

VIETNAM COVERUP LAID TO 2 OFFICERS

General and Colonel to Be
Formally Charged Today
by a Fellow Officer

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By JAMES T. WOOTEN

Special to The New York Times

ATLANTA, March 11—Military charges against a general and a colonel were drafted here today by a fellow United States Army officer who has accused them of covering up war crimes in South Vietnam.

Named by Lieut. Col. Anthony B. Herbert are Maj. Gen. John Barnes, a brigade commander, and Col. J. Ross Franklin, a member of the Army commission that investigated alleged atrocities at the hamlet of Mylai 4 three years ago.

Lieutenant Colonel Herbert, a 41-year-old veteran of nearly two decades of active duty in the Army, emerged late today from conferences with military attorneys at Fort McPherson and said he planned to file the formal charges and specifications tomorrow afternoon.

He specifically accuses both men, still in Vietnam, of dereliction of duty, misprision (concealment) of a felony and failure to obey regulations.

Efforts to reach General Barnes and Colonel Franklin

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for comment were unavailing.

In his charges Colonel Herbert contends that as commander of an airborne infantry battalion in Vietnam he reported a total of eight criminal allegations to General Barnes, commander of the 173d Airborne Brigade, and his deputy commander, Colonel Franklin.

Witness to Mistreatment

The reports, Colonel Herbert said today, included information on murder, torture and other mistreatment of prisoners, including four incidents to which he was a witness.

"But until I was relieved of my command in Vietnam and shipped back home last fall, nothing was done about my reports," Colonel Herbert said today. "The information I reported simply stopped at the brigade level."

Upon his return to this country, the colonel said, he forwarded the same reports to the Office of the Army's Inspector General in Washington, and inquiries were begun.

Reliable sources said today that the Criminal Investigation Division of the Army had confirmed that all the incidents did occur.

The formal charges, according to military regulations, must be filed with Colonel Herbert's commanding officer, Brig. Gen. A. O. Conners, the commander of Fort McPherson, the sprawling post where Capt. Ernest L. Medina, accused of participation in the slaying of civilians at Mylai, is also stationed.

Statute of Limitations

A statute of limitations, in effect for the specific charges he plans to file tomorrow, ends on April 4. Colonel Herbert encountered a delay today in drafting the documents. He said the delay was "typical of what I've been going through for two years."

A lieutenant colonel informed Colonel Herbert that the offices of the staff judge advocate general, the Army's legal division, were being closed and that completion of the charges would be postponed until tomorrow.

When Colonel Herbert complained vigorously, he was told a few minutes later that military attorneys would remain to assist him with the final preparations.

As a 22-year-old master sergeant, Colonel Herbert was the most decorated American soldier in the Korean war.

In an interview on the post here where he has been assigned as a recruiting officer, the solidly built, crew-cut officer gave this account of his experiences at the village of Cu Loi on Feb. 14, 1969:

After a torrid battle with uniformed Vietcong soldiers, units of Lieutenant Colonel Herbert's battalion counted more than 20 bodies and captured approximately 15 prisoners.

"Actually, they aren't technically 'prisoners' until they are processed by intelligence," Colonel Herbert explained. "Not even if they have weapons. Up until intelligence

classifies them—they could be anything, you know, a double agent, for instance—they are called 'detainees.'"

After the battle, Colonel Herbert came upon the detainees in the custody of a unit of South Vietnamese soldiers accompanied by an American lieutenant.

"There were four dead already and when I walked up, they had a knife at the throat of a woman," he said. "Her baby was screaming and clutching at her leg and her other child was being suffocated by a South Vietnamese infantryman who was shoving its face into the sand with his foot."

He continued:

"I ordered them to stop—but with me just standing there looking, they proceeded to slit the woman's throat. I asked the lieutenant what the hell was going on, ordered him to get out of the area and take the Arvn [South Vietnamese soldiers] with him—and they left."

"Then I sent one of my sergeants with the detainees to a nearby landing zone, and I instructed him to evacuate them for processing. Shortly after he left with them, I heard firing in that direction and in a short time the sergeant came running back and told me that the American lieutenant and the South Vietnamese had jumped him, overpowered him, and killed all the detainees."

"I went over there and there were the bodies. They were all dead, the children, too."

"When I reported the incident [Colonel] Franklin, he said I was a liar and that I was exaggerating—and those were to become familiar words for me."

In the next few weeks, Colonel Herbert said, he reported seven other incidents to Colonel Franklin and General Barnes, including the use of "water torture" on a Vietnamese man by American military intelligence personnel.



Associated Press

CHARGES MISCONDUCT: Lieut. Col. Anthony B. Herbert checks papers. He told of brutality in South Vietnam.

“What they were doing was getting a wet rag and stuffing it down the guy’s throat to force him to talk,” he said. Colonel Herbert said he also stopped the torture and reported it to Colonel Franklin

From story on unrelated case, NYTimes, this file, 3 Dec 71:

A Pentagon spokesman noted that the Universal Code of Military Justice required servicemen to report illegal actions when they saw them.

but was told by him that that was “a legitimate field interrogation technique(and besides it was none of my business.”

“Colonel Franklin also suggested that if I was so damned morally offended by that, I should think about leaving,” Colonel Herbert said.

Today the colonel said that he also reported having seen a Vitnamese girl being interrogate at brigade headquarters in Bong Son by intelligence personnel who had “wired her up to a field telephone and were giving her an electrical shock every time they asked her a question.”

Saw Women Flailed

“The girl was just squatting there shuddering,” he said. On that occasion, he said, he also stopped the torture and when he told Colonel Franklin about it, he was told that he was forbidden to be in the military intelligence area ever again.

“Again he said it was none of my damn business,” Colonel Herbert said. “It was just another big hassle.”

Finally, Colonel Herbert said today, he watched the South Vietnamese military personnel flailing women prisoners with bamboo rods that had been frayed at the end.

“There was no way I could stop that since it was going on inside a wire compound,” he said. “The bamboo really mutilates the flesh, and they were using it on the women’s faces and hands.”

When he reported that incident to Colonel Franklin, he said today, he was told to “stay away from the compound if his sense of decency was offended.”

Then, in April, after having won a Silver Star, three Bronze Stars, two Air Medals and an Army Commendation Medal for Valor in two months of combat, Colonel Herbert was relieved of his duties.

The colonel said that General Barnes had recommended in his efficiency report on him that he not be allowed to command in this country’s military service again.

The colonel said he was described in the report as lacking ambition, as being undependable and uncooperative, as having no integrity, no moral courage, no loyalty, and as having a tendency to exaggerate and deliberately lie.

“Since then, I’ve tried every way I knew how to get something done about these cases,” Colonel Herbert said. “I’m only

interested in justice, and ever since I began reporting these things—and kept on reporting them—the Army has threatened, cajoled, thundered, begged, pleaded—and this goes all the way up to Resor’s [Secretary of the Army Stanley R. Resor] office.”