

## Lore of the Corps

### Investigating War Crimes:

#### The Experiences of Colonel James M. Hanley During the Korean War

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While most Army lawyers know that the United States prosecuted hundreds of war crimes in the aftermath of World War II, few know that the Judge Advocate General's Corps (JAGC) contemplated conducting similar trials after hostilities between Chinese, North Korean, and United Nations forces ended on the Korean peninsula. The investigation of these war crimes, and why no prosecutions occurred, is best told through the experiences of Colonel (COL) James M. Hanley, who served as an Army lawyer in Korea from 1951 to 1952.

"Jim" Hanley had an unusual career for an Army lawyer. Although an attorney (Bachelor's Degree in Law, University of Chicago, 1931) with considerable experience in private practice as well as in government practice as an assistant attorney general for North Dakota, Hanley served as an infantry officer in World War II. He was in the thick of combat in Europe as a battalion commander in the famous 442d "Go for Broke" Regimental Combat Team, which consisted almost entirely of Japanese-American Soldiers. Then-Lieutenant Colonel (LTC) Hanley led his battalion with great distinction in Italy, France, and then Italy again. When the war ended, he had spent thirty-nine months in Europe and had been decorated with the Legion of Merit, Bronze Star Medal, French Croix de Guerre, and Italian Cross of Valor. He also proudly wore the Combat Infantryman Badge.<sup>1</sup>

Hanley was demobilized in July 1946, but his return to civilian life was brief. Hanley had applied for and was offered a Regular Army commission—in the Judge Advocate General's Department. As he was a lawyer, Hanley must have thought that being a judge advocate would be interesting, and perhaps a better use of his talents as he re-started his career as a Soldier. Consequently, when Hanley returned to active duty in June 1947, it was as an Army lawyer in the Office of The Judge Advocate General, Washington, D.C.<sup>2</sup>

When the Korean War began in June 1950, LTC Hanley was still in Washington, D.C., where he was serving as a member of the Armed Services Board of Contract Appeals. Some three months later, however, Hanley was in Japan with the Far East Command (FECOM), where he joined the Office of the Staff Judge Advocate (SJA) in Tokyo. Given Hanley's background, it must have been no surprise to him when the SJA, COL George W. Hickman, Jr., decided that Hanley would be a contract attorney in the office.

At the outbreak of the Korean War, General Douglas MacArthur announced that, although the United States had yet to ratify them, the United Nations Command (UNC) would follow the new 1949 Geneva Conventions. Not surprisingly, as MacArthur began to receive reports that North Korean soldiers had murdered wounded South Korean soldiers during fighting around Seoul, he publicly called on the North Korean People's Army (KPA) to adhere to the new Conventions as well. Nevertheless, the KPA continued to torture and kill captured U.S. and South Korean military personnel. MacArthur directed that evidence of these war crimes be collected, with the view toward prosecuting the offenders at the end of the war.

As a result of MacArthur's directive, COL Hickman established a "War Crimes Division" in FECOM and, perhaps given LTC Hanley's extensive combat experience, selected Hanley to take charge of this new organization. As Hanley remembered it, his mission "was to document war crimes revealed in the interrogation of prisoners of war . . . [and by] investigations in the field," with the intent to use this documentation "in postwar trials of perpetrators."<sup>3</sup>

Consisting of twenty-seven officers, two civilians, and fifteen enlisted personnel, the War Crimes Division quickly went to work. Hanley set out the organization's priorities in investigating war crimes in his "Field Memorandum No. 1."<sup>4</sup> The first task was to gather information about those who had killed or mistreated prisoners of war (POWs). The second priority was "to identify those Koreans who had committed crimes against defenseless civilians."<sup>5</sup> Third was to learn the identity of those who had used POWs for propaganda or, in the case of South Korean POWs, had forced them to join the KPA.

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<sup>1</sup> War Department Form 53, Certificate of Service, James J. Hanley, Block 29 (Decorations and Citations) (7 July 1946); U.S. Dep't of Army, DA Form 66, Officer Qualification Record, James M. Hanley, Block 21 (Awards and Decorations) (14 Apr. 1955).

<sup>2</sup> U.S. Dep't of Army, DD Form 66, Officer Qualification Record, James M. Hanley, Block 18 (Records of Assignments) (14 Apr. 1955) [hereinafter DD Form 66].

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<sup>3</sup> JAMES M. HANLEY, *A MATTER OF HONOR: A MEMOIRE* 107 (1995).

<sup>4</sup> ALLAN R. MILLETT, *THEIR WAR FOR KOREA* 228 (2002).

<sup>5</sup> *Id.*

Hanley's war crimes investigations teams exhumed bodies of suspected victims and interviewed U.S. and South Korean soldiers. The best source of war crimes information, however, was the 120,000 North Korean prisoners of war held on Koje-do Island and the southwestern mainland. According to Korean War historian Allan R. Millett, "Hanley's operatives infiltrated the POW groups and recruited informers; Koreans eager to sever ties with the South Korean Labor (Communist) Party and the KPA proved willing converts and informers."<sup>6</sup>

As a result of their work, Hanley and his War Crimes Division determined that, between November 1950 and November 1951, the North Koreans had killed 147 American POWs and executed "at least 25,000 South Koreans and at least 10,000 northern Korean 'reactionaries.'"<sup>7</sup> Hanley's evidence also showed that the Chinese (who had entered the war in October 1950) had killed 2,513 U.S. POWs, "and in addition, 10 British soldiers, 40 Turks, 5 Belgians and 75 UN soldiers of unknown nationality."<sup>8</sup>

On 14 November 1951, Hanley revealed what he knew about North Korean and Chinese atrocities at a press conference held in Pusan. In addition to revealing that the War Crimes Division had been investigating atrocities committed by North Koreans and Chinese, Hanley released information on specific war crimes. He disclosed, for example, that some 1,250 U.S. Soldiers had been murdered near the Yalu River by North Koreans between 16 and 18 September 1950. The men had been transported from a prison camp near Pyongyang and then "shot in groups after being fed rice and wine."<sup>9</sup> Hanley also revealed that the Chinese had committed war crimes, including the killing of 200 U.S. Marine prisoners near Sinhung, ordered by a Chinese regimental commander.<sup>10</sup>

The intent of Hanley's remarks was to dispel any notion amongst the UNC forces that the Chinese forces adhered to the Geneva Conventions.<sup>11</sup> The Chinese People's Volunteer Force claimed that it treated UNC personnel captured on the battlefield in accordance with the Geneva Conventions. The claim was even implied in "an 8th Army training directive and reports in *Stars and Stripes*. . . ."<sup>12</sup> Hanley thought that the UNC forces had to be informed of the "true nature of

Chinese military" in its treatment of POWs<sup>13</sup> and thought that revealing evidence of Chinese and North Korean war crimes "would squash a notion that the Chinese would treat POWs well and thus improve the Allied will to fight."<sup>14</sup>

Hanley's oral statements to the press were also released as a written memorandum. When this document reached America's major newspapers, it caused a huge public uproar—especially in families with Soldiers fighting on the Korean peninsula. The "Hanley Report" suggested that the hundreds of American Soldiers who had been reported as "missing in action" in fact had been captured and murdered by the Chinese and North Koreans.<sup>15</sup> The United Nations was already in sensitive armistice negotiations with the Communists at Panmunjom and now the reverberations from the "Hanley Report" threatened to disrupt these talks.<sup>16</sup> Although COL Hanley had obtained approval from the FECOM Public Information Officer prior to releasing his reports on the enemy war crimes, General Matthew Ridgway, who replaced General MacArthur as the Supreme Commander of UN forces in April 1951, defused the situation by downplaying Hanley's claims. As Ridgway explained, until the Chinese released a definitive list of American and Allied POWs, no one could possibly know for certain who was actually being held captive, much less whether they had survived.<sup>17</sup>

By 1952, the War Crimes Division had identified 936 POWs who could be tried for war crimes; two-thirds of them were North Koreans. The problem was that most of these criminal cases were built around confessions and corroboration was lacking for most. This explains why the division's staff reviewed 1,185 "confessions" but could find supporting evidence for only seventy-three.

As the war on the Korean peninsula continued, the Army decided that any war crimes trials, if they were to be held, should be conducted by the United Nations or some other international authority; "the U.S. Army did not want to return to the war crimes trials business."<sup>18</sup> But just who should conduct these trials, and where they should be held, was never decided.

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<sup>6</sup> *Id.*

<sup>7</sup> *Id.* at 229.

<sup>8</sup> HANLEY, *supra* note 3, at 112.

<sup>9</sup> *Id.* at 113.

<sup>10</sup> *Id.*

<sup>11</sup> *Id.* at 110.

<sup>12</sup> MILLETT, *supra* note 4, at 229.

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<sup>13</sup> HANLEY, *supra* note 3, at 110.

<sup>14</sup> MILLETT, *supra* note 4, at 229.

<sup>15</sup> *Id.*

<sup>16</sup> *Id.* at 230.

<sup>17</sup> The three-page "Hanley Report" is reproduced in its entirety in Hanley's memoir. HANLEY, *supra* note 3, at 112a14.

<sup>18</sup> MILLETT, *supra* note 4, at 230.