

APR 4 1972

NYTimes

PENTAGON IS SUED ON MYLAI REPORT

Rep. Aspin Seeks Release
of Peers Panel's Findings

By RICHARD HALLORAN
Special to The New York Times

WASHINGTON, April 3 — Representative Les Aspin, Democrat of Wisconsin, asked the United States District Court here today to order the Pentagon to release the report of the Army's confidential investigation of the mass slayings at Mylai.

Mr. Aspin, the junior majority member of the House Armed Services Committee, asked that the findings of the inquiry, known as the Peers Commission report, be made public under the Freedom of Information Act.

Mr. Aspin suit, which named Secretary of Defense Melvin R. Laird and Secretary of the Army Robert F. Foy as defendants, was believed to be the first effort in court to have the report released, although there have been earlier requests for it.

Mylai Slayings Studied

The Army investigation, headed by Lieut. Gen. William R. Peers, involved the slayings of Vietnamese civilians at Mylai in March, 1968, by members of the Americal Division.

First Lieut. William L. Calley Jr. has been convicted of premeditated murder. His case is still under appeal in the military judiciary. President Nixon has said he will personally review the case.

Mr. Aspin charged in his court complaint that "defendants are improperly withholding the material contrary to statute, contrary to the intent and policy of the Freedom of Information Act."

Mr. Aspin wrote to Mr. Laird on Feb. 18 to ask for release of the report, noting that "all of the trials resulting from indictment contained in the Peers Commission report have been completed and one convicted individual has entered an appeal on points of law and procedure, not facts."

Pentagon Refuses

On March 1, Robert W. Berry of the Defense Department's Office of General Counsel replied that the report would not be released because "judicial proceedings in one case are still pending and a number of administrative actions are also presently unresolved."

"It is our view that public disclosure of the report would risk jeopardizing a fair and impartial disposition of the case, regardless of the grounds for the defendant's appeal. The report is also a crucial part of the pending administration actions," Mr. Berry wrote.

Mr. Berry cited several exemptions under the Freedom of Information Act to support his contention that the Pentagon was not required to release the report. The Pentagon has 60 days to reply to Mr. Aspin's complaint in court.

Mr. Aspin, in a statement, charged that "the military is guilty of a double cover-up, first, with the massacre and now with the investigation."