

Calley Prosecutor Asserts Nixon Undermines Justice

Letter to President Says Intervention Weakens Respect for the Law

Special to The New York Times
WASHINGTON, April 6—
Capt. Aubrey M. Daniel 3d, the
prosecutor in the Army court-
martial of First Lieut. William
L. Calley Jr., has protested to
President Nixon in a letter that
the President's intervention in
the case has weakened respect
for the legal process.

"The greatest tragedy of all,"
the captain wrote to Mr. Nixon,
"will be if political expediency
dictates the compromise of such

Excerpts from Daniel letter
will be found on Page 12.

a fundamental moral principle
as the inherent unlawfulness of
the murder of innocent
persons."

"You have subjected a judi-
cial system of this country to
the criticism that it is subject
to political influence when it is
a fundamental precept of our
judicial system that the legal
processes of this country must
be kept free from any outside
influences," the captain wrote.

Instead of releasing Lieuten-
ant Calley from the stockade at
Fort Benning, Ga., after his
conviction and sentencing for
the premeditated murder of 22
South Vietnamese civilians at
the hamlet of Mylai 4, the cap-
tain said, the President should
have defended the six officers
who found Lieutenant guilty.

The White House late today



Associated Press
Capt. Aubrey M. Daniel 3d

acknowledged receipt of the
letter, which was dated April
3, but would not confirm its
contents. There was no re-
sponse by the White House to
accounts of the letter, accounts
that came from aides to Sena-
tors who received copies.

President Nixon has ordered
Lieutenant Calley released
from the stockade to remain
under house arrest at his quar-
ters on the post while the
automatic review and, if neces-

Continued on Page 12, Column 1

Continued From Page 1, Col. 2

sary, later appeal processes
take place.

After receiving more than
50,000 letters from the public,
almost all of them protesting
the lieutenant's conviction and
sentencing, the White House
announced on Saturday that
Mr. Nixon intended to make
the final determination on both
issues.

Captain Daniel reminded Mr.
Nixon that the President had
stated in the past that it ap-
peared the events at Mylai
were "certainly a massacre"
and the prosecutor added:

"Your decision can only have
been prompted by the response
of a vocal segment of our popu-
lation, who — while no doubt
acting in good faith — cannot
be aware of the evidence which
has resulted in Lieutenant Cal-
ley's conviction."

Impact on Jurors

At another point in the four-
page, single-spaced letter, Cap-
tain Daniel asked Mr. Nixon if
he knew what impact his in-
tervention in the proceedings
might have on the six court-
martial judges.

"It would seem to me to be
more appropriate for you as

the President to have said
something in their behalf," the
letter said, "and to remind the
nation of the purpose of our
legal system and the respect it
should command."

The captain said that he
would have expected the Presi-
dent to provide the moral lead-
ership for the nation to sup-
port "the law of this land on
a moral issue which is so clear
and about which there can be
no compromise."

"For this nation to condone
the acts of Lieutenant Calley,"
he said, "is to make us no bet-
ter than our enemies and make
any pleas by this nation for the
humane treatment of our own
prisoners meaningless."

The Associated Press quoted
Captain Daniel as saying he
was not seeking publicity in
writing to the President. The
captain would not confirm the
contents of the letter but they
were made known by aides to
one of the six Senators who re-
ceived copies.

Ronald L. Ziegler, the White
House press secretary, declined
to state whether the President
had seen the letter. He did say,
however, that it had been re-
ceived in the White House mail
today.

White House spokesman re-

ferred newsmen inquiring about
the letter to statements made
last Saturday by John D. Ehr-
lichman, assistant to the Presi-
dent for domestic matters,
when he announced the Presi-
dent's decision to make the
final review in the Calley case.

Mr. Ehrlichman said then
that the President believed the
Uniform Code of Military Jus-
tice provided a "very good sys-
tem of review" and that Mr.
Nixon did not mean "to in any
way denigrate the quality" of
the military system of justice.
Mr. Ehrlichman also said that
the President merely wanted to
add the "additional ingredient"
of review by the Commander
in Chief to a case of obvious
national importance.

'Shocked and Dismayed'

Captain Daniel wrote that he
was "shocked and dismayed"
by the public criticism of the
court-martial verdict and could
attribute it only to emotional
reaction by those who were un-
aware of the evidence in the
case.

"Certainly no one wanted to
believe what occurred at Mylai,
including the officers who sat
in judgment of Lieutenant Cal-
ley," the captain wrote. "To be-
lieve, however, that any large

percentage of the population
could believe the evidence
which was presented and ap-
prove of the conduct of Lieuten-
ant Calley would be as
shocking to my conscience as
the conduct itself, since I would
believe that we are still a civil-
ized nation.

"If such be the case," he con-
tinued, "then the war in Viet-
nam has brutalized us more
than I care to believe. And it
must cease."

Captain Daniel, a 29-year-old
draftee from Monks Corner,
S. C., said that he was sorry
he felt compelled to write to
Mr. Nixon, "but innocent peo-
ple were killed under circum-
stances that will always remain
abhorrent to my conscience."

He rote that while the events
in Mylai on March 16, 1968,
were themselves tragic, "how
much more tragic would it have
been for this country to have
taken no action against those
who are responsible."

Captain Daniel sent copies of
the letter to Senators Harry F.
Byrd Jr. and William B. Spong
Jr. of Virginia, Harold E.
Hughes of Iowa, George Mc-
Govern of South Dakota, Ed-
mund S. Muskie of Maine and
Robert Taft Jr. of Ohio.