of a lack of proper training and poor leadership on the part of officers who "failed to establish and enforce basic standards and principles among [the] soldiers," according to a report filed by investigating officer Major General Antonio M. Taguba.⁶⁰ And finally, like My Lai, one of the reporters who investigated the matter most deeply was Seymour Hersh, who at this point was now no longer a free lance reporter, but was working for *The New Yorker* magazine.

⁵⁷ "The Katyn Forest Massacre: Hearings Before the Select Committee to Conduct an Investigation of the Facts, Evidence and Circumstances of the Katyn Forest Massacre," Internet Archive, accessed April 21, 2012, http://www.archive.org/stream/katynforestmassa05unit/katynforestmassa05unit_djvu.txt.

⁵⁸ Fisher, Benjamin B., "The Katyn Controversy: Stalin's Killing Field," Central Intelligence Agency, accessed April 21, 2012, <https://www.cia.gov/library/center-for-the-study-of-intelligence/csi-publications/csi-studies/studies/winter99-00/art6.html>.

⁵⁹ Hersh, Seymour H., "Annals of National Security: Chain of Command: How the Department of Defense Mishandled the Disaster at Abu Ghraib," *The New Yorker*, 17 May 2004, http://www.newyorker.com/archive/2004/05/17/040517fa_fact2.

⁶⁰ Hersh, Seymour H., "Annals of National Security: Torture at Abu Ghraib" *The New Yorker*, 10 May 2004, http://www.newyorker.com/archive/2004/05/10/040510fa_fact.

These massacres and others were marked by governmental denial and secrecy, accomplished by redirecting citizens' attention elsewhere, by downplaying the importance of such events, or by ignoring that they happened at all. But when members of the U.S. military participate or are complicit in the torture and murder of foreign nationals, it undermines the principles of human rights and the criminal responsibility for war crimes established by international law and at Nuremberg. The potential for accountability in the hands of voters who can elect a different chief executive into office, one who, as Commander in Chief of the Armed Forces, would require that U.S. policy adhere to the Nuremberg principles and similar international laws, thereby promoting society's norms. But in order for citizens to be well-informed, the press must play its part by being what some scholars have called the "Fourth Estate" and provide additional checks and balances against the other three parts of government by remaining vigilant, reporting on not just the information the executive, legislative and judicial branches of government provide, but by engaging in investigative reporting, looking beyond official press releases, press conferences, and interviews with government officials. Citizens must take the responsibility to absorb the information journalists have uncovered for them, and to participate in the discourse that leads to consensus and eventually will formation. In turn, all of this is built upon the assumption that a democratic government and its elected officials are willing to be transparent in their actions.

To further explain the press's role in a democratic political system, Habermas turned to the research of Michael Gurevitch and Jay G. Blumler. Gurevitch and Blumler wrote that the media should provide:

“surveillance of the sociopolitical environment, reporting developments likely to impinge, positively or negatively, on the welfare of citizens; meaningful agenda-setting, indentifying the key issues of the day, including the forces that have formed and may resolve them; platforms for an intelligible and illuminating advocacy by politicians and spokespersons of other causes and interest groups; dialogue across a diverse range of views, as well as between power-holders (actual and prospective) and mass publics; mechanisms for holding officials to account for how they have exercised power; incentives for citizens to learn, choose, and become involved, rather than merely to follow and kibitz over the political process; a principled resistance to the efforts of forces outside the media to subvert their independence, integrity and ability to serve the audience; and a sense of respect for the audience member, as potentially concerned and able to make sense of his or her political environment.”⁶¹

In other words, Gurevitch and Blumler are saying the role of the press is to keep citizens informed of events, help them understand key issues and the forces behind them and what avenues are available to citizens to resolve them. Habermas agreed with them, because without the press’s role in informing citizens, citizens would remain unaware of pertinent issues they otherwise might have the desire to change. The media should also provide a means for elected officials and other leaders to communicate their ideas for solutions with the public and to enable dialog between citizens and their officials and leaders, while at the same time, ask tough questions of those same leaders as a service to citizens. The media should additionally provide incentives for citizens to participate in government. The media should remain free of any influences that could affect their coverage of events, neither shining a light too brightly on certain events nor ignoring others. And finally, the media should respect citizens, presenting information that is clear and intelligently written.

⁶¹ Ibid., Habermas, *Between Facts and Norms*, 378.

After presenting Gurevitch and Blumler's list, Habermas praised its value for understanding the relationship between the press and citizens, writing:

“Such principles orient the professional code of journalism and the profession's ethical self-understanding In agreement with the concept of deliberative politics, these principles express a simple idea: the mass media ought to understand themselves as the mandatary of an enlightened public whose willingness to learn and capacity for criticism they at once presuppose, demand, and reinforce; like the judiciary, they ought to preserve their independence from political and social pressure; they ought to be receptive to the public's concerns and proposals, take up these issues and contributions impartially, augment criticisms, and confront the political process with articulate demands for legitimation.”⁶²

Here Habermas is saying that there is give and take between the press and citizens. The very nature of a deliberative democracy mandates that the press has a duty to enlighten citizens so they can intelligently debate and vote on issues, rooted in the assumption that citizens are willing to learn the information the press delivers. But it goes a step further and requires citizens to constructively criticize the press when the press does not provide the information they need to participate in a deliberative democracy. The press must judge whether that criticism is warranted, and if necessary, make adjustments in reporting events in the political arena. This assumes that the press, as citizens' eyes and ears, has an insider's view of political events that enables it to wisely decide if adjustments should be made and, if so, what those adjustments should be. Meantime, the press must also resist pressure from outside influences – pressure that may include actors in the political process and even citizens themselves.

⁶² Ibid.

In the case of the My Lai massacre, there are three groups whose roles will be examined: the government, most particularly the military (which is an offshoot of the executive branch), the press (in the form of *The New York Times*, the *Chicago Tribune*, and the *Los Angeles Times*), and citizens. This study will apply Gurevitch and Blumler's list as a measure of how well the media covered the My Lai massacre, beginning with examining the roles of the other two parties: the government and the people.

The Government: Issues of Disclosure

Looking at the lists of tasks that Gurevitch and Blumler wrote the press ought to fulfill, "surveillance of the sociopolitical environment" is the first. The sociopolitical environment is populated by politicians and power-holders, and it is the place where these administrative officials exercise power. These officials rose to power either by election or by appointment by those who were elected. Whatever the case, it is important for officials to be accountable for the trust given to them by citizens. In order to be accountable to citizens, the officials in the sociopolitical environment should submit (as much as is possible without compromising national security) to scrutiny of their practices and policies. Because each citizen cannot personally examine officials' practices and policies, we rely on the media to provide that surveillance for us. In this case study, the executive branch and particularly the U.S. Army are the subjects of the press's surveillance regarding the My Lai massacre.

First Amendment scholar Alexander Meiklejohn believed that political speech especially deserves "absolute protection from government interference" and therefore

First Amendment protection of speech and the press is vital. Once political speech is protected, there is a greater chance for citizens to learn about and discuss problems in government and society, and to have a chance to resolve them.⁶³ There are situations, however, when some government information cannot be made public for the sake of national security. National security normally involves specific military and diplomatic information that could cause irreparable harm to the nation if disclosed.⁶⁴

In his book, *Perilous Times*, Geoffrey R. Stone has identified some of the situations where an administration may want to limit information. They include: when sensitive foreign problems are being negotiated, or when concerns that media criticism of a war could lead to dissent, affecting citizen's support of the war to soldiers' morale.⁶⁵ But there are other times when embarrassing information is hidden under the label of national security. The best-known example of this is the Pentagon Papers case, *New York Times v. United States* (403 U.S. 713 (1971)). The Pentagon Papers case began when a forty-seven volume, top secret study of U.S. decision making in Vietnam from 1945 to 1968, was photographed by Daniel Ellsberg, an employee with the Rand Corporation who had access to the papers and who had come to believe that U.S. involvement in Vietnam was a "stalemate . . . a moral and political disaster, a crime."⁶⁶ Ellsberg gave copies of the papers to Chairman of the Senate Foreign Relations Committee, William

⁶³ Carter T. Barton, Marc A. Franklin, and Jay B. Wright, *The First Amendment and the Fourth Estate: The Law of Mass Media*, Ninth Edition, St. Paul, MN: Thomson West, 2005, 45.

⁶⁴ *Ibid.*

⁶⁵ Stone, Geoffrey, *Perilous Times: Free Speech in Wartime*, New York: W.W. Norton and Company, 2005), 9.

⁶⁶ Ellsberg, Daniel, *Secrets: A Memoir of Vietnam and the Pentagon Papers*, New York: Viking Press, 2002, vii.

Fulbright, then to nineteen newspapers, including *The New York Times* and *The Washington Post*.⁶⁷ However, the copies Ellsberg distributed were not complete and he withheld portions he thought might endanger national security.⁶⁸ Even so, federal injunctions sought to prevent the publication of the papers led to the case.⁶⁹

In their opinion, U.S. Supreme Court Justices William O. Douglas and Hugo Black wrote, “The dominant purpose of the First Amendment was to prohibit the widespread practice of governmental suppression of embarrassing information. . . . Secrecy in government is fundamentally anti-democratic. . . .”⁷⁰

Later, Solicitor General Erwin Griswold, who had argued the government’s case before the U.S. Supreme Court, also conceded that governmental embarrassment was no reason information should be withheld. Griswold wrote in his book, *Secrets Not Worth Keeping*, that there was “massive overclassification” by the government and that “the principle concern of the classifiers is not with national security, but rather with governmental embarrassment of one sort or another.” He added that “there is very rarely any real risk to current national security from the publication of facts relating to transactions in the past, even the fairly recent past.”⁷¹

The My Lai massacre is a perfect example of what Griswold described. It was not a matter of national security, it was a past event, and it was embarrassing, especially for a country that established the existing standards for treating civilians in war time and

⁶⁷ Ibid.

⁶⁸ Ibid., Stone, *Perilous Times*, 502.

⁶⁹ Ibid., Ellsberg, *Secrets: A Memoir of Vietnam and the Pentagon Papers*, viii.

⁷⁰ *New York Times v. United States* (403 U.S. 713) 1971.

⁷¹ Quoted in Stone, *Perilous Times*, 512.

upholding the laws of war at Nuremberg. But one of the problems with the My Lai massacre was that it occurred in 1968, before the ruling in the Pentagon Papers, and when the ruling in *United States v. Reynolds*⁷² cast a shadow over the events at My Lai, a case which legal scholar Louis Fisher claims contains the roots of modern states secrecy privilege.⁷³

The *Reynolds* case began with the October 6, 1948 crash of an Air Force B-29 bomber carrying, in addition to its crew, five civilian scientists testing secret navigation equipment. When the plane crashed in Waycross, Ga., four of the civilians were killed along with six others onboard.⁷⁴ The widows of the three civilians filed suit, claiming their husbands had been killed due to government negligence or misconduct.⁷⁵ As part of his preparations for the trial, the widows' attorney, Charles Biddle, requested the Air Force's report of the investigation of the accident. His request was denied on the grounds that the information contained in the report would prejudice national security.⁷⁶

When Federal District Judge William Kirkpatrick of the Eastern District of Pennsylvania ordered the government to produce the report, Thomas Finletter, then secretary of the Air Force, responded with a letter stating that it would not be in the "public interest" to do so.

Kirkpatrick scheduled a hearing so that the government could justify its position. At the hearing, the judge advocate general of the Air Force argued that the information

⁷² *United States v. Reynolds*, 345 U.S. 1 (1953).

⁷³ Fisher, Louis, *In the Name of National Security: Unchecked Power and the Reynolds Case*, Lawrence: University Press of Kansas, 2006, 1.

⁷⁴ *Ibid.*

⁷⁵ *Ibid.*, 3.

⁷⁶ *Ibid.*, xi.

contained in the Air Force's report about the 1948 accident would harm national security. Kirkpatrick then tried to review the report himself *in camera*, but the Air Force would not agree to the arrangement. In the end, Kirkpatrick responded by simply entering judgment for the widows on their negligence claim, never addressing the question of the widows' need to know details of the accident that killed their husbands.

The government appealed Kirkpatrick's ruling to the U.S. Supreme Court, arguing that it could withhold documents on the basis of "public interest." On March 9, 1953, the Supreme Court agreed in a 6-3 decision, and precedent was set: if government officials believe that information requested by private parties would adversely affect national security, then the government has the right to withhold evidence.⁷⁷

That ruling was unchallenged at the time of the My Lai massacre, and likely informed military officials' decision to keep secret what the officers at My Lai never wanted to reveal. It granted government, and particularly Army officials, the means to hide what had happened at My Lai and protect themselves from public criticism. This case study will examine the ways the government and Army officials tried to keep information from the press as well as the ways officials revealed information, and the ways the press reported on the information found.

Citizens: Issues of Access to Information

Habermas wrote that it is within the public sphere that citizens discuss information with one another and as a result, mutual understanding of the meaning of that

⁷⁷ Ibid., 1.

information is reached. This mutual understanding then leads to rational collective will formation, which is citizens' general consensus – the combination of citizens' mutual understanding of the issues combined with their values and desires. Citizens' consensus or will formation is then manifested through the results of voting.⁷⁸ Will formation ties the will as well as the values of individual citizens to the actions taken by their representatives for the benefit of all.

The work of John Dewey can help explain the process of citizens' will formation. Although a citizenry is made up of individuals with various and conflicting concerns and desires, Dewey explains public education is the first step in the process, not because schools are the means to political indoctrination, but because schools are created by local authorities who are familiar with the community's values. Therefore, the curriculum reflects the values of the community where the schools are built.⁷⁹ As individuals mature, they are often exposed to other people and ideas through travel and the media. Assuming that people understand there is a benefit to coming together and participating in debating the concerns of the day, this exposure can serve to broaden their views.⁸⁰ But in order to achieve consensus, there must be communication among citizens and there must be a willingness to look back at past events and analyze what happened and whether the outcome was satisfactory, as well as a willingness to look forward and determine whether systems ought to change to improve on the successes of the past or its

⁷⁸ Ibid., Habermas, *Between Facts and Norms*, 154.

⁷⁹ Dewey, John, *The Public and Its Problems: An Essay in Political Inquiry*, Chicago: Gateway Books, 1946, 113.

⁸⁰ Ibid., 113-114.

mistakes.⁸¹ According to Habermas, these transforming conversations take place in the public sphere.

However, Dewey acknowledges that there are people who choose not to participate. They may feel overwhelmed with the size of government, or by the volume of information available.⁸² People may also be distracted by their own concerns such as work or family life.⁸³ They may also be frozen in place by holding to opinions that have not been re-examined and which have become habit.⁸⁴ But for those citizens who are willing to do so, knowledge is indispensable to gaining the knowing needed to participate in will formation.⁸⁵

Therefore, Dewey believed that it is critical to democracy that citizens be well-informed, and when they are, there is then “a genuinely shared interest” in the political issues that “inform[s] desire and effort and thereby direct[s] action.”⁸⁶ The information that leads to well-informed citizens, Dewey insisted, must be the result of continuous and consistent inquiry.⁸⁷

Although some scholars, such as Daniel Hallin, argue that the media had extraordinary freedom to report the war in Vietnam with little government control or censorship,⁸⁸ Entman has stated that despite such openness, the media do not do all they can to fully inform citizens’ knowledge of current affairs, making citizens either

⁸¹ Ibid., 152.

⁸² Ibid., 131-135

⁸³ Ibid., 137-138.

⁸⁴ Ibid., 162.

⁸⁵ Ibid, 176.

⁸⁶ Ibid., 155.

⁸⁷ Ibid., 178.

⁸⁸ Ibid., Hallin, *Uncensored War: The Media and Vietnam*, 6.

ineffective or absent from the polling booth. Among Entman's observations are: the desire of the public to be entertained rather than informed and how this affects the financial bottom line of media outlets; how journalists often seek out political elites rather than seeking out variety of sources for a more well-rounded story, and the problem of "pack journalism" – many journalists seeking out the same sources.⁸⁹ In other words, when journalists write stories that are not deeply and completely researched and which fail to communicate useful knowledge, the public is left to form a shallow rather than a deep or a multi-faceted opinion. These questions will be a part of the research regarding the press coverage of the My Lai massacre.

Research Approach and Methodology

Michael Schudson has written that "[The newspaper] is always an incomplete rendering of its world, always temporary and destined to be replaced the next day . . ."⁹⁰ Because of this "incomplete" and disjointed rendering of events in the news, coupled with some still unresolved confusion regarding the events at My Lai, gaining an understanding of the events was critical. Research for this case study began by examining historical accounts (work which had been peer reviewed and fact-checked) of the massacre, in order to gain a better understanding when later reading newspaper accounts.

⁸⁹ Entman, *Democracy Without Citizens*, 41.

⁹⁰ Schudson, Michael, *Why Democracies Need an Unlovable Press*, (Malden, Massachusetts: Polity Press, 2008), 41.

Next, attention turned to contemporary newspaper articles about the massacre, collected through the use of ProQuest Historical Newspapers. In an effort to get a cross section of the nation's news, *The New York Times*, the *Chicago Tribune*, and the *Los Angeles Times* were selected. Articles were gathered using the search terms "My Lai," and "Mylai" between the dates of November 1, 1969 through September 30, 1976. These dates were selected because they cover the time from the publication of Seymour Hersh's first article about the massacre, until the time that the last court ruled on Lt. Calley's appeal. The search resulted in over 3,000 articles; over 1,200 for *The New York Times*; over 700 for the *Chicago Tribune*, and nearly 2,000 for the *Los Angeles Times*.

Once the articles had been collected, an initial review determined which articles would be useful. Articles where My Lai was mentioned in an ad, such as in the title of a book, film, or play, or which were contained in the newspapers merely as an entry in tables of contents, were eliminated. The remaining articles were assigned to various categories, depending on the focus of the story. Categories included topics such as "Calley" or "Medina" or "cover up" (which dealt with the Peers Inquiry and subsequent courts martial). Some stories fit in multiple categories. Other items, such as movie or book reviews, were eliminated as being outside the scope of this study.

After it had been determined which articles would be likely to be the most useful, a second reading of the articles followed, and detailed notes were taken.

In order to provide direction to this study, guidance was provided by the questions Habermas refers to which were posed by Michael Gurevitch and Jay G. Blumler, addressing the tasks they believe the media ought to fulfill in democratic political

systems, most especially: surveillance of the sociopolitical environment; indentifying the key issues of the day; mechanisms for holding officials to account for how they have exercised power, and enabling citizens to make sense of their political environment. This case study of the My Lai massacre should result in suggestions for the press when covering similar crises in the future.

Chapter Two: The My Lai Massacre: The Historical Narrative

In this chapter, the history of the My Lai massacre will be described from the point of view of historians in an effort to arrive upon generally agreed-upon facts. This duplicate approach was also used by Binford in his book about the El Mozote massacre,⁹¹ and is useful for a topic that is surrounded by as much confusion and controversy as the My Lai massacre. Works consulted included, but were not limited to: *My Lai 4: A Report on the Massacre and Its Aftermath*, by Seymour Hersh (1970), *Four Hours in My Lai* by Michael Bilton and Kevin Sim, (1992), *The My Lai Massacre and Its Cover-up: Beyond the Reach of Law?* by Joseph Goldstein, Burke Marshall and Jack Schwartz (1976), and “Investigation of the My Lai Incident,” a report of the Armed Services Investigating Subcommittee of the Committee on Armed Services House of Representatives from July 15, 1970.

My Lai is a village located in the Son Tinh District, Quang Ngai Province, in the Republic of Vietnam.⁹² The region of Quang Ngai Province is located on the northeast coast of South Vietnam and in a plain bordered by mountains to the east. The area was known as “Pinkville” among the U.S. military because the area in which My Lai and the surrounding villages was located was indicated by the color pink on U.S. Army maps.⁹³ Pinkville included Songmy Village, which was composed of four hamlets: My Lai, Co

⁹¹ Binford, Leigh, *The El Mozote Massacre: Anthropology and Human Rights*, Tucson: University of Arizona Press, 1996, 13-67.

⁹² Goldstein, Joseph, Burke Marshall and Jack Schwartz: *The My Lai Massacre and Its Cover-up: Beyond the Reach of Law?*, New York: The Free Press, 1976, 44.

⁹³ Hersh, *My Lai 4*, 23.

Luy, Tu Cong, and My Khe. Located on a peninsula, the coastline provided landing points for food, ammunition and other supplies from North Vietnam, making it a logistically desirable area for North Vietnamese, Korean, and U.S. forces.⁹⁴

The area had historically provided a haven for various rebels, and by the mid-1960s, was known as the toughest Viet Cong stronghold in the country.⁹⁵ Therefore, Quang Ngai became the focus of the first major American combat operation of the war. Known as “Operation Starlight,” its purpose was to free the civilians in the area from communist control.⁹⁶ The result was that Quang Ngai was declared a “free-fire zone,” meaning that all civilians living there were suspected of being Viet Cong or Viet Cong sympathizers. According to journalist Seymour Hersh, U.S. forces freely staged bombing missions and artillery attacks on the region, without approval from Saigon or other local officials.⁹⁷ Hersh quoted an unidentified senior officer as saying that: “We’ve been told by our superiors that in many areas there isn’t any chance of pacifying the people, so instead we’ve got to sanitize our region – kill the Viet Cong and move the civilians out. We are not going to be able to make the people loyal to our side. So we are going to sterilize the area until we can win it back.”⁹⁸

⁹⁴ Armed Services Investigating Subcommittee of the Committee on Armed Services, House of Representatives, *Investigation of the My Lai Incident, Report of the Armed Services Investigating Subcommittee of the Committee on Armed Services House of Representatives*, 91st Cong., 2nd sess., July 15, 1970, 9. Library of Congress, accessed May 31, 2012, http://www.loc.gov/rr/frd/Military_Law/ML_investigation.html.

⁹⁵ *Ibid.*, Hersh, *My Lai* 4, 3-4.

⁹⁶ *Ibid.*

⁹⁷ *Ibid.*, 5.

⁹⁸ *Ibid.*, 4.

Two main figures were involved in intelligence-gathering in the Quang Ngai area: Army Captain Eugene Kotouc and CIA Senior Revolutionary Development Cadre for Plans Robert B. Ramsdell. Ramsdell was also chairman of the “Phoenix Program,”⁹⁹ which was designed to identify the political leaders who formed the infrastructure of the enemy’s organization in the countryside, and to destroy support for the Viet Cong among civilians. Ramsdell told the Peers Commission that “the people of Vietnam considered the people living in the area [of My Lai] as enemies” and that even “the women [acted as] soldiers and . . . children up to 12 or 14 years old would carry ammunition.” Ramsdell concluded that “everyone in that area had to be a [Viet Cong] sympathizer, or else they would have been killed by the [Viet Cong].”¹⁰⁰ Such attitudes on the part of American troops made it appear any civilian in the area was actually an enemy.

However, this information was erroneous. Nevertheless, it was passed to American soldiers in the Pinkville area. The soldiers who were present at My Lai the day of the massacre were members of Task Force Barker. Task Force Barker was an interim organization of the 11th Brigade, and a subunit of Charlie Company. It was a small *ad hoc* unit composed of one company from each of the three battalions in the brigade. The parent unit of this force was the Americal Division, named Task Force Barker after its leader, Lt. Col. Frank A. Barker.¹⁰¹ The task force was a combination of a number of smaller groups, including rifle companies from each of the 11th Brigade’s three organic

⁹⁹ “Report of the Department of the Army Review of the Preliminary Investigations into the My Lai Incident,” Volume II Testimony, book 31, 495, accessed May 30, 2012, http://www.loc.gov/r/r/frd/Military_Law/pdf/RDAR-Vol-IIBook31.pdf.

¹⁰⁰ Ibid., 460.

¹⁰¹ Ibid., Hersh, *My Lai* 4, 22.

infantry battalions – A/3-1 Inf, B/4-3 Inf, and C/1-10 Inf;¹⁰² the 3d Platoon, Troop E, 1st Cavalry; elements of the 2nd Platoon, Company C, 26th Engineer Battalion; and a squad from the 11th Military Police Platoon Battery D, 6th Battalion; 11th Artillery.¹⁰³

Because the unit was so cobbled together, it consisted of “rag tag” elements. Most of the men were eighteen to twenty-two years old; most of them had volunteered for the draft, and only a few had one year or more of college. Identified by Hersh as a “grunt unit,” the men were trained to take orders and not to question them.¹⁰⁴ The men had difficulty coming together as a cohesive whole, and individuals competed with one another, each trying to bring in the highest enemy body count.¹⁰⁵ Their disunity was later attributed as one of the factors that led to the massacre.

In addition to their lack of cohesiveness as a unit, the men suffered from a lack of proper military training. Military officials decided to shorten the training period, deploying the unit to Vietnam in December 1967 rather than waiting until January 1968. Replacements continued to arrive until the deployment date, requiring numerous adjustments to the training program, including shortening the training schedule from the normal eight weeks to four.¹⁰⁶ In addition, troops were given new M-16 rifles two weeks before deployment, requiring soldiers to train with the new weapons at the last minute.¹⁰⁷ The Peers Commission later found that “The combination of all these factors resulted in

¹⁰² Ibid., Goldstein, Burke and Schwartz, *The My Lai Massacre and Its Cover-up*, 44.

¹⁰³ Ibid., 80.

¹⁰⁴ Ibid., Hersh, *My Lai 4*, 18.

¹⁰⁵ Ibid., 6.

¹⁰⁶ Ibid., Goldstein, Burke and Schwartz, *The My Lai Massacre and Its Cover-up*, 78.

¹⁰⁷ Ibid., 79.

considerable confusion and caused significant turmoil in the brigade's personnel status which was detrimental to their predeployment preparation.”¹⁰⁸

This lack of preparedness extended to soldiers' knowledge of the Geneva Convention, the handling and safeguarding of noncombatants, and the rules of engagement.¹⁰⁹ What instruction they did receive was directed primarily toward the 5 S's regarding any prisoner – Search, Silence, Segregate, Speed, and Safeguard. Little emphasis was placed on the treatment of civilians and refugees or the responsibility for reporting war crimes or atrocities. Even after arriving in Vietnam, in-country indoctrination reportedly did not cover the handling of treatment of civilians or refugees.¹¹⁰ Many of the men developed attitudes about the Vietnamese that may have affected their actions in My Lai. The Peers Commission found that “[A] ‘dink’ or ‘slope’ complex may have existed among many of the men of C Company. . . . For some, the terms were apparently used in the same context in which ‘kraut,’ ‘Jap,’ and ‘gook’ were used in referring to the enemy in past wars. For others, its use evidently suggested subordination (in their view) of the Vietnamese to an inferior status. For still others, the use of these terms appears to have been simply a case of going along with the majority. . . .”¹¹¹

The effectiveness of Task Force Barker was further weakened by subsequent changes in both non-commissioned and commissioned officers, likely resulting in “a

¹⁰⁸ Ibid.

¹⁰⁹ Ibid., 204.

¹¹⁰ Ibid., 81.

¹¹¹ Ibid., 194.

decline in the proficiency and supervisory capability of the 11th Brigade headquarters.”¹¹² The result was “an austere staff and no individual who performed exclusively as the [Task Force] executive officer.”¹¹³ Had such staffing been in place, the Son My operation likely would have been better planned and implemented. Reports would have been properly written and sent through proper channels, and the resulting cover up would have never happened.¹¹⁴ (The chain of command of the Americal Division included: Major General Koster as the head of the Americal Division; under him were Lieutenant Colonel Hollady, leading the 123rd Aviation Battalion; Colonel Young leading the Division Artillery, and Colonel Henderson leading the 11th Infantry Brigade. Beneath Colonel Henderson was Lieutenant Colonel Barker, leader of Task Force Barker, who was over Captain Medina of C Company. Finally, under Medina was Lieutenant Calley, leading the First Platoon.¹¹⁵)

To make matters worse, the officers of the Americal Division were less than exemplary leaders. General William Peers, who later headed the Peers Commission and conducted an inquiry into the massacre, found that prior to the events at My Lai, “A dangerously permissive attitude toward the handling and safeguarding of Vietnamese and their property existed within elements of the 11th Brigade chain of command prior to the [My Lai] operation.” Peers found that even before the massacre at My Lai, American soldiers had mistreated, raped, and indiscriminately killed Vietnamese civilians, but

¹¹² Ibid., 196-197.

¹¹³ Ibid., 197.

¹¹⁴ Ibid.

¹¹⁵ See Americal Division and Task Force Barker Chain of Command diagram in the appendix, pg. 131.

officers heading the Americal Division had done little to express their concern or to curb such behavior. Peers exempted Colonel Henderson, then the current highest ranking officer, from any responsibility for the misconduct of the men in his command, and instead held responsible the previous brigade commander who “may have contributed to the attitude of permissiveness which existed within the brigade.”¹¹⁶

In addition to these conditions, none of the men of Company C had any significant combat experience between the time of their arrival and March 16, 1968.¹¹⁷ During the seven weeks prior to the Son My operation, they did not engage in any major combat action;¹¹⁸ contacts with the enemy were light, and involved only sniper fire.¹¹⁹ Because many officers who served in Vietnam saw “command assignments” as a means to earn points that could lead either to promotion or to rotation to a better assignment location, it was likely that the unit’s officers viewed the upcoming My Lai operation as an opportunity to “defeat a major identifiable enemy force”¹²⁰ that translated into a lack of planning for what faced them in My Lai and a lack of discrimination when it came to distinguishing enemy from harmless civilian.¹²¹

Further complicating matters was the fact that on February 25, 1968, six of the company’s men were killed when they came across a minefield located near the village; twelve others were wounded. The men believed the Viet Cong had been instrumental in

¹¹⁶ Ibid., 202.

¹¹⁷ Ibid., 82.

¹¹⁸ Ibid., 81

¹¹⁹ Ibid., 82.

¹²⁰ Ibid., 196.

¹²¹ Ibid.

laying the mines.¹²² Although the problem with crossing the minefield really was due to a combination of miscommunication with the Korean forces that had planted the mines as well as the impatience of U.S. Army personnel who were eager to move through the area, few of the men placed the responsibility there. Hersh quotes Michael Bernhardt, a member of Charlie Company, who said, “Somebody you can’t blame are the big men in the Army. They [the men in Charlie Company] didn’t want to believe it”¹²³ This pattern of not holding officers accountable was to be repeated as events, especially those surrounding the courts martial, unfolded.

On March 14, a small squad from the third platoon ran into a booby trap. The leader of the squad, Sergeant George Cox, picked up an object, not realizing that it was a bomb. Cox was killed, and another soldier lost his eyes, an arm, and a leg.¹²⁴ One of the men on the patrol, Michael Terry, told Hersh that the incident left others who were part of the patrol “[G]ood and mad.”¹²⁵ Hersh concluded that by that point, “[m]any in the company had given in to an easy pattern of violence.”¹²⁶ This “easy pattern of violence” would continue unchecked into My Lai.

The following day, Colonel Oran K. Henderson visited the command post for Task Force Barker at Landing Zone Dottie in Vietnam.¹²⁷ Although his orders were never committed to writing (which could have been a crucial piece of evidence later), Colonel Henderson told the assembled staff and commanders that they needed to

¹²² Ibid., Hersh, *My Lai 4*, 33-34.

¹²³ Ibid., 34.

¹²⁴ Ibid., 35.

¹²⁵ Ibid.

¹²⁶ Ibid., 37.

¹²⁷ Ibid., Goldstein, Marshall and Schwartz: *The My Lai Massacre and Its Cover-up*, 44.

eliminate the 48th Local Force Battalion in Son My.¹²⁸ According to the intelligence available at the time, most of the people living in Son My were Viet Cong or Viet Cong sympathizers. But this intelligence was flawed.¹²⁹ The operations were to begin at 7:25 a.m. on March 16, after most of the civilian population had left the village to go to market.¹³⁰ The areas known as Son My and My Lai (1) and My Lai (4) were targeted.¹³¹

Following Colonel Henderson's presentation, Lieutenant Colonel Barker ordered commanders to "burn the houses, kill the livestock, destroy foodstuffs and perhaps to close the wells."¹³² He gave no instructions on how to deal with noncombatant civilians.¹³³ The Peers Commission found that when Captain Medina later reiterated these orders to his men, "Barker's orders were embellished [and] a revenge element was added,"¹³⁴ presumably as retribution for the men killed and injured by booby traps.

When the attack on My Lai began the morning of March 18, Lieutenant Colonel Barker controlled the artillery preparation and combat assault from a helicopter above the village. Colonel Henderson and his command group also observed from the air.¹³⁵ By 7:50 am everyone in the C/1-20 Infantry unit was on the ground. On their way into My Lai (4), the ground unit killed several Vietnamese they encountered along the road. The Vietnamese did not resist the Americans.¹³⁶

¹²⁸ Ibid.

¹²⁹ Ibid.

¹³⁰ Ibid.

¹³¹ Ibid., 45.

¹³² Ibid.

¹³³ Ibid.

¹³⁴ Ibid.

¹³⁵ Ibid.

¹³⁶ Ibid.

By 8:00 am, the First Platoon had begun moving through My Lai (4), killing the civilian inhabitants, mostly old men, women and children, and destroying property. Remaining inhabitants of the village were rounded up into two groups. One of the groups, consisting of approximately 75 people, was taken to a large ditch east of the village and shot.¹³⁷ Another group, numbering between 20 and 50, was shot along a trail located to the south of My Lai (4). Additional smaller groups were also shot in the village.¹³⁸

The First Platoon then moved eastward to cross and secure a bridge over the My Khe River and entered the subhamlet of My Khe (4). Members of the platoon opened fire with machineguns and rifles for five minutes, killing women and children. The soldiers then moved through the village, continuing to fire their arms into homes and destroying buildings.¹³⁹ According to the Peers Commission report, “many noncombatants were killed in the process;” an exact number was not specified.¹⁴⁰ The Americans also committed several rapes.¹⁴¹

The Third Platoon followed behind the First and Second Platoons, burning and destroying the remaining homes in My Lai (4) and destroying the livestock. The soldiers also killed another group of about 10 women and children.¹⁴²

Orders to stop the killings were issued two or three times during the course of the morning of March 16. The Second Platoon received such an order at approximately 9:20

¹³⁷ Ibid.

¹³⁸ Ibid.

¹³⁹ Ibid., 46.

¹⁴⁰ Ibid..

¹⁴¹ Ibid., 45.

¹⁴² Ibid.

am, and the unit complied. The First Platoon did not comply until 10:30 am when the order was repeated.¹⁴³ Despite such orders, men of both C/1-20 and B/4-3 Infantry continued to destroy homes and mistreat Vietnamese detainees.¹⁴⁴

The Army's Criminal Investigation Division agency (CID) later concluded that the total number of Vietnamese killed in the area of Son My Village exceeded 400. But based on testimony gathered during the Peers Commission, only 175-200 Vietnamese civilians had been killed by the men of Task Force Barker. The Peers Report further concluded that only ten men in B/4-3 Infantry directly participated in the killing and destruction of My Khe (4). Of the ten, eight either refused to testify or claimed to have no recollection of the event. The two remaining were deceased, as was Lt. Col. Barker, who was killed in June 1968. As a result, it was impossible to reconstruct the event with any certainty; however, Peers concluded that the B/4-3 Infantry killed as many as 90 Vietnamese civilians. It is unlikely that any were enemy Viet Cong.¹⁴⁵

One reason it was difficult to recreate the incident with any certainty is that no official report of the event from Charlie Company's officers exists. According to the Peers Inquiry, at about 9:30 am on March 16, Colonel Henderson informed Major General Koster that he had observed about 7 civilian casualties in My Lai (4). That afternoon, Lt. Col. Barker informed Col. Henderson that the total had risen to 13; by 7:00 pm, Barker reported there was a total of 20 civilian casualties. However, none of Henderson's or Barker's reports were entered into unit journals or reported outside the

¹⁴³ Ibid., 45-46.

¹⁴⁴ Ibid., 46-47.

¹⁴⁵ Ibid., 46.

Americal Division.¹⁴⁶ The Peers Commission concluded that it was likely that Colonel Henderson himself, who was known to be at Task Force Barker's Tactical Operations Center between 8:40 am and 10:00 am that day, issued the order to discontinue such reports in an effort not to attract attention to C Company's activities in My Lai (4).¹⁴⁷

However, a report filed by helicopter pilot Hugh Thompson, who had threatened to turn his helicopter's machine guns on American soldiers who were trying to prevent him from rescuing Vietnamese children from a ditch, raised concerns about what had happened on March 16.¹⁴⁸ Consequently, General Young assigned Colonel Henderson to oversee an investigation of the events of March 16.¹⁴⁹ In addition to questioning Captain Medina, Colonel Henderson gathered together a group of soldiers from "C" Company and asked them first as a group and then individually if any of them had participated in shooting Vietnamese civilians. All the soldiers denied knowledge of or participation in any such activities.¹⁵⁰

Colonel Henderson gave General Young an oral summary of his findings, saying that he had learned nothing to substantiate Thompson's allegations. Colonel Henderson then submitted a written report to Koster consisting of a 3x5 card prepared by Barker. Barker stated that twelve civilians had been killed by artillery fire, much of it crossfire; eight others were killed by gunship fire. Essentially the report contended that the deaths were accidental.

¹⁴⁶ Ibid., 47.

¹⁴⁷ Ibid., 302.

¹⁴⁸ Ibid., Bilton and Sim, *Four Hours in My Lai*, 140-141.

¹⁴⁹ Ibid., 177.

¹⁵⁰ Ibid., *Investigation of the My Lai Incident, Report of the Armed Services Investigating Subcommittee of the Committee on Armed Services House of Representatives*, 28.

Later Colonel Henderson wrote a four- or five-page report which he submitted to Colonel Parson. After Koster, Young, Parson, and Holladay had studied the report, they determined that Barker should conduct an investigation into the events of March 16. Koster and Colonel Henderson testified that they saw Barker's subsequent report; however, no report was ever found. When additional searches for the report were carried out in 1969 and again in 1970, still no report was found, although some soldiers testified that they remembered a typist had been designated to type a report by Colonel Henderson at about that time.¹⁵¹ A report was finally discovered in the desk of a Brigade Intelligence Sergeant; the report should have been kept in the classified files of the 11th Brigade.¹⁵² Furthermore, if protocol had been followed properly, there would have been an order from Division Headquarters appointing Barker as investigating officer. No such order was ever located.¹⁵³ Without the order, it appeared that protocol had not been followed, and therefore the possibility of a cover up was more likely.

The matter would have remained a secret if not for another soldier, Ron Ridenhour. Ridenhour had not been present in My Lai the day of the fighting, but he heard about the events from other soldiers who had been in My Lai on March 16, 1968, and who were troubled enough to talk about it among themselves, but not so driven as to report it to military authorities.¹⁵⁴ Ridenhour found their accounts of the incident disturbing, in part because he had heard accounts of similar behavior by American

¹⁵¹ Ibid., 29.

¹⁵² Ibid., 33.

¹⁵³ Ibid., 34.

¹⁵⁴ Olson, James and Randy Roberts, *My Lai: A Brief History with Documents*, (New York: Bedford Books, 1998), 147.

soldiers on other dates and at other places.¹⁵⁵ Ridenhour said, “It was an instantaneous recognition and collateral determination that this was something too horrible, almost, to comprehend and that I wasn't gonna be a part of it. Just simply having the knowledge, I felt, made me complicit, unless I acted on it.”¹⁵⁶ Ridenhour began by seeking out and interviewing soldiers who had been in My Lai that day. For many of them, Ridenhour said, it was “like lancing a boil” to talk about it.

Armed with information gathered from his interviews with the soldiers, Ridenhour wrote a letter at the end of March 1969 to thirty different government officials, including President Richard Nixon, Secretary of Defense Melvin R. Laird, the chairman of the joint chief of staff, and various members of Congress including Representative Morris K. Udall from Arizona, where Ridenhour was living at the time.¹⁵⁷ Udall asked the House Armed Services Committee to request that the Pentagon to conduct the investigation.¹⁵⁸ Another of Ridenhour’s letters was forwarded to the Army’s Office of Inspector General William Enemark who assigned Colonel William Wilson to handle the investigation.¹⁵⁹

Wilson traveled around the country, interviewing various members of the Americal Division. Wilson was especially interested in interviewing Paul D. Meadlo,

¹⁵⁵ “Ron Ridenhour’s Story,” *The Heroes of My Lai*, accessed May 31, 2012, http://www.law.umkc.edu/faculty/projects/ftrials/mylai/MyL_hero.html#RON.

¹⁵⁶ *Ibid.*

¹⁵⁷ *Ibid.*, Olson and Roberts, *My Lai*, 148-151.

¹⁵⁸ *Ibid.*, “Ron Ridenhour’s Story,” *The Heroes of My Lai*.

¹⁵⁹ Wilson, William, “I Had Prayed to God That This Thing Was Fiction...,” *American Heritage*, February 1990, 46.

whom Wilson considered to be “a crucial witness.”¹⁶⁰ Meadlo had been on the ground in My Lai on March 16, fighting under Calley’s command, and had followed orders to kill civilians. The following day, Meadlo stepped on a landmine, losing his right foot. Because Meadlo’s injuries required him to receive medical treatment elsewhere, Meadlo was removed from the company of the other men who had participated in the massacre. Wilson believed that Meadlo’s testimony would be vital to the investigation because “[his] account of the activities [of March 16] would not be influenced by barracks-room discussions following the operations. . . . [C]ombat troops eventually come up with an agreed-upon version of violent and dramatic events, and men defer to the authority of an account they have unconsciously collaborated on.”¹⁶¹

When Wilson met Meadlo on July 16, 1969, Meadlo immediately confessed to killing Vietnamese civilians, weeping and saying, “We stood about ten to fifteen feet away from them and then [Calley] started shooting. Then he told me to start shooting them. I used more than a whole clip – used four or five clips.”¹⁶²

With Meadlo’s confession, Wilson decided his investigation was complete. The following day, ten weeks after his investigation began, Wilson turned in his report. It was sent to the chief of staff, President Nixon, and Lt. Gen. William R. Peers.¹⁶³ Wilson’s report was particularly troubling because he included allegations of war crimes as well as allegations of a cover up “involving dozens of officers, possibly right up to the

¹⁶⁰ Ibid., 52.

¹⁶¹ Ibid.

¹⁶² Ibid.

¹⁶³ Ibid., 53.

rank of a major general.”¹⁶⁴ To further complicate matters, one of those officers, Major General Koster, was now the Superintendent at West Point.¹⁶⁵ It is important to note that Wilson classified what had happened at My Lai as “war crimes.” It would turn out that later none of the soldiers tried was actually so charged.

Following Wilson’s investigation, the Army’s Criminal Investigation Division (CID), a branch of the Office of the Provost Marshal General, began a criminal inquiry into the events of March 16, 1968. Chief Warrant Officer André C. R. Feher investigated the incident, often following the same investigative trail as Wilson.¹⁶⁶ On August 25 1969, Feher interviewed Ronald Haeberle, an Army photographer who had been in My Lai the morning of the massacre. Haeberle talked for several hours, finally explaining that he not only had black and white photos of the massacre he had taken with an Army-issue camera (which meant the photos were the property of the U.S. Army), but also had some color slides he had taken with his own camera. Because he had used his own camera to capture the images, the military could place no limits on how he used them.

Haeberle projected the color slides on a sheet hung in Feher’s motel room. As Feher took Polaroid snapshots of each, he realized he had made a breakthrough in the case. Bilton and Sim wrote, “[Haeberle’s] pictures were the first hard evidence a massacre had taken place, evidence that could be used in court.”¹⁶⁷ (Haeberle

¹⁶⁴ Ibid., Bilton, and Sim, *Four Hours in My Lai*, 233.

¹⁶⁵ Ibid., 237.

¹⁶⁶ Ibid.

¹⁶⁷ Ibid., 242.

subsequently sold his color photos to *Life* magazine, which were published in the December 5, 1969 issue.)

By the beginning of September 1969, Feher had collected seven detailed statements and had established that there had been two principal sites where civilians had been massacred in My Lai, and that Calley had been closely involved with them both. Charges were brought against Calley on September 5, one day before he was due to be discharged from the Army. If Feher had waited, Calley would have been out of reach.¹⁶⁸

Not content to limit their investigation to stateside witnesses, the CID's investigation moved to Vietnam. When the CID's investigation was complete, the identities of 343 Vietnamese civilian victims were known, and the Army had a rough idea of the names of the soldiers who had been involved in the killings.¹⁶⁹ The CID found that a total of forty-five members of Charlie Company had been involved in the massacre, along with Capt. Eugene Kotouc and Lt. Thomas K. Willingham, a platoon commander with Bravo Company. Allegations ranged from murder and assault with intent to commit murder to violation of the rules of war, from rape to indecent assault. In all, the CID concluded that there was sufficient evidence to charge thirty men with major crimes.¹⁷⁰

All these investigations finally led to the creation of the Peers Commission, which would be the military's final word on the matter. On November 26, 1969, Stanley R. Resor, Secretary of the Army, and General William C. Westmoreland, U.S. Army Chief of Staff, issued a joint memorandum directing Lt. General William R. Peers to investigate

¹⁶⁸ Ibid., 246-247.

¹⁶⁹ Ibid., 282-283.

¹⁷⁰ Ibid., 323.

the original Army's investigations into what happened in Song My Village on March 16, 1968.¹⁷¹ Peers was to determine the adequacy of the initial investigations and the subsequent reviews and reports within the chain of command and whether any information was suppressed or withheld.¹⁷² Although Peers' investigation was to determine whether or not information about the alleged massacre had been suppressed,¹⁷³ Peers and his staff also spent a considerable amount of time trying to determine what had happened that day, ensuring that everyone's movements – whether on the ground or in the air – were accounted for. The Peers' inquiry resulted in 32 volumes of testimony, seven volumes of exhibits, as well as a summary of the inquiry itself.¹⁷⁴ (Peers later said that he was dissatisfied with the findings, believing that a number of witnesses either withheld information or gave false testimony. Moreover, six unidentified officers refused to testify. Peers himself would have preferred to have handled the inquiry as a mass trial, with thirty-seven members of Task Force Barker on trial at once.¹⁷⁵)

Peers began his inquiry at the Pentagon on December 2, 1969, taking testimony from witnesses and reviewing the documents then at hand at the Pentagon and at Army repository at the National Records Center in Suitland, Maryland.¹⁷⁶ On December 26,

¹⁷¹ "Peers Inquiry: Report of the Department of the Army Review of the Preliminary Investigations into the My Lai Incident," Library of Congress, Military Legal Resources, accessed March 1, 2010, http://www.loc.gov/rr/frd/Military_Law/Peers_inquiry.html.

¹⁷² Ibid., Goldstein, Marshall and Schwartz: *The My Lai Massacre and Its Cover-up*, 29.; see also Peers: *The My Lai Inquiry*, New York, W. W. Norton and Co., 1979, 147.

¹⁷³ "Mylai [sic] Panel Ends Hearings; Listened to 398 Witnesses," *New York Times*, 10 March 1970.

¹⁷⁴ All of these documents are available in PDF format at: http://www.loc.gov/rr/frd/Military_Law/Peers_inquiry.html.

¹⁷⁵ Greiner, Bernd, *War Without Fronts: The USA in Vietnam*, trans. Anne Wyburd with Victoria Fern, New Haven: Yale University Press, 2009, 313.

¹⁷⁶ Ibid., Peers, *The My Lai Inquiry*, 146.

because Peers had found little new at the repository,¹⁷⁷ he and members of his staff went to Vietnam where additional testimony was gathered from U.S. Army personnel, American civilians, officials of the Government of Vietnam, the Army Republic of Vietnam, and Vietnamese civilians from the Son My Village area.¹⁷⁸ Peers returned to Washington, D.C. on January 8, 1970 and continued taking testimony until March 7, 1970.¹⁷⁹

Peers's conclusions about the massacre fell into two categories: planning the operation at My Lai and the suppression of information. With regard to the planning of the My Lai operation, Peers concluded that

“Americal Division leaders, down to and including the TF level, failed to supervise properly the planning of the [My Lai] operation. This gave rise to a loosely conceived plan with a poorly defined purpose. These failures resulted in the issuance of ambiguous, illegal, and potentially explosive orders by LTC Barker and CPT Medina, and possibly CPT Michles, who failed, either deliberately or unintentionally, to provide in their plans and orders for the possibility that noncombatants might be found in the objective areas. Implementation of these orders ultimately became the task of generally weak and ineffective leaders at the platoon level and below. Collectively, these factors had a pronounced effect on the results of the Son My operation.”¹⁸⁰

With regard to the suppression of information, Peers concluded: “At every command level within the Americal Division, actions were taken, both wittingly and unwittingly, which effectively suppressed information concerning war crimes committed at Son My Village. At the company level there was failure to report the war crimes

¹⁷⁷ Ibid..

¹⁷⁸ Ibid., Goldstein, Marshall and Schwartz: *The My Lai Massacre and Its Cover-up*, 31.

¹⁷⁹ Ibid., 32.

¹⁸⁰ Ibid., 202.

which had been committed. This, combined with instructions to members of one unit not to discuss the events of 16 March, contributed significantly to the suppression of information. The task force commander and at least one, and probably more staff officers of Task Force Barker may have conspired to suppress information and to mislead higher headquarters concerning the events of 16-19 March 1968.”¹⁸¹

Peers further found that although information surfaced through Vietnamese channels about the massacre, there was no follow-up on the part of American officers. And despite extensive searches through Army archives stateside and files in Army offices in Vietnam, “with few exceptions, none of the documents relating to the so-called investigation of the events of 16-19 March, 1968 were located.”¹⁸² If the report of the massacre had followed proper channels, it would have gone from American headquarters to the commander of the Third Marine Amphibious Force in Danang, and then to the American troop commander in Saigon, who was General William C. Westmoreland at the time of the massacre. The report then should have moved to the Commander in Chief of the Pacific, then to the Joint Chiefs of Staff, the Secretary of Defense, and finally to the President of the United States. But none of that happened.¹⁸³

Peers recommended that regulations concerning war crimes be tightened, and that reports of any future war crimes be expedited. Peers also recommended that training regarding war crimes be improved so that the chances of future soldiers unwittingly

¹⁸¹ Ibid., 317.

¹⁸² Ibid.

¹⁸³ William Beecher, “Army Inquiry Charges 14 Officers in Suppression of Songmy Facts; West Point’s Head, Accused, Quits,” *New York Times*, 18 March 1970.

committing them be minimized.¹⁸⁴ Peers's findings clearly show that people in the military system did not follow protocol at My Lai.

Up to this point, every investigation into the events at My Lai had been conducted by various U.S. Army entities, raising questions regarding conflict of interest and whether or not these investigations had been thorough and fair. However, Jerry Friedheim, Deputy Assistant Secretary of Defense, stated: “[Although it did seem] as though the Army itself was involved in some form of deception, there was, in fact, little inclination on the part of military agencies to hide anything. Once the decision had been made to be as forthright as possible, it was inevitable that everything would come out. What concerned the military was limitation of the damage that might result and preservation of the rights of the accused.”¹⁸⁵

The U.S. Army's Criminal Investigative Division (CID) looked at crimes committed during the actual combat operation.¹⁸⁶ By contrast, Peers examined the alleged cover-up that followed the massacre and the charges of negligence and dereliction of duty. Initially, nearly eighty soldiers were under investigation as a result of both the Peers and the CID inquiries.

The CID inquiry initially cited a total of forty-seven officers. This included 45 members of Charlie Company, as well as Task Force Barker intelligence officer Capt. Eugene Kotouc, and Lt. Thomas K. Willingham, a platoon commander with Bravo Company. Allegations included murder, assault to commit murder, violations of rules of

¹⁸⁴ Ibid.

¹⁸⁵ Ibid., Hammond, *Public Affairs*, 244

¹⁸⁶ Ibid., Bilton and Sim, *Four Hours in My Lai*, 322.

war, rape and indecent assault.¹⁸⁷ But following further study, the CID concluded that there was insufficient evidence to charge 30 of the 47 soldiers with any major crimes, saying that the allegations were either unfounded or could neither be proved nor disproved, and only those still in active military service were charged.¹⁸⁸ The 17 remaining soldiers included officers Calley, Medina, Wallingham, and Kotouc, and nine enlisted men.

At about the same time, another governmental entity besides the military began its own investigation. On April 4, 1969, Chairman L. Mendel Rivers, House Armed Services Committee, was one of the recipients of Ridenhour's letter. On November 26, 1969, Secretary of the Army Stanley Resor testified before Rivers's Investigating Subcommittee, but any further hearings "were delayed because of the failure of the Army to supply all the information requested by Chairman Rivers, and also because of the Army's reluctance to make witnesses available to the Subcommittee until after they had testified before the Peers Commission."¹⁸⁹ "[T]hrough a simple bureaucratic decision to do nothing [the seventeen] had literally gotten away with murder," Bilton and Sim wrote, blaming the Nixon administration, which they stated, "fail[ed] to establish a clear moral lead for the nation."¹⁹⁰

Rivers was also frustrated by the failure of the Army to supply all the information he requested, and also by the Army's reluctance to make witnesses available to the

¹⁸⁷ Ibid., 133.

¹⁸⁸ Ibid.

¹⁸⁹ Ibid., *Investigation of the My Lai Incident*, 2.

¹⁹⁰ Ibid., Bilton and Sim, *Four Hours in My Lai*, 323.

Subcommittee until after they had testified before the Peers Commission.”¹⁹¹ He was further frustrated when he learned that subcommittee testimony from helicopter pilot Hugh Thompson had been leaked to the press. Thompson had allegedly testified that he had observed U.S. soldiers killing Vietnamese civilians, and that he had ordered the guns on his helicopter aimed at American soldiers in an effort to make them stop. Rivers wanted to discredit Thompson’s testimony, unable to believe American soldiers were capable of the indiscriminate murder of civilians. Rivers called the anonymous leaker “a liar.”¹⁹²

As a result of these frustrations, Rivers created a special panel on December 20, 1969, entitled the “Mylai [sic] Incident Committee” to investigate the My Lai massacre and “go into [the] matter of the My Lai incident in depth.”¹⁹³ Rivers appointed Rep. F. Edward Hébert, (D-La.) as chair of the panel and charged him to “examine all pertinent documents” and examine witnesses.¹⁹⁴ The panel’s purpose was to “hold secret sessions to investigate the Army’s handling of the [My Lai] case.”¹⁹⁵ The panel was directed to discover, among other things: exactly what American soldiers had done at My Lai; what orders they had been given and whether those orders led to the deliberate killing of innocent South Vietnamese civilians and the unnecessary destruction of private property; what investigation(s) of the allegations had been conducted by the Army; and to what

¹⁹¹ Ibid., *Investigation of the My Lai Incident*, 2.

¹⁹² King, William, “Paper’s My Lai Story Called a Lie,” *Chicago Tribune*, 12 December 1969.

¹⁹³ Ibid., *Investigation of the My Lai Incident*, 2.

¹⁹⁴ Ibid., *Investigation of the My Lai Incident*, 9. See also Sell, Ted, “Rivers Vows to Learn Whole Truth on My Lai,” *Los Angeles Times*, 20 December 1969.

¹⁹⁵ Sell, Ted, “Army Accuses Capt. Medina, Four Others of My Lai Crimes,” *Los Angeles Times*, 11 March 1970.

level of command could knowledge of the allegations be traced.¹⁹⁶ The panel would continue its investigation until, Rivers stated, “the whole truth is learned.”

On July 15, 1970, Hébert’s panel concluded that Army and State Department officers had “cast a blanket of silence” over the events at My Lai in an effort to cover up the massacre. Hébert’s report noted that there were conflicting stories told by Americal Division officers, key investigative documents had been lost, and a supposed “formal investigation” had taken place, but without any documentation. Because of all these things, Hébert concluded, information about the My Lai massacre went undisclosed for more than a year.¹⁹⁷ Finally, the Hébert committee reported that when information about the My Lai massacre became publicly known, the Army “overreacted” and recommended charges “in several cases where there was insufficient evidence to warrant such action,” thereby further muddying the issue.¹⁹⁸

Hébert’s subcommittee conducted hearings from April 15, 1970 to June 22, 1970. When the hearings ended, the Subcommittee concluded that “responsible officers of the Americal Division and 11th Brigade failed to make adequate, timely investigation and report” of the events in My Lai on March 16, and that “it can be reasonably concluded that the My Lai matter was ‘covered up’ within the Americal Division and by the District and Province Advisory Teams.”¹⁹⁹

¹⁹⁶ Ibid., *Investigation of the My Lai Incident*, 2-3.

¹⁹⁷ “My Lai Coverup Laid to Army, State Dept.,” *Los Angeles Times*, 15 July 1970.

¹⁹⁸ Kling, William, “House Probe Charges Army Veiled My Lai,” *Chicago Tribune*, 15 July 1970.

¹⁹⁹ Ibid., *Investigation of the My Lai Incident*, 2-3.

The hearings were conducted in executive session, and the testimony given was therefore classified, “subject to release when final disposition was made of all criminal cases arising from the My Lai incident.” It wasn’t until April 13, 1976, when Calley’s final petition reached its last stage in the courts that the transcript of the hearings was released.²⁰⁰

As the investigations wound down, the courts martial began. The majority of the courts martial were held in two separate locations. Proceedings for crimes related to the cover up were held at Fort Meade, Maryland, and proceedings for crimes related to the ground action were held at Fort McPherson, Georgia. Two soldiers were tried at other posts: Calley was tried at Fort Benning, Georgia, and Mitchell was tried at Fort Hood, Texas.²⁰¹

Studying a list of the soldiers who were charged, for what they were charged , and how the case against each soldier was resolved is helpful. Having this information gathered in one document enables the reader to gain a sense of the magnitude of the charges, even though none of the soldiers was charged with a war crime. The gravity of the charges and the number of men involved, both in the crimes during the fighting and the cover up afterward, make it seem all the more unlikely that only one man would ultimately be held responsible for all that happened at My Lai. It is also important to acknowledge that although the Peers Commission listed the charges, no other document

²⁰⁰ Taken from “Background on the My Lai Hearings and Report,” Library of Congress, accessed August 5, 2008, http://www.loc.gov/rr/frd/Military_Law/pdf/MyLai_bckgr.pdf and http://www.loc.gov/rr/frd/Military_Law/pdf/MyLaiHearings.pdf.

²⁰¹ Ibid., Eckhardt, *University of Missouri-Kansas Law Review*, 679.

studied for this research had such a list available. It should also be noted that much of the information contained in the list was derived from the press sources used in this case study, and that although some of the soldiers were found not guilty or had the charges against them dropped, they were nevertheless punished through Army's administrative methods, such as letters of reprimand or the stripping of previously awarded military decorations.

The soldiers charged with crimes related to the cover up were:

Captain Kenneth W. Boatman was charged with failure to report possible misconduct to the proper authorities. Lt. Gen. Jonathan O. Seaman, commanding general of First Army, decided that "no further proceedings are warranted."²⁰²

Major Charles C. Calhoun was charged with dereliction of duty and failure to report possible misconduct to proper authorities. Seaman decided that "no further proceedings are warranted."²⁰³

Lieutenant Colonel David C. Gavin was charged with failure to obey lawful regulations, dereliction of duty, and false swearing. Seaman decided that "no further proceedings are warranted."²⁰⁴

Lieutenant Colonel William D. Guinn was charged with failure to obey lawful regulations, dereliction of duty and false swearing. Seaman dismissed the charges for "insufficient evidence."²⁰⁵

²⁰² "Army Officers Face a Further Inquiry on Songmy," *New York Times*, 29 July 1970.

²⁰³ "Four Cleared in My Lai Coverup Probe," *Los Angeles Times*, 1 July 1971.

²⁰⁴ Ibid.

²⁰⁵ Ibid.

Colonel Oran K. Henderson was charged with dereliction of duty, failure to obey lawful regulations, making a false official statement, and false swearing. Seaman decided there was sufficient evidence to refer the charges to trial by general court martial.²⁰⁶

Captain Dennis H. Johnson was charged with failure to obey lawful regulations. The maximum charges were dropped, and no further information was printed in the newspapers studied.²⁰⁷ Johnson later received letter of reprimand from the Army which effectively brought an end to his military career.²⁰⁸

Major General Samuel W. Koster was charged with failure to perform duties properly in the handling of field reports about the My Lai incident and was also accused of failing to obey lawful regulations and dereliction in the performance of his duties.²⁰⁹ All charges dismissed because the Army did not have enough evidence to court-martial. Charges were dropped by Seaman.²¹⁰

Colonel Robert B. Luper was charged with failure to follow a lawful order. Seaman decided that no further proceedings were warranted.²¹¹

Major Robert W. McNight was charged with false swearing. On June 23, 1970, McKnight was exonerated because the charges were “unsupported by the evidence.”²¹²

²⁰⁶ “Colonel to Be Court-Martialed for Alleged Coverup of My Lai,” *Los Angeles Times*, 27 February 1971.

²⁰⁷ “Another My Lai Trial Set,” *Chicago Tribune*, 27 February 1971.

²⁰⁸ “Army Disciplines 3 in My Lai Aftermath,” *Chicago Tribune*, 3 September 1972.

²⁰⁹ Sell, Ted, “2 Generals Among 14 Cited in My Lai Case,” *Los Angeles Times*, 18 March 1970.

²¹⁰ “Gen. Koster Cleared of My Lai Charges,” *Los Angeles Times*, 30 January 1971.

²¹¹ “7 Army Officers Face a Further Inquiry on Songmy,” *New York Times*, 29 July 1970.

²¹² “3 Officers Cleared in My Lai Inquiry,” *Los Angeles Times*, 24 June 1970.

Colonel Nels A. Parson was charged with failure to obey lawful regulations and dereliction of duty. On June 23, 1970, Parson was exonerated because the charges were “unsupported by the evidence.”²¹³ Nevertheless, the Army administratively stripped Parson of his Legion of Merit decoration and gave him a letter of censure.²¹⁴

Major Frederic W. Watke was charged with failure to obey lawful regulations and dereliction of duty. Seaman dismissed the charges for “insufficient evidence.”²¹⁵

Brigadier General George H. Young was charged with failure to perform duties properly in the handling of field reports about the My Lai incident and was also accused of failing to obey lawful regulations and dereliction in the performance of his duties.²¹⁶ On June 23, 1970, Young was exonerated because the charges were “unsupported by the evidence.”²¹⁷ Nevertheless, the Army administratively reduced Young to the rank of colonel, stripped him of his Distinguished Service medal, and a letter of reprimand was placed in his file²¹⁸

The soldiers charged with crimes related to the ground action were:

Lieutenant William Calley was charged with the murders of at least 109 men, women and children on March 16, 1968, in the village of Songmy in Quangnai Province in South Vietnam. Included in the six counts of premeditated murder is a charge of having shot and killed a 2-year-old child. All of the killings were carried out by Calley

²¹³ Ibid.

²¹⁴ “Army Closes Books on My Lai; Penalizes 2 Officers, Sergeant,” *Los Angeles Times*, 3 September 1972.

²¹⁵ “Four Cleared in My Lai Coverup Probe,” *Los Angeles Times*, 7 January 1971.

²¹⁶ Sell, Ted, “2 Generals Among 14 Cited in My Lai Case,” *Los Angeles Times*, 18 March 1970.

²¹⁷ “3 Officers Cleared in My Lai Inquiry,” *Los Angeles Times*, 24 June 1970.

²¹⁸ Farrar, Fred, “General Faces New Army My Lai Move,” *Chicago Tribune*, 18 March 1971.

with a rifle.²¹⁹ He was found guilty on March 30, 1971,²²⁰ and was sentenced to be confined at hard labor for the length of his natural life, to be dismissed from the service, and to forfeit all pay and allowances. He would have been eligible for parole in 10 years.²²¹ On April 2, 1971, Nixon freed Calley while Calley waited for the results of his appeal.²²² On August 8, 1971, Calley's term was cut to 20 years by Lt. Gen. Albert O. Connor, commanding general, 3rd US Army.²²³ On February 16, 1973, Calley's murder conviction was upheld by a review court.²²⁴ On October 4, 1973, a military court heard another appeal by Calley,²²⁵ and on December 22, 1973, his conviction was again upheld.²²⁶ On April 16, 1974, Calley's sentence was cut in half because mitigating circumstances had been found indicating that Calley may have sincerely believed he was following orders and was not aware of his responsibility to refuse an illegal order.²²⁷

On September 25, 1974, Judge J. Robert Elliott overturned Calley's conviction on the grounds of massive pretrial publicity, the fact that Calley had been denied of his rights to confront unfriendly witnesses, and that the charges against him had been

²¹⁹ Robinson, Douglas, "Murder Trial Set of Army Officer in Village Deaths," *New York Times*, 25 November 1969.

²²⁰ Rogers, Warren, "Calley Held Guilty in My Lai Deaths," *Los Angeles Times*, 30 March 1971.

²²¹ Rogers, Warren, "Calley Sentence – Life at Hard Labor," *Los Angeles Times*, 1 April 1971.

²²² Seeger, Murray and Warren Rogers, "Nixon Frees Calley During His Appeal," *Los Angeles Times*, 2 April 1971.

²²³ Reich, Kenneth, "Calley's Life Term Cut to 20 Years by Reviewing General," *Los Angeles Times*, 21 August 1971.

²²⁴ "Calley Murder Conviction Upheld by Review Court," *Los Angeles Times*, 16 February 1973.

²²⁵ "Military Court to Hear Calley Appeal Today," *Los Angeles Times*, 4 October 1973.

²²⁶ Meyer, Eugene L., "Conviction of Calley, 20-Year Term Upheld," *Los Angeles Times*, 22 December 1973.

²²⁷ "Calley's Sentence Cut in Half," *Los Angeles Times*, 16 April 1974.

improperly drawn.²²⁸ But on September 11, 1975, eight of the thirteen judges on the 5th U.S. Circuit Court of Appeals ruled that Elliot was wrong on the publicity issue; five judges dissented on the question of Hébert 's withholding of evidence, and all thirteen said they agreed that civilian federal court review of court martial verdicts was sharply restricted by law and that federal judges should not release military prisoners except in cases of serious violations of fundamental constitutional rights. Calley's lawyers said they would appeal to the U.S. Supreme Court,²²⁹ but the Supreme Court would not hear the case.²³⁰ Calley later married and worked in his father-in-law's jewelry store in Georgia. On August 19, 2009, Calley told members of the Kiwanis Club of Greater Columbus that he "felt remorse for the Vietnamese who were killed, for their families, for the American soldiers involved and their families. I am very sorry."²³¹

Specialist 4 William F. Doherty was charged with premeditated murder of Vietnamese civilians;²³² charges ordered dropped because of insufficient evidence that he was involved in the My Lai massacre.²³³

Sergeant Kenneth L. Hodges was charged with rape and assault with intent to commit murder.²³⁴ The available evidence was insufficient to warrant referring the

²²⁸ "Judge Voids Calley Conviction, Cites Watergate Tape Ruling," *Los Angeles Times*, 25 September 1974.

²²⁹ "Calley Loses Appeal of My Lai Conviction," *Los Angeles Times*, 11 September 1975.

²³⁰ Oelsner, Lesley, "High Court Denies Appeal by Calley," *New York Times*, 6 April 1976.

²³¹ "William Calley Apologizes for My Lai Massacre," *Ledger-Enquirer* (Georgia), 21 August 2009.

Accessed online at <http://www.ledger-enquirer.com/2009/08/21/813820/william-calley-apologizes-for.html>, 29 May 2012.

²³² "Three Others Charged with My Lai Deaths," *Chicago Tribune*, 26 March 1970.

²³³ "Public Works Proposed for Jobless Areas," *Los Angeles Times*, 22 January 1971.

²³⁴ Farrar, Fred, "Medina and Four Others Charged in My Lai Probe," *Chicago Tribune*, 11 March 1970.

charges for trial.²³⁵ Hodges was discharged “for the convenience of the government” and barred from reenlistment – no further details given to newspapers studied.²³⁶

Private Max D. Hutson was charged with rape, murder and assault with intent to commit murder;²³⁷ Lt. Col. Albert Connor, commanding general of the U.S. 3rd Army at Ft. McPherson, announced the remaining charges against Army enlisted men were dropped on January 22, 1971, in “the best interest of justice.” An identified Army spokesman said that there were “other, more important considerations.”²³⁸

Sergeant Charles E. Hutto was charged with premeditated murder, rape, and assault with intent to commit murder.²³⁹ He was later found not guilty by military panel.²⁴⁰

Captain Eugene M. Kotuoc was charged with assault and maiming, specifically scratching the neck and cutting off the finger of a Viet Cong suspect while interrogating him the night of the My Lai incident.²⁴¹ Kotouc was later found not guilty.²⁴²

Paul Meadlo was not charged because he had been discharged, but was also granted immunity for testifying against Calley.²⁴³

Captain Ernest Medina was initially charged with the murder of three people, maiming an enemy suspect during an interrogation, and assault with a deadly weapon on

²³⁵ “Army Drops 2nd Charge in My Lai Case,” *Los Angeles Times*, 20 August 1970.

²³⁶ “Army Disciplines 3 in My Lai Aftermath,” *Chicago Tribune*, 3 September 1972.

²³⁷ “2 Songmy Defendants Call Army Unfair,” *New York Times*, 18 May 1970.

²³⁸ Reich, Kenneth, “Enlisted Men Cleared of All My Lai Charges,” *Los Angeles Times*, 23 January 1971.

²³⁹ Farrar, Fred, “Cite Chicagoan in My Lai Raid,” *Chicago Tribune*, 9 January 1970.

²⁴⁰ “2d GI Acquitted in My Lai Case,” *Chicago Tribune*, 15 January 1971.

²⁴¹ Rogers, Warren, “Orders to Let My Lai Civilians Escape Told,” *Los Angeles Times*, 6 March 1971.

²⁴² “Court Finds Kotouc Innocent in Hurting Viet Cong Suspect,” *Chicago Tribune*, 30 April 1971.

²⁴³ Chapman, William, “Army Cannot Court-Martial My Lai Ex-GIs,” *Los Angeles Times*, 9 April 1971.

an individual during interrogation on the day following the massacre.²⁴⁴ Later misconduct charges were added as a result of the findings of the Peers Commission, as well as concealing knowledge that a felony had been committed.²⁴⁵ On April 2, 1970, Medina was further charged with the responsibility for all the murders committed by the men under his command.²⁴⁶ But on September 23, 1971, Medina was found not guilty,²⁴⁷ and on October 15, 1971, Medina was honorably discharged from the Army.²⁴⁸

Staff Sergeant David Mitchell was charged with intent to commit assault upon a group of approximately thirty Vietnamese nationals by shooting at them with a M-16 rifle.²⁴⁹ The Army's prosecution abruptly ended its case against S.Sgt. David Mitchell, as it could only rely on limited eyewitness accounts from three former GIs.²⁵⁰ The military panel found Mitchell not guilty.²⁵¹

Corporal Kenneth Schiel's charges were never made public.²⁵² After reporting that he was charged with premeditated murder of Vietnamese civilians, there were no other stories about him.

Private Gerald A. Smith was charged with premeditated murder and indecent assault on a Vietnamese female²⁵³ Connor announced remaining charges against Army

²⁴⁴ "Medina, 4 Others Charged," *Los Angeles Times*, 15 March 1970.

²⁴⁵ Sell, Ted, "2 Generals Among 14 Cited in My Lai Case," *Los Angeles Times*, 18 March 1970.

²⁴⁶ Sell, Ted, "Army Accuses Medina of All My Lai Deaths," *Los Angeles Times*, 2 April 1970.

²⁴⁷ Bigart, Homer, "Medina Found Not Guilty of All Charges on My Lai," *New York Times*, 23 September 1971; "Army Court Frees Captain Medina in My Lai Massacre," *Chicago Tribune*, 23 September 1971; Reich, Kenneth, "Medina Found Innocent of All Remaining Charges on My Lai," *Los Angeles Times*, 23 September 1971.

²⁴⁸ Reich, Kenneth, "Honorably Discharged, Medina Looks Ahead," *Los Angeles Times*, 16 October 1971.

²⁴⁹ Smith, Robert M., "Army Names 2nd Soldier in Mass Murder of Vietnam," *New York Times*, 15 November 1968.

²⁵⁰ "Panel Raps Inaction on Mercury Pollution," *Los Angeles Times*, 21 October 1970.

²⁵¹ "Sgt. Mitchell Freed on My Lai Charges, Says Army's 'Great,'" *Los Angeles Times*, 21 November 1970.

²⁵² "Charge Dropped in Songmy Deaths," *New York Times*, 5 September 1970.

enlisted men were dropped on January 22, 1971 in “the best interest of justice.” An identified Army spokesman said that there were “other, more important considerations.”²⁵⁴

Sergeant Esequiel Torres was charged with murder and assault with intent to commit murder; he was also charged with murder for an incident that occurred two weeks to a month earlier.²⁵⁵ An unidentified Army spokesman said that in Connor’s case, “Dismissal of the charges was in the best interest of justice.”²⁵⁶

Specialist 4 Robert W. T’Souvas was charged with premeditated murder and sexual assault.²⁵⁷ “Dismissal of the charges was in the best interest of justice,” an unidentified Army spokesman said regarding the charges against T’Souvas.²⁵⁸

Captain Thomas K. Willingham was charged with unpremeditated murder of Vietnamese civilians.²⁵⁹ Misconduct charges were later added as a result of Peers’ conclusion. Willingham was also charged on violation of the law of war in connection with the deaths of Vietnamese civilians the same day in another village, My Khe.²⁶⁰ He was also charged with making false official statements and failure to report a felony.²⁶¹

²⁵³ “2 More G.I.’s Face Songmy Charges,” *New York Times*, 9 January 1970.

²⁵⁴ Reich, Kenneth, “Enlisted Men Cleared of All My Lai Charges,” *Los Angeles Times*, 23 January 1971.

²⁵⁵ Sell, Ted, “Army Accuses Capt. Medina, Four Others of My Lai Crimes,” *Los Angeles Times*, 11 March 1970.

²⁵⁶ “4 More GIs Cleared in My Lai Case,” *Chicago Tribune*, 23 January 1971.

²⁵⁷ “Three Others Charged with My Lai Deaths,” *Chicago Tribune*, 26 March 1970.

²⁵⁸ “4 More GIs Cleared in My Lai Case,” *Chicago Tribune*, 23 January 1971.

²⁵⁹ “U.S. Captain Charged with Viet Murders,” *Los Angeles Times*, 13 February 1970.

²⁶⁰ Sell, Ted, “2 Generals Among 14 Cited in My Lai Case,” *Los Angeles Times*, 18 March 1970.

²⁶¹ Beecher, William, “Army Inquiry Charges 14 Officers in Suppression of Songmy Facts; West Point’s Head, Accused, Quits,” *New York Times*, 18 March 1970.

Charges dismissed when prosecutors determined the evidence against Willingham was too scanty to justify a court martial.²⁶²

When each investigation and every court martial had run its course, only Calley was convicted.

His conviction still stands today.²⁶³

As useful as this historical narrative has been in helping the reader understand the events that surrounded the My Lai massacre, it does not address the question of what information the press provided citizens as those events unfolded. The following chapter will examine the articles published in *The New York Times*, the *Chicago Tribune*, and the *Los Angeles Times* and determine whether or not citizens had access to information they would need to participate in conversations that would lead to mutual understanding and then consensus on the issues raised by the massacre.

²⁶² "Officer Cleared in Alleged Massacre," *Los Angeles Times*, 10 June 1970.

²⁶³ *Calley v. Callaway*, 519 F.2d 184 (1975)

Chapter Three: The My Lai Massacre: The Press Narrative

This section concerning the press's narrative is the result of reading accounts of the My Lai massacre and the resulting investigations and courts martial from three major U.S. newspapers – *The New York Times*, the *Chicago Tribune*, and the *Los Angeles Times*. Those stories formed five major divisions – those covering the discovery of the massacre, coverage of the Peers Commission's inquiry, coverage of the Hébert panel hearings, coverage of the courts martial, and discussion in the press about Nuremberg Principles. Each section contains with a brief description of a particular news event, followed by an assessment of why it was important for people to know about it and finally an analysis of how it was covered by the press.

As stated in the first chapter, the purpose of this case study is to determine why there was so much confusion surrounding the news of the My Lai massacre, and to offer an evaluation and analysis of its reporting in the press. The findings could provide constructive criticism for journalists to consider when reporting similar crises in the future, making them better able to effectively inform the public of such issues.

The coverage will be analyzed on the basis of Gurevitch and Blumler's list of tasks the media ought to fulfill, determining whether the media provided the public with coverage of the sociopolitical environment and if that coverage was adequate for citizens to be informed enough to participate in will formation. Applying the standards suggested by Gurevitch and Blumler's list to the stories gathered will provide a basis by which to

judge the quality of the coverage provided by the three newspapers. In this way, insight may be gained as to where press adequately provided coverage and where the coverage was lacking. The study will begin with an examination of the early coverage of the discovery of the My Lai massacre beginning in late 1969.

Discovery of the Massacre

All three newspapers examined for this study carried a story about a battle in My Lai in March 1968, but without details of a massacre. The event was described as a “pincer move” designed as an “American offensive to clear enemy pockets.” The event appeared to be little more than just another skirmish in a long war. One hundred and twenty-eight enemy soldiers – not civilians – were reported killed in the action.²⁶⁴ A search of the *The New York Times*, the *Los Angeles Times*, and the *Chicago Tribune* of the database ProQuest Historical Newspapers showed nothing more about My Lai (or Song My, as it was also known) until the middle of November 1969.

The gap presented problems for both reporters and journalists. “News,” is usually made up of information that is current; news generally is not made up of past events. But by the time newspapers were covering the story of the My Lai massacre in November 1969, the story was fifteen months old. At that point, it was not current news; it was history. Only those who had been there knew for sure what had happened, and a number of them were not willing to talk. But it was an important story because it shed light on ongoing atrocities in the war, and citizens needed to know how the war, paid for with

²⁶⁴ “G.I.’s, in Pincer Move, Kill 128 in a Daylong Battle,” *The New York Times*, 17 March 1968.

their tax dollars, was being conducted, and whether the military was complying with international laws of war.

The early stories about the My Lai massacre, beginning at the end of November 1969 and running into the early months of 1970, showed that reporters were struggling to make sense of a complicated story. In addition, the military appeared unwilling to admit the gravity of the massacre; President Nixon and other government officials were reluctant to have details of the massacre become known because of the potential negative effect it would have on their careers as well as the war effort, and there were concerns for the right of those accused to a fair trial. From the point of view of citizens, many Americans found reading the ugly details of making war did not mix with their perception of national virtue. Journalists were equally reluctant to report such things; therefore, atrocities committed by Americans during the Vietnam war were rarely covered in the news.²⁶⁵

All of this meant that news organizations were not as diligent in questioning military sources about what had happened at My Lai as they could have been. Hammond writes in *Reporting Vietnam: Media and Military at War* that once Ron Ridenhour's allegations were confirmed, Army officials considered covering up the matter, but decided against it on the grounds that the public would undoubtedly find out anyway. Hiding it could give the appearance that the U.S. government had condoned an atrocity, and could set a precedent that would hinder the enforcement of the laws of war in future

²⁶⁵ Oliver, Kendrick, *The My Lai Massacre in American History and Memory*, New York: Manchester University Press, 2006, 14.

conflicts.²⁶⁶ Army officials decided to announce the charges against Calley and others at Fort Benning, the site of Calley's court martial, rather than from the nation's capital where "there seemed some hope that the impact of the story would be less."²⁶⁷

According to Hammond, the Army's strategy to keep a low profile on the matter was fairly successful. On September 5, 1969, a single reporter, David Leonard of the *Columbus Enquirer* (Georgia), called the public affairs officer at Fort Benning, asking Calley's name and what charges had been made against him. Hammond writes, "Officials at the Defense Department braced for more questions, but none came."²⁶⁸ The Associated Press also picked up the story and on September 6, 1969, the *Washington Star* ran the AP story on page 2, and the *Atlanta Journal* on page 11; other newspapers such as *The New York Times* and the *Washington Post* also buried the Calley story in back pages, without mentioning the location of the massacre or its connection to the battle in March 1968. According to Hammond, "The rest of the news media paid scant attention."²⁶⁹

Then, in early November 1969, both CBS and NBC ran film reports allegedly showing American infantrymen standing by while South Vietnamese troops abused or mutilated enemy prisoners as well as an American soldier stating that that the Geneva Convention, which prohibited acts of violence or intimidation on prisoners, was "frequently overlooked under combat conditions."²⁷⁰ It was in the context of these

²⁶⁶ Ibid., Hammond, *Public Affairs*, 221.

²⁶⁷ Ibid., 222.

²⁶⁸ Ibid..

²⁶⁹ Ibid.

²⁷⁰ Ibid., 217-220.

revelations that freelance reporter Seymour Hersh broke his story about the massacre at My Lai.²⁷¹

Hersh had been alerted by an unidentified phone caller who alleged that the Army was “court-martialing some lieutenant [meaning Calley] in secrecy at Fort Benning” for killing a large number of civilians. After confirming the essential facts through sources on Capitol Hill, Hersh then traveled to Fort Benning, where he interviewed both Calley and his civilian lawyer, George Latimer.²⁷² But then Hersh had trouble selling the resulting story. He tried selling it to *Life* and *Look*, and finally found success with the Dispatch News Service, well-known for its anti-war stance.²⁷³

Meanwhile, Ridenhour was also trying inform others about what he knew about the massacre. He initially sent none of his letters to the press, explaining in an interview with *Los Angeles Times* reporter Kenneth Reich, “as a conscientious citizen, I have no desire to further besmirch the image of American servicemen in the eyes of the world.”²⁷⁴ But when none of the first group of recipients of Ridenhour’s letters contacted him, Ridenhour enlisted the help of a Connecticut literary agent, who also was unable to find anyone interested in the story.²⁷⁵ Ridenhour then tried to sell his story to major newspapers and magazines such as *Life*, *Look*, *Newsweek*, and *Harper’s*. He also tried to sell the story to *Ramparts* and was accepted, but he later changed his mind and requested

²⁷¹ Ibid., 220.

²⁷² Ibid.

²⁷³ Ibid., 223.

²⁷⁴ Reich, Kenneth, “Former GI Tells Why He Broke the My Lai Story,” *Los Angeles Times*, 26 November 1969.

²⁷⁵ Ibid.

the story be pulled from publication, thinking *Ramparts*'s radical reputation would discredit his story.²⁷⁶

Hammond explained the difficulties Hersh and Ridenhour met in selling their stories, by quoting Leon V. Sigal, author of *Reporters and Officials*, who wrote that American editors preferred life in a crowd and disliked making the sort of lone, possibly erroneous stands that could open their publications to criticism.²⁷⁷ In addition, Hammond writes that the American media were more inclined to give American soldiers the benefit of the doubt – believing that U.S. soldiers were not capable of this sort of violence, and that they saw such stories as enemy propaganda.²⁷⁸

When news about the massacre finally began flowing more openly through the press in November and December 1969, and specifically through the newspapers selected for this study, the initial stories reveal confusion as reporters struggled to make sense of a situation that was already a year and a half old, wrangling with facts that were not easily forthcoming, and which came from sources with conflicting information.

Early stories placed blame anywhere but with American soldiers. Some blamed the guerilla warfare methods used by the enemy, saying it was not the type of training provided to U.S. soldiers and therefore frustrated them, and led Americans to turn to brutal methods;²⁷⁹ some blamed the use of drugs by U.S. troops;²⁸⁰ some articles reported

²⁷⁶ Ibid., Hammond, *Public Affairs*, 223.

²⁷⁷ Ibid.

²⁷⁸ Ibid.

²⁷⁹ See for example: Coffey, Raymond R., "My Lai: 'I Felt Like I Was Doing the Right Thing,'" *Los Angeles Times*, 30 November 1969; 12/2/1969; Lewis, Flora, "'How Do You Shoot Babies?' – 'I Don't

that there had been a mistake, that the attack at My Lai had been carried out by Communists (as if to say U.S. soldiers were incapable of doing anything like this),²⁸¹ and finally, that U.S. soldiers *had* committed the acts in My Lai, but had done so as the result of erroneous intelligence.²⁸² Henry Kamm of the *Chicago Tribune* reported an incident where U.S. soldiers were presented with information on the My Lai massacre in an article in the military's own newspaper, *The Stars and Stripes*, and reacted in disbelief. The company commander, Capt. Jude E. Shea told Kamm, "The army isn't a police state. No one has to obey an order to shoot women and children after they have been brought under control, even if the village was [Viet Cong]." But Shea went on, "That's what you say [when away from the fighting]. But when you're out there and get in a pretty good fight, you're not yourself. It's a lot harder to control things then."²⁸³

If U.S. soldiers found it difficult to control themselves, part of that difficulty was due to the policy of designating certain areas as "free-fire zones." Any area determined to be a free fire zone was presumed to be under control of South Vietnamese (enemy) forces, therefore making it a target for American forces.²⁸⁴ My Lai was in a designated free-fire zone; therefore, if U.S. forces killed the population they found there in error, it

Know . . ." *Los Angeles Times*, 2 December 1969; Buckley, William F., "The Guilt for My Lai May Hit Very Close to Home," *Los Angeles Times*, 12 December 1969; "Expert Tells of Effect of War on GI Minds," *Chicago Tribune*, 28 January 1970.

²⁸⁰ See, e.g., "Drug Usage at My Lai Suggested," *Los Angeles Times*, 4 December 1969.

²⁸¹ See, e.g., Fried, Joseph, "Bare Red My Lai Atrocity" *Chicago Tribune*, 9 February 1970.

²⁸² See, e.g., Butler, Vincent, "Report Wrong Target Struck in 'Massacre,'" *Chicago Tribune*, 27 January 1970.

²⁸³ Kamm, Henry, "GIs Leery of Massacre Reports," *Chicago Tribune*, 1 December 1969.

²⁸⁴ Reston, James, "Washington: The Massacre of Songmy: Who Is to Blame?" *The New York Times*, 26 November 1969.

was not their fault; fault lay with those who had provided bad intelligence.²⁸⁵ The matter of fire free zones became a matter for later discussion about policy regarding the war in Vietnam.

Besides the tendency to shift blame, there was also a repeating cycle of stories that acknowledged, then denied the massacre. For each of the three newspapers studied, the first stories dealt with information that appears fairly damning on its face. *The New York Times* published two stories on November 15, 1969, one entitled “Enquiry in Vietnam” by Henry Kamm, reporting that “Special investigators from the Army’s Criminal Investigation Detachment [sic] are conducting an inquiry in this region to gather evidence in the suspected murders.”²⁸⁶ The second story, entitled “Army Names 2d Soldier in Mass Murder of Vietnamese,” by Robert M. Smith, concerned the charges against S. Sgt. David Mitchell for the murder of “quite a number” of Vietnamese civilians at My Lai.²⁸⁷ The first story could lead readers to believe that although investigations were ongoing, no conclusions had been reached; in the second story, it seemed at least one American soldier might be guilty after all.

The *Chicago Tribune*’s first stories appeared on November 20, 1969. One was entitled “GI’s Photos Show Slain Viet Civilians” and was about the *Cleveland Plain Dealer*’s publication of Ronald L. Haeberle’s photographs from the day of the massacre.²⁸⁸ Another story from the *Chicago Tribune* was entitled, “Sergeant Tells of

²⁸⁵ Ibid.

²⁸⁶ Kamm, Henry, “Inquiry in Vietnam,” *The New York Times*, 15 November 1969.

²⁸⁷ Smith, Robert M., “Army Names 2d Soldier in Mass Murder of Vietnamese,” *The New York Times*, 15 November 1969.

²⁸⁸ “GI’s Photos Show Slain Viet Civilians,” *Chicago Tribune*, 20 November 1969.

Watching GIs Slay S. Viet Women, Children,” and centered on an interview with Michael Bernhardt.²⁸⁹ On the same day, the *Los Angeles Times* published “3 Vietnam Veterans Say They Saw U.S. Troops Kill Civilians.” That story included information, as the headline indicated, about local Vietnamese residents saying they witnessed the events on March 16, 1968, as well as information about Haeberle’s photographs in the *Cleveland Plain Dealer* and reports of interviews with U.S. soldiers Michael Bernhardt and Michael B. Terry, who had both been present at the massacre.²⁹⁰

These stories consistently report that there may be evidence that, difficult as it may be to believe, the horrible events reported at My Lai were true. In the *New York Times* article, the events are credible enough that the Army is bothering with an official investigation and a soldier is being charged with murder; in the *Chicago Tribune* story about Haeberle’s photographs, there appears to be indisputable truth, if the reader is willing to accept that the photographs really are of the alleged event, while the story with the Bernhardt interview is accompanied by a photograph of a Vietnamese man who is holding up his hands in what can be interpreted as a gesture of self-defense. In the *Los Angeles Times* story, information is provided by five witnesses – three Vietnamese and two Americans, and their stories are accompanied by Haeberle’s photographs. If all this evidence was not substantial enough to hold up in a court of law, it certainly raised questions for readers about the conduct of American soldiers in Vietnam.

²⁸⁹ “Sergeant Tells of Watching GIs Slay S. Viet Women, Children,” *Chicago Tribune*, 20 November 1969.

²⁹⁰ “3 Vietnam Veterans Say They Saw U.S. Troops Kill Civilians,” *Los Angeles Times*, 20 November 1969.

After the publication of these articles verifying that American soldiers had seemingly committed atrocities against Vietnamese civilians, there followed a reversal on the part of the newspapers. On November 22, 1969, the *Chicago Tribune* ran an article entitled, “S. Viet Denies Reports of War Atrocity by GIs.” The story began, “The South Vietnamese defense ministry today said reports that American soldiers massacred 567 civilians were ‘completely untrue.’”²⁹¹ The same story was picked up by *The New York Times*²⁹² and the *Los Angeles Times*²⁹³ two days later. The pendulum swung back and forth repeatedly between news stories containing damning information about an alleged massacre and stories that downplayed the gravity of earlier information or that denied American involvement. Such reversals were undoubtedly confusing for both reporters and readers.

However, the confusion finally ended as more and more stories reflected a pattern of slowly eroding denial, best displayed by stories in the *Chicago Tribune*. On November 25, 1969, the newspaper published a story concerning the Army’s order to court martial Calley,²⁹⁴ followed by a story on December 3, 1969, “4 Villagers Deny Seeing GI Slayings,” in which residents of My Lai said they heard sounds of fighting but did not actually see anyone in their village murdered.²⁹⁵ It appeared that the Army thought circumstances serious enough to subject a junior officer to a court martial; on the

²⁹¹ “S. Viet Denies Reports of War Atrocity by GIs,” *Chicago Tribune*, 22 November 1969.

²⁹² “Statement by Saigon,” *The New York Times*, 23 November 1969.

²⁹³ “Saigon Denies U.S. Troops Massacred Civilians in Village,” *Los Angeles Times*, 23 November 1969.

²⁹⁴ “Order Trial in Massacre Case,” *Chicago Tribune*, 25 November 1969.

²⁹⁵ “4 Villagers Deny Seeing GI Slayings,” *Chicago Tribune*, 3 December 1969.

other hand, surviving Vietnamese from My Lai were quoted as saying they didn't see anything that would warrant a trial.

But on December 3, the *Chicago Tribune* published another story, "Army Puts Gag on Former GI Who Admitted Massacre Role," about the Army's attempts to silence Paul Meadlo after he appeared on a CBS News interview,²⁹⁶ raising the question that if nothing of consequence happened at My Lai, why is the Army trying to hard to keep the matter a secret?

The following day, the *Chicago Tribune* printed another story about the efforts of South Vietnamese legislators to investigate the events at My Lai, saying that ultimately they "unable to reach a conclusion,"²⁹⁷ reversing their position only five days later. That reversal was explained in an article, "Massacre Did Happen, Viet Senator Says," although the Vietnamese senator in question did admit that, "much more information is needed before a final report can be made."²⁹⁸

Stories denying or questioning that the massacre had occurred no longer appeared in the papers following the publication of "43 Civilians Died in My Lai, Probers Say,"²⁹⁹ and "S. Viet Probers Hit U.S. Action at My Lai," where the chairman of an investigating committee of the South Vietnamese Congress stated that "American operations at My Lai

²⁹⁶ Powers, Thomas, "Army Puts Gag on Former GI Who Admitted Massacre Role," *Chicago Tribune*, 3 December 1969.

²⁹⁷ "Viet Group Delays Massacre Report," *Chicago Tribune*, 4 December 1969.

²⁹⁸ "Massacre Did Happen, Viet Senator Says," *Chicago Tribune*, 9 December 1969.

²⁹⁹ "43 Civilians Died in My Lai, Probers Say," *Chicago Tribune*, 16 December 1969.

last year went beyond military needs and that troops involved should be held responsible for the deaths of 56 civilians.”³⁰⁰

Although it is understandable that most Americans would find it difficult to believe (or would even react with outright denial) that U.S. soldiers were capable of murdering unarmed civilians, the confusion surrounding the initial reports could have been avoided if a war correspondent had accompanied Task Force Barker into My Lai on March 16, 1968. However, it is unreasonable to expect that a correspondent would be available to cover each and every mission carried out by American military forces. And while it is true that facts were not readily forthcoming from military officials, the statement above by the *Columbus Enquirer* reporter concerning the charges against Calley demonstrates that Defense Department officials claimed that they were willing to answer more questions from the press than the press asked.

And although official government sources claimed they were available to reporters, two of the most informative early stories involved investigative methods of journalism that utilized unofficial sources, particularly in the case of Seymour Hersh and Kenneth Reich. In both cases, the reporters spoke directly with their subjects, and did not rely on official government sources. In Reich’s case, his face-to-face interview with Ridenhour provided background that helped the reader understand the reasons for the delay: there was a code of silence among the soldiers; Ridenhour was cautious and painstaking in collecting information, and he waited until he was released from military

³⁰⁰ “S. Viet Probers Hit U.S. Action at My Lai,” *Chicago Tribune*, 17 December 1969.

service before writing to officials about what he'd found, and he was reluctant to bring the story to the press out of a sense of honor to the military.³⁰¹

It was Hersh's story that is credited with breaking the news of the My Lai massacre,³⁰² a story he researched by traveling the country, searching for and interviewing members of Task Force Barker, men Hersh characterized as "young boys . . . [who] were ignored by the press."³⁰³ The stories by Reich and Hersh are examples showing that although "legitimated institutions" such as Defense Department officials are often widely and properly used as generally reliable sources of information, at times it is useful to go directly to individuals, so long as their claims are verifiable.³⁰⁴

From the time the story broke in the middle of November 1969 until the middle of December 1969, the early coverage of the My Lai massacre offered little useful information to citizens. What did appear in the press was confusing and contradictory. Some facts were simply missing, thanks to a culture of secrecy among the men who had been at My Lai, and to denial by many government officials. During this four-week period, the few letters to the editor at the papers revealed a readership that was as confused and conflicted as the press. Some readers wrote that loss of civilian life is common during war;³⁰⁵ others wrote that American soldiers were committing acts no

³⁰¹ Reich, Kenneth, "Former GI Tells Why He Broke the My Lai Story," *Los Angeles Times*, 26 November 1969.

³⁰² Ibid., Bilton and Sim, *Four Hours in My Lai*, 12.

³⁰³ "1968, Forty Years Later: My Lai Massacre Remembered by Survivors, Victims' Families and US War Vets," (Interview with Seymour Hersh and Amy Goodman) Democracy Now!, accessed February 5, 2012, http://www.democracynow.org/2008/3/17/1968_forty_years_later_my_lai.

³⁰⁴ Tuchman, Gaye, *Making News, A Study in the Construction of Reality*, London: The Free Press, 1978, 91-93.

³⁰⁵ Sheldon, Maxwell, "Mercy for My Lai," *Chicago Tribune*, 30 June 1970

worse than the enemy had committed against U.S. forces,³⁰⁶ while several other readers advocated a wait and see position, waiting for the results of further investigations.³⁰⁷

At this point, Dewey's theory of will formation can be seen in its early phases. The public is struggling to understand information that is contradictory and uncertain, and citizens' own uncertainty of how to interpret what they are reading is apparent in the wide variety of responses seen in letters to the editor. Without certainty, there can be no consensus, no will formation, and therefore no decision as to what action citizens want their leaders to take. The only conclusion that can be reached is that more information is needed.

The swings back and forth that involved admitting, then denying that a massacre had taken place, together with the practice of placing blame, began to diminish when stories by reporters such as Reich and Hersh carried details of the massacre. Once the charges against Calley and other soldiers were announced, coverage settled into what readers more commonly found in newspapers – just reporting the facts of current events rather than trying to piece together past history. After the formation of the Peers Commission (in November 1969) and the Hébert panel (in December 1969) was announced, there were very few newspaper stories published denying that the massacre at My Lai had occurred. Reporters turned to covering the hearings.

³⁰⁶ "The My Lai Incident, Views Vary Widely," *Los Angeles Times*, 6 December 1969.

³⁰⁷ O'Connor, John, "The Public Speaks Out," *Los Angeles Times*, 5 April 1970; see also Lauf, Irving, "Comparing Moralities," *Chicago Tribune*, 11 December 1969.

The Peers Commission Coverage

The Peers Commission began when Stanley R. Resor, Secretary of the Army, and General William C. Westmoreland, U.S. Army Chief of Staff, issued a joint memorandum on November 26, 1969, directing Lt. General William R. Peers to investigate what had happened in Song My Village on March 16, 1968.³⁰⁸ The purpose of the Peers investigation was to determine whether or not information about the alleged massacre had been suppressed.³⁰⁹ If American soldiers had committed war crimes and then covered them up, citizens had to be assured that the Army would be willing to discipline its own, and that those who committed any crime would be held to account.³¹⁰ The Peers Commission would be the first step in condemning such actions, leading to courts martial of those accused and bringing change to Army training and indoctrination procedures.³¹¹ Coverage of the Peers Commission and its findings would be important to citizens because it would keep them informed not only of the findings of the commission, but also whether the commission worked ethically to learn all it could, neither pressuring any witnesses nor skewing the results. However, the proceedings were closed to the press. It wasn't until after the hearings were completed, that a report of Peers's findings was made available to the public, but its 225 pages were "heavily redacted."³¹² Today, volumes one through three are available online at http://www.loc.gov/rr/frd/Military_Law/Peers_inquiry.html. The fourth volume, which

³⁰⁸ Ibid., "Peers Inquiry: Report of the Department of the Army Review of the Preliminary Investigations into the My Lai Incident."

³⁰⁹ "Mylai [sic] Panel Ends Hearings; Listened to 398 Witnesses," *The New York Times*, 10 March 1970.

³¹⁰ Ibid., Peers, *The My Lai Inquiry*, 224.

³¹¹ Sell, Ted, "My Lai Company Faces Earlier Crimes Charges," *Los Angeles Times*, 3 February 1970.

³¹² Ibid., Bilton and Sim, *Four Hours in My Lai*, 309.

is not available online and which contains information regarding the Army's CID investigation, is only available in print at sources such as the National Archives and the Pentagon library. Although all the volumes are available to the public, portions remain redacted.³¹³

Peers began his inquiry at the Pentagon on December 2, 1969.³¹⁴ On December 26, Peers and members of his staff travelled to Vietnam where additional testimony was gathered.³¹⁵ Afterwards, Peers returned to Washington, and continued taking testimony until March 7, 1970.³¹⁶ The creation of the Peers Commission was met with criticism from those who suspected the results could merely whitewash the events at My Lai. But reporters (the *Los Angeles Times*'s Ted Sell for example), expressed confidence in the inquiry, calling its investigative efforts "painstaking." Sell wrote that the Peers Commission questioned most of the men in Charlie Company, anyone "near a radio" – including chaplains, military and civilian intelligence officers, commanders and staff officers of every unit in the area of My Lai – where they might have heard battle conversations among the soldiers fighting the day of the massacre.³¹⁷

Stateside hearings of Peers Commission were held behind closed doors, in "the Army operations center in the Pentagon, a top-secret area off limits to reporters."³¹⁸ An Associated Press story in the *Los Angeles Times* reported that witnesses emerging from a

³¹³ Ibid., 388-389.

³¹⁴ Ibid., Peers: *The My Lai Inquiry*, 146.

³¹⁵ Ibid., Goldstein, Marshall and Schwartz: *The My Lai Massacre and Its Cover-up*; 31.

³¹⁶ Ibid., 32.

³¹⁷ Sell, Ted, "Legal Waters Uncharted: Unprecedented My Lai Case Puts Military System on Trial," *Los Angeles Times*, 2 February 1970.

³¹⁸ "Army Opens Study of Inquiry on My Lai," *Los Angeles Times*, 4 December 1969.

session had to climb two flights of stairs before reaching a main hallway where they were met by the cameras and lights of the press.³¹⁹ So although the press did not attempt to interview witnesses, members were close enough to see who came and went from the proceedings, and to catch any information that a witness might be willing to share. Names of those appearing before the Peers Commission appeared almost daily in all three newspapers, taking the form of a list, but offering little other information. When Peers and members of his commission traveled overseas to question Vietnamese officials and witnesses to the massacre, the press followed, reporting the commission's movements, but respectfully keeping its distance as Peers requested. No conversations between members of the commission and witnesses were reported.

The only witness to speak to the press after testifying before the Peers Commission was Arthur Dunne, who had been a reporter and photographer while serving with a military public information detachment. Although Dunne characterized the proceedings as "highly legalistic," he added little else, stating that Peers had asked him not to discuss the "substantive or evidentiary matters." It should be noted that at the time he appeared before the Peers Commission, Dunne was a member of the *Chicago Tribune's* editorial staff.³²⁰

On March 17, 1970, the Peers Commission found that "a tragedy of major proportions occurred" at My Lai,³²¹ resulting in charges against 14 officers, two of them

³¹⁹ "Sergeant Gives Board His Version of My Lai," *Los Angeles Times*, 28 December 1969.

³²⁰ Farrar, Fred, "Army Holding No-Nonsense My Lai Probe," *Chicago Tribune*, 23 December 1969.

³²¹ "Judgement on Mylai [sic]," *New York Times*, 19 March 1970.

generals, with suppressing information about the My Lai massacres.³²² (Those men and the outcomes of the charges against them are described in the history section above.) In charging fourteen officers, Peers stated that he didn't believe there had been a deliberate cover-up, but there had been a lack of attentiveness to following proper procedure.

The findings of the Peers Commission were carried in all three of the newspapers examined for this study, bringing another shift in tone to their articles. Following the Peers Commission, it was clear that something tragic no longer *allegedly* had occurred, it definitely *had* occurred. The remaining questions were specifically what crimes had actually been committed and by whom.

With the exception of the *Chicago Tribune* story about Arthur Dunne, none of the three newspapers reported that any of the witnesses called to testify before the Peers Commission had spoken to the press, leading to the conclusion that both the press and the witnesses called to testify complied with Peers's request for confidentiality. On June 4, 1972, Semour Hersh wrote that a full copy of Peers's report "been made available" to *The New York Times*,³²³ resulting in at least two stories.³²⁴ Robert F. Froehlke, who was Secretary of the Army prior to Callaway, had said in 1972 that the Peers materials would

³²² Beecher, William, "Army Inquiry Charges 14 Officers in Suppression of Songmy Facts; West Point's Head, Accused, Quits," *New York Times*, 18 March 1970; see also Fred Farrar, "Generals Face My Lai Charge," *Chicago Tribune*, 18 March 1970, and Ted Sell, "2 Generals Among 14 Cited in My Lai Case," *Los Angeles Times*, 18 March 1970.

³²³ Hersh, Seymour M., "Army's Secret Inquiry Charges 43 Mylai [sic] Failures to Top Officers," *New York Times*, 4 June 1972.

³²⁴ *Ibid.*; see also Seymour M. Hersh, "A 2d Massacre, Involving 90 Civilians, Described in the Army's Secret Inquiry," *The New York Times*, 5 June 1972. The *Chicago Tribune* and *Los Angeles Times* also published similar stories during the same time frame; however, no information on when or whether they also received copies of the Peers Report can be determined from the data gathered.

be withheld until Calley had completed his appeals.³²⁵ At that time, the two civilian attorneys who had worked on the Peers Commission protested and filed a Freedom of Information Act (FOIA) request for the volumes, but their request was denied on the grounds that government agencies need not make public “investigatory files compiled for law-enforcement purposes . . .”³²⁶ Later, Secretary of the Army Howard H. Callaway stated that the information had to be withheld until 1974, because “the harm to individuals [supposedly referring to Calley, who was waiting for the outcome of his appeal] that would result from release of these volumes clearly outweighs the interest of public access to whatever additional information may be contained.”³²⁷ If a member of the press filed a FOIA request, it was not reported in any of the newspapers collected for this study;³²⁸ in fact, members of the media file a surprisingly small number of FOIA requests.³²⁹ It was not until 1976 that Joseph Goldstein, Burke Marshall, and Jack Schwartz published their “full-scale public examination” of the massacre, entitled, *The My Lai Massacre and Its Cover-up: Beyond the Reach of Law?*. Their book consisted of volume one of Peers’s report, consisting of the findings, and recommendations of the

³²⁵ “Army Chief Withholds Material from Peers Report on My Lai,” *Chicago Tribune*, 29 January 1972.

³²⁶ Reich, Kenneth, “Army Toughens Its Stand Against Releasing Report on My Lai Quiz,” *Los Angeles Times*, 21 January 1972.

³²⁷ Hersh, Seymour M., “Army Issues My Lai Cover-Up Report,” *The New York Times*, 14 November 1974.

³²⁸ FOIA was first adopted in 1967; see Carter, T. Barton, Marc A. Franklin and Jay B. Wright, *The First Amendment and the Fourth Estate: The Law of Mass Media*, Eighth Edition, (New York: Foundation Press, 2001), 588.

³²⁹ See Wasserman, Elizabeth, “Reclaiming FOIA’s Value” *CQ Weekly*, Vol. 65, Issue 39, 2992. Wasserman claims that a mere 6% of 6,439 requests submitted to six federal agencies and eleven Cabinet departments came from journalists. More than 60% came from “commercial interests” – businessmen wishing to advance their business. A third were from private citizens. Delayed response time on the part of government agencies was the reason many journalists do not bother to pursue a FOIA request.

inquiry, together with copies of some of the documents collected.³³⁰ The Commission concluded that members of Task Force Barker had indeed “massacred a large number of Vietnamese nationals” during March 16-19, 1969, and that “efforts were made at every level of command to withhold and suppress information.”³³¹ The Commission recommended that the soldiers who had participated in both the massacre and the cover up be tried by court martial, and that “policies, directives, and training standards” be modified to prevent similar events in the future.³³²

Although citizens ought to know what their government is doing, there are times when information is withheld by government officials, particularly when those officials determine that the need for citizens to know must be balanced against another need; in this case, the need for a fair trial on the part of those accused. It was for that reason that the government withheld some of the details about the massacre until Calley’s appeal process had run its course.

The Hébert Panel Coverage

The Hébert panel hearings followed the Peers inquiry. The hearings began in Washington, D.C. on April 15, 1970 and concluded on June 22, 1970. The purpose of the Hébert panel was to investigate the My Lai incident in depth.³³³ Assuming citizens want the military forces of their country to abide by international laws of war, the

³³⁰ Ibid., Goldstein, Marshall and Schwartz: *The My Lai Massacre and Its Cover-up: Beyond the Reach of Law?*, 2.

³³¹ Ibid., 55-56.

³³² Ibid., 320.

³³³ Ibid., *Investigation of the My Lai Incident*, 2.

outcome of the work done by the Hébert panel would be of great interest, not only because the panel's investigation would be independent of the Army's inquiry into whether or not crimes had been committed by members of the country's military, but also because the panel had Congressional power to advocate for change if the charges were true. More than that, citizens had an interest in the Hébert panel because it consisted of four of their elected representatives, and citizens elect representatives on the assumption they will take action that reflects citizens' values.

The proceedings of the Hébert panel were to be held in "strict secrecy."³³⁴ The reason for the secrecy, the *Chicago Tribune* reported, was so the congressmen "could be insulated from the news media in an effort to stem committee leaks and speculative stories that may tend to prejudice courts martial in the case."³³⁵ The *Chicago Tribune* also claimed that the panel was held in secret because Rivers, who was described as a "staunch defender of the military establishment," wanted to whitewash the events that had occurred at My Lai.³³⁶ The Hébert panel, as mentioned previously, was created after details relating to Hugh Thompson's testimony were leaked to the press. There was speculation that in order to protect the reputation of U.S. soldiers, Rivers and Hébert wanted to discredit Thompson and his testimony concerning the murder of Vietnamese civilians.³³⁷

³³⁴ "Secrecy Is Imposed on Mylai [sic] Hearings," *New York Times*, 12 April 1970.

³³⁵ Kling, William, "Rivers Orders Special Probe of My Lai Massacre Reports," *Chicago Tribune*, 13 December 1969.

³³⁶ *Ibid.* See also Sell, Ted, "No Sign of Whitewash on My Lai, Lawyer Says," *Los Angeles Times*, 11 December 1969.

³³⁷ *Ibid.*, Greiner, *War Without Fronts*, 336.

When the panel's investigation was over, all three papers released information about its conclusions. *The New York Times* reported that there had been a cover up within the Americal Division, stating that "the most damning evidence that there was a conscious effort to suppress evidence was the disappearance of documents from the files of U.S. organizations between early 1968 and mid-1969."³³⁸ The author further noted that these conclusions were similar to the Peers inquiry, giving credibility to the work of both bodies since they had ostensibly come to the same conclusion independently.

In October 1970, the attorneys representing S.Sgt. David Mitchell asked the Hébert panel to release testimony given by helicopter pilot Hugh Thompson, his gunner Lawrence Colburn, and two infantry soldiers on the ground at My.³³⁹ But the Hébert panel refused to release transcripts of the testimony. Believing his hands to be tied by the panel's decision, the judge in the case decided that the Jencks Act, which allows defense counsel to "search for inconsistencies between a witness's trial testimony and previous statements in possession of the United States" barred witnesses who had testified at the congressional hearing from appearing at the Mitchell court martial. This reduced the number of eyewitnesses available to the prosecution to only three former GIs;³⁴⁰ following that, the military panel found Mitchell not guilty.³⁴¹

However, when the same question arose in the Calley court martial, Judge Reid Kennedy ruled that the Jencks Act did not apply to testimony given before Congress,

³³⁸ "House Panel Urges That Federal Courts Be Given Jurisdiction Over Military Crimes of Ex-G.I.'s," *New York Times*, 15 July 1970.

³³⁹ Robinson, Douglas, "Sonmy Trial is Snarled by House Panel's Refusal to Divulge 4 Men's Testimony," *New York Times*, 16 October 1970.

³⁴⁰ "Panel Raps Inaction on Mercury Pollution," *Los Angeles Times*, 21 October 1970.

³⁴¹ "Sgt. Mitchell Freed on My Lai Charges, Says Army's 'Great,'" *Los Angeles Times*, 21 November 1970.

therefore the witnesses who had appeared before the Hébert panel must appear at Calley's trial. Calley's defense counsel was forced to prepare for the case without the benefit of witnesses' previous testimony. Calley's attorney fought the Hébert panel's decision, arguing that because the congressional investigation was conducted independently of the military, it was the only one "untainted"³⁴² However, the Hébert testimony was not disclosed.

Such secrecy imposed by the Hébert panel resulted in what William G. Eckhardt, chief prosecutor in the My Lai cases,³⁴³ has labeled "serious interference."³⁴⁴ Eckhardt claims that Hébert and Rivers "decided that prosecution of the events at My Lai was not in the national interest. . . . [T]hey calculatingly used their considerable power to sabotage the trials. Their plan was technical, simple, and almost effective. They held hearings (calling all the necessary prosecution witnesses), placed a congressional security classification on this testimony, and refused to release it. Despite vigorous and varied protests, Congress adhered to this refusal, intending that this refusal would prevent the Government from calling any witness who had testified before the Committee. If the Government could not call the necessary witnesses, it would be prevented from prosecuting the My Lai incident."³⁴⁵ Such strategies by the Subcommittee affected due process with regard to the courts martial; it further affected those trials, preventing

³⁴² Bigart, Homer, "Calley Jury to Hear Witnesses Barred in First Mylai [sic] Trial," *New York Times*, 11 November 1970.; see also "Judge Bars 4 My Lai Witnesses," *Chicago Tribune*, 16 October 1970; see also Currie, William, "Calley Trial to Hear Viet Quiz Witness," *Chicago Tribune*, 11 November 1970.

³⁴³ "Bio: William G. Eckhardt," University of Missouri-Kansas City School of Law, accessed 2/17/2012, <http://law.umkc.edu/faculty-staff/people/eckhardt-william.asp>.

³⁴⁴ Ibid., Eckhardt, "Essay on the Trials of the Century," 684.

³⁴⁵ Ibid., 684-85.

defense attorneys from access to witnesses' pre-trial statements that would assist them in preparing their clients' cases, a clear disregard of the Jencks Act. This ultimately led to the acquittal of a number of the accused.³⁴⁶

The way reporters approached the stories about the Hébert panel were similar to those about the Peers investigation, noting only what witnesses appeared to give testimony and when. Aside from the doubts cast about Rivers by the *Chicago Tribune*, all three papers otherwise obediently abided by Rivers's request for secrecy. Seymour Hersh did speak against it, however, saying that if such restrictions had been in place when he researched his series on Calley he would have been "totally hamstrung." "They want to be sure S.O.B.'s like me don't break stories that embarrass the Army," Hersh told the UPI.³⁴⁷

The determination of the congressmen and the military to keep their respective inquiries secret, together with the press's willingness to comply with their wishes, came from a concern that any ongoing or future courts martial would be conducted without prejudice due to pretrial coverage of the events in question. Although it meant citizens could not be immediately informed of the details of the two investigations, presumably the information would be released as soon as the courts martial against all the soldiers charged had run their course.

But in the span of a year between January 1970 and January 1971, charges for covering up the massacre against twelve of the soldiers – Smith, Calhoun, Gavin, Guinn,

³⁴⁶ Ibid., 685.

³⁴⁷ "My Lai Writer Blasts Report on Massacre," *Chicago Tribune*, 19 July 1970.

Johnson, Young, McKnight, Parson, Boatman, Luper, Koster and Watke – were dropped. Criminal charges against another seven soldiers – Willingham, Hodges, Torres, Hutson, Smith, Doherty, and T’Souvas – were also dropped. Mitchell, Hutto, Medina, Kotuoc, Medina, and Henderson were tried and all found not guilty, leaving Calley’s the only conviction. The reasons the Army gave for dropping the charges usually were a lack of evidence, or “in the interest of justice.” The only record of a journalist pressing for additional information came from Kenneth Reich of the *Los Angeles Times*, and he was told by an Army spokesman he did not identify that “there were other, more important considerations.”³⁴⁸ Without knowing fully why the charges were dropped, citizens would find it difficult to understand the reasoning their officials have for such decisions, leading to a lack of clarity regarding their leaders’ values.

The stories in *The New York Times* and the *Los Angeles Times* about the charges being brought against the accused soldiers were written by staff reporters – William Beecher and Ted Sell, respectively – but the stories about the charges being dropped were either unattributed or were taken from wire services such as the Associated Press, United Press International or Reuters. No information could be found to explain why this happened. Had the reporters who had previously been following events had the opportunity to interview the attorneys involved in the cases, they may have been able to report the details behind the dropping of the charges, which could have promoted citizens’ understanding of the military justice system and why soldiers who had been charged with committing war crimes appeared to go free with little question. It was not

³⁴⁸ Reich, Kenneth, “Enlisted Men Cleared of All My Lai Charges,” *Los Angeles Times*, 23 January 1971.

possible to ascertain whether or not citizens protested the newspapers' decision not to pursue the issue further.

It is reasonable that citizens in a democracy would expect members of their country's military would be held accountable when international laws such as the Geneva Convention were broken. But knowing only that there had been a cover up but not knowing who had been responsible for it or how the system had broken down, permitting the cover up to occur, creates a troubling gap of knowledge for citizens. Yet few of them seemed to protest, for none of the three papers examined for this study carried any letter to the editor protesting this gap of knowledge. Whether that was because no one wrote a letter of protest, or whether there were letters, but the editor chose not to publish them, is impossible to say from the data collected. But without the answers to these questions, citizens have little basis on which to come to consensus and build will determination about what appears to be a decision on the part of the nation's leaders to ignore such crimes.

The Courts Martial Coverage

In contrast to the Peers and Hébert inquiries, the courts martial were open to reporters. The courts martial of Mitchell, Hutto, Calley, Medina, Kotuoc and Henderson were all well-covered by the press. But because all of those proceedings resulted in the soldiers charged going free, little comment was made about them, even on the editorial pages. Journalists simply reported the facts. In the light of so many charges being

dropped, it is likely that finding the remaining soldiers not guilty who went to trial came as little surprise to anyone. The Calley court martial, however, was another matter.

The reporters for the three major newspapers studied – Homer Bigart of *The New York Times*, William Currie of the *Chicago Tribune*, and Warren Rogers for the *Los Angeles Times* – all wrote informative stories about the Calley proceedings. Homer Bigart in particular provided a sense of continuity and helped fit together pieces of a larger political and military puzzle, while Warren Rogers provided human insight and at times humor.³⁴⁹ All three reporters clearly stated the charges against Calley, as well as the arguments for both the prosecution and the defense, and all three reporters noted numerous times that the victims of the My Lai massacre were not just civilians, but civilians who had been methodically searched and set apart, so that it was clear they were completely unarmed and could not be mistaken as members of enemy forces. Yet many people believed that Calley should not have been convicted, claiming the responsibility was in the hands of higher-ranking officers, and that Calley's actions were not premeditated.³⁵⁰ Perhaps the answer for the reason so many believed Calley should not have been convicted lies in the way each reporter covered the story.

Of the three reporters examined, Homer Bigart's reporting was the most factual and straight-forward. He reported what was said in court and provided little personal description of Calley, the attorneys, or the witnesses. However, when Calley took the

³⁴⁹ A troubling note about the coverage by the *Los Angeles Times*, however. There were several stories where the jump from one page to another was lost. At times this was because a bigger story broke after the page had been laid out – the Charles Manson murder of Sharon Tate and her friends – and presumably in their rush, those doing the layout were just careless about checking that the story was complete.

³⁵⁰ See, for example, Charlton, Linda, "Many in U.S. Perturbed By Conviction of Calley," *New York Times*, 31 March 1971.

stand in his own defense on February 23, 1971, Bigart did show a tendency to draw Calley as a victim of circumstances, damaged by a brutal war. For the first time, Bigart went into greater detail in describing Calley, writing he was a “short, stocky 27-year-old,” who was “freshly barbered,” who wore only a Combat Infantryman’s Badge even though he was entitled to wear a Bronze Medal and a Purple Heart. Nervous at first, Calley began to relax under his attorney’s “gentle questioning” and faced the jurors “more frequently.”³⁵¹

Bigart’s description of Calley showed a man who reacted in a very human way to an awful predicament. Later, Bigart acknowledged that Calley’s attorney had drawn Calley in that very light on the day of his conviction. “The flag may fly at full mast over military installations, but it will always be drawn at half mast over the homes of people whose sons may be going into military service,” Latimer told the jurors, waving a handful of telegrams, presumably from Americans who had expressed the same sentiments.³⁵²

William Currie’s articles were nearly as straight-forward as Bigart’s. Like Bigart, he mentioned on at least four occasions the Geneva Convention or the laws of war,³⁵³ and mentioned on at least seven occasions that the civilians found at My Lai were not a risk

³⁵¹ Bigart, Homer, “Calley, On Stand, Tells of Hatred,” *New York Times*, 23 February 1971.

³⁵² Bigart, Homer, “Calley Pleads for Understanding,” *The New York Times*, 31 March 1971.

³⁵³ See articles by Currie, William, “Slain Officer’s Letter Defends GIs Accused of Murder in Viet,” *Chicago Tribune*, 27 February 1970; “Lawyer Seeks \$400 Million for Families of My Lai Victims,” *Chicago Tribune*, 3 December 1970; “Lawyers Hint at Calley’s Defense,” *Chicago Tribune*, 10 December 1970, and “Calley Lawyer Defends Action in Attack on My Lai Village,” *Chicago Tribune*, 11 December 1970.

to American soldiers.³⁵⁴ His reporting of the activity of the defense team was well-balanced with that of the prosecution's.

Currie's coverage of the Calley court martial initially took a more investigative tone and he demonstrated a grounded knowledge of military court proceedings in his article about pre-trial hearings in his February 10, 1970 article, "Key Officers Deny Bias in Calley Case."³⁵⁵ This coverage would have been helpful to his readers, especially those with little military legal background.

Currie's coverage of Calley's court-martial provided more graphic details than either Bigart's or Rogers'. For example, when Dennis Conti gave his testimony, he recalled how a group of children had tried to get away by running to a tree line. "Lt. Calley fired on them," Conti said. "Killed them one by one."³⁵⁶ Currie also seemed to include more testimony that had been stricken from the record than the other two reporters, at one time reporting about defense's line of questioning concerning training given to soldiers on following orders.³⁵⁷

Currie also made Calley a more human figure than either Bigart or Rogers, especially when Calley took the stand in his own defense. Writing about the portion of Calley's testimony where he described helping to unload his wounded comrades from the

³⁵⁴ See articles by Currie, William, "Saw Dead at My Lai, Calley Witness Says," *Chicago Tribune*, 18 November 1970; "Judge in Calley's Trial Approves All My Lai Testimony," *Chicago Tribune*, 20 November 1970; "Calley Shot Viets, Former GI Testifies," *Chicago Tribune*, 5 December 1970; "Ex-GI Tells Medina My Lai Body Count of 310," *Chicago Tribune*, 17 December 1970; "Describes Concern for My Lai Civilians," *Chicago Tribune*, 5 March 1971; "Army Rests Case Against Lt. Calley," *Chicago Tribune*, 11 March 1971, and "Calley Guilty in Massacre 4 Tate Slayers Get Death," *Chicago Tribune*, 30 March 1971.

³⁵⁵ Currie, William, "Key Officers Deny Bias in Calley Case," *Chicago Tribune*, 10 February 1970.

³⁵⁶ Ibid., Currie, "Calley Shot Viets, Former GI Testifies."

³⁵⁷ Currie, William, "Calley Trial Judge Bars Testimony on Training," *Chicago Tribune*, 16 January 1971.

helicopter immediately after returning to base after following a short holiday away, Currie reports that Calley found “a piece of a man’s face” on the helicopter floor. Currie also describes Calley’s nervousness and how he “shift[ed] a small microphone from hand to hand,” while on the stand and “grop[ed] for words – sometimes seeming to search for them on the courtroom ceiling.”³⁵⁸ Such descriptions would lead readers to identify with Calley, as they could imagine how nervous they would feel if they had been through Calley’s experiences and now were on the witness stand themselves.

Like Bigart’s and Currie’s stories about the Calley court-martial, Rogers’s stories provided details of the proceedings in an informative, balanced fashion. However, there was a novelistic aspect to his work. For example, in a November 18, 1970 article, Rogers wrote how prosecuting attorney Aubrey M. Daniel III described events “in an eerie, play-by-play play present tense.” He also described Daniel, a young attorney who had worked without sleep to prepare for the case, writing, “[His] eyes were red-rimmed, his Army greens rumpled But his voice was steady and the hand that held his notes did not tremble as he retold what is alleged to have happened . . . at My Lai.” In the same story, Rogers said Calley “sat stiffly, his face burning. He rolled a ballpoint pen nervously around and around between his fingers. He scribbled in a crabbed little hand on a legal pad, doodled a bit, turned the page and started all over again.”³⁵⁹ Once the stage was set and the actors described, the majority of the remaining portion of Rogers’ story is dialog, much as a screenplay might be. Rogers concludes his story by writing, “Calley hunched

³⁵⁸ Currie, William, “Taught to Obey Orders: Calley” *Chicago Tribune*, 23 February 1971.

³⁵⁹ Rogers, Warren, “‘There’s a Child Getting Away!’ Calley Court-Martial Opens – an Eerie My Lai ‘Play-by-Play,’” *Los Angeles Times*, 18 November 1970.

over his pad. Only once . . . did he show emotion. As Daniel [continued his speech], Calley's eyes met those of his chief military counsel, Maj. Kenneth Raby, and he managed a slight shrug and a grin, a grimace, a wince, or something."³⁶⁰

Rogers described many of the participants in the court martial as if he were a screenwriter describing his character for a casting director. He described witness Robert E. Maples as "looking thoroughly civilianized in a short Afro hairdo and a green sweater-shirt over gray slacks;"³⁶¹ the next day, witness Lenny B. Lagunoy was described as "dapper in a green trim-vent continental sport coat, matching slacks and suede shoes,"³⁶² and later, witness Dennis Conti was "a jaunty figure in tight slacks and a light blue sport shirt."³⁶³

But it wasn't his lively descriptions of the people that brought Rogers' stories about Calley's court-martial to life. Rogers injected humanity through details that Bigart and Currie omitted, such as when Judge Kennedy wished everyone, including Calley, happy holidays as the proceedings broke for recess,³⁶⁴ and when Latimer suffered an embarrassing lapse of memory while questioning a witness.³⁶⁵ One of the most memorable of Rogers's details was when Dr. Albert A. LaVerne was about to perjure

³⁶⁰ Ibid.

³⁶¹ Rogers, Warren, "Saw Calley Shooting Villagers at My Lai, Ex-Soldier Testifies," *Los Angeles Times*, 2 December 1970.

³⁶² Rogers, Warren, "My Lai Witness Defies Judge, Refuses to Talk," *Los Angeles Times*, 3 December 1970.

³⁶³ Rogers, Warren, "Calley Slaughtered Many, Ex-GI Says," *Los Angeles Times*, 5 December 1970.

³⁶⁴ Rogers, Warren, "Calley to Ski as Trial Goes Into Recess," *Los Angeles Times*, 18 December 1970.

³⁶⁵ Rogers, Warren, "Calley Trial Recessed After Tornado Warning," *Los Angeles Times*, 27 February 1971.

himself³⁶⁶ during his testimony that Calley may have been insane as a result of combat stress. Judge Kennedy advised a shaken LaVerne to leave the witness stand, saying, “This is what we call ‘court-martial induced stress.’” Rogers noted that “even Calley joined in the courtroom laughter,”³⁶⁷ details the other two reporters had not included in their stories.

When the jury in Calley’s court martial found him guilty in March 1971, it initially appeared that a majority of Americans believed Calley had been wrongly convicted. For example, during the course of Calley’s court-martial, Judge Kennedy and members of the jury had received several hundred telegrams in support of Calley.³⁶⁸ When Calley left the court building after his conviction, the *Chicago Tribune* reported that he was greeted by a crowd of 300 well-wishers, and the Army reported that it was “deluged” with telephone calls and telegrams protesting the verdict,³⁶⁹ and the results of a Gallup Organization survey revealed that eight out of ten Americans objected to the jury’s findings.³⁷⁰ In Columbus, Georgia, George Wallace made a personal call on Calley to show his support, then led a group of 2,000 people gathered to protest Calley’s conviction, spurring them on to contact Nixon to ask for a full pardon.³⁷¹

The public’s reaction is not typical of the court of public opinion in the United States. As one legal expert wrote, “With appalling crimes, the thirst for justice is only

³⁶⁶ LaVerne was on the verge of claiming the conclusions he was presenting to the court were the result of a personal examination he had made of Calley when no such examination had been made.

³⁶⁷ Rogers, Warren, “Calley Psychiatrist Cracks Up,” *Los Angeles Times*, 19 February 1971.

³⁶⁸ Currie, William, “Won’t Beg for Life: Calley,” *Chicago Tribune*, 31 March 1971.

³⁶⁹ Farrar, Fred, “Army Gets Deluge of Pro-Calley Calls,” *Chicago Tribune*, 31 March 1971.

³⁷⁰ “Gallup Finds 79% Disapprove of Verdict,” *New York Times*, 4 April 1971. See also “79% Against Verdict in Calley Case,” *Los Angeles Times*, 7 April 1971.

³⁷¹ Reich, Kenneth, “Wallace Visits Calley, Backs Him at Rally,” *Los Angeles Times*, 3 April 1971.

quenched by conviction,” which explains the public outcry that followed when juries declared O.J. Simpson and Casey Anthony not guilty.³⁷² So why did it seem that so many people did not welcome Calley’s conviction for what certainly was an “appalling crime?”

One of the most obvious reasons was that the victims were nameless and faceless. Although Peers traveled to Vietnam and interviewed survivors there, no survivors were present at any of the subsequent courts martial.³⁷³

In addition, Calley took prominence in his own story not only because he was the main figure but also because the prosecuting attorney determinedly avoided contact with the press until the court martial was finished, concealing his side of the story from public view. “When court recessed,” Currie wrote, “[prosecuting attorney Daniel] would politely listen over his retreating shoulder to the newsmen’s pleas for his interpretation of the day’s events or a hint as to what would happen next. It was always the same. The reporters would talk themselves out, Daniel would listen patiently – sometimes fixing his eyes on the interviewer until he lapsed into an awkward but ever hopeful silence. And then Daniel would deliver his curt, resolute nonreply, ‘I have no comment on that.’³⁷⁴ “Ironically,” Currie continued, “it may have been Daniel’s own subdued style that brought about the public outcry in the first place. He had done his job thoroly [sic] but without fireworks, and so the thousands who expressed outrage may not have been

³⁷² Coffey, Kendall, *Spinning the Law*, New York: Prometheus Books, 2010, 45.

³⁷³ Ibid., Hersh, *My Lai 4*, 7.

³⁷⁴ Currie, William, “Sense of Justice: A Calley Trial Notebook,” *Chicago Tribune*, 11 July 1971.

familiar with the overwhelming evidence the prosecutor had marshaled to prove his case.”³⁷⁵

Another reason public support for Calley was so strong at the time was rooted in the context of conscription, leading many of them to sympathize with a central character caught in a position where they might find themselves someday. But this position actually strips Calley and any others who killed civilians during the war of any individual responsibility.³⁷⁶ The public also did not know the victims of My Lai personally; they were a faceless, nameless “other,” a factor even Daniel admitted was a problem in presenting the case to the court martial. In addition, the defense team’s portion of the trial was disorganized and rambling, and took place at the end of the court-martial proceedings, so that the arguments of the defense team were more memorable for the public. There is also the theory that American soldiers are not capable of murder, as Warren Rogers noted.³⁷⁷ “It was all too monstrous, inhuman,” Rogers wrote. “People don’t do such things, especially people like us.”³⁷⁸ And finally, support for the war itself was lagging for a number of reasons by this point, making the question of My Lai moot.

But the overriding reason the public supported Calley was a combination of denial that an American soldier could have committed such crimes and the coverage itself which focused favorably on Calley. There had been some early stories about Calley that painted a sympathetic picture of the lieutenant. For example, David Nelson interviewed some of

³⁷⁵ Ibid., Currie, “Sense of Justice: A Calley Trial Notebook.”

³⁷⁶ Marcuse, Herbert, “Reflections on Calley,” *New York Times*, 13 May 1971.

³⁷⁷ See, for example, Farrar, Fred, “Army Gets Deluge of Pro-Calley Calls,” *Chicago Tribune*, 31 March 1971.

³⁷⁸ Rogers, Warren, “My Lai Massacre Trial of Calley On,” *Los Angeles Times*, 18 November 1970.

Calley's old friends in a November 1969 article. "They considered Calley a good guy, an average guy, neither an ogre nor an angel," who did not necessarily get the best grades in his classes, but who played football and other games in an empty neighborhood lot with the other guys.³⁷⁹ And the coverage of the proceedings themselves naturally put Calley at center stage. Although journalists did report matters that exposed Calley's wrongdoing – for example, that the people at My Lai had been civilians and that they had been searched and found unarmed before being killed and the fact that Calley admitted to murder on the witness stand – these things were not given the same prominence as other details that pointed to extenuating circumstances, such as American soldiers having to deal with the harsh conditions of guerilla warfare. It was these details that often took prominence in witnesses' testimony, leading many readers to believe Calley and the other soldiers were fighting under impossible combat conditions.

The public's reaction took journalists by surprise. Reporters from all three newspapers later wrote rebuttal articles stating that the court martial had been conducted in a fair manner and that Calley's conviction was just. Two articles in particular, "The Calley Case Re-Examined," by *The New York Times*'s Stephan Leshner and "Sense of Justice: A Calley Trial Notebook," by the *Chicago Tribune*'s William Currie, both published on July 11, 1971, provide insights not only into Calley's character, but to that of all the participants of the court martial. Both mention that Calley's defense team was fractured and disorganized, that Latimer's strategy was not clear, "listlessly moving"

³⁷⁹ "After My Lai Incident, Friend Saw Calley as 'Same Old Rusty' on Visit Year Ago," *Los Angeles Times*, 30 November 1969.

from arguments that the My Lai civilians were killed as the result of artillery fire, to that Calley was acting under the influence of marijuana, to that Calley was insane, to the fact that Army intelligence maintained that there were to be no civilians in the village at that time, to the fact that the massacre was simply the result of general military error.³⁸⁰ But above all, Leshner and Currie believed Calley's conviction was the proper outcome. "I became thoroughly convinced that the verdict returned by the jury . . . was not only legally correct but morally just," Leshner wrote.³⁸¹

Public opinion began to shift six days after the publication of Leshner and Currie's articles. At that time, the *Chicago Tribune* published the results of the latest Harris Survey, finding that 35-36 percent of people surveyed believed Calley should not have been convicted, and 29 percent could not decide, leaving 36-37 percent of the nation believing Calley should have been convicted. However, 77 percent of those surveyed did believe that Calley had been singled out as a scapegoat.³⁸²

This phenomenon – the people's horror at Calley's conviction, followed by the press's rebuttal, afterwards followed by a shift in public opinion going the other way – is an example of the wrestling for consensus that takes place in the public sphere that Habermas describes. The press presented information which the public absorbed and interpreted in a particular way. In the early essays and editorials that followed, citizens displayed not only a great diversity of opinion, but also confusion. Viewpoints included: comparison of the "only following orders" defense that arose that both My Lai and

³⁸⁰ Leshner, Stephan, "The Calley Case Re-Examined," *New York Times*, 11 July 1971.

³⁸¹ *Ibid.*

³⁸² Harris, Louis, "The Harris Survey: Public Divided on Calley Guilt," *Chicago Tribune*, 5 April 1971.

Nuremberg; some denying , some accepting that the situations were similar; that Calley was a scapegoat; that officials were also ignoring that the responsibility for My Lai should be shared by higher-ranking officers; the moral dilemma of killing face-to-face versus killing from a distance; war is hell and this kind of thing should be expected; our soldiers didn't know how to deal with guerrilla warfare; that the United States should not be involved in Vietnam.

While the people expressed these various and confusing positions among themselves, another conversation began, this time between the press and the people. Reporters, acting as both informers as well as analysts of events, reiterated certain information, such as the fact that the Vietnamese killed were not only innocent civilians, but also that all the civilians had all been searched and were unarmed. These details had become lost in the narrative of the court martial testimony. Public opinion continued to shift then, revealing not only support for Calley's conviction but also an understanding of the need to uphold the principles of Nuremberg.³⁸³

The Calley court martial prompted many essays, editorials, commentaries and letters to the editor, revealing a variety of citizens' viewpoints as endeavored to reach consensus regarding will formation. But eventually the number of such items dwindled. The number of these types of articles had peaked with the emerging stories of the massacre, from November 27, 1969 through December 23, 1969, and spiked again from March 30, 1971 until April 18, 1971, when Calley was found guilty. Following the

³⁸³ Note: This is assuming that the publication of letters to the editor reflects the true nature of public thought and is a reflection of the numbers of people with those beliefs, and not a reflection of the editor choosing those letters that share his or her viewpoint.

Medina court-martial, such material died out nearly completely. Within the scope of this study, it is impossible to know whether it dwindled due to a shift of public opinion, public attention to other matters, or was the result of editorial decision to stop publishing matter on the topic.

The coverage of the courts martial related to the cover up was very detailed. In nearly every story, readers were able to glean the basic who, what, when, where, why and how of those charges. However, just having the facts is not enough. Michael Schudson noted that “[A] newspaper takes miscellaneous items of news, publicity, comment, and information, places them in juxtaposition, and has no ambition that they make sense together.”³⁸⁴ In dealing with a matter of major importance such as the My Lai massacre, it is disappointing that reporters did not do more to “connect the dots.” Writing an overview of the massacre and how all the events related to it – the investigations, the allegations, the courts martial, and the dismissal of charges – played out would have given citizens a chance to see how their government officials dealt such problems rather than how they promise they would. In all the stories collected and read for this study, only one reporter attempted to provide an overarching summary of My Lai’s events: Kenneth Reich of the *Los Angeles Times*.

Reich’s article appeared on January 1, 1972, approximately two weeks after Colonel Henderson was acquitted in the last court martial in the My Lai case. His article, entitled, “My Lai – Was Justice Carried out?” appeared on the first page of a section of the paper devoted to advertising May Company’s January clearance sales, and running

³⁸⁴ Ibid., Schudson, *Why Democracies Need an Unlovable Press*, 41.

throughout that section for eight pages, the May Company's ad taking center stage on each page.

Reich acknowledged the legal aspects in the My Lai massacre in a way no one else had done. He began by noting that none of the soldiers was charged with Article 18 of the Uniform Code of Military Justice, including, Reich wrote, "'laws of war,' – war crimes, violations of the The Hague and Geneva Conventions and the Nuremberg principles." Instead, they were charged with murder, a lesser charge, because doing so, Reich wrote, was "more palatable" for the Army than charging its soldiers with war crimes. Reich called the scope of the investigations by Peers and Hébert "too narrow," and wrote that Captain Willingham, who had had the charges against him dropped for lack of evidence, likely could have produced information about additional killings that took place the same day as the My Lai massacre, but in another village nearby. If Willingham had been convicted, Reich claimed, it would have confirmed suspicions that My Lai was not an isolated incident, and that such atrocities were rooted in Army policy. Reich also stated that Medina admitted he told his soldiers not to report the massacre, yet Medina was never charged with covering up the reality of the day's events.³⁸⁵

Reich further mentioned the problem of not charging soldiers who were separated from the military because they were no longer under military authority, protected by the ruling in *Toth v. Quarles*.³⁸⁶ Reich even reported that "Army legal experts had written a memo holding that a man could be tried by a presidentially appointed military

³⁸⁵ Reich, Kenneth, "My Lai – Was Justice Carried Out?," *Los Angeles Times*, 1 January 1972.

³⁸⁶ 350 U.S. 11 (1955).

commission for violation of the “laws of war” even if he had left the service.” But no such military commission was ever appointed, and Army officials opted to charge the men because they believed the evidence was strong enough to move forward on court martial proceedings.³⁸⁷ Reich also claimed that Army officials decided not to try higher-ranking officers because they believed Army prosecuting attorneys were “outclassed” by the civilian attorneys hired by the defendants.³⁸⁸

Reich also described the effect of the Hébert panel’s decision not to release testimony taken at its proceedings on the outcome of the Mitchell trial. He further described how the judge in the Hutto court martial gave the jury specific instructions that led to a verdict of not guilty, and how the same judge ruled on admissibility of some of the evidence that affected the outcome in the Medina case. Reich completed his article by writing about Nixon’s involvement in freeing Calley from confinement while he waited for his appeals.³⁸⁹

None of what Reich reported was new. All of it – from the charges to the Congressional testimony to the rulings concerning the admissibility of evidence at the courts martial – had been reported in the press. But it was reported on a daily basis, as events unfolded. What Reich offered was a retrospective analysis, giving the events context and offering a viewpoint that no one else had provided. The government had not done all it could to hold American soldiers accountable, and had covered up an

³⁸⁷ Ibid., Reich, “My Lai – Was Justice Carried Out?”

³⁸⁸ Ibid.

³⁸⁹ Ibid.

embarrassing event, much the same as the ruling in the *Reynolds* case twenty years earlier. Reich ended his article by using Ron Ridenhour to give voice to his own disappointment, saying that Ridenhour “remained convinced that the Army did not handle the My Lai satisfactorily,” but that aside, some good came of it in the form of policy change regarding how and when troops should open fire, policy which, in Ridenhour’s words, “save[d] some Vietnamese lives.”³⁹⁰ However, the Army denied that these changes were the result of the massacre at My Lai.³⁹¹

The type of review that Reich provided is valuable to citizens. While reading the stories as the events unfolded, a reader might think it was strange that a Congressional panel that claimed it would get to the truth of the events at My Lai would later withhold the information it had gathered. It might seem strange that even though occasional opinion pieces suggested that the My Lai massacre was a war crime, none of the soldiers were charged with war crimes. And yet, because people’s daily lives go on and reporters continue to carry news as it develops, rarely is time taken to look back and think about what has happened and what it might mean for American citizens, American policy, and the way the country conducts its affairs. Reich’s article provided a valuable service, and it is regrettable that more reporters did not write more like it. Although some may see the article’s appearance in a section of a newspaper devoted to only an ad as a means for the story to disappear to the casual reader’s eye, it is also possible that a more careful reader would take the time on leisurely holiday morning to read the article in full.

³⁹⁰ Ibid.

³⁹¹ Ibid.

Coverage of “The Nuremberg Principles”

The last topic to be examined is coverage not of events as much as coverage of an idea –the applicability of the Nuremberg Principles. The term “Nuremberg Principles” refers to the changes in laws of war that came about as the result of the Nuremberg and Tokyo war crimes trials; most importantly for this study, that merely following orders is not a defense for unjustified killing, and that officers are responsible for the actions of the soldiers who rank below them.

The first mention of the principles of Nuremberg in relation to My Lai was not in a news article or an editorial, but in a November 29, 1969 *Los Angeles Times* letter to the editor by Mrs. Adele Erenberg, who accuses the press of “sins of omission” in not addressing the connection between My Lai and Nuremberg in the news.³⁹²

It wasn't until January 1, 1970 that William Beecher's article in *The New York Times* met the issue head-on. Although My Lai “will go down as one of the worst atrocities charged to American fighting men in any of this nation's wars,” it didn't have to happen, Beecher wrote. Before World War II, any soldier found committing a war crime could blame it on the orders given him, and the officer giving the order, if found guilty, was punished, not the soldier who had done the officer's bidding. But following the Nuremberg war crime trials, Beecher explained, that changed. “Army regulations were modified,” Beecher wrote, “that a soldier is not duty bound to obey any unlawful order and is ultimately responsible for his own actions.” At any court martial that

³⁹² Erenberg, Adele, “The Massacre at My Lai,” *Los Angeles Times*, 29 November 1969.

followed, the soldier “would have to prove that the order was illegal. Thus the burden of proof would be on him.”

According to the Peers Inquiry, American soldiers arriving in Vietnam were given four information cards: “The Enemy in Your Hands,” “Nine Rules,” “Code of Conduct” and “Geneva Convention.”³⁹³ “The Enemy in Your Hands” directed soldiers in treatment of any Vietnamese citizen they encountered. Among its directives: “Handle [the enemy] firmly, promptly, but humanely. The captive must be disarmed, searched, secured and watched. But he must also be treated at all times as a human being. He must not be tortured, killed, mutilated, or degraded, even if he refuses to talk.” And another directive from the card stated: “All persons in your hands, whether suspects, civilians, or combat captives, must be protected against violence, insults, curiosity, and reprisals of any kind. Leave punishment to the courts and judges. The soldier shows his strength by his fairness and humanity to the persons in his hands.”³⁹⁴

Despite the argument that the guerilla warfare in Vietnam made it difficult for U.S. soldiers to distinguish the enemy, it is not reasonable to argue that guerilla fighting tactics were to blame when people – whether they are enemy soldier or civilian – have been captured and searched for weapons and *then* shot, which was what witnesses maintained had happened at My Lai. If that were the case, then the Geneva Convention had indeed been violated by members of Company C.³⁹⁵

³⁹³ Ibid., Goldstein, Marshall, and Schwartz, *The My Lai Massacre and Its Cover-up*, 211.

³⁹⁴ “Pocket Card: ‘Nine Rules,’” *MACV, Military Assistance Command, Vietnam*, accessed May 3, 2012, http://law2.umkc.edu/faculty/projects/ftrials/mylai/myl_wmac.htm.

³⁹⁵ Beecher, William, “Questions on Songmy,” *New York Times*, 1 January 1970.

In January 1970, *The New York Times* published an essay by Telford Taylor, who had been chief counsel at the Nuremberg Trials. Echoing Beecher's comments, Taylor wrote that although the war in Vietnam was different from other wars in that the United States military was fighting in a hostile environment against an enemy using guerilla tactics, U.S. soldiers were still bound to follow the principles established at Nuremberg and other international laws. Taylor addressed a number of questions, such as: If in fact My Lai was a massacre, was it an isolated episode or symptomatic of a diseased command structure? Are we now unable or unwilling to distinguish friend from foe with reasonable approximation? By what standards are the so-called 'free-fire zones' determined, and what has been their consequences? Have racial feelings or the "calluses" of war rendered our troops generally indifferent to the welfare of the Vietnamese people? Taylor concluded by saying it is our Government and those who have supported its policy that most need to resolve these questions, and the public needs to accept the responsibility of holding the government accountable.³⁹⁶

An Associated Press article from March 14, 1970 in the *Los Angeles Times* takes a very different point of view. The author states that the results of the Nuremberg and Tokyo War Crimes trials have led the United States to paint itself into a corner, especially in the case of Vietnam, where there has been no concrete plans to end the war, or, for that matter, no concrete reason to be in Vietnam in the first place. "The defense of superior orders and the application of command responsibility to the atrocities of war began to mean more to our troops engaged in a winless, pointless war. . . ." the unidentified author

³⁹⁶ Taylor, Telford, "Topics: Judgment on Mylai" *New York Times*, 10 January 1970.

wrote. “Now the My Lai incident has come back to us as a slap in the face. . . .The judgments of the Nuremberg and Tokyo trials as precedents are worthless today and should be repudiated now.”³⁹⁷

Although the precedents set at Nuremberg and Tokyo are not national law in the sense that Habermas discusses because that they did not come out of a legislative body, the argument can still be made that the decisions at those trials nevertheless reflected the will of the American people. The legal officials at Nuremberg and Tokyo had been appointed by elected officials, and, by virtue of citizens’ trust in those officials who appointed the American participants in the trial, their decisions of who was appointed reflected the values of American citizens.

The articles about the Nuremberg Principles took the form of essays or letters to the editor; they were rarely straight news stories. The number of such articles peaked during the Calley court martial, then dwindled. In all, only fifty-three stories containing the words “My Lai and “Nuremberg” were published in the three newspapers collected for this study for the time from November 1969 through November 1978, and twenty-eight of those were published between January 1971 and May 1971. Was that enough to enable “the public to accept the responsibility of holding the government accountable” as Taylor asked?

It was enough to capture the attention of at least some citizens and lead them to action. Once news of the My Lai massacre became public, a number of Vietnam vets came forward, saying My Lai was not an isolated incident and that many of them had

³⁹⁷ “Evils of War Trials Haunt Tojo Defender,” *Los Angeles Times*, 14 March 1969.

similar experiences. A number of them were “ready to come forward and bare the truth concerning war crimes committed by their units as policy in Indochina.”³⁹⁸ Secretary of Defense Melvin Laird called for further investigation of war crimes, leading to the formation of the Vietnam War Crimes Working Group,³⁹⁹ which was active from 1969 until 1973.⁴⁰⁰ Author Bernd Greiner wrote that Laird’s group “created the most extensive archive about American war crimes in Vietnam, comprising about 10,000 pages.” Fewer than half of the soldiers who allegedly committed war crimes were brought to trial.⁴⁰¹ Eventually the documents were handed over to the National Archives in College Park, Maryland. Greiner has claimed that he was the first historian to use them “to reconstruct both the daily grind of war in Vietnam and the political and legal handling of war crimes.”⁴⁰²

There were other hearings and inquiries into Vietnam war crimes, including the hearings of the Citizens Commission of Inquiry (CCI), a veterans’ anti-war group which was organized in November 1969. CCI sponsored more than a dozen hearings across the nation by December 1970, culminating in its ‘National Veterans’ Inquiry into War Crimes,’ held December 1-3, 1970, in a Washington, D.C., hotel. The hearings received a degree of press coverage (See “We can’t sleep, man” by Lucian K. Truscott IV, in *The Village Voice*, December 10, 1970), but not as much as at least one leading journalist

³⁹⁸ Citizens Commission of Inquiry, *The Dellums Committee Hearings on War Crimes in Vietnam*, New York: Vintage Books, 1972, viii.

³⁹⁹ Nelson, Deborah, *The War Behind Me: Vietnam Veterans Confront the Truth about U.S. War Crimes*, New York: Basic Books, 2008, 168 and 177.

⁴⁰⁰ *Ibid.*, Greiner, *War Without Fronts*, 10.

⁴⁰¹ *Ibid.*, 14-15.

⁴⁰² *Ibid.* 10-11

thought they should. (See ‘New Vietnam Atrocity Charges Little Noticed,’ by Jules Witcover, *Los Angeles Times*, December 8, 1970). The full transcript of the CCI hearings was published in the *Congressional Record* on March 1, 1971, and much of the material later appeared as part of *Standard Operating Procedure* by James S. Kunen.”⁴⁰³

In addition, Vietnam Veterans Against the War (VVAW), held forty-seven public hearings into war crimes between February 1970, and September 1971. The testimony of its “Winter Soldiers” hearings, held in January 1971, in Detroit Michigan, received scant newspaper attention at the time, although a large portion of the proceedings was published in the *Congressional Record* on April 6 and 7, 1971.”⁴⁰⁴

On April 26-29, 1971, a number of former GIs and officers testified about war crimes before an ad hoc Congressional committee chaired by Representative Ronald V. Dellum, a California Democrat, and endorsed by twenty-two Congressmen. Seymour Hersh wrote that newspaper coverage of those sessions was “good.”⁴⁰⁵

It was not only veterans groups that were calling for change. Peers wrote his own version of the Peers Commission’s work, stating that the military changed some of its policy so that incidents like My Lai might be avoided in the future. He wrote that “The need for such action was brought into sharp focus by the My Lai incident and was further highlighted by the misdeeds of certain senior officers and noncommissioned officers in positions of trust, which created grave doubts in the minds of many people as to the

⁴⁰³ Hersh, Seymour M., *Cover-Up: The Army’s Secret Investigation of the Massacre at My Lai*, New York: Random House, 1972, 273-274.

⁴⁰⁴ *Ibid.*, 273.

⁴⁰⁵ *Ibid.*, 274

trustworthiness of the officer and noncommissioned officer corps. Today these subjects are included in the curriculum at all levels of the Army school system and within the training command. It is important that future army leaders not only understand the meaning and philosophy of such principles but that they apply them in practice.”⁴⁰⁶

Beyond these actions, however, it appeared little appeared to change except to call for an end to the war. It was as if, out of all the onslaught of information, that position was the one thing on which all citizens could agree, and therefore the final outcome of their struggle for will formation. An editorial published in the Los Angeles Times in February 1972, just weeks after the last My Lai court martial, claimed that the country’s innocence was lost at My Lai, and that “Vietnam has given war a bad name.”⁴⁰⁷ The call to end the war was taken up by others, and became the theme of a number of opinion pieces and letters to the editor until the war finally ended in April 1975.

At first glance, it appeared that the press provided much more detailed reports about My Lai than expected. In fact, the information about the courts martial was so detailed as to be confusing. But, for all the information that those detailed reports provided, the press looked only where the government directed it. The greatest coverage the press provided about the My Lai story concerned the courts martial proceedings, but the way the proceedings unfolded revealed little about the Army’s attempts to keep what happened at My Lai secret. Although the outcomes of the proceedings were important, government secrecy should be of greater concern for citizens, because it prevents them

⁴⁰⁶ Ibid., Peers, *The My Lai Inquiry*, 250.

⁴⁰⁷ “It Is a Question Now of Getting Out With the Fewest Scars Possible,” *Los Angeles Times*, 2 February 1972.

from being properly informed of how the government is conducting its affairs, and thereby adversely affecting what they can do to communicate needed change. It is, in effect, a form of governmental control over citizens.

Many stories revealed the press took a lapdog approach, merely accepting the information the government offered, not pressing for additional questions, not doing further investigative reporting, and at times not attributing names to government sources to protect the identity of the informant. It is understandable that a careful dance must be done, balancing how far a source can be pushed, because if pushed too far, that source could refuse to provide additional information in the future. As Seymour Hersh warned, restricting the press's access to information results in the press being "totally hamstrung."

But there were other challenges to covering the My Lai massacre. The story of the massacre itself had been overlooked from March 1968 until November 1969; meanwhile, issues surrounding it were ongoing. When news of the massacre finally came to light, reporters not only had to scramble to understand the facts behind the massacre itself, but to continue to report on events surrounding the massacre as they unfolded – for example, the varying reactions by politicians and Pentagon officials, and the establishment of the Peers commission and its investigation. By the time the courts martial began, it must have been a relief to write about something concrete and linear; to write about a story chronologically as it unfolded in real time.

The crimes committed at My Lai, and the outcomes of the subsequent investigations and courts martial does not speak well of the commitment of U.S. military personnel to international laws of war. The massacre itself was initially covered up at the

unit level; soldiers' behavior the day of the massacre was either denied or explained away through blaming; charges for crimes committed were framed as murder and not as war crimes; discharged soldiers were never tried for crimes they may have committed; charges concerning the cover-up were dropped with little explanation; and only one low-ranking officer was found guilty. In addition, government officials stood in the way of justice. President Nixon initially condemned the massacre, which could have been construed as command influence, and he released Calley from confinement while waiting appeal, a privilege rarely offered others. Congressman Hébert also interfered by refusing to release transcripts of testimony from his hearings, resulting in mistrials.

Yet more than anything else, coverage of the My Lai massacre revolved around the courts martial. This is unfortunate because it minimizes the role the President as Commander-in-chief of the military and members of Congress who participated in and affected the outcome of the subcommittee hearings. Citizens, if well-informed and motivated to act, could vote others into office to represent them and their values. In contrast, military courts, unlike the voting booth, are places where decisions are made with little citizen input. Even if they had written letters of protest to their political representatives, citizens would have had little power to change the course of Calley's court-martial. By focusing so intently on the courts martial, and ignoring the bigger issues of government and military secrecy, the press misdirected citizens' attention to events over which they could have had little influence. If Habermas's theory holds true that laws in a discursive society are reflections of a society's norms, then it follows that American citizens would want to uphold Nuremberg principles. Although it is true that

Calley was found guilty and that is consistent with the principles of Nuremberg, too many other issues surrounding My Lai were left unresolved, particularly regarding the cover up and adherence to international laws of war. In that case, following Habermas's logic, both Nixon and Hébert would never have won the next election. Nixon, as commander in chief of the Armed Forces, should have held the military to the standards set by international laws of war, and Hébert should not have withheld testimony from his subcommittee hearings from the courts martial attorneys. But both men were reelected. Although it is outside the scope of this study to determine with any degree of certainty whether or not the quality of the press coverage contributed to the election's outcome, the findings show that the press should have been more focused the cover up of the My Lai massacre and the reasons behind the dismissal of so many of those charged. If that had been done, the focus would properly have been on matters of national policy affecting citizens rather than on the outcomes of a handful of courts martial.

Conclusion

After studying accounts of the My Lai massacre in these three newspapers, readers are left with the impression that what had happened at My Lai should never have occurred; that Calley (by his own admission) was guilty; that higher-ranking officers had not provided the soldiers in their command proper training regarding the treatment of Vietnamese civilians, nor had they provided clear military objectives for the mission on March 18, 1968. It is clear that ranking unit officers covered up much of what happened that day, but because of their code of silence, it was impossible to bring charges against any of them.

The driving question behind this case study was: Did the press do a good job reporting the My Lai massacre to American citizens? This case study revealed that some of Lippmann's criticisms of the press in his 1920 study of the coverage of the Russian Revolution were still problems when the press covered the My Lai massacre fifty years later. There was still a sense of misplaced optimism, manifested in the denial that American soldiers could be guilty of the heinous war crimes committed at My Lai. As was the case in 1920, reporters still relied in large part on government sources in covering the My Lai massacre, the subsequent investigations and courts martial, rather than doing investigative reporting.

Investigative reporting is important to a democracy. Michael Schudson has written that investigative reporting "assumes that the world is relatively complex and veiled, and that some of the information that is most important to citizens is embedded in

opaque structures and systems and may in fact be deliberately hidden from view.”⁴⁰⁸

Investigative reporting requires journalists to give up their idea of objectivity which “presume[s] that the world is relatively simple and open and displays itself to the journalist whose job is to describe that visible world without fear or favor.”⁴⁰⁹ The reader may recall that it was Seymour Hersh, a freelance reporter, who first delved deeply into the story of the My Lai massacre. His story was not carried in any of the three major newspapers studied, but in the St. Louis *Post Dispatch* and other newspapers with fewer subscribers than these big city newspapers.

Was the press purposely trying to misdirect the public’s attention when Hersh’s story was ignored? Although Herman and Chomsky claim the political public sphere has been displaced by a depoliticized consumer culture, saying “advertisers don’t like the public sphere,”⁴¹⁰ that is going too far. It would be more accurate to say advertisers are simply more concerned with their product than the public sphere, and that the realities of financial considerations rarely provide journalists with the luxuries of time and money required to deeply research and study matters as complex as the My Lai massacre.

Despite the criticisms listed above, readers must nevertheless conclude the press *did* do a good job – perhaps not a perfect job, but a very good job in reporting the massacre and the subsequent investigations and courts martial. Looking at Gurevitch and Blumler’s list of what the media should provide citizens – surveillance of the sociopolitical environment; identification of the key issues of the day; mechanisms for

⁴⁰⁸ Schudson, *Why Democracies Need an Unlovable Press*, 15.

⁴⁰⁹ *Ibid.*, 15.

⁴¹⁰ *Ibid.*, Herman, and Chomsky, *Manufacturing Consent: Introduction: Updating the Propaganda Model*.

holding officials to account for how they have exercised power, and enabling citizens to make sense of their political environment – the press *did* do all these things. To a large degree, the press provided the basic facts and answered the “who,” “what,” “when,” “why,” “where” and “how” questions required of reporting: the names of the soldiers involved; the charges against them, when and where their subsequent courts martial took place and the outcomes or whether the charges against them were dropped.

There were other issues that seemed to deserve attention which the press ignored. For example, when the story of the My Lai massacre first broke, then-President Nixon told reporters that the massacre was “abhorrent to the conscience of all the American people” and that “illegal and immoral conduct, as alleged, [would be] dealt with in accordance with the strict rules of military justice.”⁴¹¹ In addition, testimony from the Hébert committee was withheld as explained above, resulting in some cases being dropped under provisions of the Jencks Act. These two incidences in particular could be interpreted as high-ranking officials’ attempts to influence the outcome of the courts martial. But the press never identified them as such, for to do so would be speculation and that goes beyond the realm of responsible reporting.

Although it is true that coverage dwindled with the conclusion of Calley’s court martial, so did the unfolding of any further events or activities relating to the My Lai massacre. Media scholar Michael Schudson has written that a decrease in interest is to be expected because the press is naturally more focused on events than on issues. “Write

⁴¹¹ Sell, Ted, “Nixon Rips Reported Massacre, Vows to Apply Military Justice,” *Los Angeles Times*, 27 November 1969.

about issues in the abstract and you have position papers that will go widely unread,” Schudson wrote.⁴¹² Therefore, the coverage was mostly factual, but provided little explanation of the “forces that may have formed and may resolve” the issues of criminal acts committed by U.S. soldiers and the subsequent cover up, as Gurevitch and Blumler have suggested. It can be argued that in the context of a matter with the legal implications of the My Lai massacre, pointing a finger of responsibility at any one individual or governmental entity could have been interpreted as affecting the outcome of an inquiry, Congressional hearing, or court martial.

The reporters for the three newspapers studied were able to communicate a great deal to their readers. Daniel Hallin’s research sheds light on the clarity that journalists *did* provide the public. He wrote that journalists’ place in the public sphere during the Vietnam war operated within three smaller spheres. The Sphere of Legitimate Controversy is the most political area, and where reporting is the most objective and balanced, void of opinion or emotion. The Sphere of Consensus is the region of “motherhood and apple pie” – those things that nearly everyone can agree on; there is little controversy here, so journalists are free to reflect the generally-accepted values that are contained within it. Hallin’s final sphere is the Sphere of Deviance, and contains those things that are marginalized by society, those people and issues and events “unworthy” of consideration or discussion.⁴¹³ The lines between these spheres can at times be fuzzy and the borders unclear. Perhaps more than any other time in U.S. history,

⁴¹² Ibid., Schudson, *Why Democracies Need an Unlovable Press*, 92.

⁴¹³ Ibid., Hallin, *The “Uncensored War,”* 116-117.

the walls between these spheres were shifting and permeable during the Vietnam era. For example, the antiwar movement shifted from the Sphere of Deviance, where it had been placed as a ideological threat to the status quo and therefore was a matter little worthy of consideration by the press, towards the Sphere of Legitimate Controversy, where it was reluctantly covered with a degree of objectivity and eventually became a matter of serious debate for citizens.⁴¹⁴

Hallin's theory can also explain some of the other shifts of the coverage of the My Lai massacre. Initially the news of the massacre was met with disbelief – it was a matter so unbelievable, no one could believe American soldiers capable of such atrocities, and the majority of people would not accept it as true. But as the courts martial continued and became a matter of national concern, the matter shifted toward the Sphere of Legitimate Controversy and became a matter of serious political discussion. In the same way, the matter of Calley's guilt was located in the Sphere of Deviance because it seemed so unlikely and unpopular. But when he was in fact found guilty, the press itself moved the matter into the Sphere of Legitimate Controversy, explaining in objective and factual terms the overwhelming evidence that pointed to his guilt.

The press should be commended for the light it did shed on a story with so many unrevealed details. By its very nature, life itself is disjointed and disconnected; because news is about life, news is also disjointed and disconnected. It should be no surprise that Hersh went on to write not one but two books about the My Lai massacre: *My Lai 4* and *Cover Up*. The My Lai massacre needed to be reviewed with the benefit of time, deeper

⁴¹⁴ Ibid., 192-193.

research and hindsight that the author of a book, as opposed to a reporter on deadline, could provide. Schudson explained, “[The daily news] is always an incomplete rendering of the world, always temporary and destined to be replaced the next day or, in the age of the newspaper website, the next few minutes.”⁴¹⁵

Going beyond the coverage provided by a newspaper enters the realm of citizens’ responsibility. If citizens are to be informed, they need to make the effort to inform themselves, and to understand the issues that affect their lives. Relying solely on a newspaper or a news broadcast is unrealistic for an intelligent, informed, and involved citizen. In the time since the My Lai massacre many avenues to remedy this have arisen. Many scholarly books have been written on the massacre; in addition, non-governmental organizations such as Amnesty International, organizations which were in their infancy at the time of the My Lai massacre, have grown more influential. Most recently, the Internet offers a wealth of information on any subject; however, care must be taken when using the Internet (or any other source of information, for that matter) that the information found there is reliable.

The government also has a role to play. In a perfect democracy, government officials would respect citizens, be honest and open (except in matters affecting national security), and accept and implement reasonable criticism. But the reality is that embarrassing information is covered up, information is withheld as a bargaining chip for power, and leaks are carefully constructed and released for the best effect of those who leak them.

⁴¹⁵ Schudson, *Why Democracies Need an Unlovable Press*, 41.

What were the lessons learned from My Lai? The answer may be found in a similar situation that arose approximately thirty-five years later.

In May 2004, another story dealing with the failure of U.S. military leadership came to light: In December 2003, photographs of “sexual humiliation and abuse” of prisoners at Abu Ghraib prison in Iraq were taken by U.S. servicemen.⁴¹⁶ Although the military had again overlooked previous mistreatment of prisoners, Hersh reported that with the release of the December 2003 photographs, the Army quickly assigned Maj. Gen. Antonio M. Taguba to investigate the allegations.⁴¹⁷ On February 26, 2004, Taguba completed his investigation into the matter and had written a report which Hersh termed “thorough and passionate.”⁴¹⁸

The story first broke on “60 Minutes II;” not after a year and a half as was the case with My Lai, but only four months after the photographs were revealed, on April 28, 2004.⁴¹⁹ (It should be noted, however, chairman of the Joint Chiefs of Staff, Gen. Richard Myers, persuaded the network to delay broadcast of the story for nearly two months.⁴²⁰) As with My Lai, the Army claimed ignorance of the abuses prior to the photographs coming to light, but unlike high-ranking officers at My Lai, Brig. Gen. Janis

⁴¹⁶ Hersh, Seymour M., “Annals of National Security: Chain of Command,” *New Yorker*, 17 May 2004. Accessed online on 24 April 2012 at http://www.newyorker.com/archive/2004/05/17/040517fa_fact2.

⁴¹⁷ *Ibid.*

⁴¹⁸ Hersh, Seymour M., “Annals of National Security: The General’s Report,” *New Yorker*, 25 June 2007. Accessed online 24 April 2012 at http://www.newyorker.com/reporting/2007/06/25/070625fa_fact_hersh.

⁴¹⁹ *Ibid.*, Hersh, Seymour M., “Annals of National Security: Chain of Command.”

⁴²⁰ *Ibid.*

Karpinski, the commander at Abu Ghraib prison, was swiftly relieved of duty within four months of the discovery of the photographs.⁴²¹

Like Haeberle at My Lai, a soldier who had photographs of the abuse contributed to the breaking story. However, humanitarian and non-governmental organizations such as the International Red Cross and Christian Peacemaker Teams were also involved in following other stories of abuse by American soldiers in Iraq, proving that citizens were playing a role in monitoring the human rights situation in Iraq,⁴²² and thereby could offer journalists other sources than military personnel to interview. Hersh did use these sources in his series in *The New Yorker*.⁴²³

The facts of Abu Ghraib lead to the conclusion that the military is still not complying with international laws of war, but that it moves more quickly than at the time of the My Lai massacre to investigate and punish those responsible. The media were quicker to respond than at My Lai, but regrettably were agreeable to the military's request to keep the matter quiet for a period of time.

Both the My Lai massacre and the abuses at Abu Ghraib show that the U.S. military requires continued monitoring by reporters as citizens' eyes and ears because of the military's ongoing disregard for proper treatment of prisoners during times of war. Although the reporting practices of reporters on both occasions may have been less than perfect, citizens had access to information necessary to understand the basic facts of what

⁴²¹ Shenon, Philip, "Officer Suggests Iraqi Jail Abuse Was Encouraged," *New York Times*, 2 May 2004.

⁴²² Ibid. Hersh, Seymour M., "Annals of National Security: Chain of Command."

⁴²² Ibid.

⁴²³ See Hersh, Seymour M., "Annals of National Security: Chain of Command" *New Yorker*, 17 May 2004; Hersh, Seymour M., "Annals of National Security: The Gray Zone," *New Yorker*, 24 May 2004, and Hersh, Seymour M., "Annals of National Security: The General's Report," *New Yorker*, 25 June 2007.

had occurred. Like any other profession, there is always room for improvement, but when reporters are writing “the first draft of history” and dealing with the challenges, confusion and conflicts that accompany complex situations such as abuses in wartime, researchers must conclude reporters did do well. Additional case studies and the resulting constructive criticism will hopefully ensure that journalists continue to meet the current standards and in time even exceed them.

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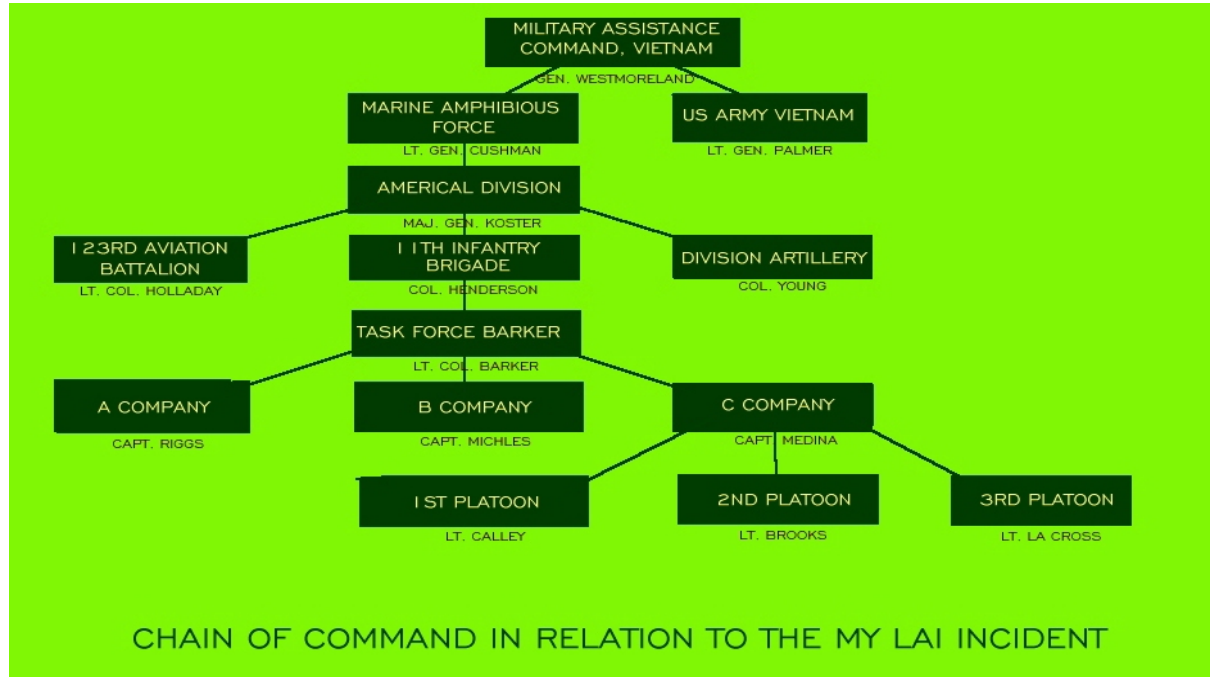
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Appendix

Americal Division and Task Force Barker Chain of Command



(downloaded from

http://www.law.umkc.edu/faculty/projects/ftrials/mylai/MYL_CHA.HTM; accessed

06/20/2008)

Timeline Of Events

1962	12,000 US forces in South Vietnam as advisors; 31 US deaths. US government denies troops are involved in combat.*
1963	15,000 US advisors; 77 deaths*
1964	
February 1	President Johnson approves covert operations against North Vietnam. Operation Plan 34A raids begin. *
August 7	Tonkin Gulf resolution passes through both Houses of Congress, gives the President authority to take all necessary steps to prevent attacks on US forces. *
1965	
February 13	Operation Rolling Thunder – the sustained air war against North Vietnam – launched. *
March 8	Two battalions of US Marines land near Da Nang. *
July 28	Johnson sends 50,000 extra men. *

December 25	185,000 US troops in South Vietnam*
1966	
July 1	1/20 th Infantry Battalion assigned to newly reactivated 11 th Infantry Brigade at Schofield Barracks, Hawaii, assigned to the Pacific Reserve. *
December 19	Capt. Ernest Medina takes over Charlie Company, 1/20 th Infantry. 389,000 troops in Vietnam. *
1967	
November 27	Troops From Charlie Company depart for Vietnam. Advance party arrives at Duc Pho. *
December 25	Charlie Company spend Christmas at Landing Zone Charlie Brown on Gilligan's Island. 463,000 US troops in Vietnam. *
1968	

January 1	Task Force Barker activated. Charlie Company moved to Landing Zone Dottie. *
January 28	C Company's first casualty – from a booby trap. *
January 31	Tet Offensive. Charlie Company observes VC attack on Quang Ngai City from Hill 102. *
February 25	Charlie Company lose two dead and thirteen injured in minefield. *
March 14	Sgt. Cox of Charlie Company killed when booby-trapped shell explodes. *
March 15	Col. Henderson takes command of 11 th Brigade. Barker briefs commanders about Pinkville operation. Medina briefs Charlie Company about their assault on My Lai 4. Prayers for Sgt. Cox. *
March 16	Charlie and Bravo companies assault My Lai 4 and My Khe. *
March 22	Lt. Tran Ngoc Tan, chief of the Son Tinh district, submits his first report about the massacre to his supervisor.§
March 28	Lt. Col. Barker's after-action report goes to Henderson, no report made of civilian casualties. *
April 8	Task Force Barker disbanded. *

November 1	US halts bombing of North Vietnam. *
November 4	Nixon beats Hubert Humphrey in presidential election. *
December 1	Original members of Charlie Company return to the USA. 495,000 US troops in Vietnam. *
1969	
April 9	Chairman of Joint Chiefs forwards Ridenhour letter to Army Chief of Staff's office. US troops in Vietnam at peak of 543,000. *
June 5	Calley recalled to the USA; identified as a potential suspect in mass murder inquiry. *
June 8	US troop cuts of 25,000 announced. *
July 30	Inspector General recommends criminal investigation into My Lai. *
September 6	William Calley charged at Fort Benning with 109 murders of "Oriental human beings." *
September 16	Sgt. David Mitchell suspected of murder/attempted murder. *
October 28	Mitchell charged with assault with intent to murder thirty Vietnamese civilians. *
November 24	Lt. Gen. William R. Peers appointed to head Army inquiry into scope

	of original investigation into massacre. *
December 2	Ten possible suspects for My Lai killings identified by the Army. 541,000 US Troops In Vietnam. *
December 5	Calley appears before Peers – refuses to testify. *
1970	
January 8	PFC Gerald Smith charged with murder and indecent assault; Sgt. Charles Hurto charged with rape, murder, and assault to commit murder. *
January 22	Army suspects thirty-three individuals implicated in massacre – nineteen of them civilians. *
March 10	Charges announced against Kotouc, Medina, Sgt. Hodges, Sgt. Esequiel Torres, PFC Max Hutson. *
March 17	Findings of Peers Commission announced. *
March 25	Charges of premeditated murder preferred against SP4 William Doherty, Cpl Kenneth Schiel, and SP4 Robert T'Souvas. *
March 31	Medina charged with murder of 175 Vietnamese civilians. *
April 15-	Hearings take place for the Investigation of the My Lai Incident

June 27	hearings of the Armed Forces Investigating Subcommittee of the Committee on Armed Services House of Representatives (91 st Congress)†
September 4	Charges of rape and murder against Charles Hutto dismissed. *
November 17	Calley's court-martial convened. *
November 20	Mitchell acquitted of all charges. US casualty rate halved as troop levels drop to 334,000. *
1971	
January 5	Hutto's trial begins. *
January 14	Hutto found not guilty. *
January 21	Charges against Doherty dismissed. *
January 22	Lt. Gen. Albert O. Connor, commanding general, 3 rd US Army, dismisses charges against Smith, Hutson, Torres, and T'Souvas. *
January 29	Lt. Gen. Seaman, the day before he retires from the Army, dismisses charges against Maj. Gen. Koster. *
March 29	Calley found guilty of murder of twenty-two Vietnamese civilians and assault with intent to murder a Vietnamese child. *

April 1	President Nixon orders Calley to be released from the stockade pending his appeal. *
August 16	Medina court-martial begins. *
August 20	Calley's sentence reduced to twenty years' hard labor on review by the commanding general, 3 rd US Army. *
August 23	Henderson's court-martial begins. *
September 22	Medina found not guilty of all charges. *
October 15	Medina resigns from US Army. *
December 17	Henderson found not guilty of all charges. US troop levels in Vietnam fall to 156,800. *
1972	
April 30	US troop levels at 69,000. *
December 7	Army and Air Force Clemency Board and Parole Board make recommendations for clemency for Calley. *
1973	
April 2	US Army Court of Military Review affirms sentence in Calley case and denies a new trial. *

May 14	Secretary of the Army denies Calley clemency. *
May 23	Petition granted for a review of <i>US v. Calley</i> . *
December 21	US Court of Military Appeals affirms decision of the US Army Court of Military Review in <i>US v. Calley</i> . *
1974	
February 11	Calley's counsel files petition of writ of habeas corpus and an application for bail in US District Court in Georgia. *
February 27	Calley freed on bail of \$1,000 by district judge. *
March 8	US government files motion for revocation of bail with US District Court in Georgia. *
April 15	Secretary of the Army reduces Calley's confinement to hard labor for ten years. *
May 3	Nixon announces he will take no further action in Calley case. *
May 10	US government files appeal of bail and restraining order granted by US District Court with Fifth US Court of Appeals. *
June 13	Court of Appeals reverses District Court bail order and rescinds restraining order against Army. *

June 20	Calley held in stockade at Fort Benning pending hearing on merits of a habeas corpus petition. *
June 25	Arguments for habeas corpus petition held at US District Court (Middle District of Georgia). Supreme Court upholds Court of Appeals order sending Calley back into confinement. *
August 9	Nixon resigns as result of Watergate scandal. *
September 25	District Court orders Calley's release on bond, following writ for habeas corpus. *
November 9	Secretary of the Army announces Calley is to be parolled after completing one-third of his sentence. Calley is a free man. *

*from Bilton, Michael and Kevin Sim, *Four Hours in My Lai*, Viking Press, New York, 1992, pp. 379-385.

†From Investigation of the My Lai Incident hearings of the Armed Forces Investigating Subcommittee of the Committee on Armed Services House of Representatives (91st Congress)

§ from *Cover-Up: The Army's Secret Investigation of the Massacre at My Lai*, by Seymour Hersh, Random House, New York, 1972, pg. 181.

