Examination of a 13-Year-Old Crime Scene for a War Crimes Trial

"Is It Ever Too Late to Examine the Crime Scene"

By

Dr. Thomas A. Kubic

NIJ & FBI Trace Evidence Symposium
Wednesday August 5, 2009
Clearwater Beach, FL
Good Forensic Science is **NOT** Practiced in a Vacuum

- The reconstructions and opinions here are based on an eclectic array of forensic sciences.
- It is necessary, not only, that the alleged facts or allegations involved in the litigation be known, but also, often as in this case, a wealth of background information is also required.
- In this case the history of the conflict, weapons available to the protagonists etc.
Background

• Tribal issues date to pre and colonial times
• 1960’s Independence changed political power
• 1994 unrest, murder of President leads to genocide, and lawlessness generally against Tutsi, but also liberal Hutu
• UN peacekeepers find themselves in danger
• Rwanda Prime Minister becomes target because of her policy of accommodation of minorities (Tutsi)
• Belgian are soldiers sent to guard Prime Minister
Background

• Belgian soldiers (10) out numbered and out gunned surrender their weapons and are taken as prisoners
• Belgian soldiers considered responsible for President’s murder are attacked by military at Camp Kigali
• Belgian soldiers take final refuge in a cement block building in Camp Kigali, and prepare for their last stand
Background

- Belgian soldiers are fired upon and beaten until all ten are killed.
- UN commander is contacted about the incident and is allowed to remove their bodies for return to Belgium.
- Building where incident occurred becomes a memorial to the slain soldiers.
Aftermath

United Nations forms an Investigative and Prosecutorial Body to look into war crimes and crimes against humanity charges

Called: International Criminal Tribunal for Rwanda
Aftermath

• ICTR-International Criminal Tribunal for Rwanda investigates accusations of war crimes and others during the period of the unrest

• High ranking officers commanding recon units are accused of sanctioning or ordering heavy weapon support for the massacre of the Belgian soldiers. These Recon Units are well trained, armed and disciplined.
The Prosecution’s Case

• Heavy weapons (armored cars, armored personnel carriers) were used to inflict the damage to building and inflict harm to the Belgians

• Eyewitness testimony is that vehicles are at the scene firing heavy weapons

• The reported extensive damage to the building supports use of large caliber weapons
The Prosecution’s Case

With the premise that heavy weapons cannot be used without the knowledge and permission of high ranking military officers, and because troops are highly disciplined, officers must have authorized the use of these vehicles and weapons or had knowledge of actions or should have known and therefore are responsible.
Further Prosecution Testimony

• Recon Units fired their weapons at the Belgians
• Armored vehicle’s heavy weapons fired and destroyed the building from range of 10 m
• From 75 m away at a wall grenades were launched from MGL
• Belgians returned fire towards the wall
• Two hand thrown grenades thru windows were used to end battle and terminate Belgians
• From an armored vehicle over 500 m away fire was directed at the PM’s residence forcing the Belgian’s capitulation
The Defense

• The massacre was perpetrated by a small group of rogue individuals
• Heavy weapons and vehicles were not used or present, at least did not fire heavy weapons
• No evidence that Recon Units fired weapons
• High ranking officers cannot be responsible for each individual soldier
The Defense

• The defense receives permission to retain experts in forensic science and crime scene reconstruction to examine the scene (13 years after the incident)

• Ms. Beth Lyons Esq., Mr. Phelps’ assistant chooses Kubic and Diaczuk for

MISSION: RWANDA

Should they choose to accept it!

Dr. Thomas A. Kubic Esq.
So Why Not?

So off to Rwanda via 20 hours of flight time and a 32 hour stop over in Amsterdam
Amsterdam
A Stop in Burundi then on to Kigali
KIGALI - RWANDA

To Whom It May Concern

The Registry of the International Criminal Tribunal for Rwanda (ICTR) hereby informs the Authorities of United Nations Member States concerned that:

DR. KUBIC

A Defence Expert in the defence team of a person accused before the ICTR will be on mission through Kenya to Rwanda during the month of January 2007.

In accordance with United Nations Security Council Resolution 955 of 8 November 1994, particularly paragraph 2 thereof, the Registry of the Tribunal requests all countries to “cooperate fully” with DR. KUBIC in the conduct of his mission.

Arusha, 06 December 2007.

Signed for the Registrar

Isaac Endeley, Legal Officer
Defense Counsel & Detention Management Section

Dr. Thomas A. Kubic Esq.
The Investigative Team and Guide
Accommodations

Dr. Thomas A. Kubic Esq.
The Place Camp Kigali
The Building
More Building

Dr. Thomas A. Kubic Esq.
More Building Damage and Wall
More Building

Dr. Thomas A. Kubic Esq.
Hard at WORK

Dr. Thomas A. Kubic Esq.
Inside the Building

Dr. Thomas A. Kubic Esq.
More Inside the Building
Some Investigative Details

Dr. Thomas A. Kubic Esq.
Weapons

Dr. Thomas A. Kubic Esq.
More on Weapons

Dr. Thomas A. Kubic Esq.
Vehicles, Weapons & Ordnance

Dr. Thomas A. Kubic Esq.
Physical Evidence
Projectiles

7.62x39 mm (AK-47)  7.62x51 mm (NATO)
Test Fires

Dr. Thomas A. Kubic Esq.
More on Test Fires

Dr. Thomas A. Kubic Esq.
Prime Minister Agathe Uwilingiyimana’s

Dr. Thomas A. Kubic Esq.
Conclusions Based on Physical Evidence

Executive Summary

**Camp Kigali:** No physical evidence was discovered that supports the assertion that Armored vehicles were present at Camp Kigali, especially at 10 meters distance, and fired either their heavy weapons, 90 mm cannon, 20 mm cannon, 60 mm mortar, or 0.50 caliber machine gun at the building where the Belgians took refuge. There is also no physical evidence supporting the assertion that 0.30 caliber machine guns were fired at the building from these vehicles or from any fixed machine gun mount. All the damage to the building is consistent with small arms fire originating from hand held or shoulder fired 0.30 caliber or smaller 9 mm weapons (not confirmed) and shoulder fired or hand thrown grenades (inside damage).

**Prime Minister’s Residence:** No physical evidence could be located that unequivocally indicated that the Prime Minister’s Residence had been struck by gun fire.

It is highly unlikely that any person located within 50 feet of the junction of Paul IV and De La Jeuness Avenues could observe the Prime Minister’s Residence and just as unlikely that accurate gun fire could be directed at the residence from this location due to the obstructed line of sight from this location more than 300 m from the home.

Dr. Thomas A. Kubic Esq.
Testimony Aids etc,

Dr. Thomas A. Kubic Esq.
Could They Have Saved Our Trips?
Well at Least I Saw