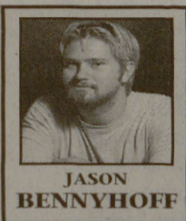


THE BATTALION

A criminal action?

Controversy surrounds Kerrey's admittance of possible war crimes

Bob Kerrey, a former Democratic senator from Nebraska, has admitted in several interviews, including one on national television, to killing women and children in Vietnam.



JASON BENNYHOFF

However, there has been not so much as a whisper about a trial, investigation or any other form of reprimand of him.

Kerrey said in his interview that he does not believe that he should be charged with war crimes. However, by his own admission, during a raid on the night of Feb. 25, 1969, the SEAL team he commanded in Vietnam killed at least 13 unarmed women and children in the village of Thanh Phong in Vietnam's Mekong Delta.

Accounts of the night's events vary. Kerrey said that his team was fired upon and then returned fire into a group of hooches (a kind of shack in which the villagers lived), to be surprised to find just women and children inside. He made this statement after a passing mention of killing at least two other unarmed civilians in an outlying hooch.

"The thing that I will remember until the day I die is walking in and finding, I don't know, 14 or so, I don't even know what the number was, women and children who were dead," Kerrey said in a 1998 interview, according to *The New York Times*.

Given this admission alone, even without any other evidence, how can anyone say that Kerrey should go untried? Even if his account is correct, and the team was fired on, he still admitted to murdering at least two unarmed people when the team was not being fired on.

But there is other evidence — the statements of a Vietnamese woman, Pham Tri Lanh, who recounted not a firefight, but an execution in a *New York Times* interview. She said she was hiding in the woods near the village and saw Kerrey and his men execute an elderly man, a woman and three children.

While Lanh's statements might be doubted by Americans, there is also testimony contradicting Kerrey's account from some of the men under Kerrey's command at Thanh Phong.

Gerhard Klann, the most experienced SEAL in Kerrey's team, tells a very different story from Kerrey's. He said in his interview with *60 Minutes II* that in the initial encounter with a group of people in an outlying hooch, Kerrey helped him slash an elderly man's throat and kill three children under the age of 12 and a woman before the team reached the main village, where the SEALs lined up the inhabitants and shot them.

Klann described in an interview with the *New York Times* how the elderly man died. "I stabbed him twice," Klann said. "He wouldn't die. He kept moving and fighting back."

Klann then described how Kerrey helped him by putting his knee on the old man's chest while Klann slit his throat.

In a 1998 interview, Michael Ambrose, also a member of Kerrey's SEAL team, agreed with Klann's telling of the outlying hooch incident, including Kerrey helping kill the old man.

Kerrey's memory was vague about this incident when he was asked about it in the *60 Minutes II* interview.

Under American rules of war, it makes no difference that Kerrey might not have taken direct part in the killings. Consider the case of Joachim Peiper, commander of the S.S. Panzer forces during the Battle of the Bulge in World War II. Men under Peiper's command were directly responsible for the Malmedy Massacre, in which almost 80 American prisoners were gunned down. Though Peiper was not at Malmedy and no evidence could ever be produced that he ordered the killings or even that he knew of them

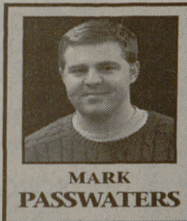
until after the fact, he was still convicted of war crimes by an American tribunal. Peiper was sentenced to death simply because men under his command were guilty.

By that precedent, laid down by an American tribunal, Kerrey would be guilty of far more than Peiper, since he was at the place of the incident and had ample opportunity to stop the killing, even if he did not take part in it. How then, since Americans made the rules that determine a commander's guilt in war crimes cases, can Americans sit by while their own admitted war criminals draw government pensions?

There is no evidence that the SEAL team was ever fired upon. Klann outright denies that there was ever any gunfire from the Vietnamese villagers and even Kerrey said he is unsure. Given the overwhelming evidence that Kerrey may have committed some crime, it is ridiculous that no charges have been brought against him.

Jason Bennyhoff is a senior journalism major.

On April 26, former Nebraska Sen. Bob Kerrey held a press conference in New York to admit that he and a platoon of U.S. Navy SEALs had killed 21 Vietnamese civilians during a mission in Vietnam's Mekong Delta on Feb. 25, 1969.



MARK PASSWATERS

Since his confession, members of the media and old protesters of the Vietnam conflict have taken advantage of this tragic circumstance. After more than 30 years, there are still some in this nation that feel the urge to puff up their chest and spit in the faces of their countrymen because they did what they felt was their duty.

What is even worse is that there are people that wish for Kerrey to be tried for war crimes. What happened on that night in Vietnam is truly tragic, but is it a war crime? Not even close.

According to the former Senator and six other members of his platoon, "Kerrey's raiders" were in what was called a "Free-fire zone." According

to their account, which does not vary, the platoon was ambushed by a unit of Viet Cong. "When we fired," Kerrey said, "we fired because we were fired upon. In short, we did not go out on a mission with the intent to kill innocent people." After the skirmish, Kerrey and his men found the bodies and reported it to their superiors.

There is controversy surrounding the raid. A single member of the platoon claims that the civilians were rounded up and executed. Kerrey also received a Bronze Star for the raid, supposedly for killing 21 "members of the Viet Cong." Kerrey has yet to return the commendation for a raid that he has supposedly "struggled with."

Evidence suggests that Kerrey and his men are telling the truth, even if the truth may never be known. The Vietnamese government never complained about the raid during or after the war until Kerrey broke his silence last month.

This is not to say, however, that Kerrey is innocent. He is guilty, at the very least, of being hypocritical by "baring his soul" about the raid while keeping the Bronze Star. There are also questions as to why Kerrey waited 32 years to come clean about the incident.

This does not make him a war criminal or the demands that he be tried as one any less repulsive. War is a very dirty business; Vietnam was about as dirty as war gets. Kerrey himself said "In Vietnam, the civilians were often the combatants. A 12-year-old kid could walk up to a cafe, and did, and lobbed a grenade into that cafe and blew up people."

As a commanding officer, Kerrey's primary responsibility was for the welfare of himself and the members of his platoon. If the Viet Cong did fire on Kerrey's patrol, what was he supposed to do? Get up and ask who out there was the enemy, and then shoot them?

The Viet Cong were a potent foe because they were difficult to track down. They did not wear uniforms and did not fight in a conventional manner.

It was difficult for members of the American military to fight "by the rules" when their enemy took advantage of these limitations. Sen. John Kerry (D-Mass.), who also served in Vietnam at the same time Kerrey did, said in a speech on April 27 that "there were older citizens, women, children and others who were often used as a matter of strategy by the Viet Cong, drawn into the line of fire and put in positions of danger without regard."

There were instances where snipers on convoys shot Vietnamese children as young as four years of age. They did so because their parents shoved the child out in front of the convoy wearing chunks of C-4 plastic explosive. Such instances are horrific and have doubtless taken a toll up on the men that pulled the trigger. But what else were they to do?

When someone fires on a soldier, that soldier must fire back in order to save himself and those around him. If an innocent is caught in the cross fire, that is too bad. Regular human instincts must be put aside for the most basic of instincts: survival.

"Every person who has gone to war has struggled with the question of, 'Did he do it right?'" Kerrey said at his press conference.

If he is indeed telling the truth, he should know that he did the best he could under trying circumstances that millions of soldiers before and after him have faced.

Those that want to see Kerrey tried as a criminal seem to think that there was some way he should have known better. They do not understand war. It is not black and white, clean and pretty. War is truly hell. Kerrey has been through that hell, and should not be sent back for doing his duty. He continues to live with the reparations of his actions every day.

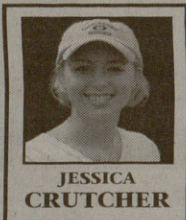
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RUBEN DELUNA/THE BATTALION

Stricter open container law will not stop drunk driving

A recent bill to pass in the Texas house and senate bans all open alcohol containers in moving vehicles. Gov. Perry has said he will sign the bill; it reached him last Thursday. The current law allows passengers to have open containers of alcohol in vehicles, and the driver cannot be charged unless he is observed drinking. Under the new law, anyone, even a passenger, drinking alcohol in an automobile will be guilty of a Class C misdemeanor and could be fined up to \$500.



JESSICA CRUTCHER

Open containers would still be allowed in trunks or behind the last upright seat of vehicles without trunks, according to *The Dallas Morning News*. The bill is meant to combat drinking and driving, because police say their hands are often tied under the current system — the driver can just pass the beer to a passenger to keep from being ticketed.

The new bill has good intentions. However, it will not be any easier to enforce than the numerous other anti-drinking and driving laws, and does little to address the real problem. It is possible that having one's passengers drinking alcohol could be a distraction to safe driving. A person is probably also more likely to take a sip of beer while driving if his or her passengers make it available.

However, a sip of beer alone will not intoxicate a person of legal drinking age. The issue is not the drink that a person might consume while driving.

Alcohol consumption is perfectly legal for people of age; added limitations are unnecessary. Assuming that because a driver's passengers are drinking that the driver has also been drinking is faulty.

It is more likely that the person driving is the (alcohol-free) designated driver. Unless the driver appears to be intoxicated, the group should not be bothered, regardless of whether the other group members are drinking.

If drinking and driving remains such a problem, current methods of enforcement should be made more efficient before new regulations are added. However, since it appears this new law is unavoidable, it can only be hoped that it will be used fairly. Al-

though the authors of the bill may have meant well, there is no guarantee it will be used in a manner fair to everyone involved.

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The Battalion encourages letters to the editor. Letters must be 300 words or less and include the author's name, class and phone number. The opinion editor reserves the right to edit letters for length, style and accuracy. Letters may be submitted in person at O14 Reed McDonald with a valid student ID. Letters may also be mailed to:

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