

5 JAN 1970

SUBJECT: Request for Inspection of Records

12 January 1970

THRU: Staff Judge Advocate
United States Army Vietnam, Ft. Monmouth
APO 96375

TO: Chief of Staff, 1st Lt William L. Calley
United States Army Vietnam
APO 96375

1. Request permission to view all memoranda, records and reports to include memoranda of BLUE ARROW calls, relating to the My Lai 4 Incident of March 1968 of First Lieutenant William L. Calley, Jr - - except that routine messages etc., solely pertaining to visits of personnel investigating the incident need not be produced. Included in this request are documents requesting USARV PM and IG investigative assistance and all correspondence relating to CONUS assignment orders, special reporting instructions relating to TDY at DAIG, and port call for Vietnam issued to said accused in the spring of 1969. This request includes all such documents, memoranda or reports generated from 18 March 1968 to date.
2. Request permission to view all messages, documents etc., if any exist, dispatched by USARV to subordinate headquarters mentioning the My Lai 4 Incident or stressing compliance with the Law of War or FM 27-10. This request includes all such dispatches, if any, made from 1 July 1969 to date but is not intended to limit the request made in paragraph 1 above.
3. Any messages dispatched to subordinate headquarters, if any, warning commanders about civilian terrorist or related activities. This request includes all such dispatches, if any, issued during 1 January 1968 to 30 March 1968 and includes warnings about increased availability of marihuana as evidencing potential signs of enemy offensive action and or any reports of observed terrorist or sabotage activity by civilian or suspected VC or NVA military personnel.
4. This request is initiated to provide defense with any existing exculpatory matter which could effect findings or sentencing in the case of US v. Calley, and to provide defense with information either tending to substantiate or refute the possibility of unlawful command influence that may have been generated by higher headquarters. Attention is respectfully invited to Brady v. Maryland, 373 U.S. 83 10 L Ed 2d 215. Note that the court opined, in pertinent part:

"We now hold that the suppression by the prosecution of evidence favorable to an accused upon request violates due process where the evidence is material either to guilt or to punishment, irrespective of the good faith or bad faith of the prosecution." (373 US 83 at 87).

Kenneth A. Raby
KENNETH A. RABY
MAJ, JAGC, Military Defense Counsel