

4 Officers Testify Policy in Vietnam Is 'No Prisoners'

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LONGBINH, South Vietnam, March 27—Four young infantry officers said under oath today that United States Army policy, as they understand it, is not to take prisoners in combat operations in Vietnam.

The officers were testifying at the court-martial of First Lieut. James Brian Duffy, accused of the premeditated murder of an unarmed Vietnamese civilian on the night of Sept. 4-5, 1969.

Lieutenant Duffy admitted yesterday that he had given permission to a member of his platoon, Sgt. John R. Lanasa, to take the prisoner, who had been tied to a stake all night, and shoot him.

Henry B. Rothblatt, civilian defense attorney for Lieutenant Duffy, has argued that his client was doing only what the Army expected him to do in killing the Vietnamese and hence is innocent of the charge of murder.

Mr. Rothblatt has maintained

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that the Army's stress on "body count philosophy" as the measure of military success in Vietnam is the underlying reason for the killing of Vietnamese civilians.

The young officers who testified today—they had been fellow officers with Lieutenant Duffy in the Second Battalion, 47th Infantry—all said that their instructions were to take no prisoners during combat.

"Our policy was that once contact was made we kept firing until everything in the kill zone was killed," explained First Lieut. John Kruger. "We did not take prisoners."

"My policy was that a man does not surrender during a firefight," said First Lieut. Ralph C. Krueger. "If a VC comes out of a fight to give himself up, that man is dead."

He related that his platoon had once ambushed six Vietcong and "made the mistake" of not killing one. "The man was three-quarters dead but he reared up and threw a hand grenade," Lieutenant Krueger testified.

The young officers agreed that their command placed a great deal of stress on the body count—that is, the number of enemy soldiers killed in action.

Major's Anger Recalled

Lieutenant John Kruger testified that his battalion operations officer, Major Jeffrey Templeton, got "very angry" at him for taking two prisoners after springing an ambush on some Vietcong.

"He was upset we had a body count of five instead of seven," Lieutenant Kruger said.

Lieutenant Duffy, a slim, light-haired, 23-year-old infantry officer from Claremont Calif., told the military court yesterday that he had given Sergeant Lanasa permission to kill Do Van Man, a Vietnamese farmer found hiding in a hut by Lieutenant Duffy's ambush patrol at the village of Phouc-tanhung last September. He also admitted he had called up his company commander, Capt. Howard Turner, and had told him that a prisoner had been shot trying to escape. He added that he believed the man to be a member of the Vietcong.

Mr. Rothblatt, his lawyer from New York City, is seeking the acquittal of Lieutenant Duffy on the ground that he had no evil intent in ordering the shooting and therefore was guilty of no crime.

The testimony about the stress on "body count" and the "no prisoner" policy is regarded by the defense as evidence that Lieutenant Duffy was performing his duty as he saw it in having the prisoner killed.

Several of the young officers on the witness stand asserted



Associated Press

First Lieut. James B. Duffy

that they would not kill prisoners taken in a noncombat situation but would turn suspected enemies over to higher headquarters.

Hearings are now being held to determine if Sergeant Lanasa, a former rodeo performer from Louisiana, who is nicknamed "Cowboy," will be tried for murder. He has not testified at this trial.

However, other eyewitnesses have presented vivid testimony of the killing of Do Van Man.

Specialist 4 David G. Walstad, a radio operator for Lieutenant Duffy on the ambush patrol that night, reported hearing "Lieutenant Duffy telling Cowboy to get on with it."

He added: "Lanasa told me to come with him. He said something to the effect of, 'Let's blow this guy away.' With the Vietnamese prisoner walking first, we went to the woodline, Lanasa, Gibbs, Wilson and myself. Lanasa put his M-16 to the man's head, pulled the trigger. The weapon malfunctioned. He checked the round and put the weapon between the man's eyes and fired."

12 to 14 Shots

In reply to questions, Specialist Walstad said that after the sergeant had shot the man in the head, he himself had fired 12 to 14 shots at the fallen prisoner. He said that no one had told him to shoot.

When a member of the court asked him why he had shot the prisoner, a look of anguish passed across the young soldier's face and he was long in answering.

"I don't know, sir," he finally said.

Three psychiatrists, two of them civilians and one an Army lieutenant colonel, testified today that Lieutenant Duffy had no intent to commit a crime but in fact was convinced he was

doing his duty by ordering the execution.

Dr. Stanley L. Portnow, chief of forensic psychiatry at Bellevue Hospital Medical Center in New York City, declared, "I don't have the slightest hesitation in saying that Lieutenant Duffy's intent at all times was to be a good soldier and officer."

"There was no primary intent to kill, the psychiatrist said. 'The worst thing he did—the thing he was guilty of, was to exercise poor judgment.'"

Lieut. Col. Franklin A. Moten told the eight-man military tribunal, gathered in the tiny courthouse surrounded by barbed wire and sandbags, that "I consider Duffy's opinion at the time was that he was eliminating an enemy rather than thinking consciously, 'I am going to murder a detainee.'"

Mr. Rothblatt, the New York criminal lawyer, said privately that contending there was no crime because there was no criminal intent is a highly unusual defense.

He said that the defense of Lieutenant Duffy would be a "forerunner" of the Songmy defense. The trial of alleged participants in the suspected murder of more than 100 Vietnamese civilians in the village of Songmy on March 16, 1968, is scheduled to be in May.

Earlier in the proceedings, the assistant trial counsel, or prosecutor, Capt. Robert Bogan, said that Mr. Rothblatt was "confusing the fact that Lieutenant Duffy is on trial and not the United States Army."

Pentagon Says Policy Is to Take Prisoners

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WASHINGTON, March 27—The Defense Department said today that enemy soldiers who surrender must be taken prisoner.

The department said it is Army policy to take prisoners, and that to kill an enemy soldier who is a prisoner, or is in the position of being a prisoner, constitutes murder.

Every United States soldier who goes to Vietnam, it was recalled, is issued a card that is titled "The Enemy in Your Hands." The card warns the soldier that he must not mistreat prisoners.

The humane treatment of prisoners is required by the Geneva Conventions and also the Law of Land Warfare, an Army field manual that digests the laws of conduct in war.

The Pentagon said that "kill zone" is not an official Army term, but rather a term used by troops to designate their primary objective.