

Report of
The Department of the Army Review
of the Preliminary Investigations into
The My Lai Incident (U)

Volume II
TESTIMONY

BOOK 13

FOR OFFICIAL USE ONLY

The "For Official Use Only" protective markings used herein are canceled at such time as the information is required for use in judicial proceedings E X C E P T for those pages specifically identified in the Table of Contents (Volume II, Book 1) as containing information excluded from automatic termination (para 13, AR 340-16).

REPORT OF THE DEPARTMENT OF THE ARMY REVIEW
OF THE
PRELIMINARY INVESTIGATIONS INTO THE MY LAI INCIDENT (U)

VOLUME II

TESTIMONY

BOOK 13

JOHNSON, D.
KESHEL
KIRKPATRICK
KISSINGER
KRIEG

LABRIOLA
LACKEY
LIPSCOMB
MACLACHLAN
MCANAW

MCKNIGHT
MELTON
MOODY
PITTMAN

14 MARCH 1970

SUMMARY OF TESTIMONY

WITNESS: JOHNSON, Dennis H., CPT

DATE OF TESTIMONY: 8 December 1969

PLACE OF TESTIMONY: Pentagon

WITNESS SUSPECTED OF: N/A

COUNSEL: William C. BARNES, CPT, JAGC, appointed military counsel, stationed at Headquarters, Military District of Washington.

DUTY ASSIGNMENT ON 16 MARCH 1968: 52d Military Intelligence Detachment, 11th Infantry Brigade, working as an interrogator for Task Force Barker.

1. PRIOR TRAINING IN RULES OF LAND WARFARE.

After completion of OCS and school at Fort Holabird, he joined the 11th Brigade in Hawaii, where they had normal POR training (pg. 36). He did not recall seeing Exhibit M-2 or Exhibit M-3 before, although he did get a pamphlet about the customs of the Vietnamese people (pg. 37). He received information on how to handle prisoners, but did not recall any instructions on the investigation of war crimes. He had the responsibility of reporting to his commander, those actions not yet reported, and he assumed in this instance that the actions had been reported (pg. 38). Exhibit D-1 (MACV Directive 20-4) had not been seen before nor had he received any instruction in the subject (pg. 38).

2. PREOPERATIONAL PLANS AND BRIEFINGS.

He was notified on the evening of 15 March 1968 of the operation to take place the next morning, and he did not go up to LZ Dottie until the next morning because there were no helicopters available (pg. 6). He was to interrogate detainees on the operation (pg. 6) through his interpreter, Sergeant MINH who arrived with him (pg. 5). Lieutenant Colonel BARKER told him that they were going in

to the My Lai area and he does not recall any significant conversation with the S2, Captain KOTOUC (pg. 6).

3. ASSAULT ON MY LAI.

a. The location of the original CP at the landing zone.

He left from LZ Dottie about 0730 hours on the second lift to My Lai. There were troops on the ground when he landed, and he ran to the CP group, located by a rise in the ground, where he remained for twenty to thirty minutes. There was firing going on, but he did not know who was firing nor did he, at first, recognize My Lai (4) from the aerial photo, Exhibit P-1 (pg. 8), or from the oblique aerial photo, Exhibit P-45 (pg. 9). He stated that they went in toward the northwest side of the village (pg. 9) The CP was to the west of the village. It consisted of Captain MEDINA and one or two radio men (pg.10). A box was brought into the CP containing a transistorized Sony radio and medical supplies (pg. 11). Then there was firing to the north of My Lai (4) as the troops moved in (pg. 11). On Exhibit P-1, the CP is located with a "1" (pg. 11). He landed at approximately 0800 hours. Number "2" indicates the area of a two squad deployment to the north of the village (pg. 12).

b. Movement of the CP to the south of the village.

After sitting behind the dike until about 0830 hours, he saw MEDINA move the CP out to the south. He thought that he went around the southwest corner of My Lai (4) and proceeded up the trail or he might have followed MEDINA back across the dry river bed west of My Lai (4) (pg. 13).

c. The location of the bodies in the village.

The next firm recollection was of moving up the trail along the southern flank of My Lai (4) and seeing a dead child (pg. 14). At that time, MEDINA and the command group were out of his sight (pg. 14). A number "3" was placed on the photo to indicate the body of the child who appeared to have been hit by artillery (pg. 15). The interpreter complained to him about civilians being killed because off to the right of the child's body was a group of bodies (pg. 15). The location of the group of bodies is

marked on the photo as number "4". There were 10 to 12 bodies, 30 or 40 meters south of the trail (pg. 16). The bodies were not inspected and were thought to have been killed by artillery. He stated that he was shown pictures by the CID and had seen the ones in Life but he did not recall them as being the same. Exhibit P-41 was not recognized as being the same group of bodies (pg. 16). He stated that the bodies he saw were lying along the edge of a dike and looked as if they had been running and had been hit by a gunship or by artillery (pg. 16). He knew they were not on the road leading south from the village because he had not gone that far up the trail (pg. 17). He returned to the southwest corner of the village which he marked as number "5" on the aerial photo.

d. Incidents that took place in the village.

(1) He discussed the interpreter's concern over the killed civilians and his attempt to pacify him (pg.18). JOHNSON stated that he was scared as he was "not a veteran of the conflict yet" (pg. 18). The interpreter MINH indicated that it was wrong to have killed the civilians (pg. 19). JOHNSON felt that this was a result of gunship or artillery fire. He was shocked about the child because of his own children but he did not report the bodies to MEDINA because he felt that his duties were only to interrogate people, and also, he felt that MEDINA had seen the body for it had been moved off the trail when he went up it later on (pg. 20).

(2) The next time that he saw MEDINA was when they encountered the person who had shot himself in the foot (pg. 20). He identified two photographs (Exhibits P-29 and P-8) as being of the soldier that shot himself in the foot. Exhibit P-8 also showed MEDINA (pg. 21). He indicated on the aerial photo with a number "6" the location of the wounded soldier waiting for medevac and identified himself in Exhibit P-10 as kneeling over a "colored soldier" (pg. 22).

(3) JOHNSON then left in a helicopter to interrogate detainees in B Company. The location of the pick-up was marked with the number "7" on the aerial photo (pg. 23). He did not see anyone shoot, touch, or kill anyone in the village of My Lai (4) (pg. 23). He felt that his sole purpose was that of an interrogator and that he was not in any position to take any action (pg.24).

CONFIDENTIAL

(4) Exhibit P-19 is a photograph of the interpreter talking to a group of women and children (pg. 35), taken in the B Company area (pg. 41).

(5) Exhibit P-21 is a picture of him, his interpreter, and a Vietnamese child (pg. 34) which he did not recall seeing previously (pg. 39).

(6) Exhibit P-22 is a picture of him, his interpreter, and an old Vietnamese man (pg. 34), with whom they spoke. It was taken in My Lai (4) with C Company (pg. 40).

(7) Exhibit P-23 is a picture of MICHLES, the interpreter, and some Vietnamese (pg. 34) believed to have been taken in the area of B Company (pg. 41).

(8) Exhibit P-36 is identified as being himself at the top of the picture (pg. 34) and was first seen when the CID agent showed it to him (pg. 39).

(9) Exhibit P-41 was previously (pg. 16) stated to be not the same as the group that he saw on the road.

g. Interrogation of the old man in My Lai (4).

(1) From Exhibit P-22, it developed that he had interrogated the old man pictured therein (pg. 40). This took place on a trail in the southwest corner of the village near number "5" on the aerial photograph (pg. 41). The only detainee in the area was the old man who complained about the people being shot and stated, through the interpreter, that the VC left that morning (pg. 42) and that there were many of them (pg. 43). This fact was reported to MEDINA and later to LABRIOLA (pg. 43).

(2) Sergeant MINH, the interpreter, was thoroughly conversive in the language, and had had prior military experience. and had worked with JOHNSON on interrogations at the 11th Brigade (pg. 44). There was no further discussion between JOHNSON and MINH over the incident (pg. 45).

(3) When they finished interrogating the old man, he went over and sat down and they walked off (pg. 49). He did not see anyone shoot at or hit the old man, contrary to a Life magazine allegation that the

interpreter shot him (pg. 48).

4. INQUIRIES CONCERNING THE ASSAULT.

He did not talk to any of the people involved in the incident in My Lai (4) at any time (pg. 47). He did not hear of any massacre or atrocity committed until he was interrogated by the agent from the CID (pg. 52).

5. OTHER INFORMATION.

a. Rumors concerning civilians killed.

Although he had not heard of any massacre, he did hear remarks about civilians being killed at My Lai (pg.52). He did not relate this to what he knew because he thought the people he saw were killed as a result of gunship or artillery fire, and that any others killed would have been as a result of the shooting in the area (pg. 52).

b. Procedure for handling detainees.

Detainees were evacuated to LZ Dottie to be held until taken to the interrogation unit at the 11th Brigade. The commander generally followed his recommendation in deciding which detainees would be evacuated (pg. 45). All detainees were released to the government, if innocent. Civil defendants were kept until adjudication was made at division level, when they were turned over to the local government. He did not feel that he controlled this movement initially, thus, National Police at the site interrogated some of the detainees (pg. 46).

c. His reports of the incident.

It was indicated in his testimony that he did report the incident, through discussion, with his commander, Captain LABRIOLA (pgs. 32, 33, 36, 43). Also, Captain KOTOUC was present in the area and he talked with him, although he did not recall what was said (pg. 36).

EXHIBITS

EXHIBIT NUMBER	DESCRIPTION	NOTES	PAGES
D-1	MACV Directive 20-4	Not recalled.	38
M-2	MACV Card "Nine Rules"	Not seen.	37
M-3	MACV Card, "Enemy in Your Hands"	Not seen.	37
P-1	Aerial photo	Marked with fol:	8
		1-CP at the ditch.	11
		2-Area of troops, deployment north of ditch.	12
		3-Child's body.	15
		4-Group of bodies.	16
		5-He returned to southwest corner of My Lai (4).	17
		6-Wounded soldier medevac'd,	22
		7-Location of his pick-up to leave area.	23
P-2 thru P-42	Miscellaneous Scenes	Recognized Exhibits: P-5, P-7, P-10, P-19 P-22, P-23, P-29 P-36.	16, 21, 22, 34, 35, 39, 41
P-41	Miscellaneous Scenes	Not recognized as being the same ones he saw.	16

SUMMARY OF RECALL TESTIMONY

WITNESS: JOHNSON, Dennis F.

DATE OF TESTIMONY: 9 February 1970

PLACE OF TESTIMONY: Pentagon

WITNESS SUSPECTED OF: Failure to obey lawful general regulations concerning the reporting and investigation of alleged or suspected war crimes; failure to obey orders; assault and battery; dereliction of duty; suppression of information of war crimes; misprision of a felony; and accessory after the fact.

COUNSEL: Murraray VAN LEAR, CPT, JAGC, Office of the Staff Judge Advocate, Fort Holabird, Maryland, and William C. BARNES, CPT, JAGC, Office of the Staff Judge Advocate, Headquarters, Military District of Washington.

DUTY ASSIGNMENT ON 16 MARCH 1968: 52d Military Intelligence Detachment, 11th Infantry Brigade, working as an interrogator for Task Force Barker.

1. RECOLLECTION OF VISITORS AND MESSAGES DURING MY LAI (4).

The witness did not recall seeing either Colonel BARKER's or Colonel HENDERSON's command and control helicopter over My Lai (pg. 59). Although he moved with MEDINA's command group, which had two radio operators, he did not recall any messages coming in or going out (pgs. 59,60). He did not hear a message telling MEDINA to stop the killing, nor did he hear MEDINA pass this message along to his platoons (pg. 60).

2. HIS ACTIVITIES IN THE VILLAGE.

The witness was shown Exhibit P-172, an aerial photograph of My Lai (4), which he marked during his original testimony (pg. 60). He was questioned in particular about the points where he had indicated that he was lifted out by a helicopter and where he had seen a child's body (pg.61). The witness stated that it was to the best of his recollection where the events had occurred, but he admitted that this could be incorrect (pg. 61).

3. DISCUSSION WITH SERGEANT MINH.

Sergeant MINH was his interpreter that day (pg. 62). After being read part of Sergeant MINH's statement to the CID describing the route through the hamlet, the witness stated he did not recall moving through the village (pgs. 63, 65). He did not recall a pagoda (pg. 62), but he did recall the capture of an ammunition box (pg. 64). The witness stated that he believed he was on the southern side of the village as he moved into it (pgs. 64, 65). He recalled MINH's discussion about why the soldiers killed the animals (pg. 65). He felt the discussion took place in the southern outskirts of the village (pg. 66). He stated MINH did not ask him to discuss the matter with MEDINA (pg. 67), nor did the witness in fact talk to MEDINA (pg. 68). He stated MINH spoke to him on one occasion in My Lai and he did not recall reporting it to anyone (pg. 90). He stated that MINH was upset, but he never passed the information along, feeling that the body count of the action was reported and that MINH had not given him any specifics (pg. 90).

4. INTERROGATION OF THE OLD MAN.

The witness identified Exhibit P-22, as being an old man whom he had interrogated in the village of My Lai (4) (pg. 68). He was asked if he had interrogated an individual in Exhibits P-2, P-3, and P-4 (pg. 69). The witness did not recognize the figure in the exhibits, and could not say that he had interrogated the man (pg. 69). The witness was no longer certain that he interrogated the individual in Exhibit P-22, but felt that he had interrogated him because he was standing next to him in the picture (pgs. 69, 70). He was reminded of his prior answer to a question concerning his and MINH's "slapping the old man around" while they were questioning him (pg. 72). He stated that because of the terrain around the picture, he felt it had been taken in My Lai and therefore, he thought he had interrogated the individual there (pg. 72). He did not recall specifically what the man looked like, nor did he recall interrogating a man that Sergeant PHU had led out from the house (pgs. 73, 74).

5. HIS KNOWLEDGE OF THE PLANNED DURATION OF THE MISSION.

It was not specified to the witness how many days the operation would take and he did not have any indications that it would be a long operation (pg. 74). He did not recall a change in the situation, which resulted in his return earlier

CONFIDENTIAL

but he felt Sergeant PHU was (pg. 5). He did not see or hear of someone cutting off a finger of a prisoner (pg. 86).

8. OTHER INFORMATION.

The witness could not recall who gave him the authority to return to LZ Dottie but felt it may have been Captain MICHLES (pg. 87). He stated he would not have left without permission (pg. 88). He stated that he remained at LZ Dottie overnight and returned to LZ Bronco the following morning (pg. 88). Upon his return to Task Force Barker, he did not report the dead civilians he had observed in My Lai (4) because he felt that they had been killed "because there was a war going on" (pg. 89). He did not see the artillery coming in and did not see gunships working in the area where he saw the bodies, but stated that he presumed that this was how the people had been killed. He did not make any report to Captain LABRIOLA, his superior, about the events at My Lai (4) (pgs. 76, 90).

EXHIBITS

EXHIBIT NUMBER	DESCRIPTION	NOTES	PAGES
P-2 thru P-4	Pictures of an old man	Wit did not recognize individual for certain.	69
P-10 and P-21	Photographs used in GOUZOULES' testimony	Shown to witness.	80,81
P-22	Photo of JOHNSON, MINH, and an old man.	As previously identified by the witness.	68
P-172	Aerial photograph of My Lai (4), which the witness had marked.	Witness was refreshed on his markings.	60

(The hearing reconvened at 1406 hours, 8 December 1969.)

IO: This hearing will come to order.

RCDR: The following named persons are present: LTG PEERS, MR MACCRATE, MR WALSH, COL FRANKLIN, COL MILLER, COL WILSON, and MAJ LYNN.

Sir, the next witness is Captain Dennis H. JOHNSON.

(CPT JOHNSON was called as a witness, was sworn and testified as follows:)

Captain JOHNSON, are you represented by counsel?

A. Yes, sir.

Q. Will counsel state his name and address for the record?

IC: William C. C. BARNES, Headquarters, MDW, SJA Office.

Q. Captain JOHNSON, will you state your name, grade, Social Security number, branch of service, organization, and station.

A. Dennis Harvey JOHNSON, Captain, duty station, Company D, USAINT, Fort Holabird.

Q. Thank you.

IO: Captain JOHNSON, before we proceed with any questions, I shall inform you of several matters.

This investigation was directed jointly by the Secretary of the Army and the Chief of Staff of the United States Army for the purpose of determining the facts and making findings and recommendations concerning:

(1) the adequacy of prior investigations and inquiries into, and subsequent reviews and reports within the chain of command, of what is now commonly referred to as the My Lai incident of 16 March 1968, and

(2) possible suppression or withholding of information by persons who had a duty to report this information.

This investigation is not being conducted to investigate all the facts and circumstances as to what happened at My Lai. It is directed at those specific purposes which I have just stated, the two above.

I have had made available to me and have reviewed prior official statements obtained in other official investigations of the My Lai incident, including a statement by yourself.

Your testimony will be taken under oath. A verbatim transcript will be prepared. A tape recording is being made in addition to the verbatim notes being taken by the reporter.

Although the general classification of the report will be confidential, it is possible that the testimony, or parts of it, may at a later date become a matter of public knowledge.

There are several officers in this room who might ask you questions in my behalf. In addition, there are two civilians, Mr. MACCRATE on my left, and Mr. WALSH on my right, who are serving as legal counsel for me, and they, too, may address some questions to you. However, you should know that I have the responsibility of weighing the evidence and making the findings and the recommendations.

You are ordered not to discuss your testimony in this investigation with others, including other witnesses for the investigation, except in the performance of official duty or as you may be required to do so before a competent judicial or administrative body.

In addition, you are cautioned that, if you are subject to the order issued by the military judge in the general court-martial case of United States v. Calley, your appearance here in no way changes the applicability and effect of that order.

Do you have any questions on what I have just indicated to you?

A. No, sir.

COL MILLER: You are not at this time charged with nor suspected of any offense which is the subject of this investigation. You have a right to consult with your counsel at any time, or to have your counsel consult with you. However, the testimony will be yours. You and counsel will not be asking questions. The questions will come from General PEERS or from other members. At any time you feel that you want to consult with counsel, you may do so. Are there any questions on this?

IC: No, sir.

A. No, sir.

IO: Captain JOHNSON, what was your duty assignment as of 16 March 1968?

A. Sir, I was assigned to the 52d Military Intelligence Detachment, 11th Infantry Brigade, Vietnam.

Q. What was the name of your commanding officer?

A. Captain LABRIOLA, sir.

Q. LABRIOLA, would you spell that please?

A. L-A-B-R-I-O-L-A.

Q. Do you remember his first name?

A. I don't recall, sir--Albert C., sir.

Q. What was your rank at that particular time?

A. First lieutenant, sir.

(JOHNSON)

3

APP T-11

Q. First lieutenant. With whom were you working on that particular day?

A. I was working with Task Force Barker from LZ Dottie as an interrogator with an interpreter.

Q. Did you have any other individuals assigned to you, or working with you?

A. No, sir.

Q. What was your status with respect to Task Force Barker?

A. Initially they requested interrogation assistance to try and establish if persons that had been detained were, in fact, Viet Cong or innocent civilians, as there were a large number of people up there. So they requested that I go up by helicopter from Bronco at Duc Pho and investigate the situation and do a field interrogation, screening the people to establish what might be VC and what was, no doubt, civilians. This proved successful and my services were requested periodically from time to time thereafter.

Q. When you were with Task Force Barker, under whose orders did you operate?

A. I was under the commander that I was assigned to, or I was under the operational control of the S2, and I was also under Colonel BARKER's control, and no doubt the S3's control.

Q. You were attached, at that time, to Task Force Barker and you were under the operational control and reported to the S2 section. Is that correct?

A. No, sir. I'm going to try and make it very clear. Initially it started out as an attempt to see if we could reduce the number of people that were being sent back by helicopter because the transportation was not adequate, the highway was not open, and they couldn't lift all these people back. We tried to move some of them to 198th. This proved not successful. We had more people than we could move out. So they recommended that we try to field interrogate or screen these personnel whenever an operation

FOR OFFICIAL USE ONLY

developed that large numbers of civilians--well, whenever large numbers of personnel were detained. There was no official system to my knowledge. That is, I was not assigned on orders, the S2 told me that I was under his control, I felt responsible to Colonel BARKER, and I felt responsible to the S3, and I was responsible to the commander that I was supporting. Also, sir, I continued to be a part of the 52d MID, at Duc Pho. It was a relationship where everything shifted except for that operational control. It was necessary for me to operate in the field.

Q. I understand. That is quite a normal situation particularly in the MI, and it is also quite normal that you would report to the task force commander through the S2.

A. Yes, sir.

Q. So it is quite consistent. When you were with Task Force Barker, you were under his control at that time?

A. Yes, sir.

Q. Were you present on the afternoon of the 15th when the orders were issued for this operation?

A. No, sir.

Q. When did you arrive at LZ Dottie?

A. I am almost certain in my mind that I came up the next morning. My interpreter came with me.

Q. What was the name of your interpreter?

A. His last name was MINH, Sergeant MINH, E-6. His first name I don't recall.

Q. Vietnamese?

A. Yes, sir.

Q. How do you spell it?

A. Capital M-I-N-H.

Q. But you were not present when the orders for this operation were issued?

A. No, sir.

Q. What specific instructions did you receive concerning the operation?

A. I believe I was notified the evening prior, and the reason I did not go up that evening was because there was not transportation to go up. No helicopters were going up to LZ Dottie. Therefore, the information I got over the telephone was that they wanted me for an operation the following morning. I went up the following morning and went on that operation. The information I had about the operation was none. Just going on an operation.

Q. Did you receive a briefing of any form before you went, to tell you what you were to do there?

A. No, sir.

Q. What your specific task was, where the operation was?

A. No, sir. I do not recall receiving any briefing except after I arrived that morning I was told, I believe by Colonel BARKER, that we were going into the My Lai area--Pinkville.

Q. Did you talk to the S2 at all, Captain KOTOUC?

A. I must have spoken to him, sir, but I do not recall what I said to him or anything significant.

Q. How did you know, then, from what you told me, what you were supposed to do there?

A. Sir, I was an interrogator that operated when they called me to go on operations. My mission was generally routine--to go on the operation. If they had detainees, interrogate them. There was no planning necessary for my function. I would go with the element that was going in on an operation, and that was it.

Q. I'd like you to give me an account of your participation in this operation from the time you left LZ

Dottie, and I would like to know when you went in and how you went in, and approximately what lift you went in with?

A. I'm not certain of the time nor am I certain of the lift, but I believe, whether it is from information I have received since I returned to the States, or whether it is information that I recall in my mind, I don't know, sir. I believe we left about 7:30 or 8:00. I believe I was on the second lift.

Q. There were troops on the ground when you arrived?

A. Yes, sir.

Q. It is logical to assume that you were not on the first lift?

A. Yes, sir.

Q. Do you know the number of the platoon that you accompanied?

A. No, sir.

Q. All right, I'd like you to explain your activities, please, subsequent to your arrival on the ground.

A. We came off the helicopter and I approached the village running--

Q. (Interposing) Why did you approach the village running?

A. The people on the ground were in front of me, and I could see them in a security defense, and having secured the area, I ran towards the people that were on the ground. The helicopter came in. I looked out the door. I could see the people. I could see the village. I ran toward those people and that village.

Q. How far were you from that village?

A. I would estimate 100 meters, sir. As I approached the village, there was a dike, a rise in the ground, and I stopped there under the CP group. I stayed in that location I would estimate at least 20 to 30 minutes.

Q. During this time, did you ever receive any hostile fire?

A. There was firing going on, sir, and I could not determine--I did not know of any hostile fire being fired at me. However, I wasn't standing up, sir. I was down behind the dike.

Q. How large a dike was this? When you refer to a dike, what are you referring to specifically? Are you referring to the bund between the rice paddies?

A. No, sir, the village it seems was kind of--it stood up about this high (indicating approximately 3 feet high), I would estimate 18 inches from the rice paddy to the level that the village was on. I cannot recall if this was a platform of land that crossed the entire village, or if this dropped back off again.

Q. Captain JOHNSON, I show you here an aerial photo (Exhibit P-1) supposedly of the hamlet of My Lai (4) this being the hamlet and this being Hill 85 to the south (indicating), and Highway 521 (indicating) running diagonally from the northeast to the southwest. The map is generally oriented with the north generally to the top at the present time. Do you recognize this village?

A. No, sir. I can't relate it to going onto the ground. I don't recall the shape of the village nor can I pick out the terrain features that I would have seen from the ground. I believe that we are saying that this is north?

Q. No. This is north from the top. This being east, west and south (indicating). The LZ was somewhere on this side of the village, the west side of the village (indicating).

May I have the other photo there?

RCDR: Yes, sir (handing Exhibit P-45 to the IO).

IO: This is another photo taken from another angle. Maybe this will help you. This is another photo taken at

(JOHNSON)

an oblique angle taken of the village looking from west. Notice these two fields here (indicating) in the southwest corner, looking diagonally across the village (indicating). You would have been coming in from over there somewhere from the bottom of the photo (indicating).

A. (Looking at Exhibit P-45) In front of the CP, sir, when I got to the dike or the rise in the ground, there was a building, a rather large building, community-type building or something of this nature, with writing on the walls. I can't see that building here. This is the river?

Q. Actually it is a dry river. You will notice that there is an old river bed (indicating) and in some of the areas you will see there is rice growing there (indicating), so I take it that it is one of the old river beds in ox bow form.

A. I would say, sir, that we came in further to the north, sir, as opposed to coming in down here (indicating).

COL MILLER: Referring to the immediate west.

IO: But this dike could have been the area you were referring to when you moved from the field towards the east?

A. Yes, sir. I would say that we went in this way on this side, on the west side of the village probably to the northwest as opposed to the southwest of that side, sir. I seem to remember seeing a number of trees directly to my left.

Q. Do you recall crossing a road or a ditch which conceivably might have put you in this area (indicating)?

A. No, sir.

Q. If you were on the west side of the village?

A. No, sir.

Q. Continue with your story and tell me what you did.

A. When I came off the helicopter, I moved to the west side of the village. Some place on the west flank of that village. The CP was to my right which would be south of me initially a few feet. Shortly thereafter I moved to my left, or north, so as not to put too many people in one group around the CP group.

Q. When you say the CP group, are you referring to Captain MEDINA and his company command and control group?

A. Yes, sir.

Q. How many people did he have in his group?

A. If I recall, Captain MEDINA and one or two radio men, and that is all for sure.

Q. Did he have an artillery forward observer?

A. I don't know if he was with him there, sir. I cannot recall if this forward observer was with him at that time. I stopped at the bank and used it for cover. This was the same bank that we referred to earlier, sir. Maybe 10 minutes later, or 5 minutes later, someone brought a box, a metal box, to where I was at. The box contained a radio. I believe it was a Sony.

Q. Are you talking about a transistor-type radio receiver?

A. Yes, sir, a commercial transistor radio, I believe, sir. I'm not sure about the name brand.

Q. It wasn't an item of signal equipment, it was just a radio receiver? Is that right?

A. I do not know if it was used for a radio receiver for commercial use or whether it had another purpose.

Q. Did it have a transmitter attached?

A. No, sir.

Q. In conjunction with it?

A. No, sir, it looked like a commercial radio.

Q. Something like a transistorized Sony, then?

A. Yes, sir.

Q. Proceed with your story.

A. There were some other materials that I cannot definitely recall that were in that box. This information was relayed to me from my previous investigation that was conducted by 1st CID here in Washington, I believe. It was probably medical supplies according to the agent that spoke to me; however, I cannot definitely say.

Q. Did you look in the box?

A. Yes, sir.

Q. You couldn't distinguish between medical supplies and something else?

A. I couldn't recall, sir. I probably could have distinguished, but if it had of been important, I am certain that I would have remembered it.

Q. All right.

A. Now something to the north of My Lai (4) occurred. I don't know exactly what it was. The gunships were in that area and I observed troops moving across to that area. I cannot recall if the gunships were firing, and because the troops were walking or moving across that area without-- as if it was not an assault type--

Q. (Interposing) Can you identify that area on the map?

A. Yes, sir. It's that area to the north (indicating).

Q. On this photo, first, indicate the area where you were initially behind the dike for several minutes. Mark that and identify it with the number 1.

(CPT JOHNSON marks on the aerial photograph, Exhibit P-1, which was later admitted into evidence, as marked, as Exhibit P-172.)

Can you put down the approximate time you were there?

A. No, sir. I cannot recall the time.

Q. All indications are that the entire landing was completed by 0750, and you came in on the second lift, the final lift. Would that give you an indication as to about the time that you must have arrived at that position?

A. If I left at 7:30, or went to the helicopter pad about 7:30, sir, then I must have been on the ground some-time between 7:30 and 7:50.

Q. I'm just trying to determine a starting time. I'm not trying to pin it down to the exact minute, but would you say that this could have been in the neighborhood of 8:00.

A. Yes, sir. Do you want to indicate that?

Q. Yes. Now, would you indicate the area on that photo where you saw the troops being deployed to the north of the village.

A. Number 2?

Q. Yes. Indicate, for the sake of the record-- would you indicate what you saw there?

A. I saw a group of men spread out across this area to where my vision is cut off by the trees that we can see obstruct the view (indicating) between area 1, which was my starting point after I got off the helicopter, and area 2, which I have indicated are troops moving towards a small hamlet north of My Lai (4). I've indicated that these troops are approximately one-third to one-half of the way across that distance. I observed them moving on into that area.

Q. How many troops did that involve?

A. I couldn't see the total line, sir, so I couldn't say how many.

Q. Would you say it was squad, or a couple of squads, a fire team, or a platoon?

A. From what I could see, sir, I could see probably two squads, a squad and a half, someplace in there.

Q. Just write down above that, troops deploying. Do you know why they were moving in that direction?

A. Only by hearsay, sir.

Q. Hearsay when?

A. I think the agent that interviewed me previously said that the helicopter pilot had seen a man with a weapon. However, I could not recall that information prior to his giving me that information.

Q. Did you have any form of radio or other forms of communications with you?

A. No, sir, except what was with the CP group.

Q. Other than what you heard from the CP group, then, you would not normally know what is going on. Is that correct?

A. That is true, sir.

Q. All right. Proceed with your explanation of where you were and what you saw.

A. I would say I was in this area for approximately 20 to 30 minutes. After this period of time, this would put us, according to the 8:00 starting time, it would put us about 8:30. During this time I examined the box, sat down behind the dike for protection, and observed the troops deploying. Additionally there were helicopters in the area and I proceeded to sit. That is exactly what I did. I believe then that Captain MEDINA began to move with his CP group south. I'm very hazy on this point. I have stated previously that I believe that I went around the southern corner, that would be the southwest corner, of My Lai (4) and proceeded up the trail. I might not have gone around the corner and proceeded up the trail. In fact, I may have followed Captain MEDINA back across the dry river bed that was located east of My Lai (4).

Q. East or west?

A. Excuse me. West. West of My Lai (4). I think I moved southeast for--

Q. (Interposing) Southeast or southwest?

A. Excuse me, sir, it was southwest. The CP had apparently moved out ahead of me and the next time I can recall anything about this period of time is I may have been moving in this southwesterly direction trying to get back towards that CP group. Now I'm not sure in my mind which way I went, and I realize the importance of my testimony here and I want to tell exactly what I know. I don't want--I want to help, but I cannot recall this period of time clearly in my mind. Whether I went towards the dry river bed or if I proceeded south around the corner.

Q. If Captain MEDINA had been to the south or to the west which you have indicated, would that have put you in the area of the corner of the village?

A. Sir, I believe that any statement that I make about this period of time when Captain MEDINA moved, which way I went, would be pure conjecture on my part. I cannot recall.

Q. What happened next?

A. The next firm information I recall, I was moving up the trail along the southern flank of My Lai (4).

Q. Yes.

A. A short distance ahead of me I saw a child laying in the middle--

Q. (Interposing) At that particular point of time where was Captain MEDINA's command and control group? Were they with you? Were they ahead of you? Were they out of sight of you? Where was Captain MEDINA's command and control group?

A. They were out of my sight. I did not know their location.

Q. What time did you start proceeding along the south edge of the village?

A. If I went with Captain MEDINA and his command group, I made a big loop and came back. If I went around the corner, I saved myself a lot of time. So I cannot recall for certain what I did during that particular period of time. I have previously stated that I went around the corner and up the trail and discovered the body of a child. It upset me so I turned around and returned. However, now I'm saying I cannot definitely make this statement for certain because if I did in fact go with Captain MEDINA, then I came back to this corner, and I cannot remember, sir.

Q. All right. Draw an arrow in whichever direction you were going, and from that point you can put down unspecified time, and indicate where you saw the body of the child.

(Witness so marked.)

Will you put a number 3 there, and explain where you saw the body of the child. You might draw an arrow to that and indicate, body of the child, for the sake of the reporter.

(Witness so marked.)

Now proceed with your story. You saw the body of the child and you are not sure of the time.

A. I saw the body of the child, and I am not certain of the time. When I saw the child it upset me. He appeared to have been hit by artillery. I saw no blood on him. He had dust on him and he was lying out there perfect except he was certainly dead.

Q. Was he clothed?

A. He had on a little pair of blue pants, I believe I turned around, went back to the corner, and sat down there. My interpreter came over and sat down beside me. He was complaining about the number of people--I can't recall his exact words. He said something, "Why they kill civilians?" or something to this effect. Additionally, I would like to say that when I observed this child's body, off to my right I observed a group of bodies.

Q. Would you indicate where you saw this group of bodies.

(Witness so marked.)

Q. Would you connect it and put a number there and tell the reporter what that is.

(Witness so marked.)

A. I observed the child in the middle of the trail. I looked off to the right about 30 or 40 meters south, and observed 10 to 12 bodies, estimate.

RCDR: Is that point number 4, Captain JOHNSON?

A. Yes, sir. I returned back down to the corner--

IO: (Interposing) Did you walk over to inspect the bodies?

A. No, sir.

Q. Do you know how they were killed?

A. No, sir. At the time I thought probably artillery or gunships had killed them. I have seen the pictures both in Life magazine, and the pictures that the investigator showed me, and the one picture that he stated that he was questioning me about, I do not recall being the same picture or the same people that I saw.

Q. We have the black-and white, but this is the color photo which has been reported to have been taken by HAEBERLE during the operation. Looking at that, possibly from a different angle, could that have been the group of bodies which you saw?

(Exhibit P-41 was handed to the witness.)

A. No, sir, I don't believe so. The group of bodies that I observed were lying along the edge of a dike with a trail on top, a little rise, in a little rice paddy, and were crumpled forward all together like they had been running and had been hit by a gunship or artillery. I could be mistaken, but it sticks in my mind very clearly that those people were not these people (indicating). They were in this area that I have indicated with a number 4 on the map.

Q. Could they have possibly, instead of being on this trail which you have indicated, could they have been on this road leading to the south out of the village?

A. No, sir. I don't believe I got that far up that trail.

Q. One inch on this map represents about 100 meters.

A. I can only recall passing one trail off to my right. One traveled trail. As I recall, the trail was not this wide, it was narrower than this. I think that this location that I have marked with the number 4 is the location that I saw the bodies.

Q. All right.

A. However, I do not recall this scene (indicating) at this location.

Q. How close were you to the bodies?

A. I would say approximately 30 to 40 meters.

Q. You had no inclination to go over and look at the bodies to see how they had been killed or otherwise?

A. No, sir.

Q. All right. You returned to that corner in the rice paddy, the southwest corner. Do you have any idea of what time you returned there?

A. I have lost track of my time, sir, as far as which way I went. I could say 5 minutes after seeing that child I walked back down the trail. Do you want me to put a plus five there?

Q. Put a number 5 there and indicate off to the side that you returned to that corner.

(Witness so marked.)

All right. Now I would like you to explain what happened after that.

A. My interpreter was very concerned about the civilians being killed, and I tried to pacify him. I tried to tell him that this happens sometimes in combat. Sometimes innocent people are killed. I wasn't necessarily condoning this, I was very upset about the child, but I did not want my interpreter to become as upset as I was and not be able to function, so I tried in essence to justify what I had seen.

Q. How many combat assaults of this nature had you conducted prior to this time?

A. I went on a four-day operation, five-day operation, across Highway 1 to the west. It was a combat assault, we went on helicopters, but it was a cold LZ. I don't believe I had ever been in a really hot LZ.

Q. How long had you been with the 52d MI Detachment prior to this time?

A. I joined the 52d MID, sir, in Hawaii and came over to Vietnam in December. During December and part of January we were at Carantan adjacent to Bronco. 3/4 was occupying Bronco and we were in the process of 3/4 moving out and the 11th moving into Bronco. After this period of time there was a certain amount of adjustment. I remember going in the first time to interrogate prisoners on the beach. What a brave guy I was; I was the first one to go. It was kind of ridiculous because we just flew in and talked to a couple of Vietnamese and they took me back out. But I didn't know anything about war at that time. I was not a veteran of the conflict yet. I was scared.

Q. When were you scared, when you went to the beach?

A. Yes, sir. I was scared when I got on the helicopter and I was scared when I got off.

Q. Yes.

A. And when I was going into My Lai (4) I was scared getting on and I was scared getting off.

Q. What were you scared about?

A. I saw a lot of people get killed over there for stupid reasons.

Q. Where did you see a lot of people get killed?

A. Blown up with mines out in the field, sir. From booby traps; walk down a trail and poof, the man is gone. I think everyone who spent time in Vietnam realized the hazard of booby traps and mines, sir. I think that everybody is a little scared.

Q. Did you see any civilians killed before this time in any numbers?

A. Viet Cong are very similarly dressed to the civilians and it would be hard to determine, sir, if--

Q. (Interposing) I'm talking about women and children, that is what you are speaking of.

A. I don't recall up to this time any women or children. I saw a couple of dead VC or what was supposed to be VC, but I didn't see any great amount of people killed any place when I was there.

Q. But when you were at the corner with your interpreter, Mr. MINH, is that what you called him?

A. Sergeant MINH.

Q. Sergeant MINH. You tried to mollify him with respect to the causes and the results of war.

A. Yes, sir.

Q. Then would you explain a little further how MINH felt and what he said?

A. He indicated that he felt that it was wrong that they killed these people. Given any other such a situation, a period of time, I would have agreed with him. I wasn't particularly happy about these people that I had seen. I don't pretend to condone massacre or atrocity.

Q. Well, at this time were you thinking about a massacre or atrocity?

A. No, sir. I truly felt that gunships or artillery had killed those people that I saw on the ground.

Q. Yes.

A. I don't really know what I was thinking about at that time, but I feel that I was very shocked about this child. This child looked like he was about 6 years old. I've got a son 6 years old, I've got one 11, and I've got one 5. This kid shocked me because this child was dead. I was very sympathetic because I think I related it to my own kid, and kids should not be a part of war and neither should women. But I don't know the solution to the problem. The kid died and I'm sorry. I'm sorry that the people died.

Q. Did you report this to Captain MEDINA?

A. No, sir.

Q. Why didn't you report it?

A. I was the interrogator and my duties as interrogator were to interrogate prisoners. I saw Captain MEDINA and I am certain that he saw some of those people I saw.

Q. How are you so certain?

A. I moved back up that trail a little later on and that child's body wasn't there. If somebody drug him out of the road, or what happened, I didn't see the child anymore. I was moving along this south flank when they started bringing this kid down that had been shot--that had shot himself in the foot.

Q. When is the next time you saw Captain MEDINA?

A. The next time I saw Captain MEDINA was when they brought this kid down here (indicating). I went up to the kid and walked back with him, and I think Captain MEDINA was there at that time.

Q. Would you indicate where on the map that you saw this individual? When you say kid, are you referring to a soldier?

A. Yes, sir.

Q. And what had happened to him?

A. He had shot himself in the foot, sir.

Q. I have here a set of photographs all black and white taken by HAEBERLE which were turned in and became a part of the official record. I show you photograph number, Exhibit P-9, is that the individual you are referring to?

A. Yes, sir.

Q. Do you know his name?

A. I can't recall his name, sir.

Q. But he was a colored soldier?

A. Yes, sir.

Q. I show you photograph Exhibit P-8.

A. Yes, sir.

Q. Do you recall that scene?

A. I was in the immediate area there, sir.

Q. Are you included in this picture?

A. I don't recognize myself in that picture, sir.

Q. Do you recognize any other person in that picture?

A. The arrow pointing to Captain MEDINA. I don't think I recognize anyone else in that picture, sir.

Q. Would you indicate on the map with a number 6 where this picture was taken or where you were with Captain MEDINA and this colored soldier who had been shot in the foot?

A. I have indicated on this map on the south flank with a 6, the estimated location that the wounded soldier waited for the medevac. It was at this location, I believe, that he was receiving treatment in the photograph 8.

Q. Do you know what time of day this was?

A. No, sir. In the morning.

Q. You saw Captain MEDINA at this scene?

A. Yes, sir. And I am certain that this is the area where the boy was receiving assistance for his wound. I believe in number 10, I think that is me, myself.

Q. Let the record so state that in photo 10 Captain JOHNSON indicated he thinks the individual kneeling over the colored soldier is himself with a rifle in his right hand.

What is the next event that transpired?

A. The helicopter came in and took the wounded soldier away, and, as I recall, there was kind of a filtering of troops right along this southern trail, and they sat down outside the trail there. Maybe 15 to 20 men. A short while later they brought a helicopter in for me and lifted me out.

Q. Why did they bring a helicopter in for you?

A. Company B had some detainees. I can't remember the number. There were quite a few and they lifted me over to Company B.

Q. Did you go back to LZ Dottie?

A. At that time, no, sir. I went over to Company B, and Company B was located in that general vicinity. I cannot estimate the distance that I flew in the helicopter. It wasn't a very long ride, but certainly too short to walk. They took me over to Company B and set me down.

Q. You left Charlie Company at this particular time then?

A. Yes, sir. If I remember exactly the helicopter picked me up in this general location right there (indicating).

Q. Could you mark that with the number 8, or is it 7? Yes, 7, and identify it?

(Witness so marked.)

And what time was that?

A. Before noon, sir, I know that. I can't narrow it down--10:30, 11:00. I'm estimating that time. I don't know.

Q. I have here the log, the sheet from the log of the Americal Division. I refer you to item number 32. Does this help to refresh your memory as to the approximate time?

A. It was 10 or 15 minutes later, sir, that they lifted me out. Because I was in this area and it seemed like the next thing they had the chopper coming in.

Q. Did you see any other civilians, men, women or children, which you would term noncombatants killed in this area?

A. No, sir.

Q. Did you see any Americans shoot at, or shoot and hit and wound, or possibly kill any civilians?

A. No, sir.

Q. None?

A. No, sir. I saw no one shoot anyone with a .45, and I did not see anyone shoot a little boy three times with a M-16. I saw no one throw a hand grenade, or fire a weapon that knocked down a child or a woman, or for that matter, a Viet Cong. I saw no one touch, kill, anyone in My Lai (4), to the best of my knowledge. The questionable area in my mind is that I heard certainly within days after this incident that a helicopter pilot reported a man firing at a woman and killing her. I cannot recall this incident. If this incident had occurred, then I believe that I would have remembered it clearly in my mind. So help me God, I didn't see anybody get killed.

Q. The only dead bodies which you saw were those of the small boy and the other number of bodies which you saw in a group, generally, towards the southwest corner of the village?

A. I believe I identified it as 10 or 12 bodies on the aerial photo. I don't recall seeing any more bodies than those, sir. Those bodies are the only bodies I recall seeing that day to the best of my knowledge. If I could recall any additional information, I would give it to you.

Q. Did you take any pictures while you were there?

A. No, sir.

Q. Did you have a camera with you?

A. No, sir.

Q. How did Sergeant MINH feel after you had talked to him?

A. He was not happy with us, sir. I calmed him down. I told him that this wasn't the place to talk about it, that I would talk to him later about it. And he seemed to generally go along with that. We continued the operation together over to B Company.

Q. You said that your job was solely that of interrogation indicating that you had no other responsibilities?

A. Sir, I had the responsibility of reporting on the enemy, that is, documents, or things that may give us tactical information. I was not in any position--if I had been aware of the situation, I was not in any position to take any action. I was not the commander on the ground. I was not a platoon leader. I was a lieutenant under the operational control of a company commander, and my sole purpose was to attempt to get information of immediate tactical value, and screen those detainees that were not considered suspect, and release them.

Q. Well, I will come back later to your responsibilities, but I wanted to clarify that point at this particular point of time.

A. Yes, sir.

Q. So you indicated that you left here somewhere in the time period of about 10:30. Would that be about correct?

A. Based on the information you showed me of the medevac, I would estimate the time to be in that time frame, around 11:00.

Q. And what did you do then?

A. I went over to B Company, and screened the prisoners in the other area.

Q. How many prisoners did they have?

A. I would say they probably had 20 to 25 total.

Q. What did you do there?

A. I screened the prisoners and ascertained that they were, to the best of my knowledge, were not enemy.

Q. Were these all males?

A. No, sir. There were females. It was kind of an ID check. If they had an ID and a plausible story, you don't have any basis to hold anyone.

Q. Did they have ID cards?

A. Yes, sir. Many of them had ID cards. It wasn't the cardinal rule that they had ID cards, but if they had a plausible story, the legality of the situation as far as proving whether a person is a civil defendant or a Viet Cong or NVA, is certain criteria, or there was certain criteria: a war-like act, some damaging evidence--weapons, documents, something of this nature. If the people were just in the village, they would not necessarily be automatically convicted or suspect.

Q. Did you have with you a black list?

A. No, sir.

Q. Did you have with you a list of VC suspects or of VCI?

A. No, sir.

Q. How long did it take you to interrogate those prisoners?

A. My interrogations were very cursory. The kids don't count. What looked suspect, I interrogated.

Q. Can you tell me what looks suspect?

A. A criteria for VC, or Viet Cong is age, scratches on the arms from running through the brush in specific locations, welts on the back from carrying pack loads of rice or things of this nature. These people more or less vouched for each other.

Q. When you finished screening them, what happened to those that you gave a positive assessment to?

A. I don't recall detaining any of those people, sir.

Q. If any of these people had been suspicious, what would you have done with them?

A. Evacuated them to the LZ Dottie, and they would have been evacuated to I think at that time to 11th Brigade.

Q. Now, we are talking about somewhere around noon-time when you arrived, 11:00 to 12:00, during this period.

A. Yes, sir.

Q. What happened in the afternoon?

A. I moved with the command group. I can't recall the commander's name. He was later killed with Colonel BARKER.

Q. Would the name MITCHELL mean anything?

A. Sir, I don't believe his name was MITCHELL.

Q. MICHLES?

A. MICHLES, sir. This was the name of the commander.

Q. Yes.

A. We moved in, I don't know which direction we were moving, but we moved to the location to prepare for a--I think they stayed in the field that night--night defensive position. Now, we linked up with all the platoons at that time.

Q. Did anybody else join them?

A. Captain MEDINA's company moved into an adjoining defensive position.

Q. Would you refer to this as a laager area?

A. Yes, sir.

Q. And what happened there?

A. They had several prisoners in the area.

Q. Who had the prisoners?

A. I don't recall, sir. I don't know whether Captain MEDINA had brought them in or if Captain MICHLES had them. The National Police and--

Q. (Interposing) When had the National Police arrived on the scene?

A. I didn't see them come in, sir. I think they came in on a helicopter, but I can't be sure of that.

Q. How many of them were there?

A. I'd estimate five or six National Police and two or three RPU's that I saw. That's all I saw. I don't know if there were any more.

Q. What is a RPU?

CONFIDENTIAL

A. Shortly thereafter I was lifted out. I went back to LZ Dottie.

Q. Did you go to Bravo Company or did you go to Charlie Company when you returned? You said you were away from it and then you came back.

A. Yes, sir. I lifted out of Bravo Company's area. They picked me up with a helicopter and I went back into LZ Dottie, and the two companies stayed in the field as far as I know.

Q. Did you see anybody else come in and land and discuss matters with Captain MEDINA or Captain MICHLES?

A. I don't remember. I cannot recollect any at this time.

Q. Who was on the helicopter that you returned with?

A. I can't recall that, sir.

Q. When you returned to LZ Dottie, what time was this?

A. It was in the afternoon. The sun was getting down in the sky, so I would say probably about 5:00 or 5:30. I would estimate that time.

Q. Who did you report to?

A. I don't remember reporting to anyone, sir. I can't even recall if I went out that night on a helicopter back to 11th Brigade or whether I stayed that night.

Q. In your situation, when you were attached and working through the S2 of Task Force Barker, would you not normally report back to him concerning your activities?

A. I would not normally report to him, sir, unless I had information relating to the tactical situation. I don't remember--

Q. (Interposing) You had information relating to the tactical situation though. In the morning you had handled a radio and some bits and types of equipment. You had seen certain things. You had proceeded to B/4/3. You had interrogated some VC suspects. You were aware that some additional PW's were there.

A. I'm speaking to you as an intelligence officer from the MI detachment. I probably entered the TOC, sir, but I cannot recall discussing any specifics of that operation that evening. Again, the situation was such that if the information was not of immediate tactical value to the task force, I didn't report it. Other than making out capture cards with limited information, I didn't write reports of any kind. The interrogation was conducted at 11th Brigade or 198th. The information that I would send back would be the circumstances of the capture. Those specific items that may be of interest to those areas, should be covered in the interrogation. The situation was not that static. The situation was not that static or that formal.

Q. But you did not report to the task force headquarters the fact that you had seen some civilians that had been killed by one means or another; you did not report to them the fact that you had interrogated several VC suspects which you had screened and which you had found not to be suspect and had them released?

A. It is possible that I did, sir, but I do not recall discussing it with the S2 or Colonel BARKER or the S3. However, I may have spoken about it, however, I don't recall specifically speaking to them about it.

Q. As an intelligence officer, do you not consider that it was your responsibility to have reported these facts to the task force of which you were under the operational control?

A. The captured prisoners, the KIA's, and the wounded were normally reported by the commander, the commander on the ground, in this case, the company commander. I had no more information to give to anyone other than that both commanders had on the ground. And again I say my primary responsibility was to them, to convey that information of immediate tactical value. They wrote the after-action reports, sir.

Q. Who is they?

A. The commanders on the ground, sir.

Q. Did they write an after-action report?

A. I don't know whether they did, sir. I'm merely trying to say that they normally would write the after-action reports for an operation.

Q. And what did you do after this?

A. I went back to the 11th Infantry Brigade either that night or the following morning. I believe it was April the--the first week in April. I was trying to process myself out of Vietnam. My wife was ill and in the hospital. My family was split up in three different houses. She had a nervous breakdown and they gave me a 20-day leave, finally, and I went home, sir.

Q. What did you have? Did you stay home?

A. No, sir. I stayed for my 20 days and returned to the 11th Brigade. I went to Captain LABRIOLA and said in 6 months I have never turned down an operation, and I do not care to go back out in the field unless you have a necessity for me to go and nobody else will go. And he said, "I'll keep you out of the field as much as possible." In May or June, possibly 15 or 16 June I was reassigned to the Saigon area and went to work for CMAC.

Q. What is CMAC?

A. Central Military Assistance Command--Combined Military Assistance Command. I wrote reports there, sir.

Q. When you returned from LZ Dottie to Duc Pho, did you report to Captain LABRIOLA the night of the 16th, or the morning of the 17th, or whenever it may have been?

A. They already had the information.

Q. What information?

A. The information pertaining to the body count in My Lai (4).

CONFIDENTIAL

A. Photo number 41, I'm not absolutely sure. I don't believe it is the same photo.

Q. All right. You indicated that before. We have gone over that, and you have indicated that you did not think that it was the same group you had seen on the road.

A. Yes, sir. Photo number 36, I believe that is me at the top of that picture.

Photo number 5 is a picture of me. I've seen that picture previously and can identify it by the--I believe I was digging for a cache, or something, or whatever.

Q. Was this in the My Lai area?

A. Yes, sir.

Q. Number 5?

A. Yes, sir. Photo number 21 is a picture of myself, and my interpreter, and a Vietnamese child. Photo number 22 is a photo of myself, and my interpreter, and an old Vietnamese man.

Q. Did you interrogate him?

A. I believe we spoke to this gentleman, however, he didn't have any information to offer to us. Photo 23 is a picture of Captain MICHLES and my interpreter, I believe, and some Vietnamese.

Q. And number 24?

A. No, sir. Photo number 10, I believe that's myself at the top of the picture.

Q. We have already identified that. I believe there is one on the reverse side of that that you have also identified previously.

A. Yes, sir. Photo number 9. Numbers 7 and 8, I believe, are pictures of the soldier that was wounded. I believe that is my interpreter, sir.

- Q. On the left?
- A. Yes, sir.
- Q. Sergeant MINH?
- A. Yes, sir.
- Q. In photo number 19 talking to a group of women and children?
- A. Yes, sir.
- Q. Did you see Sergeant PHU during the course of the operation?
- A. I think I saw him in the area, sir. He was with the CP group, I believe, and stayed with Captain MEDINA.
- Q. Did you talk to him?
- A. I may have said hello to him. I don't recall saying anything significant to him.
- Q. When you came into the LZ, was there heavy firing going on?
- A. There was heavy firing going on, sir.
- Q. Were the gunships firing?
- A. I believe they were, sir.
- Q. Were the door gunners firing?
- A. I don't believe the door gunners were firing. The second lift couldn't utilize suppressing fire because the troops were already on the ground. However, I seem to recall that there were gunships in the area firing. I don't know whether they were firing in the immediate vicinity of My Lai (4).
- Q. Did you see anything at which they were firing?
- A. No, sir.

Q. I would like to come back for just a minute to--I forgot the name of your company, or unit commander.

A. Captain LABRIOLA, sir.

Q. Do you remember if you reported anything or not to him concerning this operation?

A. I think we discussed it, however, it was not in the form of a report. I recall that I think that Captain KOTOUC was on the ground out there in the field, and I can't recall when he came in. I believe that KOTOUC was there when we were with Company B.

Q. Did you talk to him?

A. I must have, sir.

Q. Do you recall what you said to him?

A. No, sir.

Q. Do you as an intelligence officer--what training did you receive in the handling of civilians, noncombatants, and so on, and also in the interrogation and handling of PW's.

A. I attended a 4-week orientation course, basic intelligence. I completed OCS and was sent to Fort Holabird to school as a basic intelligence officer. I was not awarded the MOS of 9316 which is the intelligence officer--interrogation officer. I had no previous experience as an interrogation officer. None of the officers in the MID had previous experience as interrogation officers that I knew. They were all straight out of school. At that time 9300 was the basic intelligence officer MOS. That's all the schooling I had, sir.

Q. When you left the school, did you join the Americal--not the Americal, but the 11th Brigade in Hawaii?

A. Yes, sir.

Q. Did you go through some special training there for arrival in South Vietnam?

A. We took our normal POR training; however, I was the property book officer at that time, and we were getting in large amounts of supplies. We were filling up to go. We had no men. I was the second officer to arrive in the MID. It was brand new. Then the men came and the equipment that we had. I had no experience in supply either. Consequently, the language course that some of the officers were able to take, familiarization with the Vietnamese language, I was unable to take this course.

Q. I have here some cards prepared by Headquarters MACV. I will ask you if you have seen these cards on the top (indicating) and the facsimile in the center of the page both the front and rear.

(Witness examined Exhibit M-2.)

Did you have one of these cards?

A. I don't recall if I was issued one of these nor if I had seen this card before. It seems that they did issue a pamphlet about Vietnam, or something of this nature, about the customs of the Vietnamese people. It may have been in the book that we get with those phrases which I was never able to master. My Vietnamese did not progress. I don't have a capability for languages.

Q. I show you another card, Exhibit M-3, and ask if you have ever seen that card?

(Witness examined Exhibit M-3.)

A. I don't recall ever being issued one of these cards nor do I recall seeing this.

Q. Have you ever been given instruction on this particular subject?

A. They issued a language book. The treatment of these people was given to me, how to handle prisoners. I did receive the information, but I cannot recall the pamphlet or the document that I received that information from.

Q. In the course of your training in Hawaii and in South Vietnam, including your indoctrination when you arrived in South Vietnam, were you given any instruction in the investigation of war crimes?

A. Not that I recall, sir.

Q. Were you given any instructions on who was considered responsible for reporting the mishandling, or injuring, or killing of noncombatants, or the mishandling of PW's, or anything of that particular nature?

A. Not that I recall, sir. As far as reporting, I have the responsibility to report to my commander those actions that are not already reported. I assumed, possibly erroneously, that the information was reported.

Q. I have here MACV Directive 20-4, dated 27 April 1967, which we have listed as Exhibit D-1. I refer this document to you and specifically to the contents of paragraph 5a, and ask you if you had been given instruction in this particular area?

(Witness examined document.)

A. Sir, I don't believe I have seen that directive before.

Q. You probably would not have seen the directive because it was issued from Headquarters, MACV. There may have been a followup document from the Americal Division or the 11th Brigade, but even there I am primarily interested in whether or not you had received such instruction in this subject either from the materials which had been taken from South Vietnam back to Hawaii during the visit of the advance party, or whether you had been given such instruction in country through your MI detachment.

A. I don't recall receiving that instruction, sir.

MR MACCRATE: Captain JOHNSON, I would like to go back to some pictures that you have identified and ask a few questions about them. I believe you identified the soldier in picture 5 as yourself?

A. I believe so, sir.

Q. How are you able to identify yourself in that photograph?

A. I think that the public information officer showed me a copy of a small photo of this picture.

Q. When did he show you this photograph?

A. I would estimate a week or so after the My Lai (4) incident.

Q. So back in March of 1968 you saw that photograph?

A. I can't be certain. I believe so.

Q. Would the same be true of these other photographs that you examined in which you identified yourself and others? Did you see them at that time, in March 1968?

A. No, sir. I did not.

Q. Do you recall seeing photo 23 at that time, or photo 21, or 22?

A. I cannot recall the specific time in my mind. I recognize Captain MICHLES and my interpreter.

Q. And photo 36, I believe you also identified yourself in that photo?

A. Yes, sir.

Q. And did you see that in March of 1968 or thereabouts? Shortly after the engagement at My Lai (4)?

A. The first time I saw this photograph, sir, was when the agent from the 1st CID showed it to me, and the first time I saw this photograph was when the agent showed it to me.

Q. You are in photo 22. This photograph and this photograph, 22 and 36? And is the same true of 21?

A. Yes, sir.

Q. So the only one of these that you remember seeing in March or thereabouts in 1968 would be number 5?

A. Yes, sir.

Q. Now, can you identify for us the place where the various photographs were taken? Whether at LZ 1 or LZ 2, 16 March 1968? In other words, were they with Company B or Company C?

A. This photo was with Company C.

Q. Number 36.

A. I can't say for sure, sir. I'm not sure about this photo.

Q. You are not sure about number 21. Can you locate number 22?

A. I'm pretty sure this was in My Lai (4).

Q. Number 22 is at My Lai (4)?

A. I believe so, yes.

Q. Did you interrogate detainees at My Lai (4)?

A. If I recall, I spoke with this old gentleman here, and I believe he had a couple of children with him. In My Lai (4) this is all the people I recall interrogating.

Q. While looking at this aerial photograph on which you had earlier identified some seven points in your movement through My Lai (4) on 16 March, can you fix the particular place, approximately, that such interrogation would have taken place? Where in the sequence of what you were doing did it occur?

A. May I consult with my counsel?

IO: At any time.

A. I cannot remember what time I interrogated this man. I can't remember the exact location, but it seems that I was down a trail into the southwest corner of the village.

MR MACCRATE: Is there a number close by which you have already placed on the aerial photograph?

A. Yes. I would say that it was some place, probably in the area of number 5, if I recall correctly.

Q. We were then speaking about photo number 22. Now, was photo number 21 also taken at or about the same time?

A. I don't know. I really don't know what time that photo was taken.

Q. Do you in any way relate the young boy to the old man?

A. No.

Q. Is there anything in the attire of yourself or Sergeant MINH that would suggest that it was about the same time or at a different time?

A. I don't know.

Q. Nothing that you can see from examining the photo?

A. No.

Q. Now, can you place for us the group shown in photo number 23?

A. It was, I believe, in the area where we were first called over to B Company.

Q. At LZ 2?

A. Yes, if we are going to identify it as Bravo Company.

Q. Would it also be true of photo number 19?

A. I would say so because based on the fact I didn't see these people in My Lai (4). I presume this was in B Company. Both of these were in B Company.

Q. I don't believe you identified photo number 18 as one you had seen or recognized. Can you place the

location of that photo? Do you remember seeing the people who are there, or the general setting of such a group of detainees?

A. No, sir.

Q. Do I understand that the only detainee in the 3 or more hours that you were in My Lai (4), that you can remember meeting and interrogating, was one old man?

A. I think I said we arrived about 8:00 and we departed some place between 10:30 and 11:00. This would be less than 3 hours.

Q. Two and a half to 3 hours.

A. During this time the only man that I interrogated was the old man.

Q. Did you know of any other detainees in the area other than that one old man?

A. No, sir.

Q. Did you at any time see any movement of civilians out along a road?

A. No, sir.

Q. So far as you were aware, there was no opportunity for interrogation other than that one old man?

A. That is correct, sir.

IO: While we are on this old man, what did the old man tell you?

A. I believe he was complaining about the people being shot. I asked him if there were VC there and my interpreter said, "He says"--the old man--"that they left this morning."

MR MACCRATE: How many of them?

A. I could not ascertain the number--many, which is any number.

Q. Did you report this intelligence that you had gathered from the old man to either your own command or to anyone else?

A. Yes, sir. I believe I told Captain MEDINA that the old man said they moved out that morning. Something to that effect.

Q. Did you so report this to Captain LABRIOLA?

A. I do not recall exactly what I told Captain LABRIOLA. That the VC were in the area and moved out of the area. I believe that I probably told Captain LABRIOLA that they had moved out that morning according to the old man.

Q. Do you recall if your conversation with Sergeant MINH while you were talking with him about the problems of warfare and these things, whether that conversation was before or after you talked to the old man?

A. I don't recall.

Q. They were both initially saying about the same thing, weren't they?

A. That is correct--I don't recall, sir.

Q. How long had Sergeant MINH been with you?

A. As an interpreter for me over the months?

Q. Yes.

A. The interpreters rotated. They didn't like the duty out there. They would prefer to be down in Duc Pho, where they had an opportunity to go to the village down there that was controlled, and, therefore, generally, the interpreters would go on an operation and then the next time a different interpreter would go.

Q. Do you have any idea of how much experience Sergeant MINH had before this particular operation?

A. He was thoroughly conversive in the language. None of the interpreters had the capability that he had. Like some of the division interpreters had. I think that he had some previous military experience. This is an assumption. I believe that he had some previous military experience. Generally speaking, the interpreters from Vietnam come from the upper class because of the education and the training that they must have, and the rank that they receive. I think they are all made E-6.

Q. You don't know how long, however, he had been acting as an interpreter?

A. No, sir.

Q. But you do think that he had prior military experience?

A. Yes, sir.

Q. And this was not an early engagement for him?

A. I don't know if he had functioned as--in the field that much. It was my experience that many of the interpreters did not care that much about functioning in the field. They preferred to be back at the brigade or division fire base.

Q. Of course, we're not talking about what they have preferred. I was just trying to get a feel for this particular interpreter's experience. How much exposure he might have had up to that time. This was the first time the two of you were together?

A. He had worked on interrogations with me prior to this time.

Q. In the field?

A. No. Back at the 11th Brigade. I cannot recall any specific time that we went to the field before this time. However, we could have gone out on smaller operations. I can't recall.

Q. Did you subsequently, subsequent to 16 March, have any further operations with Sergeant MINH?

A. I'm sorry. I thought that was the previous question.

Q. After 16 March. Did you go out with him again? My prior question had been before the 16th of March.

A. I understand the question. I probably did, again, I can't recall the specific incident or time.

Q. Did he ever come back to this same idea and express concern about it either as to what had gone on at My Lai (4) or what was going on at the time of this later operation?

A. I don't recall discussing it with him at all any further.

Q. If there are detainees that you believe to have important information, what was your procedure for handling them?

A. They were evacuated to the LZ Dottie unless we were close enough to go straight down which was usually not the case, and then held at LZ Dottie until a helicopter came to the 11th Brigade and took them down to the interrogation unit down there.

Q. Who made that decision as to whom would be lifted out?

A. The commander would make the decision or I could recommend to the commander that he be evacuated. Once they got to LZ Dottie, the S2, if he chose, could or could not, whichever he chose to do, send them down to the 11th Brigade. Generally, they went along with my recommendations and if the commander desired someone to go in, based on his decision, they went. There was no specific requirement.

Q. If you had such a detainee and the National Police wanted to interrogate the man, and take him off, how was the problem solved?

A. All detainees were released at that time to the government. In other words, if we lifted out five people, the innocent civilians were released to the local government.

Q. But, to the local police at the site, or after evacuation?

A. I don't think it made any difference. If they were civil defendants, we kept them, and I believe they sent the papers forward. I believe there was an adjudication at division. They had the authority to adjudicate civil defendants based on the evidence. They were then turned over to the local government and I believe they took them to Quang Ngai. In the case of PW's, if we established they were a PW, they were sent to division for interrogation or they were released to the local government or evacuated to higher channels depending on the esteem of the prisoner.

Q. Do you feel that you controlled this movement initially, or could control it?

A. No, I don't think I controlled it. It keeps running back to my responsibility, and, as I look back, I didn't have the experience--I'm not making excuses--I don't think as a lieutenant that I could have altered anything that happened on 16 March that I was involved in. I didn't try. That may be a very serious mistake, but it is done, and I can't bring any of it back.

Q. I believe that when you were interrogated at the end of October, as you stated earlier today, you thought you might have followed a different route after your arrival at My Lai (4) than you think you may have followed?

A. I am unclear, or truly, I am not certain which route I took.

Q. Has any information come to your attention since the end of October 1969, that had led to this uncertainty in your mind?

A. Led to this uncertainty?

Q. Yes. Has changed your recollection.

A. I think Captain MEDINA spelled out exactly what he felt happened in My Lai (4). MEADLO and the rest of those guys in Life magazine, I guess they told it like they thought it was. It is relevant only in the sense that it greatly confuses me. I wish I didn't have the

television interviews, and the Life magazine story, newspaper, and other articles, but I got them, and I cannot determine what I remember happened and what has been crammed into my mind that may have happened that I might agree with or that I might disagree with.

Q. Have you had any direct communication with any of these other individuals or has all your knowledge, or all your information, come from the media, the news media?

A. I've been directed by the authority at Fort Benning, Georgia, not to discuss this, and I have been directed by Lieutenant Colonel BREEN not to discuss this, and I haven't made any contact with any individual and discussed the matter after receiving these orders, except to call my mother and explain to her that I might be--I didn't want her to worry.

Q. But prior to receiving the directive--that is the time I was directing myself to--when did you first receive the directive about not communicating?

A. The first directive I received--I don't recall the date, but it has been over a week ago. The communication that I had with anyone about the subject was irrelevant. I never made any statement to the effect I think Lieutenant CALLEY is guilty or I think that Captain MEDINA is guilty, or anything of this nature. I never discussed with any news media nor do I intend to discuss this matter. Further, I do not intend to discuss My Lai (4) or March 16 at all in the future until the whole matter is resolved.

Q. Captain JOHNSON, my question is really directed to eliciting whether there were exchanges of information between you and any others prior to the time that you received the directive. This is to help this panel ascertain the extent to which information may have moved from one person to another and how it affected recollections in that way.

A. I have not talked to any of the people involved in the incident in My Lai (4) on March the 16th, at any time that I can recall. The question of what Lieutenant CALLEY did, I was unaware of it until such time as the investigator investigating the matter interviewed me. Some

information I received from him. I think he was trying to refresh my memory.

IO: Captain JOHNSON, with respect to the old man that you interrogated and you received information from him concerning the VC having left early in the morning, I take it that this was before the combat assault into the area? Was that your impression, that the VC had departed the village prior to the time of the combat assault into My Lai (4)?

A. I think that is what the old man said.

Q. When you finished interrogating the old man, what happened to him?

A. The allegation that has been made, that was in Life magazine, and has been brought to my attention by the agent from the 1st CID that interrogated me in the matter, that when I was finished with him and turned around that my interpreter shot him, that the interrogation team did, in fact, shoot prisoners, that the Americans didn't but that the Vietnamese did. They didn't. My interpreter, to my knowledge, did not kill anyone on March the 16th. There was a certain period of time that I was separated from my interpreter, but not for any long period of time. Although it may not be relevant, I do not believe, I personally do not believe, that my interpreter killed anyone. I certainly did not witness or know of or have knowledge of my interpreter killing anyone. In MINH's case, during the entire time that I was working with him, not just that one day.

Q. You did not see MINH then shoot the old man?

A. No, sir.

Q. Did you see anybody shoot at or hit the old man?

A. No, sir.

Q. Did you ever see the old man after that?

A. Not that I recall, sir.

MR MACCRATE: Do you recall leaving the old man?

FOR OFFICIAL USE ONLY

A. I believe he went over and sat down, and we walked off. My interpreter walked off with me to the best of my knowledge. I don't think the man killed anybody, and I didn't kill anybody the whole time I was in Vietnam. That is, to take a weapon and shoot somebody.

IO: Colonel MILLER, do you have anything?

COL MILLER: No, sir.

IO: Colonel WILSON?

COL WILSON: What was the name of the individual who showed you photo number 5?

A. I can't recall, the PIO officer at 11th Infantry Brigade.

Q. You don't recall his name?

A. No, sir.

Q. Do you recall his grade?

A. Lieutenant.

Q. Did you ever see any propaganda concerning this operation?

A. Ours or theirs, sir?

Q. Theirs.

A. No, sir.

Q. Have you ever seen a letter from the village chief to the district chief concerning this operation?

A. No, sir.

COL WILSON: That's all I have, sir.

IO: Colonel FRANKLIN?

COL FRANKLIN: No, sir.

CONFIDENTIAL

any rumors concerning any atrocities, unusual activities, massacres, or anything else that may have taken place in or near My Lai (4) on or about the 16th of March 1968?

A. I did not hear of any massacre or atrocity committed in My Lai (4) until I returned to the United States and was interrogated by the agent from CID. There were remarks made about the civilians that were killed there.

Q. Who made the remarks?

A. I cannot recall, just that somebody said, "Quite a few women and kids," or something like this, and I don't recall whether it was at Dottie or back at the 11th Brigade. I don't recall.

Q. But you never put that together with the previous reports that you had from the old man and from your interpreter, Sergeant MINH, to be complaining about this, you didn't put all this together which raised any doubts or suspicions in your mind as to what might have been going on there?

A. No, sir, I did not relate. I thought the Viet Cong were killed in that village and that some civilians were killed just because people were shooting, and, I truly believe that those people I saw dead were either hit by artillery or gunships.

Q. Captain JOHNSON, before we close I would like to say that it is quite important for us that if you have any such things as documents, tapes, photos, or any other information regarding any other inquiry or investigation, interviews, or if you have any other knowledge of the subject under investigation, we would like to have it. I would also say the executive officer here, Colonel BREEN, in order to assist us in this interrogation, may talk to you subsequently concerning the identification and possible locations of additional witnesses that we might interrogate. We picked up a couple from you this afternoon, i.e., Sergeant MINH, for example, and I think we have pinned down a couple of the other ones in this particular instance. I would like, if at any time in the future, if you have any of that, we would like to have it. Any photos, any tapes, any records, anything that is available concerning this investigation.

A. Yes, sir.

Q. Before we close, I would like to give you the opportunity to make any statement that you might to clarify matters, or anything which in your judgment might assist in this particular investigation to achieve its purpose, the purposes which I have outlined to you initially.

A. I have only to add that I have tried to the best of my knowledge to give you all the information that I have in my mind about the situation without using the additional information that has been put into the public record realizing full well the effect it may have on my career, and I hope that I have been able to help you. I have nothing further, sir.

IO: This hearing will recess.

(The aerial photograph, Exhibit P-1, as annotated by CPT JOHNSON was received and entered into evidence as Exhibit P-172.)

(The hearing recessed at 1656 hours, 8 December 1969.)

(The hearing reconvened at 1018 hours, 9 February 1970.)

IO: The hearing will come to order.

RCDR: The following named persons are present: LTG PEERS, MR WEST, MR MACCRATE, MR WALSH, COL MILLER, COL FRANKLIN, LTC MAHAFFEY, and MAJ LYNN.

The next witness is Captain Dennis F. JOHNSON being recalled.

(CPT JOHNSON was recalled, advised that he was still under oath, and testified as follows:)

RCDR: Are you represented by counsel?

WIT: Yes, sir.

RCDR: (To IC) State your name, rank, organization, and service.

IC: Captain Murray M. VAN LEAR, II, , Fort Holabird, Maryland, U.S. Army.

IO: Captain JOHNSON since you last appeared before this inquiry on the 8th of December of last year, we have interviewed a large number of people. To date, we have talked to approximately 350 people, and we have had made available a great deal of documentation concerning the incident and the reporting and investigation of the incident. So we know much more about what transpired than we did at the time we first talked to you. Among these people that we have talked to are several Vietnamese.

When we were in South Vietnam we had an opportunity to talk to three interpreters who were associated with this one way or another: your interpreter, Sergeant MINH; Captain MEDINA's interpreter, Sergeant PHU; and Captain KOTOUC's interpreter, Sergeant HIEN. And we had an opportunity to talk to various other Vietnamese officials in the ARVN and in the province, district, and the like. So, we have a pretty good indication as to what actually went on within the operation and the subsequent reporting and investigations.

When we went into My Lai we took among other people your former interpreter, Sergeant MINH. He was on the ground and walked through the village with us. So we were able to converse with him about places and things. Before we get on with any questioning, I will ask Colonel MILLER, of the Office of The Judge Advocate General, to provide instructions to you.

COL MILLER: Captain JOHNSON, when you appeared and testified at this investigation on 8 December 1969 you were accompanied by Captain William C. BARNES, who represented you at that time. I note that today you are accompanied by Captain VAN LEAR. For the record, captain, are you a lawyer admitted to practice law?

IC: Yes, I am.

COL MILLER: Is Captain VAN LEAR your attorney by choice at this time?

WIT: Yes.

COL MILLER: At your prior appearance you were informed that you were not suspected of any offense which was the subject of this investigation, and General PEERS has already mentioned the investigations generally which have gone on since that time. As a result of the information now available, I do hereby inform you that you are now suspected of several offenses which are in violation of the Uniform Code of Military Justice. I shall advise you of what you are suspected and inform you of your rights to counsel and your testimonial rights. If you have any questions, please feel free to ask them. Before you came in this morning, you were furnished a copy of your prior testimony. Have you and your counsel had an opportunity to look over that?

WIT: Yes, sir.

IC: Yes, sir.

COL MILLER: At this time you are suspected of failure to obey lawful general regulations concerning the reporting and investigation of alleged or suspected war crimes. You are also suspected of the offense of failure to obey orders. You are suspected of assault and battery upon a Vietnamese who was in your

temporary custody. You are suspected of dereliction of duty and suppression of information concerning misconduct of others during the Task Force Barker operation on 16, 17, 18 March 1968, which information may have related to grave breaches of the Geneva Conventions of 1949 and which may have constituted war crimes and offenses against the Uniform Code of Military Justice. These acts may have constituted misprision of a felony or accessory after the fact, possibly both.

Before we ask any questions today, I want to be certain that you have explained to you and that you understand your testimonial and counsel rights. You have the right to remain silent and to answer no questions at all concerning any of these offenses of which you are suspected or any matter under investigation. Any statement you make may be used against you in a criminal trial. You have a right to consult with counsel, and by that I mean a qualified lawyer, and to have this counsel present with you during this hearing. Counsel may be one whom you have retained at your own expense. You also have the right to be furnished a qualified military counsel, and I take it Captain VAN LEAR is your counsel of choice. Do you have any desire for further counsel?

(Witness confers with his counsel.)

WIT: I would like, if I could, sir, to request additional counsel. I would like to have Captain BARNES, who was here during my previous testimony, if I may.

COL MILLER: We will determine if he is reasonably available. Either your appointed counsel, or the counsel of your own selection, or the civilian counsel whom you employ at your own expense may be here at the meeting. You also have a right to consult with him at any time and he with you. Do you understand what I have said so far?

WIT: I am suspected at this time of committing these crimes. However, there are still no charges placed against me, is that correct?

COL MILLER: As far as we know there have been no charges preferred.

IO: You must recognize the purpose of this investigation. The purpose of this investigation is to determine whether or not

the incident of 16 March 1968 was investigated, whether the investigation was adequate, whether the reviews of the investigation were adequate, or whether or not there had been any attempt on the part of anyone connected with the incident to suppress information concerning the incident. That is the purpose of this particular investigation.

COL MILLER: Captain JOHNSON, even if you do decide to answer questions today, you have, of course, the right to decline to answer any particular question concerning any particular incident or decline to answer any questions at this time. You may confer with counsel before you make a decision. Do you at this time understand what I have said?

WIT: Yes, sir.

COL MILLER: Do you want to discuss it with your counsel?

WIT: Yes, sir.

(Witness confers with his counsel.)

WIT: Sir, I would like to request that Captain BARNES also be included as my counsel and request time to discuss the matter with him.

COL MILLER: I will try to determine his availability as soon as I can. After we reconvene, I will have another question to ask you: whether you are willing to make any statement, to answer any questions. We will defer that for the time being.

IO: The hearing will be recessed at this time.

(The hearing recessed at 1030 hours, 9 February 1970.)

(The hearing reconvened at 1632 hours, 9 February 1970.)

IO: The hearing will come to order.

RCDR: The following named persons are present: LTG PEERS, MR WEST, MR MACCRATE, MR WALSH, COL MILLER, COL FRANKLIN, LTC BAUER, LTC PATTERSON, and MAJ LYNN.

Sir, the hearing recalls Captain Dennis F. JOHNSON.

(CPT JOHNSON was recalled.)

Captain JOHNSON, I remind you that you remain under oath before this hearing.

Are you represented by counsel?

WIT: Yes, sir.

RCDR: Would counsel representing Captain JOHNSON state his name, rank, organization, station and service.

CPT VAN LEAR: Murray M. VAN LEAR II, Captain, Fort Holabird, Maryland, U.S. Army.

CPT BARNES: William C. C. BARNES, Captain, Headquarters, MDW, U.S. Army.

COL MILLER: Captain BARNES, you were here before, and you recall our procedures. Do you have any questions? Or do you, Captain VAN LEAR?

CPT BARNES: Not at this time, sir.

COL MILLER: Before we recessed, you requested that you be provided additional counsel. Are you now satisfied with your counsel?

WIT: Yes, sir.

COL MILLER: My next question: Do you want to make a statement and to answer questions?

WIT: I am prepared to answer questions, sir.

COL MILLER: You are aware of your testimonial privileges?

WIT: Yes, sir.

IO: Mr. WEST will lead the questioning here, and subsequent to his questions on each of these items, other members of the inquiry may address questions to you.

MR WEST: Captain JOHNSON, we are not going to take you back through your entire testimony. There are two or three matters

that we want to inquire into. Some of them, possibly, were not touched on before.

We take you initially to the morning of 16 March 1968 after you had been lifted into the area west of My Lai (4) where C/1/20 was engaged in a combat assault on this little hamlet of My Lai (4). Do you recall this?

A. Yes, sir.

Q. Now, it is my understanding that you moved with Captain MEDINA's command group, and initially Captain MEDINA set up on the west side of the hamlet. His CP was there for quite a while, is that correct?

A. I believe that is a correct statement of what occurred there.

Q. During this time and later in the morning, did you observe any helicopters overhead?

A. I believe there were helicopters in the air.

Q. Do you know Colonel BARKER's command-control ship and Colonel HENDERSON's Charlie-Charlie ship?

A. Were there, sir?

Q. They were there that morning. Did you see either one of them?

A. I don't recall any one of them in the area, sir.

Q. I believe you testified before, as I said just a moment ago, that you moved with Captain MEDINA's command group. Now, he had two radio operators that morning, two RTO's, MURRAY, on the task force "push," and John PAUL on the company "push." Both of these radios had external speakers such that transmissions coming in were being heard for some distance. We have had several witnesses to tell us of the incoming messages over these radios. Several of these messages were of significance and have been helpful to us in determining what happened there that day.

I wanted to ask you what messages of this nature you heard or recall. For example, do you recall any messages

concerning body count or having reference to the killing of civilians, perhaps? Was there anything that you recall hearing that came in over these radios?

A. I don't recall hearing any messages coming in or any messages going out that morning that I can recall to mind.

Q. Let me ask you a specific question or two. Did you hear a message coming in over the Task Force Barker "push" telling Captain MEDINA--and probably from Colonel BARKER, to stop the killing?

A. No, sir.

Q. And Captain MEDINA getting on the radio and telling his platoons to stop the killing?

A. No, sir.

Q. Did you hear any traffic at all coming in over the radio?

A. I don't recall hearing any of the conversations coming from the radios or being transmitted from the radios, sir.

Q. That is all that I have on these two points. Captain JOHNSON when you were here before, you may remember marking up an enlarged aerial photograph of My Lai (4) and the vicinity and indicating by the mark on this photograph the routes that you took through My Lai (4) and the incidents that you recall. I am going to show you this photograph again. This has been admitted into evidence as Exhibit P-172. Do you recall marking this aerial photograph?

A. Yes, sir.

Q. There is a number 1 marked on the photograph on the west edge of My Lai (4). The time is 0800, and this marking signifies the location of Captain MEDINA's command post. Do you recall this?

A. Yes, sir.

Q. To the south of the village you have a series of marks indicating certain events that took place. For example, you have number 7 as the place where you were lifted out by helicopter. Do you recall this?

A. Yes, sir.

Q. We have learned since that the helicopters which lifted you out did not land at this point which is indicated as being south of My Lai (4), but rather near the northwest corner. The helicopter which took you out, in fact, landed south of My Lai (4), but east of the trail that leads south of the village and connects with Highway 521 which is over here (indicating). Indications are that--in your recollection you moved everything over more toward the southwest corner of the village than what actually occurred. I thought this might help you recall a little bit where some of the things were that you saw. At point 3, you have a place marked where you saw the body of the child?

A. Yes.

Q. This child was lying at the intersection of the main trail running south from the village with the path running along the south edge of the village right here. You also had--and I think this is point 4 just below point 3--where you said 10 or 12 bodies were lying. Actually these bodies were lying on this trail that runs south of My Lai (4). Now I point this out because I want to take you through the hamlet again, and perhaps this will help you recall a little more where you actually went through the village. Now, as I remember your testimony, you moved out with Captain MEDINA when he moved out. Could you tell where you went as best you can recall?

A. Sir, I am not absolutely sure of my movements during that period of time. When I gave this testimony previously, I gave it to the best of my recollection. It may be wrong, but I can't make any other statement.

Q. Perhaps you misunderstood me. I am pointing out the difference in the actual locations of these events and those which you marked on the map. I was only trying to refresh your recollections. Many witnesses have confused locations a little bit in their recollection where they were, and

if you will just accept the fact that the bodies were on the main trail going south that you saw, and that the helicopters which took you out landed east of that trail, east of where the bodies were. I thought this might help you remember how you did move through the hamlet. I realize it's a little difficult for you. We just want your best recollection.

A. Sir, I gave my best.

Q. Let me ask you this now. Soon after you moved out from the rice paddy, there at the initial CP location, did you come across a pagoda?

A. I don't recall a pagoda. Initially, from point 1 as indicated on this map, I think there was a building or something in front of us, and it was toward the village, but I can't recall a pagoda.

Q. How far did you move into the hamlet? I know at some point you moved down toward the south, on the south edge, and you eventually came out on the south edge of the village. Can you recall how far you went in before you moved down to the south?

A. No, sir. I don't know if I moved directly south or whether I moved forward and then south, or in which direction I went.

Q. Who was your interpreter that day with you in My Lai (4)?

A. I believe it was Sergeant MINH. It was Sergeant MINH.

Q. Sergeant MINH said this in his statement to the criminal investigation division:

"There was a lot of firing going on in the hamlet. Then all of us started moving into the hamlet. We walked through the wood line, and when we entered the hamlet we did not follow the trail. We moved about 100 meters into the hamlet, and I could still hear the firing. We did not encounter any resistance. In this

section of the hamlet, I did not see any people. However, I did see some hootches that were burned, and then we followed the trail through the hamlet. The company commander and Sergeant PHU and Lieutenant JOHNSON and the CP section were with us. The soldiers were moving in front of us to provide security. I saw animals such as pigs, chickens, cows and water buffalo that had been killed. I did not see any dead women and children at this time. In the front of us, the troops were still firing. However, I did not hear any enemy firing. We continued through the hamlet, and I noticed that all of the hootches were burned, and about this time I was a half hour in the hamlet. And then we came to a small pagoda on this trail, and I seen some women and children that had been shot and I also seen some women and children shot outside of the hootches. I seen about 15 of them."

This is a route that you took as described by Sergeant MINH. Does this help you recall where you went in the village?

A. Sir, I don't recall moving through that village.

IO: Did you at all times stay within sight of Captain MEDINA's command group?

A. No, sir.

Q. What direction did they go? Were they ahead of you or to the right of you or where were they?

A. On this particular occasion, sir, I don't recall. But I don't think that I would have gotten ahead of the command group. It just was not a good idea to move out in front of the command group. But I don't recall at this time where the command group was in relation to me.

Q. You had known that the 1st Platoon went in the village on the right, and the 2d Platoon went into the village on the left, and when the 3d Platoon went into the village an hour or so later that the command-control group of Captain MEDINA followed it.

A. Sir, I did not know which platoon went to the left, or to the right, or how many platoons went in, and I can not recall which platoon I went in with.

Q. You stayed out some time before you went into the village; from the time you landed at 7:40. You went in with the second lift. Is that correct?

A. Yes, sir. I believe so.

Q. What time did they enter the village, approximately, the 3d Platoon?

(The witness made no response.)

We know it had to be a little after 9 o'clock so you were on the west side of the village there for some time. Do you remember, for instance, an ammunition box that had been captured that had certain items inside which you and Sergeant MINH worked on after it had been opened?

A. Yes, sir.

Q. So there was quite a lapse of time before you got into the village?

A. I don't know which way I went or how long I was there before we moved.

Q. Well, you know you were on the west side?

A. Yes, sir.

Q. And you know you went into the village. So you could not have gone west?

A. May I talk to counsel?

Q. Yes.

(Witness confers with counsel.)

A. I don't recall moving through that village, sir.

Q. If you were on the south, could you see, from the south where you indicated, did you see a group of civilians standing out in the rice paddy that were cut down by M-16 and machineguns?

A. No, sir.

Q. You were on the south of the village, though?

A. I believe I was.

MR WEST: Captain JOHNSON, I mentioned a pagoda a little earlier. Sergeant MINH talked about this pagoda. It was a structure that he came to, moving with the group and you, according to his statement. He says this was about in the center of the hamlet and that Captain MEDINA set up his CP here. That was the second time, after he had begun to move forward. Then he relates how he left there and went on down to the southwestern part of the village. But he said that you stayed there with Captain MEDINA. And then he relates:

"I then went back to the CP location where the company commander was. I first asked Lieutenant JOHNSON why the soldiers had killed everybody in the hamlet. By this I mean in the section of the hamlet where I was. I asked Lieutenant JOHNSON three questions: Why the soldiers killed all of the animals, why the soldiers burned all the hootches, and why the soldiers killed all of the people. And Lieutenant JOHNSON said that he did not know. He said that he was only the MI officer."

Do you recall this?

A. I recall discussing it with Sergeant MINH. However, I do not recall the exact questions.

Q. Do you recall being at this location which he describes?

A. No, sir.

Q. It is a pagoda. It might appear to be some other type of structure, but he described it as a pagoda, and it's the place that Captain MEDINA set up his CP the second time after moving into the hamlet.

A. May I consult with counsel?

Q. Yes.

(Witness confers with counsel.)

A. Sir, I feel fairly certain in my mind that when I had the discussion with Sergeant MINH that it was down in this area on the south of My Lai (4).

Q. The southern outskirts of My Lai (4)?

A. Yes, sir.

Q. Would you then describe--if I understand you, you did start out at the point marked 1 on this photograph in front of you (Exhibit P-172), and you did arrive at some point on the southern outskirts of the hamlet. Can you describe, as best you can, how you got there? As I understand it, you were moving with Captain MEDINA, moving with his command group.

(Witness confers with counsel.)

A. Sir, to the best of my knowledge, I proceeded around the southern corner of the village. I cannot recall for certain if Captain MEDINA was with me.

Q. Did you move by yourself?

A. I don't know, sir.

IO: We have here a map and aerial photo which has been marked by Sergeant MINH and has been entered into the record as Exhibit P-166. This is Sergeant MINH's recollection after having again been on the ground, of the route which was taken, starting about where you were and zig zagging back and forth across the trail and coming to the area of the pagoda and going down to the area where the bodies were lying on the road.

(Witness confers with counsel.)

One thing may be misleading here, which does not show up on the photograph, but which becomes very apparent on the ground. When you come down this trail which is the main trail down through the village and which curves

around, there is a jog in the trail which you can almost see here. And as you come out you are sort of going to the southeast so that these bodies that we were referring to here would be on the trail, roughly about 30 meters down the trail, right in here (indicating), lying right out in the road.

A. Sir, to the best of my recollection, as I was walking down the trail this junction of the trail came into view off to my right, and I saw the bodies there. I think if we would have traveled the route MINH says, I would have walked down that trail and observed them in front of me, which I didn't. They were off to my right.

Q. Well, what I'm trying to say is that when you come in, that trail takes a jog like so before it turns and goes to the south so that it could have been down to the south. I'm not saying that it is, but I can explain it to you because to the best of our testimony, as we have it right now, if you were on the south side down there at this time, you were pretty much by yourself because the command group went through the south of the village and wound up down here (indicating). And MINH says he went through and went down there (indicating).

A. To the best of my knowledge, sir, I went the way I said I went.

Q. We are not trying to lock you in concrete on this. We realize this was a long time ago, and we know much more about this now than we knew at that time, and we are trying to give you a little bit of information that might serve, not to put words in your mouth or thoughts in your head, but to refresh your memory. I tell you at that point in time, if you were on the south at the point that you were talking about, you would have been pretty lonesome because you would be by yourself to the best of our knowledge.

A. I can't add anything to it, sir.

Q. Now, did Sergeant MINH ask you to discuss this matter with Captain MEDINA?

A. No, sir.

Q. Did you have anything to do with him about talking to Captain MEDINA?

A. No, sir, not that I recall.

Q. After you had given him this explanation, did he talk to Captain MEDINA?

A. Not to my knowledge, sir.

Q. Let me read you a little bit of his testimony. He says, and this is to Mr. MACCRATE, myself and other people in Chu Lai in South Vietnam:

"Q. What happened after that?

"A. So at that time I went back to meet Lieutenant JOHNSON at the schoolhouse, and I asked him why the Americans had killed all of the people here and burned their houses and killed their animals. And he said, 'I'm just an intelligence officer. I don't understand this action and operation.' So then I met the company commander and I asked him the same thing, and he told me that he had received orders to do that."

Do you recall that?

A. No, sir.

MR WALSH: I show you Exhibit P-22, a photograph which you identified in your previous testimony as yourself with your interpreter and an old man. You testified that that old man had been interrogated by you and Sergeant MINH in the southwest portion of My Lai (4) and that he had told you about the VC leaving the area that morning. You then, as you described it, left him and he walked over and sat down on the ground, and you never saw him again. Now I'd like to show you Exhibits P-2, P-3, and P-4 and ask you if in fact that isn't the old man you spoke to?

(Witness examines photos.)

P-22 is the photograph that you identified previously as being the old man you interrogated at My Lai (4).

A. I couldn't make any identification, no, sir, by saying the Vietnamese man pictured in 22 is the same as the Vietnamese pictured in 4, 2, and 3.

Q. That was not my question. I think that it is quite clear that they are not the same man, and I just want to know if looking at Exhibits P-2, 3 and 4 doesn't refresh your recollection. The man that you interrogated at My Lai (4) was not the individual shown in P-22, but rather the individual shown in the pictures 2, 3, and 4.

(Witness consults with counsel.)

A. Sir, I don't recognize the figure in 2, 3, or 4.

Q. All right. You recognize the figure of the old man sitting on the road as the individual that you interrogated at My Lai (4) and who you then testified you last saw sitting down and you walked away from him?

A. You want me to say that this is the man that I interrogated?

Q. That's right. I want to know if that--you can recognize him as the man you interrogated.

A. No, sir. I can't.

Q. Now are you still certain that photograph Exhibit P-22 is the individual that you interrogated at My Lai (4)?

IO: When you were with C/1/20.

(Witness examines photograph.)

A. I'm not certain.

MR WALSH: What caused you to change your mind?

A. I just can't remember, sir. I cannot remember. I felt certain this was him.

Q. Why do you feel differently now?

A. I must have interrogated this man because I'm standing in the picture talking to him.

Q. That seems very clear. Now, we're talking about the man that you interrogated when you were with Charlie Company who told you the VC had left the village that day, which you then passed on a report about. You also said that was the only individual you interrogated while you were with Charlie Company. Isn't it a fact that that was not the individual you interrogated when you were with Charlie Company, but it was another individual and that individual is the one shown in Exhibits P-2, 3, and 4?

A. I don't know. I don't know, sir.

Q. All right. Isn't it a fact that when you did interrogate this man shown in Exhibit P-22, you were with Bravo Company somewhat later? And isn't it also a fact that Sergeant MINH and yourself beat this man up?

(Witness confers with counsel.)

A. I don't recognize him.

Q. You don't recognize the old man?

A. No, I don't recognize him. I'm in the picture--

Q. (Interposing) In your previous testimony, you were asked the following questions and gave the following answers:

"Q. Can you locate 22 (Exhibit P-22)?

"A. I believe so, yes.

"Q. Did you interrogate detainees at My Lai (4)?

"A. If I recall, I spoke with this old gentleman here, and I believe he had a couple of children with him in My Lai (4). This is all the people I recall interrogating."

You were then asked to comment about the location within My Lai (4) as shown on the aerial photograph and then the questioning continued:

"Q. Captain JOHNSON, with respect to the old man that you interrogated, did you receive any information from him concerning the VC having left early in the morning? I take it this was before the combat assault in the area? Was that your impression that the VC had departed prior to the time of the combat assault?

"A. I think that is what the old man said.

"Q. When you finished interrogating the old man, what happened to him?

"A. The allegation that has been made in Life magazine, and has been brought to my attention by the agent from the 1st CID who interrogated me in the matter, was that when I was finished with him and turned around, my interpreter shot him, that the interrogation team did in fact shoot prisoners, that the American didn't but the Vietnamese did. They didn't. My interpreter, to my knowledge, did not kill anyone on March 16th. There was a certain period of time that I was separated from my interpreter, but not for any long period of time. Although it may not be relevant, I do not believe, I personally do not believe, that my interpreter killed anyone. I certainly did not witness or know of or have knowledge of my interpreter killing anyone. In MINH's case during the entire time I was working with him, not just that one day.

"Q. You did see MINH then shoot the old man?

"A. No, sir.

"Q. Did you see anyone shoot at or hit the old man?

"A. No, sir.

"Q. Did you ever see the old man after that?

"A. Not that I recall.

CONFIDENTIAL

to you now is, are you changing that prior testimony and if so, in what respects?

(Witness confers with counsel.)

A. I thought that this individual was the individual that I interrogated in My Lai (4). And because I'm in the picture, it puts me with him, and so I thought this was the one. I--that's the best I can do, if that's any statement.

Q. Well at that time you had no clear and specific recollection that he was the man? Is that correct?

A. I beg your pardon?

Q. At the time of your previous testimony, you did not have any clear or specific recollection that the individual shown in the Exhibit P-22 was the man you spoke to in Charlie Company area?

A. To the best that I can recollect, he looks at least similar to the guy, and because I'm in the picture and because of the terrain around the picture, I think I stated that this was taken in My Lai but I was not questioned as to where this was taken. Neither CID nor this board here at the present time requested this testimony from me. What can I add to it?

Q. You don't have to add anything. I just wanted to make clear that you were not clear at the time you gave the previous testimony that that was in fact, the man you thought you saw. I take it that you now do not recognize the individual shown in Exhibits 2, 3 and 4 as anyone you interrogated in My Lai (4).

A. I don't think it is. I can't recall what that man looked like specifically.

MR MACCRATE: Do you recall an incident, Captain JOHNSON, when Sergeant PHU led a man out of the house and subsequently interrogated him, possibly with Sergeant MINH in your presence?

A. No, sir.

Q. You have no recollection of Sergeant PHU leading

the man out, and there being a photographer standing there and snapping a picture as he led him out of the house?

A. No, sir.

Q. Captain JOHNSON, when you went on this operation, how many days did you expect to be gone?

A. Well, I could never be sure. It wasn't specified how many days I'd be gone. Usually, I would have some indication if it was to be a long operation. However, I didn't.

Q. Do you have any recollection of the change in signals here that you were being brought back to LZ Dottie earlier than you'd expected to be brought back?

A. No, sir.

Q. Let me read you another portion of Sergeant MINH's testimony:

"Q. When you arrived back at LZ Dottie what did you do then?

"A. I would like to explain another thing first. Before we departed for LZ Dottie, we received instructions that we would be prepared to go out 4 days, but we only stayed out the first day and that's all. That afternoon we returned to LZ Dottie. I was very surprised at the number of Vietnamese people that had been killed in that village, that hamlet. That afternoon one more time I discussed this incident with Lieutenant JOHNSON. When we returned there I went in to talk to Colonel BARKER and Major CALHOUN about the incident, but I was afraid that they would not let me report directly to them, so then I tried to encourage Lieutenant JOHNSON to report to them. He told me that he would take care of it, that he would report, and for me not to worry about it. So we remained in LZ Dottie for the remainder of the 4 days.

"Q. You did not go back to Duc Pho, LZ Bronco, that night?

"A. No, sir, we stayed there and the fourth day only then did we go back to Bronco. I was by Lieutenant JOHNSON's side all that time, and we didn't leave until the fourth day."

Now do you have any recollection of such conversation with Sergeant MINH, returning to LZ Dottie, and of his desire to have this matter reported and your reassurance to him that you would report it?

A. No, sir.

Q. Did you, in fact, ever make a report of anything you observed in the course of this operation?

(Witness confers with counsel.)

A. Is that a written report or oral report?

Q. Either oral or in writing?

A. I don't recall ever making a report. In all the operations that I participated in the field, I don't recall ever making a report.

Q. And--

A. (Interposing) Let me clarify that just a little. That is a report to the battalion directly or to the brigade directly. It wasn't a requirement. I--there was just no report. My primary purpose was to report that information derived from tactical interrogation to the commander that I was supporting or that I was attached to for a specific operation.

Q. I'm not talking about your interrogation reports, I'm talking about whether you made any report to either Major CALHOUN or Colonel BARKER as to what you had observed that day while you were on this operation with the units of Task Force Barker?

A. I don't recall making any reports, sir.

Q. Again, Sergeant MINH:

"Q. Did Lieutenant JOHNSON ever report to Major CALHOUN or Colonel BARKER?

"A. I don't know, sir, if he did, but I was obligated not to say anything about it because he told me not to worry about it.

"Q. Did Lieutenant JOHNSON tell you that he had reported this or had you heard from anybody that had reported it?

"A. I returned 4 days later. I returned to LZ Bronco, Duc Pho. I didn't mention it to him again until we returned to Duc Pho. When we were en route to Duc Pho, one more time I suggested that he report it to Captain LABRIOLA and one more time he told me not to worry about it, that's his business."

Do you ever recall on the flight back to LZ Bronco any such conversation with Sergeant MINH?

A. No, sir.

Q. Did you make any report to Captain LABRIOLA as to what had transpired on this operation?

A. I can't recall making any report to him, sir.

Q. You recall a little after this time, or possibly within this same few days we're speaking about, being down at what is described to us as the eating facility at Binh Son District in the presence of a small group of people, including the district advisor of Binh Son District and the S5 of the 4/3, and hearing a conversation which you subsequently reported back to LZ Dottie?

A. I don't know what location you're talking about.

Q. You recall that LZ Dottie is very close to Highway 1. Down on the road below LZ Dottie there was a district headquarters. Do you recall that?

A. Below LZ Dottie?

Q. Yes. On Highway 1.

A. Was this back at Quang Ngai, sir?

Q. No, I'm not talking about Quang Ngai. I'm talking about up in the district to the north of Son Tinh, Binh Son, and right down on Highway 1, not far from LZ Dottie, the district headquarters there.

A. Could it be north of LZ Dottie?

Q. Well, I think it is a short distance to the north of LZ Dottie?

A. 20 kilometers?

Q. I wouldn't think that the headquarters would be that far, but the distance I don't think is important to this. But what I'm trying to get you to think back to is a discussion you had at a meal with a group of advisors and representatives of the 4/3.

A. I don't recall it.

Q. Do you remember where the 4/3 was operating at this time?

A. They were on the other side of the highway, I believe.

Q. Yes, but on the west side of Highway 1 you had the 4/3, and on the east side of Highway 1 you had Task Force Barker. Do you remember that?

A. Yes.

Q. Do you remember the name of the S5 of the 4/3?

A. No, sir.

Q. Have you heard of the name of Captain GOUZOULES?

A. I guess so.

Q. Do you remember Captain GOUZOULES?

A. I believe so. The name sounds familiar.

Q. Do you remember having a meal with him at the district headquarters in the presence of some others and his making a remark about Task Force Barker killing civilians?

A. I don't even remember having a meal with him.

Q. We have a number of people who have told us about this point. You have no recollection of leaving that luncheon and going back to LZ Dottie and reporting this matter? You have no recollection about it at all?

A. What did I allegedly report?

Q. Well, I'm asking you your recollection of what you did report?

A. Well, I have no recollection of it, sir. I don't remember sitting down with the S5 to a meal at any time, anywhere.

Q. Do you have any recollection of having a discussion with him followed by your going back to LZ Dottie and talking to Major CALHOUN?

A. No, sir.

Q. You have no recollection of that?

A. No, sir.

Q. That thereafter Major CALHOUN, based upon what you told him, said that he did not want this man to come to LZ Dottie? You have no recollection of this?

A. No, sir.

Q. Do you deny that it ever happened?

(Witness confers with counsel.)

- A. I just cannot recall.
- Q. Do you know a Major MCANAW?
- A. No, sir, not that I can recall.
- Q. The S3 air of the 4/3?
- A. No, sir. I don't believe I know him.
- Q. Do you know Captain WADSWORTH, the assistant S5 of the 11th Brigade?
- A. I recall the name. Yes, sir.
- Q. Do you recall speaking with him down at Duc Pho?
- A. No, sir. I had spoken with him.
- Q. Do you remember a Major HOLCK, the S3 of the 4/3?
- A. No, sir.
- Q. Do you recall Captain GOUZOULES challenging your interpretations of his remarks?
- A. No, sir.
- Q. You have no recollection of any conversation with Major CALHOUN about what Captain GOUZOULES was saying about Task Force Barker killing civilians?
- A. No, sir.
- Q. You have no recollection that a report by you led to Major CALHOUN telling Captain GOUZOULES that he was persona non grata on LZ Dottie?
- A. No, sir.
- Q. To stay away from LZ Dottie?
- A. No, sir.

Q. Your mind's just a blank on all this?

A. I can't recall anything about it, sir.

IO: Let's see if I can't refresh him just a little bit. I will read you just a little bit from the testimony of Captain GOUZOULES:

"A. I was at Binh Son headquarters one day at the dining facilities that they have.

"Q. What time? I wish you'd speak a little louder because not only are you talking for my benefit-- and incidentally I am a little bit on the deaf side-- but we're trying to get this down.

"A. All right, sir. I was at their dining facility, if you call it that, and in there was a group of people from Task Force Barker: I believe the S2, Sergeant WARREN, and one other person; there were some people from the district advisory team present-- I can't remember their names--myself; and my assistant, who was killed shortly thereafter.

"Q. Now would that have included Captain KOTOUC, the S2 of Task Force Barker?

"A. No, sir. He wasn't a Captain. He was a Lieutenant, a short stocky lieutenant, an MI officer. He took over from Captain KOTOUC. I can't think of his name right now.

"Q. Could it have been JOHNSON who was from the 52d MI Detachment at Duc Pho?

"A. He was assigned to the 52d MI Detachment. I don't know his name. I can't remember."

Get me photos 10, 21, and 22.

(Recorder hands IO Exhibits P-10, P-21, and P-22 and IO shows them to the witness.)

These three photos were referred to Captain GOUZOULES.

"Q. And I would ask if you recognize this individual, or this individual, or this individual?

Pointing to you in the photo. The answer was:

"A. They're all the same person. He is the individual.

"Q. He was the individual?

"A. Yes, sir.

"Q. This is Lieutenant JOHNSON, of the 52d MI.

"A. There was a discussion taking place at the district headquarters with regard to treatment of Vietnamese. I can't remember exactly what was said at the time, but I made a value judgment which I believe was misinterpreted by Lieutenant JOHNSON who passed it on subsequently to Major CALHOUN.

"Q. You made a judgment?

"A. I made a value judgment. This was--I often felt this was misinterpreted by Lieutenant JOHNSON who reported it as such to Major CALHOUN who became, I think, unjustly incensed at what he heard. And I received a call, or I was informed by Major MCANAW, that he no longer wanted to see me in Task Force Barker's area. Major CALHOUN and I later talked about it a little bit. I think things were smoothed over, but at that time, there was an incident between Major CALHOUN and myself, and it did regard the shooting of what I interpreted as one person by Task Force Barker. Later on, a Vietnamese civilian who worked in CORDS in Quang Ngai told me that his wife had been killed by Task Force Barker."

And it continues on.

A. I don't recall this judgment that he is speaking of here, sir. Nor do I recall speaking to him about the matter.

MR WEST: Captain JOHNSON, you were in and around the My Lai (4) area on the morning of 16 March 1968, I think from approximately 7:45 until 10:45, something like that. Is that about right?

A. Yes, sir.

Q. You were lifted out by helicopter, and I think you went to Bravo Company after that?

A. That's correct, sir.

Q. While you were in and around the My Lai (4) area, how many Vietnamese civilians did you see killed?

A. Sir, I didn't witness anyone killed in My Lai (4).

Q. How many dead Vietnamese people did you see in and around My Lai (4)?

A. I think my previous testimony said I saw between 12 and 14, and that was just an estimate of a group that I saw alongside the trail, plus the child that was on the trail.

Q. These were the only dead Vietnamese people you saw in and around My Lai (4)?

A. Yes. The only dead people that I saw that I can recall.

Q. All right. Now later on in the day when you were down with Bravo Company, were you with some National Police who were interrogating some VC suspects?

A. I was in that area, yes, sir.

Q. Participating in the interrogation of the VC suspects?

A. Not that I can recall, sir.

Q. Did you observe the National Police interrogating the VC suspects?

A. Yes, sir. I believe I did, sir.

Q. Who else was present at that time? What other American officers were there?

A. I believe Captain MEDINA was there and I feel fairly certain that Captain KOTOUC was there. Captain MICHLES, I believe, was there, but he left, and I can't recall when he departed the area. Whether he was there--

Q. (Interposing) All right. Can you tell us what transpired during the interrogation?

A. I don't recall overhearing the interrogation, sir.

Q. Well, where were you?

A. I was about, I estimate, about 20 or 30 meters away, a short distance away, from the area where the conversation was taking place.

Q. Where was Sergeant MINH?

A. I believe he was either with me or he had returned to Company B area.

Q. But you're in the Company B area.

A. I believe I was in Company C area.

Q. When you left Charlie Company at My Lai (4) in a helicopter, where did you go?

A. I went to B Company, sir.

Q. All right. I just asked you if while you were there with B Company, did you observe the National Police interrogate any VC suspects? Now this is the area where Bravo Company and Charlie Company laagered in for the night together late in the afternoon.

A. I think there is some confusion on this point, sir. I don't remember exactly where in this testimony that this subject arose previously. However, I am certain we were in C Company area. I was with B Company prior to that time.

Q. You were talking about C Company's part of the laager area?

CONFIDENTIAL

(JOHNSON)

84-86

APP T-11

A. On occasion I had requested permission to go in, and that permission had been granted.

Q. I didn't ask you that question. I asked you if you had permission to leave the field.

A. I did not just pick up and leave, sir, or did not just pick up and leave without permission.

Q. Well who gave you the authority?

A. In this particular instance, sir, I cannot recall. Permission had been granted in the past by LZ Dottie if they wanted me back there, or by the commander if he wanted to release me to go back. But on this particular occasion, I cannot remember. I think I went out of Bravo's Company laager, so that would be Captain MICHLES. I would have been with him at that time.

Q. Whose direction did you work under when you were attached to Task Force Barker?

A. I was under the control of the S2.

Q. Did he give you authority to leave the field?

A. When I was at battalion. However, whenever I was out on an operation, I was under the control of the commander that I was working for.

Q. That would be Captain MICHLES. Did he tell you to leave?

A. I cannot recall who authorized me to get on that helicopter and come in.

Q. The reason I bring this out is there were numerous prisoners and detainees to be interrogated and, as a matter of fact even later on that evening Sergeant PHU had to be utilized to interrogate prisoners in Bravo Company. They moved by helicopter. So there was quite a large requirement for interrogation with the number of detainees which they had, and this seems quite unusual to me at a time like this to leave the field.

- A. Sir, I would not have left in any circumstances without permission.
- Q. Well, you tell me who told you to leave then.
- A. Sir, I cannot recall who gave me permission to leave. But, because I went out of B Company, I would assume that Captain MICHLES gave me the permission to leave.
- Q. Well, you initially went out with Charlie Company?
- A. Yes, sir.
- Q. And then you were with Bravo Company?
- A. Yes, sir.
- Q. And you were right there with the individual that you report to in the task force, who was Captain KOTOUC.
- A. Yes, sir.
- Q. It seems unreasonable to me that under those circumstances that you'd go to Captain MICHLES and ask him when your supervisor's right there to talk to.
- A. I can't recall who gave me permission to leave the field.
- Q. Now, you indicated that after you returned to LZ Dottie, you went to Bronco?
- A. I believe that I stated that I went to LZ Bronco either that night or the following morning, sir.
- Q. We have testimony also that would indicate you remained at LZ Dottie for 3 days to continue interrogation of PW's and detainees.
- A. To the best of my recollection, sir, I returned to LZ Bronco.

Q. All right. Now when you got back to Task Force Barker, did you report the dead civilians which you had observed in My Lai (4)?

A. During that period of time, sir, I had presumed that those people were killed because there was a war going on, and artillery was coming in, and the gunships were working in the area.

Q. Did you see the artillery coming in?

A. No, sir.

Q. Did you ever see artillery coming in?

A. No, sir.

Q. Did you ever see any gunships working that area over?

A. Yes, sir.

Q. Was that the area where you saw the bodies?

A. No, sir. But I presumed that they had been killed---

Q. (Interposing) How close did you stay with MINH during the time you went through the village?

A. Part of the time we were together and part of the time we were not together. And I can't recall anything more specific than that. I can't place myself with MINH other than in the photographs that I have already identified.

Q. Sergeant MINH indicates that he saw at least 25 to 30 bodies; 15 and 20 here and 15 and 20 in various places, but at least 25 or 30.

A. I can only restate what I have already stated, sir, as to what I saw.

Q. When you returned to LZ Bronco, did you report anything to any of your superiors?

A. Not that I can recall, sir.

Q. You never talked to Captain LABRIOLA about the possible killing of these PW's or what you saw in My Lai (4)?

A. Sir, I may have said something to him, but I can't recall.

Q. No, I'm not asking you whether you may have. I'm asking you whether you did or not?

A. Yes, sir. I cannot recall talking to Captain LABRIOLA about My Lai (4) or that day.

MR MACCRATE: You indicated that during the course of this operation Sergeant MINH complained to you about what he observed. Did you ever report these complaints of Sergeant MINH to any other American officer?

A. Sergeant MINH spoke to me on one occasion while we were still at My Lai, and I do not recall reporting what he said to me to anyone.

Q. It just stopped with you?

A. It wasn't just a cut-and-dried situation. He was saying that there were people killed, and I saw 10 or 12 bodies myself, but I had no idea that this was any kind of massacre that was occurring. It did not appear to be so to me at that time.

Q. He was a terribly upset man, was he not?

A. He was upset, yes, sir. I wouldn't say terribly upset.

Q. You just acted as the place where it stopped? You never took whatever he had said to you on to anyone else?

A. The body count of this action was reported. There were no specifics to what Sergeant MINH gave me, that is, there's 100, there's 200, there's 500. It was right after what I thought was a firefight, so that I felt--there was nothing more said about it that I can recall with Sergeant MINH.

Q. Captain JOHNSON, you say the body count was reported. What do you know about the reporting of the body count?

A. I don't know if the body count was reported. I was just--

Q. (Interposing) You just stated that you knew it was.

A. May I restate that? I would assume that the body count would have been reported because this was a normal function of the commander who was on the ground. He would report this to battalion, and the battalion S2 or the S3 would, in turn, report this back to brigade.

Q. Did you ever see a body count of Task Force Barker that ever included any civilians?

A. Not that I can recall, sir.

Q. So that any body count that you knew about didn't include the bodies that you had observed as having been killed?

A. That's correct, sir. Sir, they may have been included in the body count, but as civilian body count, that I recall. I never saw anything to that effect.

IO: Well, we appreciate your coming in. If you do recall anything further that would help us in the purpose of this investigation that you did not bring out here today, we will appreciate you getting in touch with us so that we can take advantage of that information. Before we recess, I would like to again caution you that you have been instructed that you will not discuss your testimony here with others, including any individuals who may appear before this group as witnesses, except as you may be required to do so in an official capacity before competent administrative, judicial, or legislative bodies. I think you know already the House Armed Services Committee would be the most likely one to call you. I think you have already appeared there, have you not?

(JOHNSON)

91

APP T-11

A. No, sir.

Q. If they call you to appear or testify before that body or any such legislative body your presence here and your testimony here would in no way preclude your testifying before such a legislative body.

A. Yes, sir.

Q. Do you have any questions at this time?

A. One question, sir, How about CID? I have testified for the CID. Is that all right?

Q. You have what?

A. Testified for the CID.

Q. Yes. I'd refer to that as a judicial inquiry.

A. Yes, sir. Could I have one moment to confer with counsel before we close?

IO: Surely.

(Witness confers with counsel.)

A. Thank you, sir.

IO: This hearing is recessed.

(The hearing recessed at 1807 hours, 9 February 1970.)

FOR OFFICIAL USE ONLY

SUMMARY OF TESTIMONY

WITNESS: KESHEL, Donald J. CPT

DATE OF TESTIMONY: 19 January 1969

PLACE OF TESTIMONY: Pentagon

WITNESS SUSPECTED OF: N/A

COUNSEL: None

DUTY ASSIGNMENT ON 16 MARCH 1968: S5, 11th Brigade.

1. PRIOR TRAINING IN THE RULES OF LAND WARFARE.

KESHEL prepared a lesson plan in civil affairs which he gave to every company-size unit in the brigade (pg. 15). These classes were given in September or October of 1967 (pg. 15). The instruction stressed the handling of civilians and the soldier-civilian relationship (pg. 15). The division and brigade policy was against the destruction of hootches (pg. 46). No permanent or semi-permanent building could be destroyed without the prior approval of the CG or one of the ADC's (pg. 46). It was brigade policy to protect civilians (pg. 50).

2. KESHEL'S ACTIVITIES ON 16 MARCH.

a. At the TOC.

The witness first heard about the My Lai operation when he walked over to the TOC at approximately 1000 on 16 March (pgs. 3, 4). There were no PSYOPS directly in support of the 16 March operation and he had not been told to put leaflets into the area for this operation (pgs. 10,11). However, leaflets had been dropped over the area at various times encouraging Vietnamese to move to the ARVN area (pg. 12). He had no idea why Task Force Barker issued no instructions concerning the handling of refugees (pg. 14). There was a lot of excitement in the TOC on the 16th and a great deal of radio traffic (pg. 4). The only transmission he

(KESHEL)

1

SUM APP T-177

FOR OFFICIAL USE ONLY

specifically remembered was a report that one of the units had overrun a mortar position. This was later found out to be a capture of nine mortar rounds instead of the over-running of a position (pg. 4). As best he could recall the body count was 89 when he left the TOC (pg. 4). The only person he remembered seeing in the TOC that day was Captain James HENDERSON (pgs. 5, 33).

b. At the briefing.

While KESHEL thought he attended the briefing on the evening of the 16th, there was nothing said there which he remembered (pgs. 5, 6). He did not hear that 69 VC had been killed by artillery fire during the operation in either the TOC during the day, the briefing that evening, or in talk around headquarters (pgs. 6, 7). The only thing he could recall being discussed was the disparity in the body count to weapons ratio (pg. 7). However, no one from Task Force Barker was asked about this disparity (pg. 7).

3. INQUIRIES AFTER THE ASSAULT.

a. Generally.

He did not remember receiving a large number of requests for solatium payments between the middle and the end of March 1968 (pg. 15). Although he visited Duc Pho almost daily, he never received the impression that something unusual had transpired in the Son My area in March (pg. 16). The witness had never before seen either the VC propaganda leaflet attached to HENDERSON's report (Exhibit R-1) or the VC propaganda leaflet dated 28 March (Exhibit M-35) (pgs. 17, 18). He never saw any propaganda which was specific as to the village attacked and the number of civilians killed (pg. 18). He heard of no report coming from the Son My Village Chief to the Son Tinh District Chief that unusual events took place in My Lai on 16 March (pg. 18). He knew nothing of a report from the district chief to the province chief making a similar allegation (pg. 18). He never saw RODRIGUEZ' statement (Exhibit M-30) (pg. 19). He was never given a specific order to plan and direct a psychological campaign in the area (pg. 19). He never saw any of the pictures taken by the PIO section during the operation (pg. 21). He recalled no discussion about the incident with either Lieutenant JOHNSON or Captain

FOR OFFICIAL USE ONLY

LABRIOLA (pg. 21). He was unaware that C Company reported killing 20-30 civilians on the operation (pg. 45). He knew nothing about an investigation and was never asked to make a statement about the My Lai incident (pg. 46).

b. Discussion with ANISTRANSKI.

On either the weekend of 22-23 March or 29-30 March the witness visited Lieutenant Colonel ANISTRANSKI, the G5 (pg. 22). ANISTRANSKI said that Task Force Barker and the 11th Brigade were in big trouble because of something that had happened in the Task Force Barker area (pg. 22). ANISTRANSKI said, "They (Quang Ngai) are really up in the air about this and they are having an inquiry, they want to get to the bottom of what ever happened in the Barker area" (pg. 23). ANISTRANSKI did not specify the names, dates, or places of the operation to which he referred (pg. 23). KESHEL thought that the persons upset about this of whom ANISTRANSKI spoke were Vietnamese officials (pg. 38). In response to KESHEL's question of what had happened ANISTRANSKI tapped a white folder on his desk and said: "Don't worry about it, I've got it all here" (pg. 22). KESHEL asked if he could read the file, but ANISTRANSKI answered "Don't worry about it, it's being taken care of" (pg. 22). The witness did not press the issue (pg. 22). ANISTRANSKI did not indicate what was in the folder (pg. 23). This incident did not arouse KESHEL's curiosity because it was characteristic of ANISTRANSKI to talk in generalities, and KESHEL never knew whether ANISTRANSKI was joking or deadly serious (pgs. 23, 24). His working relationship with ANISTRANSKI was generally good (pg. 29). KESHEL did not talk to HENDERSON or other members of the staff about this because he did not think ANISTRANSKI had anything in the folder and because ANISTRANSKI said "Don't worry about it" (pgs. 24, 25, 39). He never heard any more from ANISTRANSKI about it (pg. 40). He never mentioned this to anyone other than BARKER (pg. 37).

c. Conversation overheard by KESHEL.

While at the club at Duc Pho KESHEL overheard a conversation among pilots concerning another pilot who had been flying in support of Task Force Barker. The pilot of whom the others spoke had stated that American soldiers had shot civilians in the Barker area (pgs. 26, 27). He

(KESHEL)

3

SUM APP T-177

FOR OFFICIAL USE ONLY

did not ask the pilots to explain what they were saying (pg. 27). He heard this prior to his conversation with ANISTRANSKI, but he did not tell ANISTRANSKI about it (pg. 27).

d. Conversation with BARKER.

After BARKER took over as brigade XO KESHEL, referring to his conversation with ANISTRANSKI, asked if the task force had killed civilians while BARKER was CO (pg. 30). BARKER said he had no knowledge of such an occurrence (pg. 30). While KESHEL did not tell BARKER what he had overheard at the club, he did relate what ANISTRANSKI had said (pg. 31). BARKER said something like, "The man's crazy" (pg. 31). This conversation took place five to six weeks after KESHEL's talk with ANISTRANSKI (pg. 40).

4. OTHER INFORMATION.

a. Conversations about incident.

KESHEL has spoken with no one about the My Lai incident since it became a matter of public knowledge (pg. 3).

b. Working relationship with Task Force Barker.

KESHEL maintained a good working relationship with Task Force Barker and was a good friend of the task force's liaison officer (pg. 8).

c. Duties as S5.

KESHEL was responsible for all the psychological operations and civil affairs activities of the brigade (pg. 9). He advised the commander on these topics and carried out the programs established by higher headquarters (pg. 9). Special emphasis was placed on PSYOPS (pg. 9). The PSYOPS operations consisted mainly of leaflet drops and aerial loudspeaker broadcasts (pg. 11). He was further responsible for friendly relations with the civilians in the brigade's AO (pgs. 9, 10). He spent a great deal of time caring for refugees and helping to maintain refugee camps (pg. 10). The civil affairs portion of a brigade

(KESHEL)

4

SUM APP T-177

order for a tactical operation instructed the units to evacuate civilians for the operation, if necessary, to provide them with food and medicine, and to prevent their undue suffering (pg. 13). However, this civil affairs section was not required when the order was prepared by the battalion (pg. 13). Usually KESHEL would be called to take care of civilians encountered by the battalions during an operation (pg. 14).

d. KESHEL's assessment of his supervisors.

BARKER was an easy person for whom to work (pg.41). BARKER was non-critical of a person as long as the person was doing his job (pg. 41). KESHEL thought Lieutenant Colonel BLACKLEDGE was a "fool" because BLACKLEDGE could not make a decision (pg. 42). He had a lot of respect for Major MCKNIGHT (pg. 42). Colonel HENDERSON was a very demanding, authoritative individual of whom KESHEL was afraid (pgs. 42, 43).

FOR OFFICIAL USE ONLY

EXHIBITS

EXHIBIT NUMBER	DESCRIPTION	NOTES	PAGES
D-7	11th Bde Reg. 525-1	Wit had never read para. 2 or 5a.	47,48
M-6	Americal log	Wit referred to items 28 and 94.	6
M-16	Task Force Barker log, 14-18 Mar 68	Wit did not know why item 39 did not appear in the 11th Brigade log.	43-45
M-30	RODRIGUEZ' statement	Wit had never seen before.	19
M-35	VC propaganda leaflet, dtd, 28 Mar 68	The wit had never seen VC propaganda leaflet before.	18
R-1	A true copy of HENDERSON's Report	The witness had never seen VC propaganda leaflet before.	17
R-2	Combat Action Report of Task Force Barker, dated 28 March 1968	Wit had never seen before.	20

(The hearing reconvened at 0940 hours, 19 January 1970.)

IO: The hearing will come to order.

RCDR: The following persons are present: LTG PEERS, MR MACCRATE, COL WILSON, COL FRANKLIN and MAJ LYNN.

The next witness is Captain Donald J. KESHEL.

(CPT KESHEL was called as a witness, was sworn and testified as follows:)

RCDR: Will you state your full name, grade, Social Security number, organization and station?

A. KESHEL, Donald J., CPT, Co A, 1st Battalion, 2d Brigade, Fort Leonard Wood, Missouri.

IO: Captain KESHEL, have you read the instructions which were provided you this morning (Exhibit M-57)?

A. Yes, sir, I have.

Q. Do you understand them?

A. Yes, sir, I do.

Q. Do you have any questions on them?

A. No, sir, I do not.

Q. Aside from those instructions, I should tell you that at the table here this morning with me are two other individuals who may ask questions of you. On my left, is Mr. Robert MACCRATE, who is a civilian lawyer who has volunteered his services to Secretary of the Army RESOR to assist me in the conduct of this investigation and to also provide legal counsel to me. On my right is Colonel WILSON from the Office of the Inspector General of the Army, and he has been designated by the Office of the Chief of Staff as an assistant to me in this investigation. Aside from this group we also have other groups that are interrogating witnesses as well. In the final analysis however it will be my responsibility to pull together the report and weigh the evidence and determine the findings and recommendations. As far as

(KESHEL)

1

APP T-177

this investigation is concerned you are ordered not to discuss your testimony in this investigation with others, including other witnesses for the investigation and so on, except as may be required in the performance of official duty or you may be required to do so before a competent judicial, legislative, or an administrative body. Now the term "legislative" I might explain: that could be any of the committees or subcommittees of Congress. For example, one that you may well be required to appear before is the investigating subcommittee of the House Armed Services Committee.

Have you been cited by the military judge in the general court-martial case of the United States v. Calley?

A. No, sir. I have not.

Q. In the event you are, I would just like to tell you that your appearance here before this inquiry will in no way change either the applicability or the effect of that order by the judge in that general court-martial case, or any of the other court-martial cases, which may be related to the Son My or My Lai incident.

Do you have any questions at this time?

A. Sir, I'm not sure I understood what you just told me about being cited by the general court-martial?

Q. If you have not been cited as a possible witness and given certain instructions regarding talking to others, and things of this category, then you obviously have not been contacted or cited by the judge.

A. Yes, sir.

Q. In which case your testimony here would not prevent you, in other words, from appearing as a witness in that case.

A. I understand, sir.

Q. Nor would it change the order which was issued by him concerning your discussing with others, and what you're to do, and so on.

A. Yes, sir.

Q. Do you have any additional questions?

A. No, sir.

Q. Captain KESHEL, would you state your duty assignment on 16 March 1968?

A. Sir, I was the brigade S5.

Q. And how long had you been S5 of the brigade?

A. I assumed the position of S5, sir, I believe, it was the first week of January 1968. I had worked in the S5 office in that capacity since 1 July 1967 when I was assigned to the brigade. I was the brigade PSYWAR officer, and there was a Major JOHNSON who was the S5. When the brigade deployed from Hawaii to Vietnam I went along on the advance planning group. Major JOHNSON had a problem with his neck, and he never did deploy to Vietnam, and during the month of December they waited for a replacement to become the S5 because it called for a major and I was a fairly junior captain. And I asked for the job, kept badgering the Old Man for the job, so he made me the S5, and I had that position the entire tour.

Q. I take it you had it from December of 1967 until November, December 1968?

A. Yes, sir.

Q. Since the matter of the My Lai or Son My incident became a matter of public knowledge in September or October of this last year, 1969, have you had any conversation with any of the members of the 11th Brigade or the Americal Division concerning what may have transpired at My Lai or Son My on 16 March 1968?

A. No, sir. I have talked to the members of the brigade but never on this particular subject.

Q. When did you first hear of the operation of Task Force Barker in the Son My area?

A. On 16 March, sir.

Q. Were you aware of it before the operation was initiated?

A. No, sir, I walked into the tactical operations center and I saw on the map that they were--I heard on the radio and saw it depicted on the map while I was in the tactical operations center. The fact that the units of Task Force Barker were operating in that general area and were in contact with--

Q. (Interposing) Well, then, would you describe in as much detail as you possibly can what you heard and what you saw in the TOC during the conduct of that operation and specifically on the 16th?

A. Right, sir. Well, on the 16th my duties required me to go out on Highway 1 because we were building schools and various civil affairs projects, and every day before I'd go out I'd have to call the TOC to see that the road was open, that the engineers had swept it for mines, and on this particular day the road was late in getting open, for what purpose I don't know. I called several times prior to 1000, and it was still closed, and, of course, I couldn't get out to do my work, and I was getting a little uneasy because I had a lot to do. And at about 1000 or 1015 I tried to call over again, and all of the circuits were busy so I got up and I said I was going to walk over to the TOC and find out if it was open because I was anxious to get going. I walked into the TOC, and it was sometime between 1000 and 1100 hours the exact time I do not recall.

When I got into TOC there was a great deal of excitement inside the TOC, and there was a great deal of radio traffic, and I, of course, was interested in what was going on. The only radio transmission that I distinctly recall is the fact that one of the units overran a mortar position and captured the mortar. I remember that because we always liked to capture mortars and that made me happy because they'd always mortar us in Duc Pho. Now later this turned out to be just nine rounds of mortar ammunition. But that is the only radio transmission that I distinctly recall, but there were a lot of body counts being called in. And I stayed in the TOC perhaps 3 or 4 minutes, found out the road was open, and when I left the TOC the body count, as best I can recall to this day, was 89. And I went back to my office and I told my sergeant that they were having a good fight up in Batangan Peninsula area.

Q. The Batangan Peninsula?

A. Yes, sir. I used to refer to that whole coast line over there, as the Batangan Peninsula area, and I just told him that they were having a good fight up there near the peninsula, and then I went on about my work for the rest of the day.

Q. You didn't get back into the TOC throughout the day at all?

A. Sir, when I came in that evening I may have gone into the TOC. Why I would have gone there, or why not--there was nothing out of the ordinary going on. Most of the time the TOC's real quiet, just normal routine proceedings going on.

Q. Was Major MCKNIGHT there that morning?

A. Sir, I can't recall. I only recall one man who was in the TOC at that time, and that was the TOC duty officer.

Q. Who was that?

A. That was Captain James HENDERSON, and he was a real good friend of mine. That's the only reason I remember he was there, because he's a real good buddy of mine. And whenever we'd go in there, we'd tell a few jokes, and so forth.

Q. Is Captain HENDERSON still in the Army?

A. Yes, sir. He is in the advanced course at Fort Benning, and I am positive he was there. There may have been many officers walk in and out while I was there, but I do not recall anyone in particular.

Q. Did you normally attend the evening staff briefings?

A. Yes, sir, normally.

Q. Do you recall attending the briefing on the evening of the 16th?

A. I'm sure that I probably went, but there was nothing that was brought out in the briefing that stuck in

my mind. Most of the briefings were about 30 minutes long, and usually the order of briefing I believe was the S2, the S3, the S5. I was third, so usually when the S3 was briefing I was going over my notes, correlating my material, and then I would get up and give my briefing, and then the S1 followed me.

Q. Well, then, what you're trying to tell me is that you were not listening to what the S2 and S3 had to say.

A. That's correct, sir, they got to be so routine after a while that I normally didn't pay too much attention.

Q. Give me the log of the 11th Brigade and also the Americal Division.

(The recorder did as requested.)

I have here, Captain KESHEL, the log of the Americal Division for the 16th which includes the entries which have been passed on from the 11th Brigade. I would call your attention to two items in particular. Let me rephrase that. This document has been entered into the record as Exhibit M-6. I would call your attention to two items in particular. One is item 28, which appears on page 3, and the other is item 94, which appears on page 9.

(Document is handed to witness.)

I wish you would look at that document please. Not so much the document itself, because you shouldn't have seen that but at the contents of these particular items to see if these by chance recall anything to mind for you. Item 28, for example, notes that, C/1/20 at a specified location, found 69 VC KIA as a result of artillery fire.

(The witness examines the document.)

IO: And then going to page 9 and item 94, you will note that at the bottom of the page starting at about line five, it states, "Operation Muscatine." Do you recall having heard those figures either in the TOC, or in the process of the briefing that night?

A. No, sir.

Q. Was there ever any discussion around the headquarters concerning this 69 killed by artillery?

A. Not that I can recall, sir, the only thing that I can recall is that we talked amongst ourselves that there were very few weapons for the number of bodies, and that's the only thing that struck a different ring. You know it's common you'd get 25 dead and 15 weapons, or 10 weapons even, but I can't recall the exact figure of weapons, but I think it was very ridiculously small for the number of enemy dead.

Q. That's right, it was 128 enemy KIA as compared to 3 weapons captured, which is quite a disparity.

A. Yes, sir.

Q. Did anybody ever start to question this with anybody from Task Force Barker that you know of?

A. No, sir, not that I know of. Most of my duties-- I was almost completely divorced from the operational end of it. The only time I really got into it was when they would call for me--the S3 would call or the XO would call, or the CO, and give me instructions on a particular operation. And most of these where I really got involved, was when we would go after the 2d NVA Division out west on a prolonged multi-battalion type operation.

Q. So you were focusing primarily on the Duc Pho, Mo Duc areas, were you not?

A. Yes, sir. Well, that was primarily due to the fact that we had just opened up in the Muscatine area, or the Barker area, as I like to call it. And the fact that the 2d ARVN Division had a big AO between our split AO. And I used to do all of my work out of a jeep with the couple of people I had, and I didn't really have the men or the time or the material to spend to get up that road and start projects up there. We started a couple in the summer and the supervision on it was so difficult that I couldn't take material up there to build with. Most anything we tried up there ended in failure because of the lack of supervision.

Q. What was your relationship with Task Force Barker?

A. My relationship with Task Force Barker, are you-- this is on the professional end, the civil affairs end?

Q. Yes, that's right.

A. Well, they had one lieutenant up there who was a friend of mine, and he was their liaison officer and also had the additional duty of coming down to me to pick up funds, piasters, to pay Vietnamese--daily hires that worked on the LZ Dottie filling sand bags and so forth. And once a week he stopped in my office and picked up money from me to pay these laborers, and other than that that was the only civil affairs activity that involved Task Force Barker. Other than that I supported them with leaflet drops. On a daily basis I would request a couple of leaflet drops for the Task Force Barker area of operations, when I requested them for the rest of the brigade.

Q. What was the name of the lieutenant who was the liaison officer?

A. Joseph REID.

Q. Joe REID?

A. Yes, sir.

Q. Is he still in the military?

A. No, sir. He is out of the Army now. I believe he got out. I still write to him, he is a friend of mine. I believe he got out in August, and he lives in California at the present time, sir.

Q. Yes, well later on we'll check and see if we do have his address. That will not be necessary. We are already in contact with him.

A. Yes, sir.

Q. Even though you are not part of the inter-function of the S2 and the S3, you are one of the staff officers. And there was a lot of talking go on, and so forth and perhaps with the assistant S2 and S3 people of your comparable rank. You indicated there was some talk concerning the 128 versus 3 weapons. Were there any other discussions that you can recall with anybody there?

A. No, sir, primarily only the fact of the weapons were discussed here. Generally, my office shut down after the evening briefing which ended about 1800 most times, sometimes 1815, and we'd go to supper. The S2 and the S3 would work late into the night, because they had to prepare SITREP's, and orders, and things for the next day's operations. Well, I didn't have these duties that consumed my night time hours, and generally after supper, I'd go back up to my living quarters, which were shared by company grade officers. I lived in a hootch with Captain HENDERSON, and a food service warrant officer, and another lieutenant. And the field grade officers occupied quarters to the left of us, and generally they stayed more or less aloof from us, even though we were part of the same staff. We played cards and drank beer together and talked, and they'd do their thing together.

Q. Now for the benefit of people that are here would you describe your duties as the S5, what were you responsible for?

A. My duties as the S5, I was responsible for all the psychological operations and civil affairs activities of the brigade. We were authorized a PSYWAR officer, and while I did have a lieutenant to assist me, generally I was the only one that was school trained in PSYWAR. I was not school trained in civil affairs, but I had a lot of practical experience from previous service in Vietnam. I was responsible for advising the commander on all matters pertaining to psychological operations, and civil affairs, and this generally consisted of answering questions, that he would put to me pertaining to different facets of either operation. I was responsible for carrying out the programs that were established by higher headquarters, in my case, division would usually assign me priorities. At the time I was there schools were a big priority. MEDCAP was a big priority. It covered so many areas, I would say briefly, in PSYOPs, it covered leaflet drops, area broadcasting, requesting area broadcast, face to face propaganda, and every now and then I'd design and make a special leaflet and have it printed to support a particular operation. Normally this was only on multibattalion type operations.

In the civil affairs end, I was responsible for friendly relationship, generally, between the brigade and the civilians in the area which we operated. My priority

area of operations was right along Highway 1, in the RD area, or the revolutionary development area, where we could work without troops, and work without fear of--well, with just two or three people, without fear of being attacked, or ambushed, or something, and we did all our work along Highway 1. Building schools, wells, latrines, or supervising the building of these, getting projects going, market places, even a church, now and then. A great deal of my time in the civil affairs end was consumed in helping to take care of refugees, because there was a staggering number of refugees in this area. I believe I had over 9,000, and distributing clothes to them, food, helping them keep their refugee camps in a reasonable state of cleanliness, picking up garbage, we had a pig program where we'd provide--you know bought pigs and have them brought in to animal husbandry. We had an English language program we taught at five schools. I had soldiers to go out and teach English, and a lot of these projects, I was more or less the responsible individual, as far as--to overall progress of the work. I had a civil affairs platoon there, if you could call it a platoon, it consisted of two officers and five or six men, and they also got out, and started some of these projects, and helped me with mine, and we coordinated the whole thing.

Q. I think that's fine. Now, this operation was conducted in the area of Son My, My Lai on the 16th. Would you describe your psychological operations in support of this particular operation?

A. Well, sir, there was no psychological operations--

Q. (Interposing) Make sure that you speak loud enough so that the reporter can make it a matter of record.

A. Yes, sir.

There was no psychological operations directly in support of this operation, or any operation along the coastal plains. These were just normal day to day operations, where a company would CA in to do a search and destroy mission, or whatever mission they had assigned that day, get back on helicopters and generally fly back to the fire base, or go to another night laager position.

And the only time we had specific PSYOP operations, targeted at a specific audience, was when we'd go out to the west. So generally, my psychological operations in the 11th Brigade AO, or shall I say, that AO along the coast line, and perhaps 5 kilometers to the west of Highway 1, to include the Barker or the Muscatine AO, consisted of leaflet drops and aerial loudspeaker broadcasts.

Now the way I did this, I would call it in to division, and I'd request leaflets by numbers out of a leaflet catalog, and I'd request a mix of leaflets, and I'd give them coordinates, where I wanted them dropped. And, I did this by just, if I may, sir--(The witness moved to the large map on the wall MAP-1)--for example, I would call into division, I would tell them I wanted a leaflet drop from 7786 right to 7986 down to 7983 and left to 7783, but I would cover a 6 kilometer area, and I usually dropped between 5 and 9 leaflet drops a day. It varied, and I would have to spread these drops, some of them up in the Barker AO, and then I was also responsible for the Duc Pho and Mo Duc area. So, what I'd generally do, is I'd leaflet along Highway 1, primarily because that is where I had the greatest success, with the reward program. And generally out in this area (indicating the area near the coast and around My Lai) I drop Chieu Hoi leaflets or the ralley leaflets, and they don't run from U.S. troops leaflets, things of this nature. And I never really kept a log on day to day drops, but wherever I had success with a program, I'd go back again, and again and hit it again, with leaflets.

Now there were leaflets dropped in the entire Barker AO during the period that they operated there. But as to whether I put leaflets into the Barker area or specifically into the My Lai area, on 16 March, I do not know. I know that none were requested specifically. No one said put leaflets in there that day. And I'm sure that sometime during March, I did leaflet this area (indicating area on map). I always leafleted this area, and in this area, and probably in this area too, some would drift down, but I generally covered the whole area in a month. As to what day the leaflets specifically went in there, I have no knowledge of.

Q. Did you, or the GVN, or the RVN drop any leaflets in this area, or the area controlled by the VC, to indicate that the people were to move out of this area, and not to support the VC?

A. Yes, sir, we had a leaflet, now this was not a special leaflet, it did not say "Villagers of My Lai move out," this was a standard leaflet that encouraged all Vietnamese living outside of the RVN area to come into the RVN area, to be under the protection of the government of Vietnam and the allies. The leaflet carried no threat, as I recall it, all it was, was a promise for protection and it urged them all to leave the contested area, and to move to the RD area. It was a standard leaflet that could be dropped anywhere in Vietnam, and on occasion, I would use this leaflet in the outlying areas. Whether I used it in this vicinity, at that time, I do not know. I did not use it too much.

Q. Now getting over to the area of civil affairs. What were your instructions from the division concerning civil affairs operations in support of tactical operations?

A. None, sir, really. None, that I can recall. I wrote my own civil affairs SOP for the brigade. Basing it on the SOP of the 25th Infantry Division, which I changed to meet my requirement, and my own personal experience and knowledge, from when I had been in Vietnam in 1966, in III Corps. And on tactical operations, I did borrow some from the division SOP.

Q. I have here Exhibit D-7, dated 30 January 1968, from Headquarters, 11th Brigade, titled; Combat Operations, Rules of Engagement, now I would refer this document to you with particular reference to paragraph 6.

(The witness was handed Exhibit D-7 and he examined the document.)

This doesn't get down much to specifics, Captain KESHEL.

A. I think I can throw a little light on what you're after, sir. When you said to me, what instructions did I get from division, and when I said, none, I mean, the G5 never sat me down and said, on tactical operations do this, this, this, and this. And most of my time, the majority of my time was taken up in a nontactical role, 98 percent of it. But, when we did have tactical operations of a large scale, the S3 would call me over, and he would say, write the civil affairs portion of the order for the operation.

My civil affairs portion of the order, as best I can recall, was--without looking at one of my orders, would instruct the units, (1), to provide civilian control as it was needed, to evacuate refugees back to Bronco base camp, so that we could put them in a refugee camp. If anyone requested to be evacuated, or if it was necessary for the safety of the civilians to move them from the battle area, to provide food and medicine--to provide food to prevent undue suffering of any civilians if the condition of the battle area took them away from their source of food, and homes, and so forth, to feed them and give them water, and to provide them medical care that was necessary to insure the health of our command.

Q. What I'm interested in is the fact that whenever your brigade prepared an order you would normally have a civil affairs, and very likely, a PSYOPs annex to that order. Now was this also required of the battalions, when they conducted an operation--

A. (Interposing) No, sir.

Q. To have these civil affairs and PSYOPs considerations?

A. No, sir, not at the battalion level. To the best of my knowledge, the only time battalion ever prepared an order was when we had a country fair type operation. Now, the only time I prepared an order, I think, I prepared five of them, four or five in the entire year I was in Vietnam. And these covered large operations, where maybe nine battalions from the division, or various divisions, would be attached to us, and we'd operate to the west. Now those were the only times that I prepared orders. There was a standard operating procedure that was used for all other operations. In other words for the daily type landing zone search and destroy operations, we had an SOP which was--which I wrote and I can't recall verbatim, because it has been 15 months since I last saw it. But, we did have, as I recall in the SOP, provisions for evacuating civilians who were refugees, or in trouble, or who were suffering from gunshot wounds by accidental engagement--or perhaps if a unit was operating, they would receive a lot of fire, and they would return the fire and--it must be an every day occurrence in Vietnam, where a bullet hit somebody who was a noncombatant. And our

unit was real good about this. All the company commanders would medevac them back to Duc Pho, and the hospital would call me, and say, we have a kid here, or we've got a woman here, or an old man here, and he was hit in the leg at such and such a place. And I'd go over and pay him, what we called a solatium payment, and treated his wound, and kept him in the hospital as long as he needed to be in the hospital, see that he was fed, and if he needed clothes, give clothes, and take him back home.

Q. Even though battalions didn't issue written orders, let's say, they did issue verbal orders. Was it not, quite normal, to have civil affairs consideration in being prepared to handle detainees, refugees, and things on this category?

A. I would say sir, I can't state definitely, because I wasn't in a battalion, and did not hear the orders that the commander--the platoon, or company, or battalion commander gave to his troops, and I didn't see written orders. I think generally, when civilian problems came up, what the first thing they did was to get on the horn and get me, to get this problem off their back, they would call up and say I've got 10 people here, and I don't know what to do with them. And, I'd have to go see the aviation officer, and see if I could scrounge a helicopter to go out there.

Q. I can understand how that would be so, down in the Duc Pho and Mo Duc area, but in accordance with your previous testimony, you're pretty well separated from this area, and you really didn't pay too much attention to it, because it was beyond your capabilities.

A. No, sir, I didn't.

Q. It was my understanding that prior to this, Task Force Barker, as a matter of procedure, would normally include instructions for handling detainees, and so forth, in their operational orders. In this instance, however, there were no instructions provided concerning refugees, detainees or otherwise, and I was wondering if, by chance, you'd have any explanation of this change from the norm?

A. No, sir, I'd have no idea why this was a change from the normal procedure. I could say--one thing I would

like to say. I think it has bearing sir, is that prior to the brigade ever leaving Hawaii for Vietnam, when I took my job as a PSYWAR officer, the major who was the S5 had never worked in the field, and had no knowledge of the job. He was learning the job and immediately I saw a need to--I knew we were going to Vietnam, and the men must be given a working knowledge of what PSYOPs and civil affairs is, because it is amazing, how many people in the Army, to include officer personnel, have absolutely no idea of what civil affairs is, or how to use it, or how it can help them, and it is not limited by grade either, I found out by personal experience.

And I did prepare lesson plans, and I did instruct every company-size unit, or maneuver element in the brigade, to include the artillery element. One hour--I believe it was 1 hour in civil affairs, and 1 hour in PSYOPs, and during the civil affairs portion, handling of civilians was stressed and the relationship between the troops--the soldier and civilian was stressed. These classes were given in, to the best of my ability to recall, in September or October 1967. How many of the men attended the classes, particularly since Task Force Barker was a composite unit from the battalion, how many of the men, who were attending my classes were still with the brigade and operating in the area at that time, that I have no knowledge of. But I would be reasonably sure in saying that some of the participants, some of the members of the Barker command had attended my classes.

Q. After this operation, let's say during the period of the 18th, or 20th, or 21st and on up toward the end of the month of March, do you recall having a large number of requests for solatium payments?

A. No, sir.

Q. Through or to province or through anybody connected with the brigade, or the ARVN, GVN, or the advisory effort?

A. No, sir. I never received any. Any request for solatium that was paid in March was routine solatium payments and that would be--a routine one would be one individual involved in a shooting mishap or a vehicle accident.

Most of them were truck accidents, truck pedestrian.

Q. Now, tell me how frequently you visited the provinces and districts and who would you talk to there?

A. I visited the Mo Duc District about twice a week. I visited Duc Pho District about five times a week, almost every day. I have been to Son Tinh and--

Q. (Interposing) On this big map you will notice that Quang Ngai City is--

A. (Interposing) I visited Son Tinh and--

Q. (Interposing) Binh Son?

A. Binh Son. I visited Son Tinh and Binh Son, I was in Son Tinh District headquarters once, Binh Son maybe twice. I was in province, oh, maybe five times in the entire year, on business there.

Q. Did you ever get any feel from them, from Son Tinh or from province, that they were aware, that something unusual had transpired out in the Son My area on 16 March, or in the March period?

A. No, sir. Not from province or district at any-- either of the four provinces or four districts or the province.

Q. Now, as the S5 you were responsible for civil affairs, and you are also responsible for PSYOPs, did you, in your capacity as PSYOPS officer receive samples of Viet Cong propaganda?

A. Yes, sir, I did. When troops would pick them up, they'd forward them into me, those that they didn't keep as souvenirs, but generally the company commander would try to, at least, send several copies of everything picked up back to me.

Q. What if the S2 or some staff officer had picked some leaflets from, let's say from province, or the ARVN side, did these normally come to you as well?

A. The S2, if he got some of the leaflets, he'd generally call me over the phone and say, "I've got a leaflet here for you to look at." But it's amazing, sometimes he'd have a leaflet 2 weeks before he'd call me over and show it to me. It would just slip his mind, or he'd just completely forget about me, that's how much--I was almost like a separate arm of the staff, and more or less just went about my own business, and they'd call me when they wanted me. But, generally, if he had a leaflet he'd bring it to me and show it to me.

Q. I have here two pieces of Viet Cong propaganda, this one is included in Exhibit R-1, you will notice this particular piece is two pages, I'll ask you to read that and state whether or not these were ever called to your attention?

(The documents were handed to the witness.)

A. All right, sir.

(The witness examined the documents.)

No, sir, I have not seen this before.

Q. Don't you consider it somewhat unusual, that a piece of propaganda, such as that, would come into the 11th Brigade headquarters, and not be called to your attention?

A. I would consider it extremely unusual, yes, sir. At times, there was a lag from the time the document would arrive--the propaganda would arrive and I would get it, but generally speaking, I'd see any document of this nature, or propaganda that would come in, I'd get it. But I've never seen this particular leaflet, or examined it.

Q. I show you another Exhibit M-35, please keep the first one. I have no reason to believe that this ever reached brigade headquarters, but I would like you to review this quickly to see if by chance you have ever seen this statement or ever hear of such a statement being issued by the National Liberation Front?

(The witness was handed Exhibit M-35 and he examined the document.)

A. The general theme of the leaflet is typical Viet Cong, but I've never seen that particular document, or any relation in any propaganda, pertaining to the My Lai (4) incident.

Q. Well, I'm a little interested in what you mean, this is rather typical?

A. Well the--

Q. (Interposing) Did you ever see anything come out, with any specifics, such as included here?

A. When I said it was typical, they usually say the American yankee devils, the 1st Division suffered 500 killed, and we destroyed 15 armored personnel carriers, and so forth. In other words, it is typical propaganda, in fact that, like most communist propaganda, it expands the--whatever is being said is out of proportion.

Q. Well, did you ever see any that got down to the specific, such as included here, naming people, naming villages, citing numbers and things of this category?

A. No, sir.

Q. In that sense then this is not typical VC propaganda?

A. No, sir.

Q. Did you ever hear of a report coming from the village chief of Son My Village to the district chief in Son Tinh to the effect that some unusual events took place in My Lai on 16 March, or in that period?

A. No, sir.

Q. Were you ever familiar with the report which the district chief had sent to the province chief in this regard?

A. No, sir.

Q. I'll ask you to turn back to Exhibit P-1, not

that one, put that one aside, turn back one page from the propaganda. I would ask if you ever saw a statement such as this, dated 14 April?

(Witness examines the statement Exhibit M-30.)

Did you ever see that statement?

A. No, sir. I did not.

Q. Now turn to the forward part of the paper and I would ask that you read this and then I will have some questions for you.

A. The cover sheet, sir?

Q. No, the report of investigation, dated 24 April 1968.

A. Yes, sir.

(Witness does as directed.)

Q. Now, just keep that second page there if you will?

A. Yes, sir.

Q. You will notice that this alludes quite strongly to the Viet Cong propaganda technique?

A. Yes, sir.

Q. Would it be a logical assumption that the preparation of such a report would be called to the attention of the G5 to get the G5 input in to it?

A. That would be a logical assumption, yes, sir.

Q. Yes. You will notice in paragraph 5 it states that a counter propaganda campaign be waged against the Viet Cong in the eastern Son Tinh District. Were you ever given a specific order to plan and direct a psychological operation campaign in that area?

A. No, sir, I was not.

Q. I have here another document entitled, "Combat Action Report" from Task Force Barker, dated 28 March which has been entered in the record as R-2, and I ask you to review that document?

(The witness did as directed.)

Have you ever seen that before?

A. No, sir.

Q. You will notice that this is from Task Force Barker addressed to the commanding officer of the 11th Infantry Brigade. Paragraph 15 deals with civil affairs problems. Paragraph 16 includes recommendations to improve civil affairs type actions--types of activities. But, you had not seen this particular recommendation. Were you ever instructed concerning any civil affairs support of activities for the 11th Brigade, for Task Force Barker?

A. No, sir. I knew there were no civilians evacuated out of there to Duc Pho or to my location.

Q. Did you ever hear of an incident at LZ Uptight, about this time period, early April to late March, wherein two or three youngsters came to the gate at LZ Uptight and indicated that they had something to give to some people there and this was done. And it was understood that the youngsters were cautioned about how to leave the area and they got caught in a minefield around the area and one of the youngsters was either killed or badly wounded. They were later extracted from the minefield area and taken to the hospital or to the morgue, as the case may be. Do you recall an incident such as that?

A. I don't recall an incident such as that around LZ Uptight, as I recall, one time a kid near Dottie stepped on a small antipersonnel mine near the gate, either he did or the buffalo he was leading and he--the child was killed. But, an incident at LZ Uptight does not ring in my mind, as I had ever been informed of it, or having paid any solatium on it, or anything of this nature.

Q. Well, I would be interested in the solatium, to find out if such had happened. But primarily, I'm interested to know whether or not the piece of paper which was delivered to LZ Uptight was made available to you and Headquarters of the 11th Brigade, or whether you ever saw such a piece of paper?

A. No, sir, I never saw it my entire tenure of duty in Vietnam--I never saw any written report, or heard any verbal report of any type, of any nature, from anybody pertaining to any happening at My Lai. The closest I ever heard was when the G5 mentioned something to me one day and he did not single out any area in Task Force Barker.

Q. I'll come back to that.

A. Right, sir.

Q. Did you ever see any of the pictures, which were taken by the PIO section during the conduct of this operation?

A. Just in--what was in Time magazine.

Q. I'm talking about while you were at LZ Bronco?

A. No, sir.

Q. Did you ever discuss what might have transpired there on the operation with anybody from the 52d MI Detachment?

A. No, sir.

Q. With Captain LABRIOLA, or Lieutenant JOHNSON, or any of those people?

A. To the best of my knowledge, I can't recall ever mentioning it to anybody from the 52d MI, sir.

Q. Now then, I'd like you to explain, in as great a detail as you can, precisely what was said between yourself and Colonel ANISTRANSKI, maybe at Duc Pho and at Chu Lai?

A. It was at Chu Lai, sir. It was either--well, I understand, when I was talking to the investigator at Leonard Wood, I asked him what the date was, and he said it was a Saturday, 16 March, so every Saturday, either I or the lieutenant that worked for me would have to go to division to pick up some money from the G1 to pay the hired labor. Now, I didn't--so this would make the time of the discussion, either the weekend of 22, 23 March, or 29 and 30 March, because we took turns going up, and I don't recall whether I went the weekend following or the next weekend. But anyway, after we'd pick up the money, our standard procedure was we'd generally spend the night, and get that liaison helicopter back the next morning if we went on the Friday or Saturday. And, we would go over to the G5 and I would ask them to secure the money for me in his field safe that he had in the office, and as a rule I'd go in and talk to the G5 to see if he had any instructions to pass on to me or what to put emphasis on. Generally, he'd want to talk to me, to speed something up or slow something down or change something around, and also just to visit and coordinate things with him.

And on this particular weekend, I went in and the G5 was alone in his office. I asked the major who worked for him if I could go in and see him and he said go on in. I went in, I saluted, and I said, "Good afternoon, " or "Good morning," I don't remember the time of day. And he pointed a finger like this (gesturing with his hand), and he said that, "Task Force Barker is in big trouble, in fact the entire 11th Infantry Brigade might be in big trouble." And I really didn't know what he was talking about, and I said, "Well, what do you mean, sir," or words to that effect, and he said, "Because of what was going on down in the Barker area." And I asked him if there was anything that I ought to know, or do, about this thing, or what was going on, and he said, "Don't worry about it, it is all being taken care of." And he had a white folder on his desk, just one of those file folders you put in the file drawers, and he tapped it with his finger and said, "Don't worry about it, I've got it all in here." And I--or words to that effect. And I asked him, I said, "Sir, can I read that," or "Is it something I ought to know," and he said, "Don't worry about it, it's being taken care of." So I didn't press the issue, he was a colonel and I was a captain, I didn't try to force my way into any of his business. And that was the extent of our

conversation. Well we went on and talked about other things, projects I was working on, and so forth, but that was the portion of the conversation that referred to the Barker area.

Q. Did he indicate what he had in that folder? That it was a report of investigation, or where it had come from, or who was doing what?

A. No, sir, he just said that--he tapped the folder and said, "I've got it all in here," or words to that effect. I'm almost positive that he said those exact words, "I've got it all in here." He also did say Quang Ngai was upset about it. And he said, "They are really up in the air about this, and they are having an inquiry, they want to get to the bottom of whatever happened in the Barker area." And he didn't refer to any specific area of the area of operations, or any specific names, dates, or places. And when I asked him, to see what he had, if he had anything, he didn't let me--he just said, "Don't worry about it."

Q. Did this prick your curiosity to the point of going to Quang Ngai to find out what the province officials were upset about?

A. Not really, sir, and I'll tell you why. Colonel ANISTRANSKI, he had this style about him, everybody has got his own style, and flare for whatever they do, and he was the type of individual--he was a real fine guy, but he'd call you in and he'd say something to you--all right, well, there is a million examples. Now he'd call you in and say, "What's the matter with you guys down there, on that school, you know you have been working on it for 6 months, and this is wrong, and that's wrong," and really you didn't know whether he was chewing you out, or just thoroughly disgusted. And then, he'd just change the subject, or he'd say well, "Don't worry about that, that's okay, because the district chief, he's worthless anyway," or something of this nature. I mean, I'm just relating a typical thing, it's not any specific date or place. But invariably, whenever I'd talk to him, I'd come away knowing just about as much as when I went in which was--I'd come away with a dry well, more or less.

He never really sat you down and outlined specifics, except when it was something like Tet parties, something that the division was sponsoring. Then he would use

a poop sheet. But generally, when we talked, and he'd refer to something, you didn't know whether he was, at least I didn't--sometimes I didn't know whether he was just fooling around or being dead serious. Unless he'd really outline it, and there were a few instances where he would even sit you down and outline it. He would just generally sit there and adlib and he'd say, "You're doing well in this area and you're falling down in the other area," and that was just his style.

Q. Well, that's a pretty strong statement that he made. It seems to me that the 11th Brigade is in trouble, and Barker is in trouble for what's going on. Did you just forget about it then, did you go to your brigade commander, or did you go to the executive officer, or did you go to anybody, to find out what you were in trouble about?

A. Sometime after that, sir, I talked to Colonel BARKER--

Q. (Interposing) I'm talking about in that immediate period, I'm not talking about waiting until BARKER got back a month later. Here's somebody making a very strong accusation, and allegation against your command, an outfit that you're a member of. And my question is when you got back, did you go in to see Colonel HENDERSON to find out what kind of trouble you were in?

A. No, sir. I did not.

Q. Do you have any reason for not doing it? Did you just put this thing out of your mind? That didn't evidently make much of an impression on you?

A. The fact that the--

Q. (Interposing) The fact that BARKER and the whole brigade might be in trouble? You were one of the principal staff officers.

A. No, sir, I never talked to Colonel HENDERSON about it. I'd like to a--I never talked to the XO, I never talked to the CO about it, or to the other members of the staff.

Q. It's pretty hard for you, I know, to think back 20,22 months ago, but I would like to know why you didn't pass that on?

A. Well, sir, why I didn't pass it on is because I really didn't think he had anything in the folder because I asked the man, I said, "Well, can I see it, so I can do something about it." Or to take care of my end of it, if it involves me, and I'm sure it involved me, because he was the division civil affairs man and I'm the brigade civil affairs man, and I even reached for the folder, and I said, "Can I see it," and he said "No, don't worry about it, it has been all taken care of." So when he told me that, I assumed that --you see I really didn't believe that he had anything in the folder, because his nature as I explained was, peculiar, is probably the best word, and when he wouldn't give it to me, I was convinced that he was just pulling my leg.

Although like you say, it is a strong allegation, it certainly is, sir, but he said it's being taken care of, so I assumed that if anything did happen and the command-- the colonel wanted me to contribute what I had to it, or to do any work on it, they would call me in and instruct me as to what they wanted me to do and when they wanted me to do it and how to do it. Or give me the guidance I needed, so that I could do the job. And when he told me not to worry about it I figured if anything did happen, it was being handled by a competent individual and at the proper command level. And that's generally when he said, "Don't worry about it." I just figured I'd better take good advice from a colonel and not worry about it, and I didn't push it because I didn't want anybody walking around saying old Captain KESHEL, he's a rumor monger or something of this nature.

Q. Did he indicate that he had a report of investigation of any kind or that it was going to be investigated?

A. He indicated that Quang Ngai was launching an inquiry, I don't know if he used the word investigation or inquiry, but that they were interested, and were checking into it. And he indicated that Quang Ngai was the one that was pushing it, or province, when I say Quang Ngai I'm referring to province. But he didn't say that he had an investigation in there, he didn't say he had a letter, or inquiry, he just said, tapped it and said, "I've got it all in there." And

whether he had anything in there or not, I do not know, because the folder was bulging, and if there was papers in there, it may have been anything. I don't recall seeing a fat brochure, it was just a manila folder laying there. And when he tapped the folder he may have been referring to the folder or to his desk.

Q. Could it have been a manila folder with a paper like that in it (referring to Exhibit R-2)?

A. It could have, sir.

Q. Did you ever hear any talking around the clubs, or was anybody in the I Corps area, which may have caused you to suspect that something unusual took place in this area, or any mention of Son My, or My Lai, or Pinkville?

A. After the incident, now here I don't know whether it was--I would say it was probably a week after the incident, maybe 6 days, maybe 9 days, but it must have been a week-day night, because usually every other weekend I was at division. And the 174th Aviation Battalion had a helicopter company, I don't recall the numerical designation of the company, or the alphabetical designation. They had a support helicopter company there at Duc Pho, and we didn't have any club facilities there at Duc Pho at this particular time, and I generally would go over there maybe once or twice a week, have a couple of beers and play some cards. And I was over one night after this incident and there was some pilots sitting at the bar, and they were--well, I want to say they were falling down drunk, but they had been sitting there drinking. I was sitting at a table having a few beers and the pilots were discussing, or talking about, that they had heard second hand from another pilot at division and this pilot, from what I picked on the conversation, had been flying in support of Task Force Barker. And these pilots were discussing the fact that this pilot, this source had told them that--had told him that American soldiers shot Vietnamese civilians in the Barker area and I don't recall them referring to Pinkville, they may have said My Lai, I--to the best of my knowledge, I'm really not sure, but they--I do remember--I didn't hear the whole conversation, because they had a tape deck in there, music playing and other people talking. Sometime they raise their voice, and I listened to what they were saying, but I was eavesdropping, so to speak, and

they did say that civilians had been shot. And this was prior to my going to division and talking to the G5.

Q. Putting those two together should have aroused your curiosity a little bit, shouldn't it?

A. Well, that's one of the things I wanted--when I was up to division, that was one of the things I wanted to discuss with the G5, when I went in there. And before I ever had a--the minute I saluted, he pointed a finger at me, and then of course went through what we just discussed, my conversation with the G5.

Q. Did you ever get around to telling him about this?

A. No, sir. Let me say, I don't remember if I related this to him or not, on that day, I may have mentioned it to him that I had heard this but I don't recall.

Q. Did you ever get hold of these pilots and get them off to the side and find out what the hell they were talking about?

A. No, sir.

Q. Isn't the handling and protection of civilians one of your responsible areas?

A. Well in a sense, sir, but we had a standard procedure in the brigade, whenever something happened with civilians. Since I had no way of knowing, the line units would always call me, and they were really good about this, and gee almost--you know, every week, sometimes if there was a lot of activity going on, every other day, I'd get something in from one of the line units. I'm sure in my tenure there, every line unit, at one time or another, would zap somebody in there for some reason or another and the mere thought of this to me was just ludicrous. You know, I really didn't consider it--it was something you just shove out of your mind, it just doesn't happen. And I figured, that if it happened, I'd be the first one to know about it, from the units themselves because--in other words, if there is anything involving civilians, they'd get me so fast to get

them out of their hair that sometime they'd drive me crazy. I'd have all three battalions calling me at the same time, wanting me to come get people, or to take care of civilians that had been involved some way.

Q. The way I look at this particular incident is that you have explained it to the point where these fellows had been drinking, they were just gassing, and you just didn't pay a damn bit of attention to it. You're indicated what a great feeling you had concerning the civilians, and this, and that, and the other, but at the same time you didn't feel that you should track this thing down any further.

A. Only to the extent that I made a note, that the next time I talked to the G5 I'm going to point this out.

Q. Well, what would he know about?

A. Well, sir, if something like this happens, or if something big happens, division has got to find--ought to know about it through the chain of command and the G5 is my next staff jump in the 5 section.

Q. But did you go to the S2 or did you go to the S3 or did you go to anybody to find out if there was validity to this?

A. No, sir.

Q. You're got quite an allegation against your own command, and you just think, well it's just a bunch of guys talking, and you indicated it is quite a serious allegation only you didn't want to accept it. But you did nothing?

A. No, sir, I didn't. To the best of my ability to remember and recall, I didn't approach any of our--should I say my senior staff officers there in brigade or the other members of the principal staff, and bring this up to them, and if I did it doesn't make any--I have no impression to this day as to what the response was. If in passing or in conversation I ever mentioned it to some one, the response was--if there was a response--was one which made no impression on me. Nothing I remember to this day.

Q. I think it's a rather logical assumption that if your hearing was so good you could hear that and you could remember what you heard in the club of the Dolphins, and the Sharks over there, that if you took that up with somebody, you'd remember that too.

A. I would say so, sir.

Q. So the chances of you taking it up, I would say, are extremely slim. But I can't understand why you didn't take it up with somebody, or why you didn't press the matter further. This is the responsibility of everybody, and particularly you, in such a sensitive spot, as the 5. I'd like to come back to this again.

What was your relationship to Colonel ANISTRANSKI, were they good working relations or were they rather pretentious?

A. I'd say it gyrated, sir. Sometimes they were very good, and other times they were--we didn't get along too well, together. It varied on a situation. Many times, he would get one particular project, push it, and continue to stay on me, about this one particular thing, when I -- sometimes I didn't feel that he understood my problem, particularly material procurement, but I'd say, generally our relationship--working relationship was good.

Q. You indicated earlier that you had some discussion with Colonel BARKER. I'd like for you to go into the details of time, and place, and what was said.

A. Colonel BARKER came back to the brigade, I'm not sure of the exact date he came back from Task Force Barker, but there was an interim period, when he dropped that command, became the brigade executive officer. Now, whether he was brigade exec on orders, or whether he was just filling in until he got his own battalion, I don't know. But, the period of time must have been in late April-May, because he did go, I believe in late May, or middle of May, or sometime--to go up to take command of the 4/3.

Now, I first worked for Colonel BARKER in Hawaii, at that time when I first met him, he was the

brigade executive officer, and then he came up to become the brigade S3, and this probably in August of 1967, and I worked for him as a staff officer and I really enjoyed working for him. He was a real fine man to work for and I really got to--I drew close to him--I like him a whole lot and he was real fair and never bucked the paperwork back. If you did a study, he'd call you in and say it was good, and rarely did he ever--rarely did he ever call you in unless he had some praise for you.

And then, when he took over as the XO, I asked him about this incident. And the reason I asked him about this thing, was I generally--in the day to day activities, I'd almost completely forgotten about this thing and I was sitting up in the hootch one night, and I was reading the book the Rise and Fall of the Third Reich. And I was getting into the part about the German atrocities, and this pronged my mind a little bit, about this thing, and I--as I said, it sort of bothered me, and I said, "Hell, you know this is ridiculous, I'm just going to go and ask the colonel whether this thing has any truth," but I debated this for a couple of days--now because, he is a colonel and he was also my boss, my rater, and--. I figured I'd ask him, because I knew him, and I was real close to him, he liked me, and I held him in--great respect for the man, and so this conversation took place in the mess hall prior to dinner. I don't remember the day, but I'm quite sure it was in the month of May. And prior to dinner the officers--the staff officers, would make small talk, have a beer or drink, and this particular day, I just made up my mind, I was going to ask him, and I asked him, "if I could talk to him." And he said, "You certainly can," and he came over there to my side, and I just asked him. I said, "Sir," I said, "I have heard a couple of rumors," and I was referring to Colonel ANISTRANSKI here, and I said, "I heard a couple of things about Task Force Barker, when you had that task force, killing civilians," and I said, "I just want to know did this actually happen." And he just a--well he looked like I had slapped him you know, and he said, "That's ridiculous," you know, he said, "The United States Army doesn't operate this way, we don't make war on innocent people and that. I as commander, certainly had no knowledge of anything like this happening, and if it did happen, I wouldn't condone any activity of this type, you know, on the part of my soldiers," or words to this effect. And that was the end

of the--our conversation pertaining to that, and he just-- I walked away, and I thanked him, and walked on.

Q. Did you, at that time, relate to him what you'd heard at division headquarters, or did you relate to him what you'd heard over in the club of the 174th, did you give him some specifics?

A. Sir, if I recall, and I'm sure it was to Colonel BARKER I related the--what ANISTRANSKI, Colonel ANISTRANSKI said, I'm almost positive I did, and he said, "The man's crazy," or words to that effect, I don't recall exactly what he said, but I'm sure I related that to Colonel BARKER. In thinking back about this thing, and I know I related that to somebody, and I'm positive it must have been Colonel BARKER, because I know I never walked up to Colonel HENDERSON, and said this to him. So it had to be Colonel BARKER.

Q. Did you tell him about the discussion over in the club?

A. No, sir. I generally dismissed that because, these guys were drinking, and there are so many war stories and stuff flying around one of these clubs, that I just a-- I really didn't put too much stock in that, other than, to make a mental note for my own personal benefit, to talk to the G5 about it--mention it to the G5.

MR MACCRATE: Captain KESHEL, you told us about your recollection of various things that occurred many months ago, and you have been able to recall some things in considerable detail. I am interested in the extent, which in the intervening period, you had occasion to talk about these things, or perhaps, you wrote letters to people at the time, and you looked at these to refresh yourself. Going back now, to the morning of 16 March, just how was it, when the CID came and talked to you earlier this month, that you were able to put together in some detail what you were doing on that particular morning. Just help me if you will, to put this thing into its frame of reference for you, you were able to say, that this was the morning that you did not get out on the road until later on, why that morning?

A. Well....

Q. I realize it has been a long time--

A. (Interposing) I understand your question. Well, number one, I can remember some of the events of the day, particularly the TOC, because that was one of the biggest actions we had--well it was the biggest one to date, after being in Vietnam 4 months. Generally, the brigade, or the rifle companies of the brigade, would run around all day, or all week, and they'd kill 10 or 12--the average daily kill or body count would be really small considering the number of forces that were operating, and that the area generally, had been picked clean of military organic fighting forces, or enemy organized units.

So initially, it stands out in my mind, because that was the day the brigade really killed, or got into a good fight and killed a lot of enemy. That's the initial thing that I can remember because I walked in there that particular day and for the first time I'd ever been there--that I can recall, walking in there and seeing more than just one VC listed dead, so that sticks in my mind, they had a big body count. That sticks in my mind. I also remember going into TOC on that day, because as I said, I was good friends with Captain HENDERSON, and the S5 takes a lot of gas down in the brigade. Everybody ribs them, because everybody is out there with a mission to destroy the enemy, and you're out there with the mission to hand out candy bars, and soap, and build schools and stuff, so you take a lot of friendly ribbing. And Captain HENDERSON used to kid me like this, and on this particular day, I remember I walked into the TOC, and he slapped me on the back and said, "How you doing there S5," or something of this nature. So I remember that.

Those two things more or less tie it together. And I remember the fact the road--I'd call up the TOC every morning and generally by 0830 the roads open, or 9 o'clock at the latest. On this particular day it was late getting open for some reason, whether the engineers were finding a lot of mines, or whether they got out late, whatever it is, and I told Sergeant PEDSPUSH, I said, "I'm just going to walk over to TOC and see if the roads open", for all the circuits were busy when I tried to call. And I walked over to TOC, and I remember that, because usually I never went into TOC, maybe once a week I'd go in there, you know, to get a helicopter flight or something like this. And generally those things tied together, as I say, stays in my mind.

Q. Well, I'm sure, just about any day you went in

there, you'd run into Captain HENDERSON, and he'd say, "How you doing S5." I don't see anything, that would really grab hold of your recollection in that. Whether other things that went on in there, or being delayed in getting out on the road, this could happen any day, these must have happened other days....

A. Well--

Q. (Interposing) Why are you so sure that it was this day that you were delayed because they hadn't got the road cleared?

A. Well, because--to generally answer your questions I've got a pretty good memory, and you give me any time frame of 30 days in Vietnam, and I can generally tell you what I was doing, and where I was doing it at, after a year and a half. In other words, I can generally say which projects I was working on, as far as the time for going to work, and the time you quit and come back, and the procedures you go through everyday. But the--other than the fact--the only thing I can write that off to, is the fact that I have a pretty good recall.

Q. Do you recall anyone other than Captain HENDERSON, who was in the TOC that morning?

A. No.

Q. Do you remember any visitors to LZ Bronco that day?

A. No, because I spent most of the day off of the LZ Bronco going about my normal duties, which is supervising projects.

Q. Do you have any recollection of a visit, about that time, by a three-star general?

A. No, sir.

Q. Well, you've got pretty good recall you've been telling me?

A. Well if I wasn't there, sir--

Q. (Interposing) But, this is someone who spent a

little time at LZ Bronco, and if you've got such good recall--

A. (Interposing) We had a three-star general visit in the spring, sir.

Q. Well, do you know who he was, and when he was there?

A. I believe it was General BEACH, sir, and I believe he came about 31 March.

Q. A little earlier in the month, do you remember another three-star general being there?

A. In the month of March?

Q. In the month of March.

A. No, sir, I remember General BEACH's visit, and I remember General WESTMORELAND's visit. It depends on the time of the visit, the day of the visit, I may or may not have been there, I may have been at division or some place.

Q. You looked at Exhibit R-2 a few minutes ago, and you recall that in the final paragraph, the recommendation, paragraph 16, there are some matters relating to civil affairs, and I wondered the extent to which any part of that was not included in the SOP which you say you drew up?

A. Well, the part about teams, as I recall, was not mentioned in the SOP. There were police teams available and intelligence teams but they were--generally you had to request them on a lot of lead time and I believe the MI Detachment handled intelligence and police teams--did the coordinating for them. Medical teams were simply beyond our capabilities--to have a medical team, other than a small MEDCAP out of the battalion surgeon, and the company medics. I had a PSYOP team, two men down there at brigade level which was one team for the whole brigade, and then later in the tour of duty--almost toward the end of the tour, we picked up and were able to give each battalion a loudspeaker team.

Q. Well, was Colonel BARKER familiar with the SOP you had prepared?

A. I would say it's a logical assumption he read it.

I never asked him, if he was familiar with it, of course.

Q. And the one you wrote was included in the brigade SOP, was it?

A. Which, that I wrote, sir?

Q. Well, you indicated that you had written a general SOP--

A. (Interposing) Well, civil affairs was an annex to the 11th Brigade SOP, and I prepared the civil affairs and PSYOP annexes to the brigade SOP.

Q. You stated at one point, that no civilians were evacuated from there, to Duc Pho on 16 March, and you indicated this with some assurance. Did you talk with any detainees, that were brought out of the operation of Task Force Barker, at any time during this time frame, 16 to 19 March 1968?

A. No, sir. I say this with some assurance, because during my entire time as the S5 when I had the--when we carried the northern AO, sometimes we had it, and sometime we didn't, but not only during the tenure of Task Force Barker--that time frame--but during my entire tour, I can never remember one incident where any civilian was medevac'd out of there to Duc Pho. I can remember incidents where civilians were taken out of there to Chu Lai, which was much closer.

Q. Well you are making the distinction, medevac'd out--

A. (Interposing) Well, not just that, for refugee purposes, or medical treatment purposes, in other words a casualty, a medevac.

Q. It is our information that there were detainees brought out from the eastern area, that day.

A. You see, I wouldn't see them, unless there was a solatium payment involved. Now, the only time I got involved with people that were evacuated were, number one, the refugees, if they needed a place to live it was my responsibility to find them shelter in one of my local refugee camps. Or if they had a wound or something that would call for payment of solatium then I--

CONFIDENTIAL

asked him if they had killed any civilians up there. I'm reasonably sure I mentioned it to him that night. I know I mentioned it to one person and I'm sure it was Colonel BARKER. It had to be, because when I asked him about this, and I mentioned the fact that I had heard rumors, I told him that this was what I'd heard. And other than that, I never recall that I mentioned it to anybody else.

Q. And you tell us that Colonel ANISTRANSKI, in words and substance said to you, Task Force Barker is in big trouble and the entire 11th Brigade maybe in serious trouble, and never from that time until January of 1970, with the possible single exception of having spoken to Colonel BARKER in a conversation in the mess hall one evening, did you mention this to anyone at anytime?

A. That's correct.

Q. You have attempted to fix the date of that conversation with Colonel ANISTRANSKI. I want you to be very careful in that respect. You said you went to Chu Lai on alternate weekends for fiscal reasons, to pick up money, as I understand it. And that you would fix this particular visit as being either weekend of 22, 23 March or 29, 30 March, now there may be considerable significance in the dates here, and I just want to be clear in my own mind, how clear you are. You told us you have a very good memory, you have considerable recall of times and places, and I would like to know how you fix it as being one of those weekends, as distinguished from a weekend in April, or possibly some other time?

A. Because when I overheard this conversation with the pilots in the club at the 174th, I made a mental note to myself that the next time I talked to the G5 I'm going to mention it to him. And that which I overheard there in that club was shortly after 16 March, it may have been 4 days, it may have been a week, or 9 days. But, I made this note to myself, the next time I go to division I'm going to mention it to him, I'll go in there and talk to them about it. And when I went in there to talk to him about it, the next time I went up there, this is when he went in to the events I recounted earlier.

Q. You said something about a province being upset, now when he mentioned province, do you recall how he made that reference? Province could mean various things. It could

mean the advisory group, it could mean one of the province officials, what kind of a reference did he make in this respect as you recall?

A. He just said that the Vietnamese officials or the Vietnamese province are concerned about this and are having an inquiry into it. He didn't a--to the best of my ability to recall, he didn't say the district official here in this particular place, he just said province overall, and when he said this I assumed he meant Quang Ngai, because that's the province seat.

Q. Now, in addition to hearing that from Colonel ANISTRANSKI at this time in 1968, do you ever remember reading or hearing of Vietnamese province officials being upset about an incident at this time, and I'm asking this question right from 1968 up to today? Have you ever heard anything about province officials being upset?

A. Are you referring to official documents, publications or newspapers?

Q. No, anytime you heard of such a thing. Whether you saw it in the newspaper or whether you saw it in official documents or heard it in conversation while you were in Vietnam or heard it in conversation after you came back. Have you ever heard that the Vietnamese officials were upset about something at that time?

A. Well, I never heard that, other than what he told me, that they were upset. After that conversation, I never heard anything about the fact the Vietnamese were upset about this. Other than this past, you know, summer and fall, you know, when you'd pick up a newspaper or magazine, it would make reference to a Vietnamese investigation, and the word upset--the fact that they were upset never appeared in print in most of the articles. I heard nothing about this--saw nothing, or heard nothing reference this incident, other than what I related to you, and other than what I read in the civilian news media.

Q. Now, as far as the civilian news media is concerned, you say you read about investigations by the Vietnamese and the fact they were looking into this matter?

A. Well, just as I read about the investigation the General's making.

Q. And you recall what you read in this respect?

A. As far as--you mean corroborating with the--what I heard earlier?

Q. Yes.

A. Well, as a matter of fact, I've seen so much in the paper that--and in so many publications that I may read the first headline, and a few paragraphs of it. I usually don't go into, you know, read everything I see in the papers about it--great detail. At least not at present. Initially, I read the articles.

Q. Why did you think it was such good advice from a colonel to be told not to worry about your brigade being perhaps in serious trouble. You characterized that before as being good advice if your brigade really was in trouble?

A. Well it's a--I know what I want to say now, but I'm trying to determine how I want to say it. Generally speaking, as a young junior officer, when an older, senior officer tells me something, or gives me a piece of advice, or instruction, I carry them out. That's about the best way I could answer that. He said, "Don't worry about it", so I made an assumption, which I feel was a logical and an honest and a good assumption. That when he said it's being taken care of, that he means it is being taken care of at the proper level, by the proper people, who can subject or provide the--who have the power, shall we say, or the authority to correct the situation or to change events.

Q. Can you imagine anything that concerns you more deeply than the G5 of the division saying that your brigade may be in serious trouble? This is the G5, you're the S5 at brigade and he says, "Oh, don't worry about it", and so you just put that all to one side. I just, quite frankly can't understand it.

A. Well, he didn't say it that--

Q. (Interposing) That would be the most important thing in your life at that point if he told you you were in serious trouble at the brigade and it would be something front and center in your mind. What have I done? What's the brigade done in the area in which I'm responsible? This is the G5 at division.

A. Well sir, he didn't say it like, "Ha, don't worry about it," he said, "Don't worry about it. It is being taken care of." He didn't laugh about it, or smile when he said it, he said, "It's being taken care of, don't worry about it."

Q. And you never heard another word from him about it?

A. I never heard another word from the G5. Now if he had anything that concerned me, he most certainly didn't call me in and give me verbal instructions or written instructions pertaining to the matter, or what action I should take concerning this matter. Nobody did from any position of authority who was my superior in any way.

Q. And how long--

A. (Interposing) Either at brigade or division level.

Q. How long after you talked to Colonel ANISTRANSKI was it, before you talked with Colonel BARKER in this conversation you've recounted for us?

A. I would say a minimum of about 5 or 6 weeks, at least.

Q. Are you quite clear in your mind that it was that long a period?

A. The day would be--the day of it would be, the day or the next day, after he came back from R&R. Because, I distinctly remember the colonel took R&R and when he came back, he was XO. He went on R&R to Hawaii, and we all knew when he was coming back he was going to take command of the battalion, the 4/3. And I remember he came back from R&R, he spent a couple of days in Duc Pho, and it was one of those days I talked to him. Now when he came back exactly, I don't remember, but I'm positive it was in the month of May, and that would make it 5 or 6 weeks after the events that occurred with Colonel ANISTRANSKI.

Q. Now one final question. I was interested in your comments about Colonel BARKER, I understood you to say that it was rare for him to call you in unless he had praise for you.

Didn't he ever take a critical view about anything and call a fellow in to chew him out?

A. He had to be without--now I've been in the Army about 7 years and 3 months, I've been a commissioned officer for about 6 years and 3 months. Without a doubt, without a--for all of the officers I have ever worked for Colonel BARKER had to be the easiest man I ever worked for, in every respect.

Q. He was most agreeable?

A. Not agreeable, he just never, for example, in Hawaii when he took over the S3 shop, I think our working hours were 8 to 5; 0730 to 1630, one or the other. But sometime you could come in at 9 o'clock, he'd never call you in and say, "look you'd better.--"his general feeling was that you did your work and got your work done, fine. Because of--the reason I remember this is my worse fault is I'm prone to oversleep. I've just been that way since I been in school, just a kid. And I've gotten a lot better over--at it over the years, having been stood on the carpet for it, but every now and then I'm still prone to do it. And I know one day, I came in late and I--the colonel called me in and I thought he was going to call me in to chew me out, and in fact, I went in and apologized to him for being late, and he said, "Well, you're getting your work done, don't worry about it."

What I mean, he just was never critical. He would never call you in and grind something out, like a lot of colonels do, and say this stinks, it's terrible, it's not what I want, I want it this way. Now you take a report in, it's 5 or 6 pages, a staff study, you put it on his desk, he'd read it over, never change a word--at least in my work, for the other officers he may have--he'd look it over, he'd say it's good, he'd sign it, and he'd throw it in his box, or hand it back to you, and say, it's a real good piece of work. And I think everybody that worked for him liked him. He was a real sharp contrast to most colonels I worked for having been in the Army 20 years. He wasn't hard bitten. And well, really he's just a great guy to work for. You know he gave you maximum leadway as far as being on his staff. While you were on his staff he would give you maximum leadway, he'd give you a broad general guidance on reports and you'd do it and he'd always sign it. Or always a--he was

CONFIDENTIAL

(KESHEL)

42-43

APP T-177

I'll show you the item 39, at the bottom of the page, which I have indicated for you, and you will notice in the right-hand column, this is the action taken column, this information was passed to the 11th Brigade.

(Hands exhibit to witness.)

This was on 16 March. I'll ask you if this information was ever called to your attention?

A. My copy here it's quite--

Q. (Interposing) Well, it is, it's a--

A. (Interposing) Does it say that--

Q. (Interposing) Bronco reports that some--

A. (Interposing) Body count that none--

Q. (Interposing) Body count was--

A. (Interposing) None of the body count--

Q. (Interposing) Yes. That's Bravo Company.

A. Oh, B Company?

Q. That's right.

A. Reports that none of the body count, reported by his unit, were women and children.

Q. That's right.

A. C Company reports that approximately 10 to 11 women and children were killed, either by artillery or gunships. These were not included in the body count.

Q. Yes.

A. No, sir.

Q. Would you have any reason why this, having been called into the brigade as is indicated by the action taken, would not appear in the log of the 11th Brigade?

A. Well, I didn't generally read the--I didn't maintain a log, the TOC maintained a log I know, the S2 and the S3 maintained it, I think they maintained it in the TOC.

Q. It looks like they normally maintained a joint log.

A. Now, my office did not maintain a log. Now, I never read this particular log to the best of my ability to recall, in fact I used to get it everyday, it would come through normal staff routing procedures, the INTSUM....

Q. The INTSUM, yes.

A. And there was two books, I believe one was the intelligence summary and the other was the operations....

Q. SITREP.

A. SITREP. Now, these would come in a green folder, across my desk every day on the distribution. If I had time, I'd read them, but if I didn't have time I'd just initial off on them and not read them.

Q. Well my question there is, was this information ever called to your attention?

A. This, no sir, I don't ever recall--

Q. (Interposing) Were you ever aware that on the 16th or close to that time period, that 20 to 30 civilians had been killed and such had been reported by C/1/20?

A. No, sir, I can't recall. I wasn't notified of it. And I stayed out of the operations bit of it.

Q. I see. What was the division and brigade policy with respect to the burning of houses, hootches, hamlets, and or villages?

A. Well now in the RD area--

Q. (Interposing) No, I'm talking about the--

A. (Interposing) In the free-fire zone?

Q. In the area generally considered occupied by the VC along the Batangan Peninsula and to the south, the coastal strip?

A. To the best of my ability to remember, if I recall, houses that were fortified with, you know, logs or concrete and could be used as a fighting position, they could be destroyed.

Q. What about hootches, let's say, temporary shelters, that would be put in the form of a hamlet, or to house a group of people?

A. The type that is made of straw and bamboo?

Q. That's right, the type that you are very familiar with, and you saw what they live in?

A. To the best of my ability to remember, these types of living dwellings were not to be fired into or to be put to the torch.

Q. Do you recall any directive or policy from the Americal Division, that no building would be destroyed without prior approval of the division commander, or one of the assistant division commanders?

A. As I recall, sir, what I read about this was pertaining to concrete, permanent or semi-permanent structures.

Q. Were you ever aware that an investigation was being conducted within the brigade, or within Task Force Barker?

A. No, sir, other than the fact that--not at the brigade or task force level, I was not made aware, or shown anything, or asked to participate in any way, in any investigation, furthermore, I never read, or heard verbally, or read written reports on any investigation.

Q. You gave no statement whatsoever, either oral or written, or were placed under oath, or signed any kind of testimony?

A. I signed nothing. And I was notified--I mean

nothing ever came across my desk, that was staffed and said, now read this and add what you've got.

Q. I have here Exhibit D-1 which is MACV Directive 20-4. I'll call your attention to paragraph 2 and paragraph 5a on page 2.

(Exhibit D-1 is handed to witness.)

A. Paragraph 2, sir?

Q. Paragraph 2, on the first page.

A. All right, sir.

(Witness examines document.)

Q. Paragraph 5a on the second page.

(Witness examines document.)

A. Yes, sir.

Q. Are you familiar with the contents of these 2 paragraphs?

A. No, sir, I have never read these.

Q. Well, were you aware of the fact that having heard of an alleged incident, that as an officer or as an individual you are responsible for reporting same?

A. Well, sir, I never received a report of a specific incident. I heard a rumor from people that had been drinking at a bar, and I don't want to be accused of being a rumor monger. I mean if you got--if you're going to put--say, well that command may have done this, you better have your facts together, and I had nothing like that, just a couple of half drunk pilots, talking and if what they were talking about had any substance or not, I didn't know. When I went to division to check through with the G5, he didn't give me any report that says, in this area, at this time, these people did something. He just made a very broad, vague gesture that Task Force Barker was in trouble, for what's been going on in the AO. Well, I don't know what was going on in the AO. Was he referring to the My Lai (4) incident,

which now looking back, I'm reasonably sure he may have been, or at that was he referring to something else that may have been going on, confiscating of civilian building material to make bunkers with, or something of this nature. No facts, nothing with substance to base a--such a claim on, a war crime on nothing. I could go in and tell the colonel without being--making statements that I had nothing to back up with. Just a rumor monger is all I'd be accused of--of doing. Nothing was ever told to me that had any substance in any way.

COL FRANKLIN: Was there a lot of emphasis in your brigade on civil affairs and pacification activities?

A. Yes, sir. There was--now when I say there was emphasis, now I'm really not sure about all other units in Vietnam, but I'd say the 11th Brigade was--did more in the civil affairs end than many units. One, I instructed the troops prior to departure to Vietnam. Two, all the troops carried leaflets with them as a matter of standard operating procedure. Chieu Hoi type leaflets, and reward type leaflets, as a matter of policy. They would hand these out or would drop them, you know, in places where people would pick them up. And three, when we got into Vietnam, the unit that we relieved in the Duc Pho area had very unsatisfactory medical provisions for Vietnamese, to help Vietnamese. What they had consisted of a tent with a wood floor, and no bunks. And I discussed this with the surgeon, about trying to build a hospital, so when the people came in we'd have provisions for them. And the General went right along with this, and when we built the clearing station there, which was very modern one for this type of atmosphere, a fire base, we put in one Vietnamese ward, and I believe we had 15 or 16 beds. And we made medical care available to Vietnamese. They'd come in with a burn or something, we didn't just throw them in a tent, we gave them proper medical care, and put them to bed. Now the brigade also built schools. I know while I was there we put up about eight schools.

Q. Excuse me, those kind of activities certainly, school building, I'll get specific; unnecessary harm to civilians and their property. Was your brigade hot on this, and if so, what form did it translate itself into?

A. We would of course--now in the SOP, we had an SOP which gave the guidance, but the colonel himself, put emphasis on this. I remember particularly one time I had a--we were paying solatiums and I don't know, I counted that there were about 30 payments of solatiums for gunshot wounds and I mentioned--

Q. (Interposing) Thirty payments?

A. Not at one time, this was over a period of, I think of 8 months, I believe this was in August or sometimes 8 or 9 months. It was 27 or 32 payments of solatium for gunshot wounds and most of them--the circumstance involved here, would be engaging VC, or return fire at VC, and rounds sometimes from the VC would wound a civilian, and they'd bring them in, and they'd medevac them back with a gunshot wound, because the colonel had a policy if a civilian was wounded you medevac them. This is what he wanted, this was in my brigade SOP for civil affairs, that the civilians would be medevac'd back to the closest point where they'd get medical attention. And most of the times it was Duc Pho and the S5 was notified so that he could pay solatium and see that they were taken care of, and then taken back to their homes.

Now, this was in the Brigade SOP, so when I say it was a policy, it was brigade policy. And I know of one time in August, I believe it was in August or September, I was going over this solatium thing, and I mentioned to the colonel that it seemed that we were a little high, and he mentioned it to the battalion commanders at one of his briefings. And all of the battalion commanders, boy, they really got down on me, now they said, well, you know we got lieutenants out there with the platoon, or rifle company commanders out there with the companies, he'd get fire from a village, he's got to return fire to protect his command, and when this happens, perhaps a civilian will get shot, but they did always medevac them back, and I would say that the field commanders or the unit commanders, the captain or lieutenant, they were probably better than most.

Q. Did Colonel HENDERSON strongly emphasize this to the battalion commanders, not hurting people or property? Do you specifically recall this?

A. In all instances the colonel was all for taking care of--giving the benefit--giving their nickles worth to the Vietnamese, to try to protect them as best we could.

Q. You were the junior officer on the staff?

A. Yes, sir.

Q. Was there ever a major in the S5 in the--

A. (Interposing) Not in the 11th Brigade.

Q. What's the TO&E rank call for?

A. Major, sir.

Q. You had a rifle company, Captain KESHEL?

A. No, sir.

IO: How did you get your combat infantryman's badge.

A. It was awarded to me, sir.

Q. As a member of the brigade staff?

A. Yes, sir.

Q. You indicated that Captain HENDERSON in the S3 section was quite a good friend of yours?

A. Yes, sir.

Q. Do you correspond with him?

A. No, sir.

Q. You ever correspond with him at all?

A. No, sir. When I say he was quite a good friend, we were good buddies in Vietnam, now Captain HENDERSON and I have different interests on a whole lot of things, but we did live together there, for about 5 months.

Q. And when did you last see him?

A. In October, sir, when he was in--he was one or two classes behind me, I finished the advanced course in October and I think he finishes next month. So I'd see him in the hall at the infantry school, and we'd have a cup of coffee now and then.

Q. He's at the infantry school now, is that right?

A. Well he should be, sir, he was there, or just graduated, or will be graduating soon.

IO: Before this hearing recesses I'm sure we have told you some interesting things this morning, and in the course of the discussion, certain things probably have come to mind, and some of these pieces which you have may fit together later on, concerning some of these things that transpired. Now, if you do have any additional information above and beyond that which has been provided here this morning, I'd like you to get in touch with this inquiry, so we can take the benefit of such information. In addition, if you have any documents in the form of SOPs, reports, memoranda, photo, aerial photos, maps, or other things which, in the material sense, can assist us, we'd like very much to have those available to this inquiry.

Now at this time I'll give you an opportunity to ask any questions which you'd like, or if you would like to make a statement to enter into the record.

A. Well, sir, I like to make one statement, and that is, basically speaking, I'm a little stunned because I came in here this morning and you showed me various documents and written material that made reference to civil affairs and PSYOPs, that came from higher commanders in my own chain of command. Yet none of that information was ever passed on to me or came across my desk, even though it involved me. And this, well, frankly speaking, it frightens me, because I think that if I was involved, it was the duty of my commander to come down to me, or call me up to him, and say now put your two cents worth in on this. And my feeling that I want to enter into the record is that I was just kept in the dark on this thing, why I don't know, and I'm not very happy about that. I know it just makes me look like a--well it makes me

look like a fool, but it also makes me look like--not look, it makes me feel there was a lot that went on that I should have been involved in that I wasn't involved in, and for reasons unknown to me.

Q. We appreciate that. Do you have anything further you'd like to add?

A. No, sir. I do not.

IO: We will recess at this time.

(The hearing recessed at 1200 hours, 19 January 1970.)

FOR OFFICIAL USE ONLY

SUMMARY OF TESTIMONY

WITNESS: KIRKPATRICK, Roy D. CSM

DATE OF TESTIMONY: 30 January 1970

PLACE OF TESTIMONY: Pentagon

WITNESS SUSPECTED OF: N/A

COUNSEL: None

DUTY ASSIGNMENT ON 16 MARCH 1968: Operations Sergeant,
11th Infantry Brigade.

KNOWLEDGE OF THE INCIDENT.

a. Preparations for the assault.

The witness stated that he recalled the operation having usual preparations, with the usual reports coming in on the readiness of units (pg. 2). There was nothing at the TOC to indicate anything exceptional or extraordinary (pg. 2). He did not recall the TOC personnel on 16 March, but stated that Major MCKNIGHT as the brigade operations officer would be present at times (pg. 3). Most TOC operations were monitored by the witness and the brigade S2 sergeant (pg. 3). He stated that possibly Captain James HENDERSON was the assistant S3 and was the duty officer in the TOC (pg. 3). Sergeant GERBERDING was the S2 sergeant (pg. 3). Also present was Specialist Five FELIX (pg. 4).

b. Initial radio reports.

The witness stated that one radio was on the brigade operations net (pg. 3). Another radio was kept on the division operations net (pg. 3). The third radio was classified as a "free radio" and was used to spot check or listen in on different units (pg. 3). He did not specifically recall receiving reports from C/1/20, but recalled the initial reports from the task force S3 (pg. 4). Those

(KIRKPATRICK)

1

SUM APP T-281

reports indicated light contact and sniper fire (pg. 4). There were also indications of casualties from mines and booby traps (pg. 4).

c. Radio transmission of a confrontation between the ground and air troops.

The witness stated that they monitored a report by a helicopter pilot that the ground troops were shooting civilians (pg. 4). He did not know the name of the pilot but presumed that it was THOMPSON (pg. 5). The witness stated that initially they did not "give credit" to this because the VC dressed as civilians in that area (pg. 5). They did call back to Colonel BARKER to ask him what was going on (pg. 5). He estimated that they received the report at approximately 1100 hours and the duty officer made the call to BARKER (pgs. 5, 6). He explained the set-up of their radios to show how they received the report and how they contacted Colonel BARKER (pgs. 6-8,17-21). The remaining transmissions received concerned the number of VC killed (pg. 9).

d. Maintenance of the TOC journal.

The witness stated that normally they would jot down messages received on small pieces of paper which would be filed and later entered into the journal (pg. 11). The journal was prepared first in a handwritten form and was later typed when a typewriter became available (pgs. 11,12). He stated that the call to Task Force Barker should have been entered into the log (pg. 15). The witness described the physical set-up of the TOC to indicate the "tremendous turmoil" (pg. 16). He also described the blank form which was used to note log entries (pgs. 16, 17).

e. Knowledge of an artillery incident.

The witness was shown an entry in the 11th Brigade log which indicated that at 0935 69 VC were killed as a result of artillery fire (pg. 25). The Task Force Barker log did not show that artillery was the cause (pg. 24). The witness stated that the difference could "probably have been" because they called to find out how the people died (pg. 25). The entry did not indicate who received the information that artillery caused the deaths, but it did show that there was a difference in coordinates (pg. 26).

FOR OFFICIAL USE ONLY

The witness stated that this was usually because the maps carried by the soldiers were worn out and the coordinates from them were usually incorrect (pg. 27). He did not recollect receiving a report from Task Force Barker (pgs. 27, 28).

f. Inquiries concerning the assault.

The witness stated that Colonel LUPER was appointed to investigate the radio message regarding the confrontation between air and ground troops (pgs. 5, 8). He said that Major MCKNIGHT assisted in the preparation of the report which was kept "under wraps" (pg. 30). He said that MCKNIGHT discussed the report with him and told him that they found the pilot's allegation to be untrue (pg. 30). He did not see any appointing orders on Colonel LUPER (pg. 30). He thought that MCKNIGHT carried the report to division (pg. 30). He said that it was prepared in his TOC by selected typists but he did not see it prepared (pgs. 30, 31). He did not recall who typed the report. MCKNIGHT indicated to the witness that they had spoken with THOMPSON and with "some of the Warlord people" (pg. 32). They had talked to anybody who had knowledge of such an incident (pg. 32). He did not recall any discussions between LUPER and MCKNIGHT regarding the report (pg. 33). He described the location of LUPER's office and said that the report could have been prepared there (pg. 34). The witness stated that he was never officially informed that LUPER was the investigating officer, but it was merely his impression (pgs. 34, 35). He had no knowledge of BARKER or HENDERSON with respect to a report (pg. 35). He did not recall any discussions after this incident with Sergeant GERBERDING regarding further investigation (pg. 36). He did not recall any interrogations being made of the members of 4/3 (pg. 41).

(The hearing reconvened at 0947 hours, 30 January 1970.)

MR WEST: The hearing will come to order.

RCDR: The following named persons are present: MR WEST, MR MACCRATH, and MAJ COOP.

The next witness is Command Sergeant Major Roy D. KIRKPATRICK.

(CSM KIRKPATRICK was called as a witness, was sworn, and testified as follows:)

Will you state your full name, grade, Social Security number, branch of service, organization, and station?

A. Command Sergeant Major Roy D. KIRKPATRICK, Social Security number is , currently stationed at Headquarters, 2d Battalion, 70th Armored, 24th Infantry Division, Fort Riley, Kansas.

RCDR: United States Army?

A. United States Army.

MR WEST: Sergeant Major, have you read our Exhibit M-57, which gives information on the nature and purposes of this inquiry?

A. Yes, sir, I have.

Q. Do you have any questions about it?

A. No, sir.

Q. Have you received an order from the military judge in the case of the United States v. Calley, or United States v. Mitchell?

A. No, sir. I have not.

Q. You will recall towards the end of Exhibit M-57, it speaks of the possibility of giving testimony to some other body, legislative body.

A. Yes, sir.

Q. There is a possibility, or course, that you may be asked to appear before the subcommittee of the House Armed Services Committee, and I want to emphasize that if you do, the fact that you have been directed not to discuss your testimony doesn't apply to that body.

A. Yes, sir.

Q. Sergeant major, would you tell us your duty assignment on 16 March 1968?

A. I was operations sergeant for the 11th Infantry Brigade.

Q. This was the time, of course, when it was part of the Americal Division in Vietnam?

A. Yes, sir.

Q. You were on duty that morning, I take it, when the Son My operation started with Task Force Barker moving into this area south of the Song Diem Diem?

A. Yes, sir.

Q. Do you recall an event that took place in the TOC that morning when the operation got started? Charlie got started and later Bravo Company?

A. Yes, sir. I recall the operation exactly. I'm going to speak of it as some time back. The operation kicked off pretty much as any of the operations did, the usual preparations, the usual reports coming in, the readiness of the different units, and the actual insertion of the troops. At the time this particular operation was nothing that would indicate at the TOC anything exceptional or extraordinary. It had been pretty much a rapid affair, radios jumping, with our TOC organized to monitor all the artillery calls, all the aviation calls, and radios set up to monitor units on a spot-check basis. I'm afraid you're going to have ask me some specifics to prompt my memory.

Q. Were you monitoring any particular radio frequency that morning?

A. We were on the brigade operations net. We had radios checked into the division operations net. The free radio, as we classified it, the radio we used to spot check, or listen in on different units, to find out what their interior progress was trying to compare with our own reports, I'm sure was set on the Task Force Barker net, on it's interior push.

Q. You remember who was in the TOC with you that morning?

A. TOC personnel--it would probably been--

Q. (Interposing) Well, it was probably Major CALHOUN.

A. No, sir. Major CALHOUN was operations officer for Task Force Barker.

Q. I'm sorry, I meant Major MCKNIGHT.

A. Major MCKNIGHT was in the TOC at times, but being the brigade operations officer, he at times was out of the TOC, over at the administrative area. So the TOC operations was monitored pretty much by myself and the brigade S2 sergeant. We normally kept a duty officer in the TOC. I'm at a loss right now for the name of the assistant S3.

MR MACCRATE: Captain James HENDERSON?

A. I believe you're right, sir. He was--

MR WEST: (Interposing) Sergeant GERBERDING was the S2 sergeant.

A. S2 sergeant, yes, sir, master sergeant. We were probably all pretty much in the TOC on the radios at this time, maintaining communications and sending reports back to division.

Q. Was anybody else in there?

A. At the time there was a Specialist Five FELIX,

F-E-L-I-X. He was working at the aviation S3 air. He would have been in the TOC.

Q. Do you remember his first name?

A. No, sir. I don't right now, I don't recall it.

Q. Is he a Spanish-American?

A. No, sir. He is from Oklahoma, Paul's Valley, I believe. He's not Spanish-American--

MR MACCRATE: (Interposing) Who was the S3 air?

A. S3 air would have probably been Captain HENDERSON. We had several in there.

MR WEST: Do you remember when the operations reports started coming from Charlie Company, from the hamlet called My Lai (4)?

A. Yes, sir. Not specifically from Charlie Company. We got our reports sent back to us from the task force S3. I recall when they started coming in, those reports indicated light contact, sniper fire. Principally the reports were on the casualties and mines and booby traps as I recall. This is what we were getting, more than gunshot wounds.

Q. This must have been Bravo Company, wasn't it?

A. Yes, sir.

Q. Do you recall any reports coming in that morning about Vietnamese civilians being killed during the operation?

A. Since this investigation came up I tried to recall that report, and I can only vaguely recall a report of this nature coming in. It seems to me it was initially given by a helicopter pilot. We monitored the report that he claimed that they were shooting civilians, but this--

Q. (Interposing) This would have been Warrant Officer THOMPSON?

A. I would expect that is who it was, I don't have his name--

Q. (Interposing) He was the man who initiated the report. It might have been relayed to you from the high gun as to what the--

A. (Interposing) The situation there in taking the total context of the unreasonable shooting of civilians would have to be explained like this. At the TOC we did monitor, as I recall, we called back to Colonel BARKER, who is now deceased, and asked him what was going on. The indication that I took from my position in the TOC would have been to not give credit to this because the people that we were combating were dressed as civilians. This area was known to be the home of the 48th Main Force Battalion, a hard-core VC unit, and these are the same type of people we'd engaged before. It was extremely difficult to catch them armed with weapons. We did investigate it later on. As a result of this report it was investigated. As I recall, the investigating officer was Colonel LUPER. He was appointed the investigating officer to see if this incident actually occurred. But there was nothing really that would indicate any massacre of troops or people. Unfortunately in war people do get killed.

Q. Well, regardless of the validity of the report, we are trying to put together an event which occurred almost 2 years ago.

A. Yes, sir.

Q. It is difficult to get timing on just what occurred. Can you think, sergeant major, and recall as best as you can what time this traffic came in, when the reports came in? As best as you can recall, just what you heard? What was said?

A. Well, it would have been just prior to lunch probably around 1100 hours, maybe a little later than that. This report came in, and as I recall, the duty officer immediately called right back to Task Force Barker - 6. I don't recall his call sign at the time and--

Q. (Interposing) You didn't receive the transmission yourself?

A. No, sir. I did not receive the transmission myself..

Q. Task Force Barker would have been Coyote 6?

A. Yes, sir. I believe he would've been. We were having to go through relays to pick him up.

Q. Was this the relay at Uptight?

A. Yes, sir. I'm sure it was Captain HENDERSON that called back up to check out this report that we had monitored. It's been such a long time ago--

Q. (Interposing) You don't recall whom the transmission came from do you?

A. As I recall, sir, we were monitoring the aviation net from the S3 air, and it seems to me that this was actually, you might say, as a result of eavesdropping. That's the reason we initially became alerted to this. It was not an official report directed to our station. We only gave credence enough to it to call back up to the task force commander to ask him to check into it. Knowing the task force commander--

Q. (Interposing) You were at Duc Pho and you had to relay through Uptight to get to Dottie?

A. Well, no. We went straight to Dottie, the relay to the ground troops went to Uptight. We had to go on extended antennas in order to maintain communications with Dottie which was the task force headquarters. The report itself was passed back to the commander to check on this thing. As I recall, we got back a negative on it, and I just more or less parked it off to the side as one of those reports that you might get.

Q. Did you make the call to Task Force Barker?

A. No, sir. The duty officer, Captain HENDERSON, made that call.

Q. You believe that was Captain HENDERSON?

A. Yes, sir. I believe that was. Again, it's been such a long time I'm having to pick it. There were many duplicate types of operations.

Q. As best as you can recall, it was prior to lunch or somewhere around 1100?

A. Yes, sir.

Q. Our information--

MR MACCRATE: (Interposing) Excuse me Mr. WEST. To whom would this transmission have been going? You indicate that you would have picked it up more or less by eavesdropping and, therefore, I'm interested in clarifying in my own mind to whom the transmission would have been directed?

A. I'm sure you have an understanding of how they operate. The aviation people operated on their own frequency. We have an air-ground controller net so that we have contact with all these troops, with the helicopters that are working in the air. This would have been over the air-ground controller net. As I recall, this pilot was talking with his flight leader and on this particular call the pilot stated, "If you shoot that man, I'm going to shoot you," or words to that effect. This was the point that really brought it up. This was on a radio transmission of some nature. This was on the air-ground net and who the call was directed to--the ground people we couldn't monitor them, because the PRC-25's were some 30 miles distance and just out of range. The air people we could get and, as I recall, that's the transmission that probably caught our attention; to have one of our own people to threaten to shoot one of our own people which this would have been. I'm just at a loss, sir, to be able to qualify who the transmission was directed at. As I recall, that would have been the transmission that would have directed our attention. As I recall, that's when the duty officer would have probably called Colonel BARKER, to find out what exactly was going on there, that we had this type of transmission coming back.

Q. Is the call sign Warlord familiar to you?

A. Yes, sir. The Warlord people were the aero-scouts and they worked with us continuously. a real fine group of pilots.

Q. Well, we have evidence, sergeant major, that Warrant Officer THOMPSON was flying an OH-23 that morning with the aero-scout team. He was flying the bubbletop and he was hovering down low over My Lai (4). He talked constantly, apparently back to his lead ship, Warlord Lead, probably the high gun of the two gunships that were following him to protect him. It seems quite possible that you heard some of the transmission back between THOMPSON and the Warlord Lead. There were several instances which Mr. THOMPSON reported. One of them was an incident in which he landed and talked to a lieutenant who commanded the 1st Platoon, Charlie Company. He was concerned about protecting Vietnamese people who were in a bunker on one side of a rice paddy with a man in the 1st Platoon approaching from the other. There was a confrontation, which ties in with what you heard. Did you ever hear any of the details of this later on?

A. No, sir. We did not get into that.

(IO and COL FRANKLIN entered the hearing.)

As I said, later on, after the operation, we were asked to provide to brigade an investigating officer. Colonel LUPER was directed to investigate it.

Q. Before we get to that, sergeant major, I would like to just stay on the other a little bit, on that morning. As a result of this call to Task Force Barker, did you hear any traffic going out on the Task Force Barker net, going out to the field, going down to, say, Charlie Company?

A. Sir, I can't honestly say that I did hear any transmission like that, sir.

Q. Well, do you recall any transmission back as a result of this call to Task Force Barker?

A. We started getting in reports of a number of VC killed. We started processing these. No, sir. As far as anything that would have been tied in specifically with this type of investigation, I can't recall that we did monitor any additional traffic that would indicate such a thing had happened, other than the reports which were running relatively high. We felt that we were really getting into the midst of the 48th Main Force Battalion, which we were overjoyed about. That was the reason for us going in, to find them.

MR MACCRATE: Do you know when this was first brought to the attention of the brigade commander?

A. This reported incident?

Q. Yes. This unusual transmission?

A. No, sir. I do not.

Q. He was flying over the operations from time to time that morning, we understand. Were you in constant contact with him?

A. Yes, sir. His command and control helicopter had a console in it by which he had the capability of monitoring the ground troops and the brigade commander net simultaneously. He was pretty much in direct contact with Colonel BARKER himself whenever he was over the operational area. Colonel HENDERSON was the type of soldier or commander who was on the situation when things were hot. He spent most of the day up at LZ Dottie or over Pinkville on this particular operation.

Q. We understand. What I was trying to visualize was how you kept him informed as to what you were doing. Perhaps you monitored something which he may or may not have heard. When you send a communication to Task Force Barker are you talking on a net that he would be monitoring at that time, or did you separately advise him of what you heard?

A. Yes, sir. We talk on a net that he monitors continuously, this is the brigade command net. We also

have point-to-point telephone communications. I believe this would have probably have been the type of communications Captain HENDERSON would use at LZ Dottie to talk with the operations center. Probably this would not have been a radio transmission to check out such a report as this. You would have to preclude soldiers running rampant with a rumor that our own helicopters are going to shoot our own troops if we shoot any VC out there. A thing like this would be detrimental to the mission. I'm sure Captain HENDERSON would have used a telephone to have checked it out. This is a point-to-point system, to check it out. We had direct contact with the TOC. Colonel HENDERSON, on that particular operation, had to come back to LZ Dottie to refuel his helicopter. His normal method while he waited for his chopper was to drop to the operations center for that task force and get an up-date himself out on the ground. He had continuous radio communications which he could monitor plus he could look at the maps in the TOC.

Q. Do you recall this morning at one point he dropped down and actually picked up two individuals who were thought to be VC and eventually took them back to LZ Dottie?

A. I don't recall that specific incident, but it was not unusual for Colonel HENDERSON to do so.

Q. Well, it's our information that it was ultimately discovered that the two individuals were not VC, but had been PF's captured by the VC and that there was some joking or teasing of Colonel HENDERSON about this by some some of the senior officers. This might have been something that you heard of that you might have fixed it in your mind.

A. No, sir. I don't recall that specific instance that he would have done so.

Q. But at the time he went back to LZ Dottie to refuel, you indicated it would have been then in all probability that these two individuals were taken there. On what net would you have communicated with Task Force Barker, seeking information?

A. If we made the transmission over the radio it would have been on one of two nets. We probably would have called on the brigade operations net first. If we didn't get an immediate reply then we would have switched to their operations push. We had the capability of changing radios a lot easier than the battalions did, and realizing that their units were in an operation, it is possible that some radio equipment goes down. So if they had to maintain communications, they would maintain it with the units in contact rather than with reporting unit.

Q. Would such an inquiry be logged by you?

A. It would normally be, yes, sir. It should have been put in the journal. As I've said. I didn't make this specific inquiry. I again was much like Major MCKNIGHT. I was not full time in the TOC, all the time. We had personnel who assisted in maintenance of the TOC, such as Sergeant GERBERDING, Captain HENDERSON, Specialist FELIX, the artillery people. When things got hot in one section and were quiet in another section in the TOC everybody rendered a hand to assist them. Messages, outgoing and incoming, were usually written and then put in the file and then placed into the journal.

MR MACCRATE: Would you describe for us how the journal was prepared, the steps in its preparation?

A. We maintained a handwritten journal in the TOC. Much later we got facilities to be able to maintain a typed journal down at the TOC. Initially, we maintained a handwritten journal. If things got extremely busy, then we wrote it on a message, form numbered the message, pulled it off and set it over there in a file to go into the journal. Then the journal was caught up when things cooled down a little bit. We had a message on individual pieces of paper to maintain a complete journal.

Q. And then when would the type journal be prepared?

A. Normally it was prepared as soon as the typewriters became available, which may have been probably that afternoon.

Q. Would it be done in the TOC, or would it go over--

A. (Interposing) No. it would have been done in the TOC. We had one spare table down there that they used to type this journal.

Q. And who would be the individual to type this journal?

A. Well, it could have been one of any number of clerks that we had.

Q. But you did have several clerk-typists available to you?

A. Yes, sir.

MR WEST: Sergeant major, your testimony a moment ago was that as best you could recall, this transmission about the confrontation and this unusual transmission that you overheard on the aviation air-to-ground net, came in around 1100 hours.

A. Yes, sir. It was just prior to lunch time as I recall.

Q. Now, we have other evidence which indicates that Mr. THOMPSON went down on the ground and talked to Lieutenant CALLEY between 1000 and 1030 in the morning. This confrontation took place around that time. This involved just a little more than just their talking. THOMPSON called in one of his gunships and actually evacuated civilians out of there, old men, women, and children into the ships, so it could have taken another perhaps 20 minutes or so. This other evidence indicates that this time was 1000 to 1030. Would that still be within the time frame that you have in mind?

A. Yes, sir. Hours over there had a tendency to get away from me after a long, long day.

Q. I quite understand. Going back to something Mr. MACCRATE mentioned about the brigade commander picking

up two men. We have a copy of your brigade log, which has been admitted in evidence as Exhibit M-46. I will call your attention to entries 42 and 51, which concerns that event.

A. TFB/TOC Task Force Barker would have been Colonel BARKER's command and control ship. This is from Task Force Barker to TOC. "The command and control ship 0805, coordinates, 708779; detained 2 VC evading. Will evacuate to Dottie." This would have been Colonel BARKER's command and control ship.

Q. I was curious about that, because actually it was Colonel HENDERSON's Charlie-Charlie which picked them up.

A. Well, this is possible. He may have relieved the pressure off Colonel BARKER to allow him to continue monitoring his operation down there. Colonel HENDERSON may have had to go back to refuel. I'm not saying that that actually happened, but it could have happened in this manner. What was the other entry, sir, that you wanted me to look at?

Q. 51

A. 51?

Q. I take it now this was from the Task Force Barker TOC at LZ Dottie. It's an explanation that was reported. It ties in with Mr. MACCRATE's remark that these two men turned out to be "Ruff-Puffs," so to speak?

A. Yes, sir.

Q. I was a little curious though about item 42?

A. It could have been handled in this manner. Many times later on, in later operations, when I took over as the battalion sergeant major, brigade commanders were more than willing to relieve pressure from battalion commanders, such as relieving them from a load of detainees that they might be able to evacuate back and allow the battalion commanders to remain on station. This could have happened here in this case.

Q. A little background. There were refugees moving down out of the My Lai (4) area, moving southwest on Highway 521. If I recall the evidence correctly, Colonel BARKER had asked that these people be checked out. The aero-scouts did go in there and check them out. They noticed some military-aged males in the crowd. They separated them out and ran them down, so to speak. They (the suspects) took off their shirts and then started striping. Then Colonel HENDERSON, in his Charlie-Charlie, with Major MCKNIGHT making the transmission, Rawhide 3, indicated that they would go in and pick them up, and they did. They put them in there and got them in the ship. You notice this happened around 0805. They stayed in the area; they moved over to Bravo Company area for awhile. They were running low on fuel and they went to Dottie to drop off these two suspects. Now, I notice the log doesn't contain any entry, at least up this point, of the movements of the battalion commander. Was this not the practice to keep track of him in the log?

A. No, sir. Not the battalion commander.

Q. Or the brigade commander?

A. The brigade commander, there should have been an entry in here of his going to Task Force Barker upon his departure.

Q. Well, he did. He landed out there somewhere in the 0830 to 0845 time frame, dropped off the two suspects, refueled, and hovered over Task Force Barker. He set down at the TOC and spent considerable time there. I didn't find any entry on that, and I was just curious whether or not this was a normal practice?

A. It was practice for us to maintain the location of the brigade commander. Once he checked out of the area, though, we usually kept track of him by the point-to-point telephone system which kept the net clear for combat operations.

Q. Was this the radiotelephone?

A. It actually goes through land lines to the switchboard and then goes to radio, wireless.

COL FRANKLIN: VHF, sir.

A. Yes, sir. VHF. We were set up where we had a VFH.

MR WEST: It was relatively secure?

A. Yes, sir. Reasonably so.

Q. Now looking ahead through your log, I also don't notice any entry about this transmission which you overheard in the aviation net. Is there any entry about calling up Task Force Barker?

A. As I say, it was an eavesdrop type of monitoring. It probably wasn't "journalled." The fact that we overheard this probably was not "journalled." Only official reports coming in to the TOC would be "journalled." It is reasonable to assume there should have been an entry made when we made the call back out of the TOC inquiring into the situation.

Q. I glanced through at the times and I didn't notice such entries. Let me ask you a general question now. You kept your log in pencil, I guess, on a tablet or something like that?

A. Yes.

Q. And then it was typed up at the end of the day?

(Witness gives affirmative nod.)

Who usually did that, the night duty officer?

A. The supervisor or the night duty officer. Well, I say the night duty officer. We changed shifts about 1900 hours, working two shifts, 12 hours each.

Q. Do you remember who the other duty officers were?

A. No, sir. I don't recall right now.

Q. We'll look up some names to perhaps refresh your memory.

A. It's a possibility that Captain SHELTON was back with us at that time, but I'm not certain he had come back yet to us. He'd broken a leg earlier and he may not have been with a shift at that time.

COL FRANKLIN: Could you generally go through the organization of your TOC, when a message came in, what was done and so forth?

A. Very well, sir. We had quite a large TOC, approximately 16 by 40 feet all underground. As you entered the TOC from the main entrance you came to a large table approximately 8 feet long, about 4 feet wide; and in the center of this table was this bank of telephones, point-to-point, to each one of our combat units and to the division, all VHF telephones to the switchboards. The S2 sat on one side of the table, the S3 duty people sat on the other side of the table. The S3 duty people had, in addition to all telephones, on the right-hand side of them three or four radios, as I recall, remoted in. These were set up so that the operations map was between the radios and the table with all the telephones on it. Across the room from the operations people was the artillery liaison with radio and telephone, and deeper in the TOC towards the rear of the TOC was the S3 air which had all the radio communications with the air people and with the air observers, the Helix group. In the extreme rear of the TOC, towards to rear exit, was what we called the perimeter security set-up. There again they had a radio and telephone to the perimeter security. When things really got hot you can imagine the tremendous turmoil in the TOC, so you had to concentrate on your work to preclude becoming distracted. When messages came directly to S2 and S3 they were copied right on message paper.

Q. Just describe what was on that little blank form you had?

A. To, from, date/time group, contents of the message and who was the man that copied the message. This is basically what was on it.

Q. What about action taken?

A. Action taken was noted down in the corner or on the reverse side of the message, depending on the type of it, so that we could pick up the message later on when we got a chance to organize the journal and actually log it in right. The journal was normally kept in a handwritten form, unless things really got going tight where everybody got involved.

Q. What do you mean handwritten? Somebody was taking all these message forms and starting a handwritten journal in form of what you have there?

A. Yes, sir. We copied the message on the message form and then once action was taken on it, it was journaled, assuming time was available. If time wasn't available then the message was placed over here in the box where we retained all those messages to be journaled. Then we went back to the messages and insured that they were chronologically organized. Then we "journaled" them by the time we had received them or the time that they went out from the TOC for reports going out.

Q. This radiotelephone, you said they went through the switchboard, you didn't have a direct line to Task Force Barker? You just crank it and pick it up and Task Force Barker answered? Is that what you had?

A. Yes, sir, this was direct--

Q. (Interposing) Okay, this was direct channel. It wasn't through your switchboard?

A. No, sir.

Q. So on this confrontation, it would be far more likely for the guy to pick up the telephone and give it a crank and he's talking right to Task Force Barker TOC and he's not tying up your brigade command push?

A. Yes, sir.

Q. You said he would probably make a note of that,

"from brigade to Task Force Barker, queried on air/ground transmission reference confrontation," or something like that?

A. Yes, sir.

Q. That would be a normal thing to do?

A. Yes, sir. As I say, the reason behind making such a query was the unusualness of it, hearing this chopper pilot making a transmission to an unknown ground station. We couldn't tell who he was talking to.

Q. Let me ask you about this air/ground push? I know about the brigade push, I know about a battalion command push, but who's talking on an air/ground push, who is this?

A. When we were in the midst of an operation that involved helicopters and ground troops and tactical air, or support in which our helicopters, Sharks or Warlords, normally gave us, they would normally come up on an air-ground push to preclude the clutter of some other unit that might be engaged with the ground action, to allow the ground operations to go on one frequency while the air people were able to talk clear channel to a unit they were directly in support of.

Q. So this air/ground push then would not be the Task Force Barker push, but it would be another push. They would use another radio. Now, what ground elements of Task Force Barker would be on this push?

A. Anybody that might at the time be supported by a Shark or Warlord. A gunship would normally switch to this air-ground push to control that part of the operation.

Q. Now, the rifle company commander carries two radios?

A. Yes, sir.

Q. One on the company push and one on the battalion command push.

A. Yes.

Q. He doesn't normally have a radio for this--

A. Yes, sir. This is true. What they normally do is ask him to put a radio up on the air-ground push. Now, this might be one of the platoon leaders' radios that he might move to put up on the push.

Q. So a rifle company, in this case, Task Force Barker with C Company heavily engaged here, would probably have one of their radios up on the aircraft push,

A. Yes, it would.

Q. Now, Task Force Barker would certainly have a radio on this push.

A. Yes, sir.

Q. You were a lot further away than Task Force Barker from this transmission, which I believe was garbled a little bit for you.

A. Yes.

Q. Is there any doubt in your mind that Task Force Barker monitored in the TOC; that the message, the same message, would have come through?

A. Yes, sir. There should have been no reason why it should not have come into the TOC, sir. As I say, we were some 30 miles from the location of this action. We got the helicopter portion of it, being it was an airborne unit. We could not monitor which ground station he was talking to. The only reason I can think it was not "journalized" was that the duty officer calling up Task Force Barker asked them what happened out there, what was the reason for this type of message, and when they checked it out, apparently said there is no truth to it, and it was apparently picked up as a rumor.

Q. So he checked it out and nothing. You have

an awful lot going on, particularly during the morning, and you have three battalions coming in and you've got these phones ringing and you've got your artillery radio, and this message was of such a nature that it attracted the attention of the TOC duty officer.

A. Yes, sir, something like this. You just learned to listen for the unusual in monitoring.

MR WEST: Sergeant major, did he get this direct, the duty officer, or did one of the men call it to his attention? Do you recall that?

A. Well, sir, I don't recall exactly how the duty officer would have gotten that. We had the coffee pot--I should have mentioned earlier that it was located back behind the perimeter security area, in the rear area of the TOC. He could very possibly have been back getting a cup of coffee.

Q. Somebody picked it up, right?

A. Yes, sir.

Q. FELIX could have given it to him?

A. Yes, sir. It could have been FELIX. FELIX is a real responsible young specialist that we had promoted to staff sergeant as he developed his abilities.

Q. Is he still in the service?

A. I think he is probably out of the service, sir.

Q. Back in Paul's Valley?

A. Yes, sir.

Q. Well, what I'm driving at, sergeant major, the reason for all these questions, is that you guys picked it up. Of course Task Force Barker with far fewer radios, has its own problems. Also, your 123d Aviation Battalion, the aero-scout company, Company B, if they were in support of a ground operation would

they normally keep a radio on--

A. (Interposing) A radio monitoring our push all the time?

Q. Monitoring your ground push--

A. (Interposing) No, sir. Not in their--

Q. (Interposing) Which their aircraft were on.

A. They normally transmitted UHF with their home base which allowed them to maintain a free--I say free, this isn't actually true. It allowed them to shift the radios that we could net with from the ground, FM radios, shift them to the frequency of units that they were in direct support of. By the same token they made all their reports through their UHF or VHF pushes which they were talking to all the time. There's no possibility for reports getting mixed up from the aviation people.

Q. Well, Company B, aero-scout company, which was in support of Task Force Barker, had their company operations van at LZ Dottie. They had a scout and at least three guns plus an infantry platoon in slicks and the company commander all down at LZ Dottie. It would then be reasonable to assume that they would have a radio on that air-ground push?

A. Yes, sir. It would be reasonable to assume that. We additionally used the air-ground push to land choppers on LZ Dottie. This is where they got clearance to be sure that we weren't firing rounds from the LZ so the choppers were cleared to land.

Q. These transmissions you heard, about how long a period of time did--

A. (Interposing) I was an extremely short communication. I estimate it was probably around 1100 hours. Mr. WEST indicates that it could have been a little sooner than that.

Q. The period of time that this conversation took

place, was it a minute, 2 minutes, 3 minutes, 4?

A. I would estimate probably about a minute. On this particular one there had been a lot of chatter going on, which you can get in a combat situation; identification of areas, talking choppers into a specific spot on the ground. The reason this thing sticks in my mind is the unusualness of hearing somebody threatening to shoot somebody if he didn't stop or if he shot this other individual. This is the part that I feel probably keyed this thing to us. It was this type of a threat, as you may call it, coming over any radio net. I'm sure that's the only reason it stuck in my mind, why it was picked up by the duty people. This threat of action to be taken if something happened.

(MR WEST reconstructed the situation for the witness.)

Q. Could it possibly be that instead of talking to the ground he was reporting back to Warlord Lead what he had said to CALLEY on the ground, that he did land, and got on the ground and talked to him?

A. It is possible, sir. I didn't know nor were we in the TOC, to the best of my knowledge, able to identify who he was talking to.

MR MACCRATE: Then what you heard, as I understood it, was the actual threat, not so much reporting on the threat, but it was the challenge as you described it.

A. Yes, sir. This is the way we understood it. Now, he could have been saying I told them that if you shoot him I'm going to shoot you. It could have been stated in that manner in his report back to his commander. It could have been that report. Again, I did not, nor do I feel that anybody in the TOC knows who the transmission was directed to.

COL FRANKLIN: Captain HENDERSON is the one who made the call to find out?

A. I'm sure he was, sir. I can't qualify it. I'm sure he was the duty officer in the TOC.

Q. Something like that is rather serious. I guess it would be the TOC duty officer himself who called.

A. Yes, sir.

MR WEST: Did you have a Captain HOLBROOK working in the TOC also?

A. Yes, sir. He was assistant S2. He was also a duty officer in the TOC. He may or may not have been on duty at that time. I really can't qualify.

Q. Who was the other one you mentioned, the captain who had--

A. (Interposing) There was a Captain SHELTON who later came to assist us in the TOC, and I'm just not positive as to what time period he was assigned to us. He was injured very early when we went over there, with a broken leg, and then assigned to one of the troop units, and then shot and wounded again. He came down to work with us while he was recuperating.

COL FRANKLIN: Helix 33, Helix 32 were flying this operation. Who was Helix?

A. These were Air Force pilots flying the O-2.

Q. O-2 at this time?

A. Yes, sir, the push-pull Cessna. They had an engine in the front and an engine in the back. That's the "Centurian" civilian model, I believe, "Centurian"--no, that's not it. Anyhow, it's the center line thrust air observation aircraft, twin engine, one engine in front, one back. One pushes, one pulls.

Q. You just wouldn't remember by chance who Helix 32 was, would you?

A. I can see his face, sir. I can't recall his name, no, sir.

Q. I want you to be thinking about that. Do you remember Helix 33?

A. These pilots joined us in Vietnam, right after we got over there and stayed with us. Sir, I don't recall.

Q. Could Helix 33 have been the captain killed in June, shot down, crashing into Colonel BARKER?

A. No, sir, that was a "jake" aircraft that crashed into Colonel BARKER. This was from Quang Ngai province. It was an O-1 that hit him. A Birddog flew into him.

Q. It was a Birddog?

A. Yes, sir. Now, there was an O-2 that crashed in that same vicinity or same area there a little later. That one crashed in that area with two on board. This was the O-2 type aircraft and that could have been Helix 33.

Q. We have information that Helix 33 was killed in action. In the back of your mind, start thinking about who Helix 32 is, sergeant major, and if you come up with a name later, it would sure help.

MR MACCRATE: Sergeant major, I'd like to ask you two more questions about the log. You have still before you, I believe, the brigade log.

A. Yes, sir.

Q. We have also marked as Exhibit Task Force Barker's log of 16 March. In that, at 0840, there is an entry to the effect that Company C has counted 69 VC KIA, vicinity 716788. and then in the action taken column, "11th Brigade notified." Now, if you look at about 0840, you don't find any entry in the brigade log.

A. I read an entry 69 KIA in here, sir, a few minutes ago.

Q. I think you'll find it's an hour later, and that there is additional information on your entry that doesn't appear in the task force log.

A. I've got 0935 in the brigade log, Exhibit M-46, an entry "Counted 69 VC KIA as a result of artillery fire."

Q. Yes, and you notice as a result of artillery fire, no indication in the Task Force Barker log of the manner of achieving the VC KIA.

A. This again could probably have been, "How did they die?" We reached over, picked up the phone, and said "How did they die?" and so we adjusted it probably on that report. We "journalled" it here.

Q. Well, we're very interested in any information that you may recall as to what happened when you got such a substantial report of 69 VC KIA early in a operation. I would assume that it made a big splash when it came into the TOC and you wanted information about it. Do you have any recollection of that information being pursued and any other communication by which the information was obtained that was recorded in your log in item 53 as 69 VC KIA as a result of artillery fire.

A. No, sir. Reports of VC or enemy dead, enemy weapons captured, this sort of thing, as soon as they came in they were immediately handed across the desk to the S2. Questions that he may have on how, where or complete information, he then would usually make the queries back down the chain to find out. "You say 69 KIA, can you give any information on how they died? How were the bodies located?" This sort of thing. He would make this type of an inquiry.

Q. Do you have any recollection of hearing 69 by artillery and having any question about so many killed in this way?

A. No, sir. Like I said earlier when we came in, we were exuberant over the fact that we were getting kills because this was what we went in there to do, to find the main force, 48th Main Force Battalion, and we really expected to get this type of a kill ratio.

Q. But isn't it unusual to get it by artillery?

A. No, sir. Not if you'd see the preparations that were put in or artillery fires that are placed in--

Q. (Interposing) But do you recall this particular prep and how long it was?

A. The preparation, as I recall, it was normal for this type of operation to run about 15 minutes.

Q. Well, actually this was only a 5-minute prep and something in the order of 100 rounds. With this information at the time, I would think there might have been some inquiry that you would recall as to how it could have had such substantial results so far as VC KIA. Do you remember any discussion of that, any questions back and forth?

A. The only questions I can recall on that was when we got some report of 69 KIA, VC KIA, was that the intelligence sergeant, who was always screaming that his spot reports weren't quite complete enough to suit him, raised the devil and got back on the phone and called back up and said, "Well, how did this happen? How were they killed? Were they killed by gunshot or were they killed by artillery or what?" Other than the fact of being extremely jubilant by the body count that we were getting as a result of this operation, no, I don't recall anything else. We thought we had been extremely lucky to get that much of a kill by artillery. This is the thing that strikes me.

Q. Does the item 53 in your log indicate from where Sergeant GERBERDING obtained the information?

A. No, sir. The only thing the report indicates in this log or in this journal is the count of 69 VC KIA as a result of artillery fire from C/1/20. The coordinates are not quite the same as you give. There is a difference in the coordinates: coordinates 714794 are in this brigade journal, and you gave me 716788.

Q. We have noted that difference in coordinates and wondered if you have any recollection of the gathering of this

information, because it does seem that you have two different coordinates given so you have additional information. This coordinate is to the northeast of the coordinate in the entry in the Task Force Barker journal. You have no recollection at this time, I gather, to --

A. (Interposing) Maybe I should bring up that when the reports are given by soldiers in the field, they're usually working off a map sheet that's about 8-by-10 folded so that they can handle it, stuff it in their pockets. They become rather worn from field operations and it's not unusual to get a set of coordinates and then have to correct them. I'll admit, now, it's not unusual to go back to the original message and just make the correction right there on that original message, without recopying an additional message. For instance, this coordinate here may have been confirmed on checking back, when the S2 went back to find out how they were killed, he probably took that message and made the additions and corrections right on it, and therefore we have probably have 0935 when he finally got the information down that he wanted.

Q. Do you recall in the course of the day any inquiries being made by the brigade commander with respect to the number of civilians that had been killed?

A. No, sir, because at this particular time, other than the one incident that we had monitored over the air-ground net, we had no indication that there was any amount of civilians being involved down at brigade level, at this time.

Q. Let me perhaps refresh your recollection as to one item. In the Task Force Barker log, Exhibit M-16, entry 39, the time is given as 1355 but the order in which it appears suggests that it is 1555. "Company B reports that none of VC body count reported by his unit were women and children. Company C reports that approximately 10 to 11 women and children were killed either by artillery or gunships. These were not included in the body count, 11th Brigade notified."

A. I have no such recollection of that report ever coming in; and after reviewing the journal, I see no indication that it ever did.

Q. Well, it is not entered in the 11th Brigade journal. We recognize that. But do you have any recollection of such an inquiry being made of Task Force Barker, their TOC, that would lead to a report such as this having been obtained and entered in their log?

A. No, sir, unless it could have been a result of the inquiry we generated earlier. And I say that "we" generated from Captain HENDERSON calling, or the duty officer calling up and inquiring into this report of this threatening to shoot. That could have generated such a report from Colonel BARKER, knowing him, family man that he is, being interested that nobody was killed unnecessarily. If they had been killed he would want to know about it. He was not one to be haphazard in his manner of orders or conduct of actions or in allowing his troops to conduct themselves in a undisciplined manner. He was on top of every situation that developed we found, and was usually quite fluent in it.

Q. Do you have any recollection of him getting into this question that day, getting in personally on the net when Captain HENDERSON raised the issue?

A. No, sir. I do not. I have no recollection of hearing Colonel BARKER make a personal inquiry into that. If he had monitored such a call Colonel BARKER would be the type to go down to the ground and talk to the commander eyeball to eyeball rather than radio to be misinterpreted.

COL FRANKLIN: Why do you say that, sergeant major?

A. Because knowing Colonel BARKER, he would want to take any doubt out of it and he would want to see himself if he had any indication that such a thing had been happening.

Q. Do you think, in other words, that he was frequently on the ground and eyeball to eyeball with his company commanders?

A. Yes, sir. I know Colonel BARKER frequently landed to talk to his commanders in other operations, and I'm sure this operation was no different.

Q. How do you know that, sergeant major?

A. From Colonel BARKER, from talking with his operations sergeant, who was also his acting sergeant major for this task force.

Q. Staff Sergeant JOHNSON?

A. Yes, sir. I was sergeant major for the 4/3, talking with people in Bravo Company. They had the highest respect for Colonel BARKER because he was not above landing on the ground where they were at and talking with the soldier, talking with the commander.

Q. The soldiers in B/4/3 told you that?

A. Yes, sir. They had, right down to the last private in the line, the highest respect for Colonel BARKER and for the manner in which he conducted himself and his unit. Knowing him personally from Hawaii and knowing his family atmosphere and manner in which he conducted himself around his family, I cannot in the farthest stretch of my imagination foresee him ever condoning this type of action if it in fact were so.

Q. Then he's the kind of officer that would know, when his unit's in a fight, what was going on. He'd be right down there on top of it?

A. Yes, sir, without a doubt. I know of times when he--or it has reported, I can't physically qualify this because I didn't see it, but I know of reports that he, rather than leave the battlefield when his chopper ran low on fuel, would land and stay with the company commander until his chopper got back up again.

MR MACCRATE: Sergeant major, you had told us that after the operation an investigation was conducted. We would like you to tell us all that you can recall of, when this question was first raised, of having an investigation, by

whom, and what are the conversations, and steps taken, that you can recall?

A. Sir, I'm very much in the dark on this investigation exactly. I know that Colonel LUPER was the principal investigating officer, assisted by Major MCKNIGHT, as I recall. I did not see the report; it was kept very much under wraps. I have knowledge that the report went out; it was hand-carried to division. The report itself covered--and this is from conversation with the S3, Major MCKNIGHT, who at times, well by essentialities, my being his operations sergeant, principal NCO underneath him, discussed this with me, but only briefly--that the report indicated that a helicopter pilot, Mr. THOMPSON, had challenged the body count, the fact that the soldiers of 11th were haphazardly shooting civilians for the sake of body count. This is basically what he explained to me about the investigation. They had investigated it and they found, to the best of my knowledge, the report to be not true. The report was hand-carried to the division. Who in division actually received the report, I have no knowledge of.

Q. Did you ever see the paper that appointed Colonel LUPER as the investigating officer?

A. No, sir.

Q. Do you know who hand-carried the report to division?

A. To the best of my knowledge, Major MCKNIGHT did. I can't quite qualify that because, as I say, the report itself, I never did see.

Q. Did you see any part of it in preparation?

A. No, sir.

Q. We have had testimony that indicates that it was in your TOC.

A. Yes, sir. It was prepared by some of my typists who were selected by Major MCKNIGHT personally

to do the report. The understanding to me was that the report was not to be discussed outside the brigade TOC and therefore only minimal people would have any knowledge of what was in it. And I didn't inquire into it.

Q. Do you recall who it was that typed it for Major MCKNIGHT?

A. No, sir.

Q. Who were the available typists? I realize that to go back this period of time and to pick out your clerk-typists at a particular point in time is difficult, but I would assume this would be the most trusted and able of your people that Major MCKNIGHT would reasonably turn to.

A. As I recall, there was a SP5, whose name slips me, sir, that did the report. He later came home on emergency leave and was subsequently transferred. I'm at a loss to bring his name to the surface, sir. He was a SP5, a dark headed lad, wore glasses. At one time he had been assigned to the chief of staff's office, 5th Army, prior to his coming to the 11th Brigade. A reliable, competent typist who didn't talk out of school.

Q. Sergeant major, did you see this report being prepared by the SP5?

A. No, sir. I did not. As I mentioned awhile ago, the only man that I know of that could have--if I had been required to make the report, I would have selected the SP5. It could have been prepared by any one of the typists from the brigade headquarters who had a security clearance enough to have handled that type. I did not personally supervise the manufacture of the report or see it, sir.

Q. So you don't know how lengthy a report it was when it was finally completed?

A. No, sir. I do not.

Q. Did Major MCKNIGHT indicate if any supporting statements had been obtained from other places?

A. As I recall, he indicated that they talked with Mr. THOMPSON. They had talked with some of the Warlord people. They had talked to people in the task force headquarters that might have become involved with such a report. He indicated to me that they talked to just anybody who had knowledge or would have had knowledge of such a thing. It took several days, as I recall, for Colonel LUPER to finalize his report; and, in combat, this took Colonel LUPER away from his battalion for some time. The reason that I realize that it took so long was that they were interested in getting him back with his battalion where he could function as a battalion commander.

Q. Well, Colonel LUPER?

A. I understand Colonel LUPER was the investigating officer who was also brigade artillery officer. In a dual purpose, he was 6/11 battalion commander, artillery battalion commander, and also artillery officer for the brigade.

Q. Where did Colonel LUPER live at that time? Was he based at Duc Pho?

A. Yes, sir. LZ Bronco.

IO: Well, can you pin it down a little bit as to when it was prepared?

A. It seems to me, sir, that it was within a week or 10 days after the Pinkville operation that the requirement for this report investigating the charge of Mr. THOMPSON was checked out, and it seems to me that within 2 weeks it was finalized and wrapped up, but--

Q. (Interposing) Did it address the allegation of Mr. THOMPSON?

A. Yes, sir, it did. The reason I recognize this in the point of discussion was that Mr. THOMPSON had reportedly broke station to evacuate some of these

people, which was pretty much jeopardizing his position in a support angle. This is the reason that I can recall that position in a support angle. This is the reason that I can recall that portion of the discussion. There was some discussion as to whether or not he was actually in the line of duty at the time when he made some of these evacuations of these innocent civilians.

Q. Do you remember who was raising these points about whether Warrant Officer THOMPSON was acting in the line of duty?

A. No, sir. It probably came out in the discussion between Major MCKNIGHT and myself. At times in making such a report, we'd sit over a cup of coffee and just discuss little things where he could bring it back to refresh his memory. Major MCKNIGHT did all the drafting and rewriting himself, but there were times when he would call me in for the sake of having somebody that he could talk to without it going out of school to the troops. We would chat over a particular subject that bothered him. If it were discussed, it would have been Major MCKNIGHT discussing it or bring out this point, and he would want to know what I would feel about something like this.

Q. We're given to understand that he might have participated in some of the drafting of the report. Did he indicate that at all?

A. I'm sure he did. He was actually utilized quite frequently in drafting these type of reports because of his ability to write, his thoroughness, his confidence, his reliability as an officer, so Colonel HENDERSON had no qualms about charging him with additional responsibility like this. A very dedicated soldier, Major MCKNIGHT is.

Q. Do you recall any discussions between Colonel LUPER and Major MCKNIGHT with respect to preparation of this report?

A. If there were, they were a closed door type. I participated in no such discussion with him or overheard no such discussions.

Q. Where did Colonel LUPER have his office at LZ Bronco?

A. It was across the airfield from us. Brigade headquarters was right at the foot of this high mountain that sits right on LZ Bronco, Montezuma I believe they call it.

Q. We've been there recently.

A. The airstrip then bisected Duc Pho base, and the artillery base was over in the northwest corner of Duc Pho. Colonel LUPER's headquarters was over there. He only kept a transient field desk at the brigade TOC, when things got hopping for him from a brigade standpoint, a place where he could sit down and do his work as temporary as it was. Normally he was based out of his own battalion headquarters where he felt he was better supported.

Q. Do you know if this report was prepared by the S3 clerical staff, or could it have been over at Colonel LUPER's office?

A. I have no knowledge of where it was prepared, sir. It could have been in any one of these offices. I did not see the finished report nor did I see it in draft. Only from the coffee cup discussion with Major MCKNIGHT did I have any knowledge that such a report was going on, and he only wanted to bring it abreast that it was going on; and if there were inquiries, to refer the calls to him.

IO: I would like for you to restate what you must have stated before concerning Colonel LUPER. How were you informed about Colonel LUPER being the investigating officer?

A. Officially, never, sir. I personally, by virtue of his frequent visits to the admin office of Major MCKNIGHT, which was a little unusual during this time, I gained the impression that he was the primary

investigating officer on it. Officially, I have no knowledge that he was actually the principal investigator. It was an assumption that I made only.

Q. Well, I think that's quite important whether or not you had been informed by Major MCKNIGHT or exactly how you developed this.

A. No, sir. It's on assumption I made by virtue of his frequent visits and this particular report, but officially notified that he was the investigating officer? No, sir. I wasn't.

Q. Did Major MCKNIGHT ever indicate to you by any intimation that he and Colonel LUPER were doing this together or LUPER had been designated as the investigating officer or anything?

A. I'm trying to recall, sir, if such a statement was in fact ever made. The best of my knowledge Major MCKNIGHT just advised me that such an investigation was going on and to advise him of any inquiries into it and let him field the calls. The frequent visits from Colonel LUPER in this particular time frame was probably what would cause me to make the assumption that he was the principal officer, the senior officer. Not having had any opportunity to have been up in My Lai himself during this particular operation he would be a logical senior officer to make such an investigation.

MR MACCRATE: Did you ever hear at any time that Colonel BARKER had been asked by Colonel HENDERSON to make a report with respect to this operation?

A. I have no knowledge of that, sir.

Q. Did the request for this report originate with division? You've indicated it went to division. What do you know about the requirements for the report? Did Major MCKNIGHT indicate that a request had been received?

A. Yes, sir. He'd indicated that a request had been received. I'm not sure whether the request originated

with the 123d commander, as a result of Mr. THOMPSON's talking with him about what happened, or whether the requirement to institute such an investigation came down from division. Had it come from division, I would assume the division would have appointed an investigating officer at the same time to have checked it out, had they been directly involved with the investigation. I would judge that the report probably came from the 123d commander, Warlord commander, directly to Colonel HENDERSON, who probably ordered such an investigation conducted.

Q. Do you have any recollection of Major MCKNIGHT speaking of conversation with General YOUNG in this regard?

A. No, sir.

(IO departs the hearing room.)

MR MACCRATE: Have you told us all you can recall about this investigation in the latter part of March?

A. Yes, sir. I remember very sketchy information on that investigation at best.

Q. Do you recall in the weeks immediately thereafter a discussion with Sergeant GERBERDING with respect to a further investigation relating to something that had occurred in the Task Force Barker operation?

A. No, sir. I don't recall it.

Q. Did you ever hear that Colonel HENDERSON was preparing a further report for division?

A. No, sir.

Q. Do you have any recollection of Colonel BLACKLEDGE around this time talking with Major MCKNIGHT regarding this earlier investigation that I have told you about?

A. No, sir. Colonel BLACKLEDGE was one who, when he discussed something, usually made sure who was around.

I would have no real requirement to become involved in it unless they would have wanted a statement from me about my actions in the TOC.

Q. Do you recall that Sergeant GERBERDING maintained a special secure file?

A. No, sir. The only file that I had real knowledge of other than his files was a file that we prepared between us, trying to find out what kind of pattern the VC used for their booby traps and ambushes. We were trying to pattern this so we could protect our troops a little bit better, get the information back out. That is the only special file that I had knowledge of him keeping.

Q. You have no recollection of any conversation with him about some papers that he may have been keeping under maximum security for Colonel BLACKLEDGE?

A. No, sir.

Q. You indicated that he sat right across from you in the TOC. Did he have another desk location?

A. Yes, sir. The entire brigade headquarters complex was later fenced off, but not at this particular time. We had a number of tents set up that we used as our administration offices. Only the duty personnel and personnel such as myself or Sergeant GERBERDING, being NCOIC's for the section, worked in the TOC, were allowed into the TOC. We had an S3 operations tent, and next to that was an S2 operations tent, and in addition to that was a briefing tent. These were the three tents that were in the immediate close proximity to the TOC itself. The S1 and S4 complex was about 100 meters away from the TOC. They had several tents there in that area.

Q. He would have in that tent a desk in addition to the duty desk he would occupy when he was with you?

A. Yes, sir, and he also kept his maps over there. And he kept all of his administration type records maintained in this office in a file.

Q. Either late in April or towards May 1968, were you aware of any investigation being conducted by the brigade or possibly by Colonel BARKER?

A. No, sir. I might bring to light at this time that the entire month of May I was absent from the 11th Brigade. I reenlisted 29 April and immediately departed that same day on my re-enlistment leave back to the mainland here. I returned to the brigade on 3 June, as I recall, to the brigade TOC area.

Q. Had Colonel BARKER left by that time to assume his command of the 4/3?

A. Immediately upon my return to the brigade. as I recall, that same week Colonel BARKER departed to go up to the 4/3. He had a relatively short assignment as battalion commander because of this accident.

Q. Which actually occurred on 13 June?

A. Yes, sir. I went up and took over the 4/3 as sergeant major on 19 June. That is when Colonel RUSSELL reported in as battalion commander as well.

Q. In March and April 1968, did you hear any discussion or rumors among the personnel at LZ Bronco about this investigation that you knew was going on, or had gone on, as you went around? Was this something that was talked about, so that you had to say, "This isn't to be talked about"? Anything where you were called upon to give instructions at any time when you overheard conversations?

A. No, sir. I fail to recollect ever hearing soldiers talk about this.

Q. We have had some indication that at least in some corners of Duc Pho this was something that was talked about. I wondered if you had heard any of these rumors circulating?

A. No, sir. May I explain also that being a senior noncommissioned officer and one very close to

the brigade staff and also the brigade sergeant major, the troops just didn't talk rumors around us, and this was all we could have classified this to be. This is one of our key points before we left Hawaii. If you hear a rumor, don't talk about it until you know it's fact, and then clear it to see if you can talk about it. My soldiers in the brigade shop left all their business at the brigade. When they left the office all the business they had to take care of was left there. There was just damn little discussion about brigade operations, about what went on outside the TOC area. The rumors were so easy to get started, often annoying people when they got started. I just had a fine group of soldiers that worked in the brigade TOC, and they understood this.

Q. Did you from time to time see any of the Quang Ngai advisory team over at Duc Pho?

A. Yes, sir, from time to time. We had a good liaison with the advisory team at Duc Pho. Until I moved up to battalion, I never had good contact with the people at Quang Ngai, that is personal contact, other than telephonic communication. At times we would chat, but over this type of incident there was no discussion between me or any of the advisor personnel about it.

Q. Do you have any recollection of Colonel HENDERSON going down to Quang Ngai on the day of this operation?

A. No, sir. Colonel HENDERSON, again, was the type of commander who insured that his left, right, and rear were all coordinated, and it was not unusual for him to sit down at these people's LZ and chat with them.

Q. You will recall that Colonel HENDERSON assumed command on 15 March, just before this operation. We understand that on the 16th, late in the morning, he paid a courtesy call on Colonel KHIEN who was the province chief. Do you have any recollection of calling and being asked to pass any messages or monitoring any messages preparatory to that visit?

A. No, sir. I can recollect no transmission. Again, I think the assumption is being made I was full time in the TOC, and I was not.

Q. You were in and out?

A. In and out. This transmission could have come through that he was going to set down at Quang Ngai. I may have not been brought abreast of this. We kept a location status chart of the brigade commander and when he changed. It was just a grease pencil mark wiped off and put back on again where he could be contacted, or what his last reported location was. He was known to set down at a combat area and talk to commanders. We wanted to know who to contact in the event we had to get hold of him. It was very much a grease pencil operation to maintain his location.

Q. What period of time did you continue to serve with the 11th Brigade?

A. I served with the 11th Brigade from 4 August 1966 until I left the 11th Brigade 24 November 1969, correction, 1968.

Q. Since the My Lai incident gained public attention in the fall of 1969, have you had occasion to speak with any of the former members of the 11th Brigade or the Americal Division?

A. Major HOLCK, who you have up here to chat with was assigned to the 2d Brigade, 24th Division at the time. Having been with the 11th Brigade, I was concerned as to what the feeling was. We did go over and discuss this. My discussion with him, again from what I said here, from knowing just how the brigade was trained and the commanders that we had in each one of our battalions, we just couldn't see how an arbitrary killing of people could take place. We were a well trained unit with high morale, getting the hell shot out of us by mines and booby traps and the unseen enemy. At the best, it takes the best commanders to maintain unit integrity under these conditions. Too seldom were we able to see the VC,

and the VC dressed as any other civilian did over there. The only time when you could positively identify them as a VC was when you caught him with a pistol belt on or with a weapon in his hand or with some other type arms, such as grenades, with them.

Q. Did Major HOLCK indicated any awareness of any investigation that was going on at this time?

A. No, sir. As a matter of fact, neither one of us even discussed any type of investigation. I had so little knowledge of any paper work that was a result of this report. I didn't feel I was capable of making any discussion. We just discussed how such a thing could happen, if it could have happened, what was going to be the impact upon the rest of the soldiers.

Q. In addition to Major HOLCK, did you discuss it with others?

A. No, sir. Well, I'm a career soldier, professional soldier. I was the command sergeant major of an infantry battalion over there, one company of which was involved was My Lai or Pinkville operation. That's the point of the discussion we got into. It was what was going to be the long-lasting effect, basically, of this investigation upon our soldiers that were under fire now. There was really a talk just to find out how the people were going to react and how our soldiers were going to react under fire in a similar type operation.

Q. Do you remember any interrogation being made back in 1968 of any members of the 4/3 in connection with an investigation of an operation?

A. No, sir. To my knowledge there was no such interrogation made after 19 June when I became sergeant major of the battalion. There was absolutely no reason to feel there was anything astray in previous conduct of the soldiers.

Q. Sergeant major, who assumed your duties while you were on leave?

A. Sergeant JOHNSON did. Sergeant William JOHNSON, who had been with Task Force Barker, which had been disbanded in April. As I recall, the 4/3 assumed the mission of Task Force Barker.

COL FRANKLIN: Sergeant major, we've heard a lot of witnesses here; we've had a lot of fine people come in here. I sense that in the 11th Brigade, unlike any outfit of which I had contact with in Vietnam, there was an intense feeling against VC or the Vietnamese. This frustration of not being able to distinguish who were enemy and who weren't comes across from witness after witness. One almost gets the feeling there was a very hard look toward these people and really not a great deal of concern if something should happen, particularly out around an area like Pinkville, if somebody should get hurt. Now, am I wrong in this?

A. Sir, if I may go back to when the 11th Brigade first went to Vietnam, we were a well trained unit, high morale, well commanded. We went into Vietnam just before Christmas, into a reportedly secure area, to get our 30 days in-country training. Within 3 days we suffered our first casualty from an ambush in this secure area. We were attacked on our brigade LZ within a week after we got there. The next morning we went out and there wasn't a body or weapon, just expended rounds. We went up to continue our in-country training and the people of the brigade started taking casualties as a result of mines and booby traps. You can't see them. These VC in that particular area were specialists with demolitions. They would take the M79 grenade round, normally if disturbed by a GI would blow up in his face, and they would carry them for miles and replant them. As soldiers you expect to face your enemy and see them at times, and our enemy wasn't real. We had nothing to combat; we just had casualties. It would be very easy to form the opinion that you've got, that you have been able to get, that we were hard-core and developed a hard shell against casualties of the Vietnamese. This wasn't true, in the fact that the GI's were just like any other wartime GI. They were giving their candy bars away; they were giving their food, the C-rations that they had carried 3 days to a kid

that was wounded. I've seen soldiers, personally, when I was battalion sergeant major, fail to shoot if there was any doubt, because they couldn't really identify whether the man was a VC or whether he was a civilian. By the same token, I will have to admit that casualties were there as a result of fires that had been placed, such as artillery fire. People were hurt or wounded. It's not difficult for a soldier to become callous when one of his buddies lost his leg or his foot or was evacuated. I just fail to ever see or have knowledge of arbitrary killings for the sake of killing. The brigade prisoner processing area, where we evacuated all the detainees, was always receiving people. After interrogation they would make the determination whether they were guilty or not and they would process them back to the Duc Pho area. Soldiers are apt to fire back into areas where they received fire from. I know within the 11th Brigade great use was made of the PSYOPS operation. We overflow areas and broadcast that if you are innocent, if you are not a VC, move to such a location; you will not be harmed. I know that General LIPSCOMB and later Colonel HENDERSON had loudspeaker ships fly over many areas where we put troops in tell them do not run. If you are approached by GI's, do not run because if you run you are indicating guilt. A GI has a person 300 meters away from him running toward the hedgerow attempting to evade, the U.S. soldier is apt to shoot. He is running and you cannot identify if he has grenades on him or not. I think the lowest soldier during my term in Vietnam, that I have actual knowledge of, used strict fire discipline and conducted himself well. But you are absolutely correct. There was an enemy we had that was unusual, I think, in Vietnam, in view of the fact we operated extensively in this area that was known to be mined and booby trapped. There were times when commanders took the lead, took the point because of the depletion of the forces and the amount of casualties that they had taken, in order to re-establish confidence in the commander, that he would step out first. I know this to be a fact in the battalion that I took as a result of Colonel BARKER's death, with the battalion S2 being killed, change of command, the extensive number of casualties, deaths and wounded that we'd taken in the battalion. The company commander would take point at least for a short period of time to

establish the confidence of the soldier in the operation. This is the type of leadership that we had. The type of soldier that we had. They are only human, and there is only so much they can be told. They have to have the confidence in the commander, and this I think we had. We assembled the best commanding officers right down to the platoon leaders that I have ever had the opportunity to serve with. If I had to go back to Vietnam, I'd like to go back to the 11th Brigade. I feel that strongly about it. It was an extremely difficult terrain to work over. The French had been there and they had put out mines, the Viet Minh had been there and they put out mines, some of these mines are 20 years old, some of them are fresh. If you walked down a trail for one hour and you didn't change directions you were subject to take casualties because they were planting mines and booby traps in front of you. If you stayed in one particular area for over 3 days, you were going to take casualties. You had to be taken out of an area. This is the type of operation that this brigade was committed to. Task Force Barker went into an area that was untried with U.S. troops. The troops understood the obstacles they were going in against. They understood they were going to take casualties. We knew the area was mined. We didn't know where the mines were at. If this will assist in understanding the frame of mind of the individual soldier, I hope it does. Hard. Yes. He had to be to exist. We couldn't let the casualties that we took get the best of us. As in any war, there's a certain percentage of civilian personnel that won't heed warnings, that refuse to move out of their homes because of pending military operations. Out of these that fail to heed the warnings there is a certain number of them that will be hurt. The preparation, the manner in which they react, it is difficult to distinguish the good guys from the bad. But again, I fail to see the ability of these soldiers to line up people and gun them down for the sake of not wanting to transport them out of the area. It is incomprehensible to me from having trained that brigade, from brigade operations sergeant, monitored all of its training, taking it into combat, and watching its operation after having the opportunity to be battalion sergeant major, to conceive that this ever happened. In fact it could have. I'm not saying it couldn't have. I

fail to be able to conceive it. Our soldiers developed an attitude of, well, "Who's next?" because of this type of operation. I lost one of my best friends over there as a result of a mine. A platoon sergeant doing his job, trying to find a way to get his platoon to the best place, north of My Lai. He hit an 82mm round set up as a booby trap and amputated both legs and both arms and he lived until he got to Japan. When you evacuate these soldiers that are doing their job and you evacuate civilians right along side them who had been injured as a result of military operations, then you visit the hospital and you find there are almost as many civilians there as there are GI's. It's difficult to comprehend a soldier gunning down people. We've answered a number of dustoff calls because a civilian hit a mine and got wounded. So we send out dustoff ships to bring them back to give them medical attention. Or some kid that may have got caught in a crossfire. They get the same treatment as we. I'm just at a loss to visualize any of our commanders, if they had knowledge of this being done, to tolerate it.

Q. The purpose of this investigation is to check into the investigations and the adequacy of them. We certainly appreciate your feelings on this. There is no questioning of your pride in the 11th Brigade.

MR WEST: I think that's it. We appreciate your coming very much Sergeant Major KIRKPATRICK. You have given us a great deal and you have helped us in putting this together.

The hearing will recess.

(The hearing recessed at 1222 hours, 30
January 1970.)

FOR OFFICIAL USE ONLY

SUMMARY OF TESTIMONY

WITNESS: KISSINGER, Harry P. Chaplain

DATE OF TESTIMONY: 19 January 1970

PLACE OF TESTIMONY: Pentagon

WITNESS SUSPECTED OF: N/A

COUNSEL: None

DUTY ASSIGNMENT ON 16 MARCH 1968: Assistant Brigade Chaplain, 11th Infantry Brigade.

1. MEETING WITH MEDINA IN THE FIELD AFTER THE MY LAI OPERATION.

Chaplain KISSINGER recalled congratulating MEDINA for a large number of KIA's made by C Company (pg. 6). This occurred on Monastery Hill sometime after 18 March 1968 (pg. 6). KISSINGER remembered this because he was not on Monastery Hill too often and on this occasion he remained with the unit in the field overnight (pg. 10). He thought it unusual that MEDINA said so little about the operation in response to his congratulations (pgs. 11, 13). KISSINGER asked a question about the operation, but received no answer and dropped the subject because he felt that MEDINA did not want to talk about it (pgs. 11, 13). MEDINA did not strike KISSINGER as being proud of the operation (pg. 14).

2. KNOWLEDGE OF THE OPERATION.

KISSINGER did not recall attending a briefing for the My Lai operation or talking with LEWIS, CRESWELL, HENDERSON, or BARKER about a large number of civilians being killed (pgs. 8, 9). No one in C Company ever said anything to him about it (pg. 9). He knew nothing about an investigation being conducted in relation to the death of a large number of noncombatants (pg. 9). He never saw any pictures from the PIO office regarding this operation (pg. 8). No one at

Duc Pho said anything to him about it, including those in the 174th Aviation Company (pgs. 9, 10).

3. OTHER INFORMATION.

a. Assessment of officers.

He had a great deal of respect for BARKER because BARKER had principles and moral standards and ran his operations carefully and with exactness (pgs. 11, 12). MEDINA was competitive, dedicated and sincere, and his men had respect for him (pg. 12). He had outstanding military ability and took training in Hawaii very seriously (pg. 12). KISSINGER thought BARKER's battalion was the best in the brigade (pg. 17).

b. Memorial service for COX.

KISSINGER thought Chaplain COOPER gave the memorial service for COX (pg. 5). COOPER kept a diary (pg. 6).

c. Competition concerning body counts.

There was lots of competition among the units in the brigade concerning body counts (pg. 13).

(The hearing reconvened at 1507 hours, 19 January 1970.)

IO: The hearing will come to order.

RCDR: The following persons are present: LTG PEERS, MR MACCRATE, COL ARMSTRONG, and MAJ LYNN.

Sir, the next witness is Chaplain Harry P. KISSINGER.

(MAJ KISSINGER was called as a witness, was sworn, and he testified as follows:)

Chaplain, for the record would you please state your full name, grade, Social Security number, branch of service, organization and station.

A. Harry Phillip KISSINGER, III, Social Security number Major, Chaplains Corps, United States Forces Support Activity, Darmstadt, Germany, APO New York, 09175.

IO: Major Kissinger have you had an opportunity to read the instructions?

A. Yes, sir.

Q. Do you understand them or have any questions?

A. I understand them and no questions?

Q. Aside from myself, Major KISSINGER, here at the table on my left is Mr. Robert MACCRATE, who is a civilian lawyer. He has volunteered to Secretary RESOR to assist me in the conduct of this investigation and to serve as legal counsel to me.

On my right is Colonel ARMSTRONG who has been designated by the office of the Chief of Staff as an assistant to me, in the conduct of this investigation. Either of these gentlemen may also address questions to you this afternoon. You should know that besides this group we have other groups who are likewise taking testimony from the various witnesses. I, however, will have the responsibility for insuring the completion of the report, the weighing of the evidence and making the findings and recommendations.

(KISSINGER)

As a military witness you are ordered not to discuss your testimony in this investigation with others, including any others who may appear before this inquiry as witnesses, except as you may be required to do in the performance of official duty, or as you may be required to do so before a competent administrative, legislative, or judicial body. I use the term legislative because there is a possibility that you may be required to appear before one of the House committees, or specifically, the investigative subcommittee of the House Armed Services Committee.

I do not think you've been cited by the military judge in the general court-martial case of the United States v. Calley. Is that correct?

A. No, sir. I have not.

Q. If you are cited by the judge for this case or by other judges for any other case your appearance here today would in no way change either the applicability or the effect of such an order. Do you have any questions at this time?

A. No, sir.

Q. Major KISSINGER, would you cite your duty station and your duty as of 16 March 1968?

A. Sir, as far as I can remember I was with the 11th Infantry Brigade, serving as assistant brigade chaplain. The brigade chaplain was Chaplain HOFFMAN. There were a number of chaplains who had gone over with the brigade. As far as I can recollect, at that time I was with 4/21. I still did have some connection with the 1/20 which was the battalion I was with when I first went over there from Hawaii. I had kept specific notes as far as dates of services and so forth, but I do not have them on me at present. I don't know if I destroyed those when I went to my second assignment in Vietnam, to the north. I was only with the 11th Infantry Brigade about 6 months. I was transferred north to the DMZ.

Q. When was that?

A. It was around June, somewhere in June. Everything's in storage at this time or coming over to us in Germany, so I don't have the information I'd like to have.

Q. We don't have to be precise in these. We're just trying to fix you in the brigade, to find out what your duties were within the brigade. Since this matter of My Lai became a matter of public knowledge, in the latter part of September, early October 1969, now about 4 to 5 months ago, have you had any conversations with anybody from Task Force Barker, from the brigade or from the Americal Division concerning either the incident at My Lai (4) or Son My or concerning the investigation of the incident?

A. Sir, may I ask again what date you said this was supposed to have occurred?

Q. Well the incident was supposed to have occurred in the middle of March 1968. The latter dates I'm giving you is after this became a matter of public knowledge. The announcement was made, and it came out over radio, television, and it was also indicated in the newspaper. It's subsequent to that period. I'm asking at the present whether you had any conversation since that time.

A. No, sir. The news release, public news release was the first I ever realized there was a possibility that such a matter occurred.

Q. When did you first become acquainted with Task Force Barker?

A. I suppose you understand how Task Force Barker came about, selecting one company from each battalion of the 11th Brigade. The battalion had no chaplain as such, but there was more or less an area coverage of chaplains in that area. So since I was occupied mainly with visiting troops south of Duc Pho, I did not get involved too much with contacts up there. I knew Colonel BARKER very personally. In fact I baptized his son before we left Hawaii, a very personal friend, very fine man. I guess several times I was up there to the place called Dottie where he commanded his battalion. I'm trying to piece this together in my mind. As far as I can remember, it was on a hill at the top, I think its near Pinkville what you call My Lai (4), I think. It was called

Monastery Hill. I was flown out there. The best I recollect it was a few days after this supposed incident took place. I do remember congratulating the company commander for the kill that he did have.

Q. Which company commander was this?

A. Captain MEDINA.

Q. MEDINA, you knew MEDINA then?

A. Yes, knew him very well.

Q. Did you also know MICHLES, who had B/4/3 and who was killed in the middle of June with Colonel BARKER?

A. Yes, sir. I knew them all.

Q. Well, I'd like to come back to that incident in just a little while, if I may. I'd like to ask a few other questions, sort of in chronological order, if we may.

A. Yes, sir.

Q. You were aware then of the organization of Task Force Barker?

A. Yes, sir.

Q. You knew generally the area of its operation, generally in the Batangan Peninsula?

A. Vaguely, yes, sir. I was not, as I say, too often up there, just occasionally.

Q. This operation started on the 16th. Looking at the map to your rear, this AO is south of the Diem Diem River, out of the normal AO of Task Force Barker. This had been given to them for a period by the 2d ARVN Division and by Quang Ngai Province. This operation was to be initiated into this area on the 16th. You can see the arrow that points to the hamlet of My Lai (4) where C/1/20 went in. You can also see the LZ to the right and the general area where B/4/3 went into. Now, this took place on the 16th, the initiation of the operation. We understand that there was a memorial service at LZ Dottie the afternoon of the 15th for a man by the name of COX who had been killed in a mine accident to the north of that area a couple of days previous to this. Did you participate in this memorial service?

A. I was questioned about this some time ago by phone conversation, not the name of the person, but I asked if I held a memorial service.

Q. Just a minute now if I may. Who talked to you by phone, I asked you a few minutes ago if you'd talked to anybody and you indicated no.

A. You asked before October I believe.

Q. After October.

A. I had a call 2 days before I went to Germany from your office.

Q. Yes.

A. I spoke to a major, I don't recall the name, and a colonel it seemed like.

Q. APICI?

A. Yes, sir. I think it was the colonel that--

Q. (Interposing) You talked to two people from this office?

A. Yes, first a major and then a colonel.

Q. All right, fine.

A. They knew I was en route to Germany and I was on leave in my home town, York, Pennsylvania. Two days before I left, as I remember, someone did ask me if I conducted a memorial service. I'm stating this to the best of my knowledge. I know I was asked about a memorial service. I said I remember participating in a memorial service at Dottie. Chaplain COOPER to the best of my knowledge conducted the service and I participated in the prayer. Now the name COX sounds very familiar. Like I say, I don't have a diary present. I have all the correspondence that I wrote to next of kin and so forth but this is in my filing cabinet somewhere on the Atlantic Ocean probably, coming across to Germany, so I don't have access to this because I wasn't asked until things were put in storage for shipment. Chaplain COOPER who is at Fort Dix, Chaplain Rule COOPER, Captain, was with us there and he's the one I believe participated in or conducted the memorial service. He did keep an accurate diary.

I talked to a chaplain there just yesterday, Sunday, and that chaplain told me that COOPER did keep an accurate diary. Of course I thought he might be beneficial in this case to give a little more light since he has the dates and so forth. My mind's a little vague. I know I did participate in a memorial service at Dottie. I thought there were several men that were killed.

Q. We understand there were actually two memorial services or lets say religious services. There was a Protestant service and then a Catholic service and then all the men came together we would understand for a final memorial service.

A. Yes, sir. That sounds like the way it was. Memorial service and a separate Catholic and Protestant service, I remember that.

Q. Do you recall if there was anything special about this as far as the attitudes of the men are concerned, anything that sticks out in your mind?

A. No, nothing whatsoever. As I say, I was surprised as were many other people about the large kill they had, supposed they were all Viet Cong. I think I said I stayed on the hilltop several nights later. I vaguely think I also conducted a service at that time, a brief one, and stayed overnight to the next morning. I started going on patrol with them, and then the chopper came in and took me out. Nothing was ever said to me by any of the men. I talked to a number of them there, and you'd think that someone would say something to the chaplain if there was anyone's conscience bothering them.

Q. Do you know what company was there at the time?

A. This was Charlie Company.

Q. This would have been subsequent to the 18th then?

A. Yes, sir, the best I can remember it was several days afterwards, when I was on this hill called Monastery Hill with Captain MEDINA. That's the time when I had congratulated him.

Q. We would understand that subsequent to this operation, a day or so after that, Charlie Company went on a rice protection type of mission, breaking up into small patrols to protect the rice harvest. I believe your division referred to this as the Golden Fleece operation somewhere to the north of this AO. Do you recall where this Monastery Hill is located? Here's another map of a larger scale which certainly covers more area that you can perhaps locate it.

A. It seems to me like it was southeast from Task Force Barker. I remember flying over there by helicopter.

Q. You notice due east of LZ Dottie on this map, and also on this large scale map, is another LZ called LZ Uptight. Would this have by chance been called Monastery Hill?

A. No, sir. I don't believe it.

Q. Now there is a hill due south, I should say south-southeast from Barker to the northeast of Quang Ngai City. Look there across the river. This is Nui Thien An which you see. There is Hill 80 which has quite a large citadel and defense position on top of it. Is this the area by chance that you're referring to as Monastery Hill?

A. It very well could be. I know there was a monastery on top of it and monks up there and so forth. That's where I stayed overnight with them. All I recall is the name Monastery Hill.

Q. You're an old friend of Colonel BARKER. When you were there on the afternoon of the 15th, did he mention anything about the operation that was going to go on the 16th?

A. I'm not sure I was there on the 15th. Like I said, I don't remember specific dates. I remember being at these places when things were transpiring but nothing was said to me about Colonel BARKER. On occasion I was in his operations command there, but don't remember anything he said. They sometimes mentioned the collection. They had some souvenirs hanging around, of different weapons. That's all I remember.

Q. You don't recall a briefing for this operation?

A. No, sir.

Q. When you were back at LZ Bronco and Duc Pho, did you ever see any pictures in the PIO shop which had to do with this operation?

A. No.

Q. Did your division chaplain ever come to you to talk about anything unusual happening, to suggest that you keep your ear to the ground for information or anything of this nature?

A. No, sir.

Q. Do you remember the name of your division chaplain at that time?

A. Lieutenant Colonel Frank LEWIS.

Q. How about Major CRESWELL? Did he ever talk to you about this?

A. No, sir. I remember him, but I believe he was up at Chu Lai.

Q. Yes, he was the DIVARTY chaplain.

A. Yes, sir. I don't remember. I've only met him, I believe it was one time. We had a retreat up there, but I've never talked to him about this as far as I can remember.

Q. Did you ever have any discussions with Colonel HENDERSON about this operation into this area?

A. No, sir. None whatsoever.

Q. Subsequently did you have any with Colonel BARKER?

A. About this operation?

(KISSINGER)

Q. About some civilians that may have been killed.

A. No, sir.

Q. None of the members of the company came to talk to you?

A. No, sir. Like I say, I was with them there on the hilltop several days afterwards and no one said a thing. That's what bugs me so much.

Q. Were you aware of the fact that an investigation was being conducted, within either the brigade or the division, on something unusual which may have taken place in My Lai?

A. No, sir. Chaplain HOFFMAN was the brigade chaplain. He would have knowledge of this if anyone, and he didn't discuss too much with us, the operations of the brigade.

Q. Where did you spend most of your time up here?

A. In Vietnam with the 11th Brigade.

Q. At that time when BARKER was located at LZ Dottie, where were you located?

A. I was at Duc Pho, and I covered the area south of Duc Pho.

Q. That was down in the area of the 4/21?

A. Yes, sir. I became their chaplain as soon as they came over. I'm not sure the exact date they came over.

Q. Do you ever remember any talking around Duc Pho perhaps in the area of the 174th Aviation Company, around the division headquarters, or anything, which referred to something unusual happening and hearing such names as Pinkville, My Lai, Tu Cung, Co Luy, Son My or anything of this nature?

A. No, sir. I even conducted services over there for about a month or more with the aviation company, and nothing was ever said. The only thing that I remember about Pinkville was that it was a tough area and heavily booby-trapped. That's all I remember of it.

Q. Now you don't have to respond to this question unless you so desire to, but in your privileged capacity as a chaplain, do you recall anybody ever coming to you and asking for religious coverage because of something which may have taken place in this area about that time?

A. No, sir. None whatsoever.

MR MACCRATE: I'm interested in this meeting with the company at Monastery Hill so soon after the operation. What is it that you feel helps you to fix that in mind? What impressed you at that time? What leads to a recollection of that particular occasion?

A. I'm not sure if I follow your question, sir.

Q. As we think back over things that we've done 2 years ago, somethings we recall, other things we have little recollection about. Usually there's some chain of association we find in our mind which leads us back to a particular occasion. I wondered what it was that made you recall this meeting on Monastery Hill?

A. Well, there were only, as far as I can remember, a few times that I was up in that area. So it wouldn't be hard to remember that occasion. And the most memorable occasion was being on Monastery Hill, being out there with them overnight in the field.

Q. Staying with the monks overnight there, is that what you indicated?

A. Well staying with the troops overnight in the field. I remember the monks of course walking around there and so forth.

IO: Were these Buddhist monks or Catholic monks?

A. Buddhist. There's no association, I mean as far as I can remember as to why I went up at that particular time. I can't remember any particular reason. I do remember having congratulated the company commander, and I associated that with Monastery Hill.

MR MACCRATE: Do you have any recollection of Captain MEDINA's response?

A. I also ran that over my mind a few days ago, and the only thing that I can come up with was that there was not too much said in response to my comment. I said congratulations. It seems to me that as best I can remember I proceeded to ask about it, but I didn't get too much response. I can't remember any details of what he told me except a little nod, and "Yes it was so," or something like this.

Q. Knowing Colonel BARKER as well as you did, I gather you did have occasion to observe the kind of an operation he ran and the relation among some of the members of the task force. How, in your observation, did he conduct the operation of the task force. Did he leave a great deal to Major CALHOUN? What role did you observe Major CALHOUN playing?

A. Well, I was always impressed with Colonel BARKER's operation and his sincerity and exactness, carefulness with which he did every operation. Of course, Major CALHOUN acted as his S1 and S3 at that time and they were always right there, always before their maps. They were quick to pick up the phone calls. They were in on every operation while I was in the operation bunker with them. I've never seen anything out of the ordinary except real fine operation procedures.

Q. Had you left LZ Dottie on the night of the 15th or did you stay over to the 16th?

A. Again, sir, I can't remember dates at this point.

(KISSINGER)

11

APP T-181

Q. The operation was on the 16th. If you were present at the memorial service on the 15th, my question relates to whether you were actually at LZ Dottie the day of the operation which would have been the day following the memorial services.

A. I don't know sir. I hate to say without some kind of a calendar.

IO: You indicated that Colonel BARKER ran quite a tight operation. What's your appreciation for him as a man?

A. I had the highest respects for him, sir. I knew him since Hawaii. It seemed like others had the highest regard for him too. A very fine individual, as far as I can ascertain. Principles, moral standards, and especially as a military man, very accomplished.

Q. Would you give us your appraisal of Captain MEDINA?

A. Yes, sir. My acquaintance with him again goes back to Schofield Barracks. I was out in the field with him when he was training his men for Vietnam. I never saw a company commander take training, preliminary training, so seriously as he did. I made that comment to him out there in the field he said, "Well, we do it just like it's actually happening right now. This is all for their own lives, for their safety, to protect them." In so many words, kill or be killed and so forth. The men had a high respect for him because he was dedicated, sincere and he was concerned about their survival just as much as any company commander could be. So, as far as his military ability, very outstanding.

Q. I understand he was quite a competitive type of individual.

A. I don't know how to answer that, but I would affirm.

Q. Was there much competition between the battalions and the various units within the brigade or division concerning body counts and things of this category?

A. This is my impression, sir.

Q. That was so?

A. Yes, sir. It is my impression that there was always that number. Who got the most this day. I'm talking about battalions in general. Who got the greatest kill and so forth. Being honest, this was my impression.

COL ARMSTRONG: I presume you talked to company commanders quite often. Did they ever seem reluctant to talk about a successful operation. I'm trying to associate this with your discussion with Captain MEDINA on Monastery Hill. I remember that, as a rifle company commander, any time we were in a successful operation we were loud and clear in broadcasting to everybody, everybody that would listen to our war stories. Is this different today or was it different in those days or at this time. You indicated that MEDINA didn't seem to be--

A. (Interposing) Well, there was not much talk about it, I'll agree to that.

Q. But generally rifle company commanders, didn't they usually talk about their successful exploits?

A. As a rule they did, sir.

Q. But you didn't consider this unusual?

A. I thought it was, but like I say, I asked about it. I complimented him on the kill, and I proceeded to ask someone about it and didn't get too much of an answer. I just felt that he didn't want to talk about it and left it hang, didn't say any more. Never dreamed that there was anything different but the count.

(KISSINGER)

13

APP T-181

Q. He didn't give you any impression that he was not proud of what he had done, of what had occurred?

A. No, I did not receive the impression that he was proud.

Q. Well, he seemed just more evasive because he didn't seem to want to talk too much about it.

IO: When do you expect to receive your household goods, Major KISSINGER?

A. I may have this in my brief case in the outer office, on the bill of lading and so forth. I hope within a couple more weeks.

Q. If you would, make an immediate check, when you have an opportunity, of your personal records to see if you can fix your location with respect to LZ Dottie, with respect to Monastery Hill, and the time which may be available to you in your diary and other documents which you have available to you. I'd like you, when you get that information, to get on the telephone. We'll have some people here who will take that data from you.

A. Well, sir, I'm afraid the best I can recollect, the only data I would have are the letters I wrote to next of kin with dates on them, sympathy letters. I had one of these small green memo pads, of course, where I wrote down where I held services, with which battalion and the dates. When I left the 11th Brigade, it was in the middle of June I believe, since I had recorded all my services and everything on my chaplain activity report for the quarter, I didn't, as far as I can remember, keep that small green memo pad book. You don't really anticipate any incidents coming up and I think I destroyed that. So the only thing I would have are the letters of sympathy I wrote. I don't know the names that may be on these. I went north around June, sometime in the middle of June or the end of June, I went north to the DMZ and was with an artillery group so I saw no reason to keep any particular names.

(KISSINGER)

14

APP T-181

Q. Well would you still have the letters to the next of kin?

A. Yes, sir. I did not destroy those.

Q. Well, if you attended this service for COX which was on the 15th, the letter should be around about that time.

A. Right, sir.

Q. So you shouldn't have too much difficulty, I shouldn't think, in isolating that.

A. I wrote most of the sympathy letters for the 1/20, prior to being assigned to the 4/21. Now I also do have names of a lot of men of Company C who made commitments to Christ in different services I held. I have all these names, it might be interesting to look over. In other words, I mean men who were really sincere spiritually in their lives, had given their heart to Christ and so forth. I don't know if this would have any value in relation to names of people in their actions. In other words, you might have the name of a man who's moral cations you question. I just might have his name as one who made such a spiritual commitment.

Q. Well if you have such information on C/1/20 I think it would be interesting for us to look at it. As far as the names of individuals, at the moment we're not having any problem picking up the names of the people, but I think the religious data may be helpful to us, to look at that. I would not anticipate entering such into the record.

MR MACCRATE: Would your record indicate the dates that these have occurred?

A. Yes, sir, most of them. Whenever I had a service with maybe so many men making such a spiritual decision, commitment to Christ, I would record the date and then the names of the men underneath. I had quite a few names of men. A number of companies of that battalion and other battalions.

IO: How do you recollect Charlie Company?

A. Best I can remember, I've been thinking about this too. I think we had good results initially with them before their departure and arrival over there. I came over later. They were the advance party and I had a number of good services with them, good response. I was well pleased.

Q. Well we do want to get hold of this data when it becomes available to you so you might get in touch with this office so we can get that material sent on in to us by the most expeditious means. If you have any additional information that comes to mind, Major KISSINGER, we'd like to know about that. As I say, any documents which you can provide will be most helpful. If you have any questions at this time, we'd be happy to try to respond to them.

A. Sir, there are three chaplains. I do feel strongly that their information would be just as valuable as mine. As I said one is Chaplain COOPER, Rule COOPER and he's at Fort Dix, New Jersey. Now Chaplain LEWIS knew all these people and Chaplain CAREY, especially. He was the Catholic chaplain, John CAREY, C-A-R-E-Y. I'm not sure where he is stationed but he was up there at Dottie, I'm willing to bet, more than most of us were. He had the Catholic coverage and he had a lot more territory to cover. He was up on that road I guess every week. He knew those people real well, Colonel BARKER, CALHOUN, and all the rest. The other one, of course, is Chaplain HOFFMAN the brigade chaplain. If anybody knew the administrative angles of the operations and involvements or any investigations, he should because he was in Colonel HENDERSON's staff meeting, I'm sure, every week.

MR MACCRATE: What about Chaplain SHANNON. It was suggested to us that he had been the active Catholic chaplain with Task Force Barker.

A. I'm trying to think when in the world he came over there, what dates. I remember him, I didn't get too well acquainted with him.

IO: Did SHANNON belong to the 11th Brigade or did he belong to the 198th Brigade and come down periodically to provide Catholic services to those people in the northern area?

A. I think that was the case. I can't remember him being assigned to 11th Brigade. As far as I can remember we had only one Catholic chaplain, Chaplain CAREY, and he was still there when I departed. But as I say, I covered the southern area from Duc Pho down, and it was just on occasion when I thought I wanted to go up there, up to Dottie, it wasn't very often. A few others--these other chaplains would have more knowledge of the operation than I would.

Q. Well we'll also give you an opportunity if you'd like to make a statement for the record.

A. You want an outline a little bit, sir--

Q. (Interposing) No, above and beyond what you have already indicated if you have some statement that you would like to put into the record, we'd be very happy to receive it.

A. Well about the only thing I could say that I've been rolling over in my mind is the fact that I think of all the battalions with the 11th Brigade I was impressed most with Colonel BARKER's battalion, this operation, nothing negative, of course, but a positive angle--

Q. (Interposing) You're referring to his battalion now as the Task Force Barker?

A. Task Force Barker, yes, sir. I felt personally that, I may be wrong, the morale was a little bit better there than other battalions and they had the highest esteem, I felt, for Colonel BARKER and the company commanders. This is my personal observation.

Q. Do you have anything further?

A. No, sir.

IO: This hearing will recess at this time.

(The hearing recessed at 1550 hours, 19 January 1970.)

FOR OFFICIAL USE ONLY

SUMMARY OF TESTIMONY

WITNESS: KRIEG, Ronald M.

DATE OF TESTIMONY: 4 February 1970

PLACE OF TESTIMONY: Pentagon

WITNESS SUSPECTED OF: N/A

COUNSEL: None

DUTY ASSIGNMENT: S2 Clerk, S2 Section, 11th Infantry
Brigade, 16 July 1968 - 16 June 1969.

1. KNOWLEDGE OF DOCUMENTS RELATIVE TO HENDERSON'S REPORT.

Mr. KRIEG did not recall any requests for documents related to an investigation conducted in 1968 (pg. 3). He did not recall a search in the S2 section for documentation concerning My Lai (pgs. 3, 10). He did not recall a re-organization of the files in December of 1968 by Master Sergeant CAMELL (pgs. 5, 6). However, it could have occurred without his knowledge, since he did not work closely with the files (pg. 7). He did not recall seeing an envelope in Master Sergeant GERBERDING's desk containing close-hold papers (pg. 8). He recalled no discussion regarding these papers, or anyone refileing them after GERBERDING left (pg.8). He never heard that Colonel HENDERSON, Colonel DONALDSON, the USARV IG, or the division IG wanting to locate anything in the S2 files (pgs. 10, 11).

2. TYPING A COPY OF HENDERSON'S REPORT.

Although the witness testified that he was positive that he did not type any part of Exhibit R-1, a true copy of HENDERSON's report, he stated that he vaguely remembered that it was typed by the S1 section (pgs. 4, 9). He had never seen Captain RODRIGUEZ' statement of 14 April 1968. He never typed a copy of that statement (pg. 12). He recognized CAMELL's

(KRIEG)

1

SUM APP T-313

FOR OFFICIAL USE ONLY

handwriting as the notations on Exhibit R-5, a carbon copy of HENDERSON's report (pg. 8).

3. OTHER INFORMATION.

a. He never heard any rumors or discussions about Pinkville except that it was considered hostile and heavily mined (pg. 12).

b. The witness had never talked with anyone associated with the 11th Brigade about the My Lai incident (pg. 14).

(The hearing reconvened at 1100 hours, 4 February 1970.)

MR MACCRATE: The hearing will come to order.

RCDR: The following named persons are present: MR MACCRATE, COL ARMSTRONG, and MAJ LYNN. Sir, the next witness is Mr. Ronald M. KRIEG.

(MR KRIEG was called as a witness, was sworn, and testified as follows:)

Mr. KRIEG, for the record, will you please state your full name, occupation, and residence.

A. Ronald Milton KRIEG, I live at 41102 Greenbrook Lane, Plymouth, Michigan, and present occupation would be assistant manager at a grocery store.

RCDR: Thank you.

COL ARMSTRONG: Mr. KRIEG, have you read the instructions we handed out to you (Exhibit M-57)?

A. Yes, sir.

Q. Do you understand them?

A. Yes.

Q. Do you have any questions?

A. None.

Q. Mr. MACCRATE is a civilian attorney who has volunteered his services to the Secretary of the Army to assist in this investigation, to assist General PEERS and be a legal counsel to him and to the rest of us who are engaged in this. There are other groups taking testimony from other witnesses just as we are interviewing you. We would like you to know that even as this is going on, General PEERS personally is responsible to the Secretary of the Army and the Chief of Staff for digesting all of the testimony, coming up with conclusions and recommendations. Mr. MACCRATE or myself may be asking you

(KRIEG)

questions. Mr. MACCRATE will probably conduct most of the questioning.

A. Very good.

MR MACCRATE: Mr. KRIEG, would you state your position with the 11th Brigade, Americal Division; the period that you were in the various positions; and when you left the brigade?

A. Okay, sir. Roughly, I got to the brigade and went right into the S2 section 16 July 1968. I got into Vietnam before that, but never got to the S2 shop until then, and was there a full year, well, 11 months, from then until roughly 16 June 1969. My position then with the S2 shop was the S2 clerk.

MR MACCRATE: During this period, who were the S2 officers of the brigade?

A. Major SCHLEICHER was the S2, I believe. If my memory serves me correct, I think Captain RINEHART was the assistant S2. Now our S2 air, I think, was Lieutenant DIEHL. Of course they changed off and on as the months went by.

Q. (Interposing) Well, as the months went by Major SCHLEICHER was replaced by?

A. Major VEATCH, I believe.

Q. And Major VEATCH was replaced by?

A. Major COX.

Q. In addition to yourself, would you identify for us the other enlisted personnel in the S2 shop?

A. Starting from, let's say E8 down? The enlisted personnel?

Q. Yes.

A. When I got there, I believe Master Sergeant GERBER-DING was the NCOIC. I believe an E-7 then, STEPHENS, Sergeant STEPHENS. Of course Larry BAILEY, the man you just talked to,

was one of the clerks. Richard or Dick MCKNAPP was the clerk that I replaced. Larry SPANGLER I believe worked both in the S2 shop and the TOC as the handyman, I guess you'd say. Larry BOYD was our main, I think, NCOIC in the TOC, E-5, sergeant E-5. And Jerry STROP was the man, a Spec 5 later on, in charge of all your secret and classified documents. I think that's it.

Q. You were therefore in the S2 shop in April and May 1969.

A. Yes, right.

Q. Do you recall during that period a request coming in to the S2 shop for some papers relating to an investigation that had been conducted in the spring of 1968?

A. None whatsoever, that I know of.

Q. Do you have any recollection of Major COX conducting a search of the S2 files at that time to see if certain papers could be located?

A. Nothing that would have made me wonder or make me think of anything like that, but I think there may have been a time, because there was a lot of times that we looked through the files for either one of the S2's.

Q. (Interposing) Well now by this time, Sergeant CAMELL had replaced Sergeant GERBERDING.

A. Right.

Q. Now do you recall Sergeant CAMELL asking you to assist him in any such search or that he was involved in such a search, and perhaps turned to some of the other men in the shop to help him look for this document or documents?

A. I'd say no again, as far as pinpointing it to this incident. I think there were several times, as I say quite a few times, that we looked for something, but I never remember anything about My Lai or saying we've got to look for this in Pinkville, or anything like that, you know. I don't really remember anything specific pertaining to this.

Q. Mr. KRIEG, I show you Exhibit R-1, which you will note is a true copy of a document, and you'll see that it is certified by Major COX. And I'd like you to look at the document rather carefully and see if you have any recollection; first, of seeing the first two pages.

A. No, sir, to my recollection I've never seen it. I know I can say one thing. I've never seen a body count like that since I've been there. Well, yes, I have too, during the B-52 strike, but that wasn't in that vicinity.

Q. I'm not really focusing at this time on the substance of the report, but whether you recall anything about the preparation of that true copy?

A. No, I don't, because I would have typed it. I have never seen it. I'm sure I would have typed it if Major COX was the man that signed that, and that's what puzzles me. If he had signed it, I'd have typed it. There's no way about it, 'cause I did almost all the typing when he was there, unless, of course, the S3 typed it or somebody. But I didn't. If it came through Major COX and came through the S2 shop, I would have typed it.

Q. From time to time were papers typed in the S1 shop? Did you have a working relation with the S1 shop?

A. No, I wouldn't think so. I thought you meant S3. No, S3, I think we worked kind of hand-in-hand with. But I wouldn't say S1, to my knowledge.

Q. Well who were the clerks in the S1 shop who would do that kind of typing?

A. I was never too close with those characters. I don't think I could remember names in the S1 shop. I can visualize one guy, and I think if I heard his name I would know him. In fact he came and left Vietnam at the same time I did.

Q. Would he be a likely person to do typing of that kind?

A. S1, that's where they work with awards and stuff, I believe?

Q. Yes.

A. If I've got this guy in the right spot, he would have been a typist, although I don't know if he was the guy in S1 or the guy in S4. Like I say I wasn't too close with any other section other than S2 and S3, the people in the TOC.

Q. Well, we'll ask you to look at the roster after we conclude, and perhaps you can recall and identify for us the people who may have typed such documents. Do you recall in the late part of 1968 a reorganization of the files in the S2 shop?

A. Roughly November or December?

Q. Yes.

A. The only thing I can remember as far as reorganization of the files would be in preparation, I think, for Sergeant GERBERDING leaving and Sergeant CAMELL coming in, more or less saying, now this is where this goes. To my knowledge there was no drastic change. I was under the impression that if there was any changing of the files, it would have just been, like I say, in preparation for Sergeant CAMELL coming in and taking over. I believe he got there in October.

Q. Did you observe any difference in the file management under Sergeant GERBERDING and under Sergeant CAMELL?

A. No, because I think Sergeant CAMELL, just like anybody else, knew the disposition. He just took him by the hand and said this is the way I've done it.

Q. Sergeant GERBERDING said this to Sergeant CAMELL?

A. And saying, you know, this is the way it's done. And I've found this good and this good, so he continued to do it this way, that type of thing. I don't think there was really any difference. I think once Sergeant CAMELL got used to the way things were run, maybe he did things the way he felt was best. But as far as any big change, I don't think there was anything different.

Q. Did you feel that one was perhaps a little more systematic than the other in maintaining the files?

A. I think Sergeant GERBERDING was brilliant in this job, very brilliant. This is immaterial, but you could pop up a question, and he'd say well that happened back last June and that, you know. Then he give you right down to grid coordinates.

Q. Did you work very closely with Sergeant GERBERDING?

A. Yes. Well, like I say, I got there in July, and he left, I think the first part of January 1969 or somewhere around there. But I'd say I worked fairly close to him, I take that back, not so much in November and December because of course he was doing a little shamming because of Sergeant CAMELL was there to help him.

Q. Well he actually left, I believe, in November. He may have stayed into December.

A. Well, I think what happened. He had probably an unauthorized leave, I think, for a month. He went home. I don't know if it was sickness, emergency leave, or what. I think he had planned to leave in November and they caught up with him and brought him back because he had taken a month's leave. He had to stay there an extra month.

COL ARMSTRONG: That's happened before.

A. Sergeant STEPHENS had the same thing happen. He got all the way to Chu Lai and almost made it home and they caught him. They said, "Wait a minute, ole buddy, you gotta go back!"

MR MACCRATE: But you have no recollection in December 1968 of any thorough reorganization of the files?

A. Not to my knowledge, sir. Of course I suppose you might have crossed this before. It's easy to forget, but I don't think so.

Q. I'd like you to put on your thinking cap about your files. I know this is difficult, but would you recall a 510 general intelligence file?

A. No, sir, I don't. To back up, maybe it'll help you a little bit. Even though I was a clerk and had a secret

clearance and had access to the file, Jerry STROP, whom I'm sure you're acquainted with and I think will be here tomorrow, he handled all of it. I mean, the only time I would get in the file was to put in the old INTSUM's, the intelligence summaries, to pull out this or pull out that. I really wasn't familiar with any of the, like you say, whatever it was, 510 whatever, you know. I never really worked with the file that closely.

COL ARMSTRONG: Basically you were the typist?

A. Right. And that's what I did, more or less what they told me to do, all types of correspondence. So the man to answer that question would be STROP, who I think will be in tomorrow.

MR MACCRATE: Do you recall if STROP was there in the November-December time frame?

A. He was there, yes. He didn't leave till March. Roughly 25 March he left Vietnam. However, we started an operation, which probably entered in the picture, LZ Cork where they had a little operation, fire support base set up in the mountains. This started roughly the middle of November, first part of December, I believe. And he may have gone for, let's say, STROP, myself, and another guy would switch off and on and going out to this fire support base. But he was there in November, December, January.

Q. Well who took his place in April or May?

A. Tom GEIGER (phonetically), I believe, I'm pretty sure. There you go.

Q. And he was the one familiar with the files as of April/May 1969?

A. Yeah. He did take over his job. I'm positive he did. I don't know how familiar he was with them in April and May because it's kind of a tricky thing to learn in that length of time, that short of time. But he was the man that took over.

Q. Do you have any recollection of ever seeing an envelope in Sergeant GERBERDING's desk of what might be described as close hold papers?

(KRIEG)

A. No.

Q. Do you ever recall either at the time of the changeover from Sergeant GERBERDING to Sergeant CAMELL or subsequent to that time any discussion of such an envelope of papers?

A. No, sir.

Q. You have no recollection of any review of Sergeant GERBERDING's papers after he left and refiled of some of the papers that he may have been holding?

A. No. There were times when we have done it, not a big change, but just a reorganization.

Q. Mr. KRIEG, I hand you Exhibit R-5. You will note it is comprised of five sheets of paper. The first two sheets are a report of investigation. The next two sheets are a translation of VC propaganda. The last sheet, the green onion skin, is a statement dated 14 April 1968. I'd like you to look in all five pages and ask you if you recall seeing, either separately or together, any part of that collection of five sheets of paper? While you're looking at the second page of the report of investigation, let me tell you that there has been erased, as the document was found, a notation in red over Colonel HENDERSON's name. And then down in the lower left side of the second page, a notation "a true copy", and Sergeant CAMELL had identified that as his handwriting indicating that the true copy that I showed you before was actually typed from the piece of paper that is before you.

A. It does look like Sergeant CAMELL's handwriting. I remember that. I'm not good on names, but the typing I did and some of this other stuff I think I can recognize, but I don't ever remember a report like this. Especially this long, because I think the longest thing I ever typed up was on that B-52 strike we had, and I had to type up a bunch of stuff. But to the best of my knowledge, I don't know anything of this, at least the first two pages.

Q. It was Sergeant CAMELL's recollection that it was typed in the S1 shop.

A. Well, this could be then.

Q. Does this ring any bell?

A. It seems like there was a time, cause I think I remember complaining, "I don't want to type all that." I don't think I ever saw it, but I think I remember they said, "We got a report," or I think they finally came up with the conclusion, "Well, let's let the S1 type it." And I remember I was quite relieved at that.

Q. Now if you look at the next two sheets and I'll show you at the same time R-1 and the copy that was typed at the time. Do you ever recall being asked to type those two sheets that appear in the true copy from the file copy, which is before you in R-5?

A. No, sir. I've never seen any of this.

Q. You did not type the copy of the two-page VC propaganda?

A. I'm positive I didn't because I'm the type of guy that I kind of like excitement like that. And I'd have read it a dozen times. I'd have remembered that, I'm sure.

Q. Have you also looked at the green sheet on the bottom? If you'll look at that now, please? And I ask you the same question about that. A copy was typed, apparently in the spring of 1969 at Duc Pho, and is included in R-1, that you've already examined. Did you type that page?

A. I'd say no.

Q. Do you ever recall seeing that page before?

A. No, sir. I'd remember something like that, I'm sure.

Q. Do you have any recollection of any discussion regarding the preparation of that true copy, R-1, based upon the documents R-5 that you've just examined?

A. No, sir.

Q. Do you have any recollection of a discussion about documents in an envelope that was being delivered to Colonel CROWE or that was being delivered to your S1, Major HAYDEN?

A. This would be roughly the first part of 1969?

Q. This would be in probably May 1969.

A. Of course here again, we were in a position, working in the S2 shop, where numerous times big bundles of enemy documents or anything would come in, some marked secret or confidential, whatever. But it does sound familiar that one came down. I wouldn't say it caused any discussion though that I knew of. Of course, there were many times that stuff came down, documents and stuff came down, but I couldn't honestly say that one came down that caused any panic or discussion.

Q. Well this wouldn't necessarily cause any panic at all. It would just be a request, "Can you find something in your file?"

A. This has happened several times. It would go to STROP, because I would very seldom work with the files.

Q. Do you have any recollection of hearing that Colonel HENDERSON, who had been your commanding officer, wanted to locate something that he had left behind in the files?

A. No, sir. Nothing like that.

Q. Do you have any recollection of hearing that Colonel DONALDSON, who had succeeded Colonel HENDERSON, and who is at this time chief of staff of the division, making a request for either the location of the document or the preparation of a copy of the document from the S2 office at brigade?

A. Not to my knowledge, no.

Q. Do you have any recollection of USARV IG or the division IG making a request for either the locating of a document or documents or the preparation of copies of documents?

A. I have to say no again, not to my knowledge.

Q. Do you remember any discussion in the office at or about this time of what may have been called the Pinkville incident?

A. I shouldn't say always. We had a guy that worked with us, Bill TORRANCE, I don't know if his name's been mentioned. He was just a truck driver.

Q. Bill TORRANCE?

A. William, I think, William TORRANCE. I believe T-O-R-R-A-N-C-E. He was with, I believe, D/4/3, but he was the kind of guy that you don't really know whether to believe him or not. And he didn't do very good in the field. So we got him as a truck driver, a jeep driver. He drove the S2 around, whoever he was at the time. And I often heard him talk about how, in the field when they heard they were going to Pinkville, they'd more or less panic, you know. He always talked about booby traps and heavily mined areas. He never said anything about "One day we went out and killed a hundred and so people." But of course this was D/4/3 too. So he probably wasn't in on the operation, what Charlie Company, or whatever company was involved in this. But he's often said, "Old Pinkville, boy, that's the worst place in the world," but never said anything about killing people like that.

Q. Do you know if he was in Task Force Barker? Did he indicate that he had been in B/4/3?

A. Delta.

Q. So he was in Delta?

A. D/4/3.

Q. In Task Force Barker that was involved in the operation on 16 March, there were three companies. There was A/3/1, B/4/3, and C/1/20. Do you recall TORRANCE's discussion of this in relation to the operations of B/4/3?

A. No. As far as I know, I think I've heard him talk about Task Force Barker because I'm sure he was there.

He roughly came in and out of country the same time STROP did, March 1968 till March 1969. Well, that's right though, if this happened the middle of March, he may not have even been in the field yet. I think what he was referring to was months later, going to Pinkville was such a bad place because it was so heavily mined and all. So now that I think about it, I doubt if he was even in the field when this probably took place.

Q. Well, as distinguished from the mines that were in this whole area, some of them were actually left behind by the ROK Marines when they vacated the area. Do you recall any discussion by TORRANCE or anyone else about a so-called Pinkville incident?

A. No, none whatsoever, other than just that it was a bad place to go, when they'd get words that they were going there. It was just a big panic. They hated to go there. Of course this is probably talking April, May, and June, 2 and 3 months later.

Q. Mr. KRIEG, I'd like to show you Exhibit M-30, and ask you if you ever recall seeing that document before. You will note that the second page is a clearer copy, a true copy of the top page.

A. No. This doesn't look familiar either.

Q. Well I gather from what you've told us that search your memory as you may, you just have no recollection of the preparation of the true copy or any part of it, R-1, or ever having seen, before today, the papers from which the true copy was prepared?

A. That's true. To the best of my knowledge, I'm trying to remember. I know I didn't type any of it, and I'm not sure if I ever saw it or not. But I'm close to positive I didn't see it. I think I would have remembered something like that.

Q. Well, as you can gather from the questions we've been directing to you, we have reason to believe that there are other copies of some of these documents and that they have

stationed at Fort Benning, friendly visits. In fact I wanted to get back, after this was brought out in the open, I wanted to get back and talk to them about it and see if they knew anything. I kind of wish I had now.

Q. Well, when did you talk with Sergeant STEPHENS and Captain RINEHART?

A. I visited his house in August or September, both of them I had dinner with their families. And I saw each of them once.

Q. Well did you have conversation at that time about any operation of Task Force Barker or anything relating to what is now commonly described as the My Lai incident?

A. No, sir. Of course we reminisced practically the whole day about Vietnam and the old times, but it was more or less me telling them what had happened after they left.

COL ARMSTRONG: Let me ask you, when this broke in the papers, what was your reaction?

A. Being almost 4 months to the day I had gotten there in July and this happened in March, I found it rather peculiar that I had never heard anything of it. This is right off what puzzled me. How it was kept so quiet, if it did happen.

Q. Does it surprise you, or would it, or did it surprise you that American soldiers could do such a thing?

A. I've been asked this question. I've told friends I was near there, and they've asked me the same type question. But of course the story I give them, you could be out on an operation and see your buddies get killed, and you take it out on the first thing that moves. I know that happens, and I'm sure that a lot of things that people never find out about. But when I heard that figure 120, 109, I figured it could probably happen and maybe did. But it didn't seem right to me. I don't know, and I always thought that maybe this was the reason this place was so heavily mined, let's say 4 or 5 months later, for example. I'm just guessing, but I could

see that if this happened and they innocently killed a large number of civilians that maybe this is why TORRANCE talked about how it was so heavily mined all the time. Yet they'd never actually seen the enemy or ever got sniped at. It was just mined and that was it. And I could see that if this happened this would be why. The people were so disturbed about the whole incident that they said, "Well the heck with them. We'll set out these mines," which is the first thing that entered my mind.

Q. If we could disabuse you of that, it's always been heavily mined.

A. Well, okay, very good.

MR MACCRATE: Well, thank you very much, Mr. KRIEG. We appreciate your coming in.

A. It's been a pleasure. I wish I had some more good information for you.

Q. Well, we would like you to sit down with one of our people and go over the roster and see if you can identify for us individuals in either the S1 shop or the S3 shop who may have participated in the preparation of the true copies in April or May of 1969.

A. I've got one thing to say. This is, I'm sure the whole matter is confusing. This will probably confuse you more. But this brought into mind just a story I heard, just the other day when I found out I was coming here. I believe it was one of the girls at the store said her brother was involved in this too and was on a swift boat. Whoever it was that was telling me was saying that with 81 mortars they were just bombing the heck out of it at the same time in support, I guess. I don't know if this means anything. I don't even know if I could remember who told me.

Q. Well we have been talking to those involved with the swift boats, and we are anxious to have any information in that regard. It may well be that we already have this particular item of information you speak of, but we are literally leaving no stone unturned.

(KRIEG)

15

APP T-313

A. Yeah, I'm sure.

Q. Can you recall the last name which would indicate to us the individual?

A. It was such a quick conversation that I don't even know if it was one of the cashiers or one of the girls at the store, but let me ask you a question before I forget it. If for some reason I think of something you've asked me that I think would be of importance, can I write a letter or should this stuff be in the mail, or...?

Q. What we would like you to do is call us and we can make arrangements to get the information from you. When you leave we'll give you all the information as to how to get in touch with us, and we would certainly appreciate that, including if you can nail down who it was that told you about the swift boats and their operation so that we can be sure that we also have that bit of information.

A. Yes, because I remember most of the questions I bombed on you there and didn't know anything about. And I'll go home and rack my brain out tonight while I'm asleep and maybe I can come up with some information for you.

Q. Well, it would be very helpful if you can in permitting us to piece this together. As you can see, we have a great deal of information already assembled, but this is just a small portion of what we have. But we do have little bits here and there that we're still trying to piece together and any little bit of information you can provide, we would appreciate.

A. Very good.

Q. We would request that you not discuss your testimony with others. We are seeking to get the recollection of people and not what someone has recently told them about the event. So we do request civilian witnesses to treat the matter in confidence at this time. And military personnel are so directed.

A. All right.

MR MACCRATE: Thank you very much. The hearing will recess at this time.

(The hearing recessed at 1154 hours, 4 February 1970.)

FOR OFFICIAL USE ONLY

SUMMARY OF TESTIMONY

WITNESS: LABRIOLA, Albert C. Dr.

DATE OF TESTIMONY: 19 January 1970

PLACE OF TESTIMONY: Pentagon

WITNESS SUSPECTED OF: N/A

COUNSEL: None

DUTY ASSIGNMENT ON 16 MARCH 1968: Captain, Commanding Officer, 52d Military Intelligence Detachment, 11th Light Infantry Brigade.

1. DESCRIPTION OF HIS ASSIGNMENT.

The witness was the commanding officer of the 52d Military Intelligence Detachment with its headquarters at Duc Pho, from a few weeks before 16 March 1968 until the second week of July 1968 (pg. 3). He trained with the unit at Schofield Barracks in Hawaii and in December deployed with the 11th Brigade to Vietnam (pg. 3). His predecessor was Major Robert FLETCHER who was reassigned to Phu Bai (pg. 3). His immediate staff supervisor was Colonel BLACKLEDGE, the S2, and he filtered all of his information through that office (pg. 23). Colonel BLACKLEDGE had other sources of intelligence, such as the regular research unit and the MACV Duc Pho advisor, Major SMITH (pg. 23). The witness operated strictly from the base camp and never went into the field himself (pg. 18). His primary function was that of rewriting reports and assigning interpreters (pgs. 18, 22). Six or seven of the interpreters shared a tent at Duc Pho (pg. 21). He did not have close contact with them and felt that some of the interrogation officers worked closely with them (pg. 21).

2. HIS KNOWLEDGE OF THE ACTIVITIES AT MY LAI (4) ON 16 MARCH 1968.

a. Preoperational planning and briefings.

The witness did not feel that intelligence generated

by his unit was utilized to plan the operation (pg. 5). His first information about it occurred when he received the INTSUM with the results of the action (pg. 5). Task Force Barker requested intelligence support although they operated in the northern AO and were split from the unit (pg. 6). The witness felt that intelligence for the operation could have come from the province headquarters at Quang Ngai City and the liaison between MACV advisors and the 2d ARVN Division. For this reason, he felt it was a "northern planned and executed operation" (pg. 7). The witness normally attended the evening briefing at the brigade, but did not recall attending a briefing which gave the results of this particular operation (pg. 11).

b. The assignment of Lieutenant JOHNSON.

(1) JOHNSON's selection for the job.

The witness stated that JOHNSON was attached OPCON to Task Force Barker, although he had stated numerous times his fear of the mines and boobytraps in the area (pg. 6). JOHNSON would return occasionally to Duc Pho for a day or a weekend and would then contact his supervisor at Barker and return to the AO (pg. 7). JOHNSON seemed to prefer it because it would break the monotony and he did not like the boredom of shuffling papers (pg. 7).

(2) JOHNSON's duties.

The witness felt JOHNSON was supposed to interrogate, with interpreters, prisoners who were brought into LZ Dottie and elicit information of tactical value for Task Force Barker (pg. 8). JOHNSON was also to accompany field commanders, falling under their supervision and interrogate the prisoners in the field to elicit information of importance (pg. 8). He was to report anything of intelligence value that he saw or heard (pg. 8). The intelligence that he generated was to be local and to be consumed locally by Colonel BARKER and his immediate staff (pg. 9). The witness felt JOHNSON worked for the task force S2, Captain KOTOUC (pg. 9). The witness felt JOHNSON was expected to report any war crimes that he had seen including the execution of prisoners of war (pg. 9). JOHNSON did not report to the witness anything which he had seen or heard (pg. 9). The witness construed JOHNSON's mission as requiring the intelligence reports to be made to the task force staff or Colonel BARKER and not to the witness who was not connected with the AO (pg. 10). JOHNSON did not

FOR OFFICIAL USE ONLY

report intelligence to the witness in that he did not write an after action report. JOHNSON would normally converse about the dangers of mines or his problems with interpreters, but would not necessarily state who they had questioned and what information was elicited (pg. 10).

(3) Performance of JOHNSON's job.

The witness, who wrote JOHNSON's efficiency report, would rely on reports from the field commanders to evaluate him. The witness felt that JOHNSON had to improve his writing skills (pg. 18), and he received all reports on JOHNSON from the task force staff officers whom he met inadvertently at Duc Pho (pg. 7). Major CALHOUN told him once that JOHNSON was doing "a fine job" and he believed that Colonel BARKER said the same (pg. 8).

c. Witness' knowledge of the activities.

(1) Newspaper reports.

Aside from the INTSUM, the witness felt he had seen an article in the brigade newspaper, The Trident (pg. 5), and he had also seen stateside clippings sent by his wife (pg. 6). He felt that these three sources indicated approximately 128 killed and three to five weapons recovered (pgs. 5, 6).

(2) Photographs of the operation.

Although the witness lived 25 meters from the PIO shot at LZ Bronco he did not see any pictures turned out as a result of the operation, nor was it normal for him to see any photographs of activity (pg. 11).

(3) Rumors and third party information.

The witness recalled that he overheard people discussing the action while they were watching a movie. The discussion indicated that the enemy had eluded, doubled back, policed up the weapons, but did not have time to pickup the KIA's or conceal the bodies, and when the American forces returned they had the bodies but not the weapons (pg. 12). He may have again heard it during an evening meal (pg. 12). On neither occasion was the company mentioned by name (pg. 12). He also recalled overhearing a conversation which indicated that the speakers had been at the division and there was a report of innocent civilians being killed by an artillery prep and gunships in a populated area (pgs. 16, 17). The

names Son My and My Lai were not mentioned nor were grid coordinates (pg. 17). This occurred at LZ Bronco and the speakers did not mention who at division had mentioned this (pg. 17). The witness did not feel it was Captain KESHEL who said this, but stated possibly HOFFMAN or the brigade surgeon may have mentioned it (pgs. 26, 27).

(4) VC propaganda.

The witness did not recall receiving any VC propaganda leaflets which dealt with the Son My or the Pinkville area (pg. 13). He had not seen the inclosures to Exhibit R-1 nor had he seen Exhibit M-35, a VC propaganda leaflet or Exhibit M-34, TAN's letter to KHIEN (pgs. 14, 15).

(5) Conversations with Sergeant MINH.

Sergeant MINH never spoke to the witness about the incident at My Lai (pg. 22). His closest affiliation to MINH was a discussion they had after a fight between the interpreters and the MP's (pg. 22).

3. INQUIRIES CONCERNING THE ASSAULT.

The witness had no knowledge of an ARVN or GVN investigation being conducted, nor did he have any awareness of a brigade investigation (pg. 16). He was never cautioned not to discuss the incident (pg. 27).

4. OTHER INFORMATION.

a. The witness spoke with Lieutenant William HAWKINS about the incident, prior to appearing before the board, but neither knew anything other than information available in mass media (pg. 4). It was also mentioned in a conversation the witness had with Lieutenant Colonel James A. FRANKLIN, battalion commander of the 3/1, 11th Infantry Brigade but Colonel FRANKLIN knew nothing of the matter (pg. 4).

b. The witness had never heard of Co Luy or of Tu Cung (pgs. 13, 14).

c. The witness stated that he was able to recognize Captain MEDINA in Exhibit P-8 because he had seen the photograph in Time or Life magazines (pg. 21).

d. The witness never talked alone with Colonel HENDERSON except on official matters on two occasions (pgs. 22, 23). He felt that Colonel HENDERSON was an extremely

intelligent and very articulate officer. He felt HENDERSON was the single finest officer he had encountered during his two years in the service (pg. 25).

e. Colonel BLACKLEDGE, his immediate staff supervisor, was a "very, very good intelligence officer." He felt that BLACKLEDGE had a remarkable memory for intelligence detail, but did not know what BLACKLEDGE's rapport with battalion commanders might have been (pgs. 23, 24).

f. Captain KESHEL, the S5, was contacted occasionally for rice payments for agents who had given information, but was rarely contacted officially other than those times (pg. 26).

g. The witness pointed out that a Lieutenant Victor MARTINE was stationed for them in Quang Ngai City in an attempt to accelerate intelligence reports to their office (pg. 28). The witness felt that MARTINE might know more about this particular activity (pg. 28).

h. The witness identified **photographs** (See Exhibit List, infra).

(The hearing reconvened at 1350 hours, 19 January 1970.)

IO: The hearing will come to order.

RCDR: The following named persons are present: LTG PEERS, MR MACCRATE, COL ARMSTRONG, and MAJ LYNN.

(COL John W. ARMSTRONG was duly sworn.)

Sir, the next witness is Doctor Albert C. LABRIOLA.

(Doctor LABRIOLA was called as a witness, was sworn, and testified as follows:)

For the record, would you state your full name, occupation, and residence.

A. My name is Albert Christy LABRIOLA; I'm an assistant professor of English at the College of William and Mary; and my address is 705 Mosby Drive, Williamsburg, Virginia, 23185.

IO: Dr. LABRIOLA, have you read the sheet of instructions (Exhibit M-57) which was provided you?

A. Yes, sir, I have.

Q. Do you have any questions concerning them?

A. No, sir, not at this time. I understand.

Q. Aside from myself here at the table, Doctor, I have on my left Mr. Robert MACCRATE, who is a civilian attorney. He has volunteered his services to Secretary RESOR to assist me in the conduct of this investigation and also to provide legal counsel to me. He may address some questions to you during this session. On my right is Colonel ARMSTRONG, who has been assigned by the Office of the Chief of Staff as an assistant to me in this investigation, and he may possibly also ask some questions of you.

You should know that aside from this group we have other interrogation groups that are likewise taking testimony from individuals. But I have the responsibility for putting together the report, weighing the evidence, and making the findings and the recommendations.

(LABRIOLA)

1

APP T-179

A. I see.

Q. We are directing that military personnel who appear before this inquiry not discuss this investigation or their testimony with others, including any of the people who may be involved in the investigation. We cannot direct, but we would request that you not discuss your testimony with others including other witnesses, except as you may be required to do so before competent administrative, judicial, or legislative bodies. I say legislative because there is a possibility that you may be asked to appear before one of the congressional committees, specifically a subcommittee of the House Armed Services Committee. I do not believe that you have been cited by the military judge in the general court-martial case of the United States v. Calley, is that correct?

A. That is correct.

Q. I would like to say, however, if you were by chance cited by the military judge at any time in the case of United States v. Calley or any of the other related general court-martial cases, your appearance here would in no way change the applicability or the effect of those instructions. Do you have any questions at this time?

A. Can you tell offhand at this point or after my testimony the likelihood of my appearing before the legislative subcommittee of the House Armed Service Committee, or is that out of your jurisdiction so to speak?

Q. This is beyond my jurisdiction. This is handled by our legislative liaison division in the Department of the Army, who in turn notify this committee, and then it is up to them to decide whether they want an individual to appear.

A. What I say here today, will that become available to the liaison officer for discussion with--

Q. (Interposing) No, it will not. No, our testimony, as was indicated in the instructions, will be classified as confidential. When we finish our inquiry, the testimony and all the exhibits connected with it will be reported to the Chief of Staff and the Secretary of the Army.

A. Then so far as you can say, my being here, my very presence, and my testimony, there is not a causal relationship between my being here today and the likelihood of my appearance before the subcommittee?

Q. No. The only thing that I can say is that once they provide this list to them, they have generally been trying to contact the individuals for appearance. Above and beyond that, I simply don't know. It's up to them whether they want an individual to appear. They have had a great number of them.

Dr. LABRIOLA, would you indicate what your duty assignment was on 16 March 1968?

A. Yes, sir. I believe that on 16 March 1968, I was the commanding officer of the 52d Military Intelligence Detachment, 11th Light Infantry Brigade, headquartered at Duc Pho.

Q. And when did you take over that assignment?

A. That I do not recall. I believe I took it over a few weeks before that particular date. I really don't know. My predecessor was a Major Robert FLETCHER, who was reassigned to Phu Bai. I just don't recall the specific date, but I believe on the date mentioned that I was the commanding officer.

Q. And how long did you stay in that capacity?

A. I remained the commanding officer until the second week of July 1968. I was then separated from the Army, and rotated out of Vietnam.

Q. Well what was your duty before taking over the MI detachment?

A. I was in Vietnam with Major FLETCHER, who was CO of the 52d MI, and I was the interrogation officer. There were four sections in the 52d MI, and one of the four sections was IPW. I was the interrogation officer.

Q. Had you gone overseas with the 11th Brigade?

A. No, sir. I was with the New York field office of the 108th Military Intelligence Group as the commanding officer of the New York field office or special-agent-in-charge. I received orders in, I believe, September 1967 assigning me to the 52 MI Detachment, 11th Brigade. I took a leave and in October I flew from New York City to my home, Pittsburgh, Pennsylvania, then to Oakland Army Base, and then to Hawaii for assignment at Schofield Barracks in training with the 52d MI, which was being formed at that time. Then I deployed. I was there in Hawaii from October to December, and in December I deployed to Vietnam with 11th Brigade on board of USNS Wiggly (phonetic).

Q. Dr. LABRIOLA, since the My Lai incident became known to the public in September or October of 1969, have you had any discussions with personnel from your detachment or from the Americal Division?

A. Yes, sir. I had discussions over the telephone with a lieutenant who was in the 52d MI with me. His name is William HAWKINS. He was in the counterintelligence section, and we talked together about the My Lai business, the likelihood of it's happening. It was a major news item as you know, or still is, but to the best of my recollection, he was the only member of my detachment with whom I have spoken about the My Lai incident.

Q. Did he have any knowledge concerning the incident?

A. No, sir, no knowledge. That is other than what we know through mass media, news clippings, and discussion among ourselves. He has no more information than I have available, as far as I know.

Q. Have you had any conversation with anybody else that may have been from the 11th Brigade or from the Americal Division?

A. I talked over the telephone with Lieutenant Colonel James A. FRANKLIN, who was the battalion commander of the 3d Bn, 1st Inf., 11th Infantry Brigade, about the My Lai business, but that was indirect. That was mentioned parenthetically in a telephone conversation about 2 months ago. He was calling me from his home in Arlington, Virginia at my home in Williamsburg to invite me up to his home for a kind of party. A company commander of his in the 3/1, a Captain Joe RINEHART, was visiting Colonel FRANKLIN at the time, and Colonel FRANKLIN wanted to know if I could come up for a party that evening. I said that I could not, and I mentioned something like, "Gee, what do you think about this My Lai business?" And he said, "Well, Doc, I really don't know anything about it. It's unfortunate." And then we talked about Captain RINEHART who had finished up the career course at Fort Benning and is presently, I think, at West Carolina College studying for a degree. I think maybe it's a bachelor's degree. I don't think he's completed that. He's still in the service. I think, in fact, he's on the majors list. I bumped into Colonel FRANKLIN by intention. I visited him in his office today at the Pentagon. He was just about to fly to California and he said, "Well, why are you here?" I said, "Well, I'm

going to talk today to the General PEERS' Committee." He replied, "Well, I hope all goes well." And that's the nature of my discussion with members of the 11th Brigade.

RCDR: Excuse me, sir. Dr. LABRIOLA, could you speak up just a little bit please. We're having a little difficulty hearing you.

A. Yes.

RCDR: Thank you.

IO: What was your first knowledge of the operation of Task Force Barker into the Son My or the My Lai area?

A. You're referring to this specific March--

Q (Interposing) This area here that we have--generally this is the area in which they operated (indicating on Exhibit MAP-5). You will notice Quang Ngai City is just in the southwest corner. It's at the eastern end of Son Tinh District.

A. You're asking me about that specific My Lai operation or the first deployment of Task Force Barker? The actual operation--

Q. (Interposing) I'm talking about the actual operation.

A. Yes, sir. Again, to the best of my recollection, I was not involved in designing the operation. I've thought this through and I've anticipated this question. To the best of my recollection, I do not believe that intelligence generated by my unit, the 52d MI, was utilized to plan this operation. I say that as preparatory material because my first information about the operation occurred when the INTSUM for the day's activity was prepared. I was on the distribution list for the INTSUM and I read the results of the action, grid coordinates, et cetera. I'm trying to recall the INTSUM. I hope I'm not confusing what I read on the INTSUM with the brigade newspaper called, The Trident. I think the body count allegedly as a result of the operation was approximately 128 killed and I think 3 to 5 weapons were recovered. That's what I know about the operation. I believe that I heard that that involved Task Force Barker. I didn't know the specific company. Incidentally, Task Force Barker against, allegedly, the 48th VC Battalion. And again 52d MI, to the best of my recol-

(LABRIOLA)

5

APP T-179

lection, was not involved in planning that operation; and I can tell, at length, why I think we were not. But I learned about it through the Brigade newspaper, The Trident, plus stateside clippings sent me a few weeks afterwards by my wife from Pittsburgh, Pennsylvania newspaper, "128 Reds--or Communists--killed, 11th Light Infantry Brigade, the major action of the day in Vietnam." And that, I think, answers your question, when I first learned of it, to the best of my recollection.

Q. Do you recall that one of your officers and one of your interpreters was on this operation?

A. Sir, I believe, I don't know with certitude, that I had assigned a Lieutenant Dennis JOHNSON to work with Task Force Barker. As you know, Task Force Barker operated in the northern AO and we were split from them. I think they, Task Force Barker, wanted some intelligence support. And I detached JOHNSON from our 52d MI and attached him OPCON to Task Force Barker. He worked out of the TOC and I believe he was under the supervision of the Task Force Barker S2 or S3 or Colonel BARKER himself. The interpreters were rotated because JOHNSON allegedly had personality conflicts at times with some of the interpreters. He would say, "This interpreter doesn't know English well enough, can I have another interpreter?" I don't know the specific interpreter that he had. I don't know with certitude that he was there at that time. Why? I would assign him to Task Force Barker. He would go there for maybe 2 to 3 weeks and then would come back in the evening for kind of an R&R. He'd have his bed, beer, Coke, watch a movie, read paperbacks, etc. And then he would say "It is slack for me there in the Task Force Barker area, I checked with so-and-so, and they said I could come back for a day or a weekend. I'll take a helicopter up with the mail maybe 5 o'clock tomorrow morning." Then he'd go about his business, you know, having a beer and more or less relaxing and recuperating. And he'd go north. He did not report to me the result of his operations because the intelligence generated--he was satellited on the staff there and the duties were, as far as I know, to conduct interrogations at either LZ Dottie or LZ Uptight. The Task Force Barker S2 or S3 would be there and Colonel BARKER himself. Intelligence was generated locally and consumed locally. There were no written reports. It was acted on immediately. Sometimes he went into the field and this was a constant preoccupation with him. He'd come back and say, "Captain LABRIOLA, I'm afraid of the AO up there. There are many mines and booby traps." And I said, "Well, you can come back here and we'll rotate people in the detachment through that slot." And he said, "Well, it's

a conflict in my mind between the boredom of shuffling papers down here. At least serving with a line unit there is some break in monotony up there." I said, "Well, you can stay you know. Which do you prefer?" I said, "If you wish to go back, that's fine." He'd say, "Well, I'll spend 2 days here and then I'll check in, hit Ray--his supervisor there--over the phone. He'd say 'Come back up. We have an operation planned.'" I don't know that he was on the My Lai operation. I do not know. I do not know that he was at Barker. He could have been back at 52d MI. I had had no contact with him. He did not report to me the result of My Lai. The only things he said about Task Force Barker were that Colonel BARKER was a very competent commander. He enjoyed working for Colonel BARKER. I got some feedback when BARKER's staff officers would come down to Duc Pho and they'd bump into me inadvertently, "JOHNSON's doing a good job. We'd like to continue to have him." And I told this to JOHNSON when he was down there, "I know it's hazardous, but they like the work you're doing. If you care to go back, okay; if not, we may have to disappoint them, but we'll send someone. He may not be, you know, as good, et cetera." He said also there were many hardships, that is they didn't have all the luxuries that we had. I always said the same thing about division and corps level. But the point is, as far as I know, he did not report to me the results of this action. That was a different war, a different AO, and it was a local force unit. The bulk of my effort, the thrust of it, was directed toward the Duc Pho-Mo Duc AO, south of the Task Force Barker AO. As far as intelligence for that operation, may I talk about it?

Q. Yes.

A. I think that the intelligence, this is pure speculation, may have been generated through contact with the province headquarters at Quang Ngai City. I know that because of the proximity of Task Force Barker, their AO, to Quang Ngai City and the Binh Son, Son Tinh district headquarters, that I think there was close liaison between the MACV advisors plus the whole 2d ARVN Division. I think that operation may have been a northern planned and executed operation if you follow my reasoning here. In other words, my southern unit was not involved in generating intelligence.

Q. Did you ever get up to LZ Dottie to talk to the staff of Task Force Barker?

A. Sir, I never set foot in the Task Force Barker AO during my whole tour of Vietnam. I flew over it en route to Chu Lai.

Q. Well, I'd like to get a little more information on just how well Lieutenant JOHNSON fitted into this staff. Who was it that indicated he was doing a bangup job there?

A. Yes, sir. Major Charles CALHOUN, who was the brigade S1, I think, then became the Task Force Barker S3/XO, I think. When he would come back on a chopper to Duc Pho, I think occasionally he would attend the evening briefings and sit in and have dinner at Colonel HENDERSON's messhall. I ate at Colonel HENDERSON's messhall because I was a special staff officer, I guess I was called. That was my position. And Major CALHOUN, I think I sat at a table with him one evening. This is surmise--either we were having a drink beforehand or exiting the messhall and I bumped into him afterwards. He said, "We think Dennis JOHNSON is doing a fine job. We'd like to have him continue working there." And I believe Colonel BARKER, speculation, might have mentioned that one time too when he flew down for a battalion commander's conference with Colonel HENDERSON. I was sitting in the back of the briefing tent, and on the way out Colonel BARKER said, "I think your man JOHNSON is doing a fine job." That sort of thing. I got the impression that he was, certainly, from these comments.

Q. From your connection with the 52d MID, what do you think JOHNSON's job was there with Task Force Barker? What was he really supposed to do?

A. In my opinion, well, I assigned him to Task Force Barker, OPCON with Barker. I thought he was supposed to interrogate, along with the interpreter, prisoners who were brought into LZ Dottie, to elicit information of immediate tactical value; or accompany field commanders, then he would fall under their supervision, a company commander, into the field to interrogate prisoners on the spot, and I believe he had done this on occasion, to elicit information of immediate tactical importance. That was his mission as I understood it.

Q. Well, was part of his mission also to report anything of intelligence value that he saw or heard?

A. I would say so, sir, yes. Probably--

Q. (Interposing) Implicit within his instructions then?

A. Yes, sir. He was to generate intelligence that was to be generated locally and consumed locally by Colonel BARKER and his immediate staff. I would assume, yes, that part of his instructions implicitly would be to report all intelligence information, I would assume, to either the--I believe he worked for the task force S2. I believe it was the task force S2.

Q. Do you know the name of the task force S2?

A. Yes, I know how to pronounce it. It was KOTOUC. What contact did I have with Captain KOTOUC? None since Vietnam. And in Vietnam I saw him one time. I was going over to Colonel BLACKLEDGE, Lieutenant Colonel Richard K. BLACKLEDGE, the brigade S2, to Colonel BLACKLEDGE's in-box to drop off some intelligence we had generated that day. And he was talking with a captain who then left. He said, "Oh, I would have introduced you to Captain KOTOUC, the Task Force Barker S2." To my recollection that is the only time that I ever saw Captain KOTOUC and I did not ever speak with him on the radio or telephone.

Q. Well, let me ask you a couple of questions of opinion.

A. Yes, sir.

Q. Not only of opinion necessarily, because you're familiar with MACV, III MAF, Americal Division, and 11th Brigade instructions. If Lieutenant JOHNSON or anybody else in your detachment had seen a war atrocity or a war crime or a crime against humanity committed, would you expect him to report it?

A. Yes, sir, I would expect him to report it.

Q. If any individual of your detachment saw a mistreatment of a prisoner to include the execution of a prisoner of war, would you expect that to be reported?

A. Yes, sir.

Q. When, after this operation, JOHNSON returned to Duc Pho, to LZ Bronco, did he report to you anything which he had seen or heard?

A. No, sir, he did not. He did not.

Q. If he had not reported to the task force, would you have expected that he would report to you?

A. No, sir. As I construed his mission, he should report his intelligence information and other business that was generated there in that AO to the task force staff or to Colonel BARKER. He did not report to me, nor did he write after action reports on the basis of intelligence generated or intelligence elicited through interrogation. He did not report to me about the Son My-My Lai action. He did not report to me specifically about other operations other than to say that on a particular day a few weeks ago he may have been in the field and was afraid of the mines and booby traps and saw someone maimed because of a mine or a booby trap detonated. His reports were more in the nature of terror and fear, quite certainly, of being harmed physically. I'm not suggesting that he was a timid individual. I think we were all--

Q. (Interposing) Well I think you can go on with that conversation a little further. Yes, I am interested in knowing just exactly if he did persist in telling you about the mines and booby traps.

A. He mentioned a few times that he was a little afraid of--he didn't want to be maimed or killed. That's what I recall. That was the theme or tenor of the conversation. He did not report to me intelligence, for example, today, Captain LABRIOLA, we encountered such-and-such, a local force unit and we interrogated this prisoner. This was the information elicited. That wasn't the nature of his reporting to me. If he had such information, he was to have reported it to the task force where it could have been utilized in that northern AO. But he would say, "I'd like to have another interpreter because this interpreter's English isn't good enough." Or, "This interpreter's lazy, he doesn't like to trudge in the field." Or, "I work better with another interpreter." And then I'd say, "Well fine, if we have the resources." I'd have five interpreters who would like to go up too, or I would simply choose one.

Q. Do you know the name of the interpreter that he had with him on that particular date?

A. No, sir, I don't. I don't know. I don't know, again, with certitude that he was there on that particular date.

He may have been. I do not know with certitude that he was. I know the name of his favorite interpreter. I think it was, he called the man "Trung Si." I don't know how that's spelled, but I don't know that this "Trung Si", a staff sergeant, ARVN, was with JOHNSON that particular day. He used a few interpreters.

Q. Were you at the briefing on the evening of 16 March 1968, at which time the results of this operation were made known to the staff and the command of the brigade?

A. I don't recall, sir. As the CO I believe I should have been unless I were ill and I had a substitute. But I believe that perhaps I was there. As part of my job I attended the evening briefing. I don't recall that specific briefing, no.

Q. Well, your figures that you cited are basically correct: 128 enemy KIA, 2 friendly KIA and 3 weapons captured.

A. I believe they were derived from the INTSUM or The Trident, the brigade newspaper, as I relayed those figures to you.

Q. In your location at LZ Bronco, you were quite close to the PIO shop, weren't you?

A. Yes, sir, maybe 25 meters.

Q. Did you ever see any pictures they turned out as a result of this operation?

A. No, sir. I didn't.

Q. Did they normally make it a practice of showing you pictures?

A. No, sir. PIO pictures of actions?

Q. Yes.

A. No, sir.

Q. Do you recall specifically who it was that was talking about this 128 versus 3 weapons?

A. No, sir, it was in a situation like this with a group of men, I believe. I incline toward the theater, or the tent that became a theater at night to show a movie. I incline toward that. I can't say with certitude that it wasn't the meal situation, but sitting next to each other in a room with folded chairs like this. "Say, did you hear about the action?" Well, apparently someone mentioned behind me or in front of me the enemy had eluded, we pursued, they doubled back, and the enemy policed up the weapons, but didn't have time to pick up the KIA's or conceal the bodies. And then we came back, stuck with the bodies, but not the weapons, in a sense.

Q. Do you recall any discussion over this disparity of the ratio between enemy KIA and weapons?

A. Yes, sir. And I'm trying to determine a context. In one of two contexts, to the best of my recollection, either at an evening meal that evening or the evening afterwards. And I don't recall personalities. Or an evening in a darkened tent for an evening movie at LZ Bronco. Both situations, LZ Bronco. Someone mentioned, I believe, I don't recall the name, "Did you hear about the big action up north?" It was a general question because we were sitting here, let's say waiting for the movie to go on or during the change of reels, let's say, or after a course of a meal had been served and the dishes removed, having a cigarette or a cigar. "Yes, gee, 128 killed, why do you think only 3 weapons were recovered?" And this opinion was adduced at that time; from whom, I don't know. It is "they" said vaguely that the American unit of Task Force Barker, and the company wasn't mentioned, pursued the enemy unit off the battlefield. The enemy unit successfully eluded and returned to the scene of the battle, policed up the weapons, and then our troops came back later and found the KIA; the enemy KIA, not the weapons. And it was in that context that that remark was made, and that, to my knowledge, was the only remark that I heard about the disparity at that time.

Q. Well, from your knowledge, though, that would be pretty much a bunch of hokum, wouldn't it? Knowing the strength of the 48th Local Force Battalion, which has been reported as being somewhere between 200 and 250, if they killed 128 of them, there wouldn't be many of them to double back to pick up the weapons, would there?

A. It seems they'd be running in the other direction.

Q. Well, in addition, you also have to put in a wounded ratio in there. So by the time you got through, that outfit would be practically decimated.

A. It seems that would seem so, yes.

Q. Well it seems to me it would be.

A. Unless they had reinforcements and the battalion had been reinforced, that there were more than 250 to 300 estimated. Maybe a regimental drive. Yes, but if we assume that what you say is true, that this was, per se, the 48th VC Battalion alone and unreinforced, then it seems implausible.

Q. In the process of your duties, Dr. LABRIOLA, did you have access to some of the VC propaganda coming out of the field?

A. Occasionally VC propaganda would be brought in, leaflets and things of that nature, yes, for interpretation. I had the bulk of the interpreters and maybe a field commander or a brigade staff officer would send over a leaflet. I'd have them write out a translation and dispatch it back to the staff officer who requested the interpretation or translation.

Q. Yes. About this time do you ever remember a piece of VC propaganda being sent over to you or to your translation section for translation which concerned possibly something unusual happening at My Lai (4)?

A. No, sir, I do not recall.

Q. Or Son My, or the Pinkville area?

A. No, sir.

Q. Does the name Co Luy mean anything to you? Spelled C-O L-U-Y, Co Luy?

A. C-O L-U--

Q. (Interposing) C-O L-U-Y.

A. No, sir.

Q. Do you recall ever seeing that written?

A. No, sir.

Q. How about Tu Cung, T-U C-U-N-G?

A. No, sir, to the best of my recollection, no.

Q. I have here a piece of Viet Cong propaganda which has been entered into the record as an attachment to 8Exhibit R-1. I'd like you to look at this, Doctor, if you would and tell me if you've seen anything such as this?

A. No, sir, I don't recall at that time, having seen that particular item. If I did see it, I have completely forgotten and this does not resurrect in my mind that I saw that specific piece of literature. I'm speaking of colored, a particular kind of question, leaflets as I recall.

Q. You would had to have seen an English translation. We are surmising that this is a bit of propaganda that was broadcast, taken note of in Vietnamese, and subsequently translated. But if you'd seen the information, for example, provided in the second paragraph on the second page, it's very likely that you would have remembered that.

A. Again, I can't say with certitude that I did see this particular document. I'm sorry that I can't be more specific.

Q. Well, if you didn't see it, I can hardly--

A. I just don't recall it.

Q. All right, that's fine. I have here another. Actually this is a notice issued by the Quang Ngai National Liberation Front Committee. Here is the form, and this has been entered into the record as Exhibit M-35. This is the form that it took in its Vietnamese version, which does not come out too clean. But the way it's prepared may possibly refresh your memory. And on top of it is the English translation.

A. Do you want me to read through the English translation?

Q. I would skip through it, Doctor. You should recognize fairly soon whether you've seen it or not.

A. Again, to the best of my recollection, sir, I don't recall having seen this particular document. I have read a newspaper recently that there was VC propoganda about this incident, but I do not recall having seen this document.

Q. Yes. Referring back again to the previous exhibit, here is a statement dated 14 April, which is also enclosed as an attachment, and I would ask you if you've ever seen that particular document?

A. To the best of my recollection, I don't recall having seen this particular document.

Q. You will notice that in the opening paragraph, Doctor, it says that in a letter from Son Tinh District chief to the Quang Ngai Province Chief, and then in the paragraph following there, it says that Son Tinh District chief received a letter from the village chief of Son My Village. Were you ever made privy to either of those documents?

A. To the best of my recollection, no.

Q. I have here Exhibit M-34, which is a report from the district chief of Son Tinh District to the province chief of Quang Ngai Province. I would ask if you've ever seen this document. The Vietnamese version is directly underneath it.

A. I don't recall having seen this document.

Q. Here is the report from the village chief.

A. I don't recall having seen this.

Q. Would you expect in a normal course of events that as this information became available to Son Tinh District, to Quang Ngai Province, to the 2d ARVN Division, that you as the commander of the 52d MID would have had a copy of this made available to you?

A. Perhaps I may have been on the distribution list. I don't recall having seen copies, to direct myself at your question specifically. Perhaps I should have been on the distribution list. I should have been apprised of the nature of the contents. Perhaps if I were not, the reasoning was because of the split AO. The intelligence operation that I was fostering and developing was really apart from what was happening up north. I can only speculate. These may have been extenuating circumstances.

Q. Yes. Did you keep fairly close contact with the G2 advisors of Quang Ngai Province?

A. No, sir. I had contact through--I was never in Quang Ngai City, never set foot in Quang Ngai City. I never met the American G2 advisor in Quang Ngai. I never met there in Vietnam any of the staff, the American staff, intelligence staff, or otherwise from Quang Ngai City or in Binh Son or Son Tinh Districts.

Q. Were you ever aware that in the time of March, April, May from your contact with the brigade, that an investigation was being conducted within the brigade?

A. No, sir. No, sir. I assumed that if an investigation were being conducted, that it would fall within the purview probably of the CID or the provost marshal's office. I was not apprised of an investigation. I had no knowledge that an investigation was being conducted.

Q. Did you have any knowledge of an ARVN or GVN investigation being conducted?

A. No, sir.

Q. Did you ever hear of any rumors or statements, other than the one you've just indicated having to do with the 128 versus 3, anything in addition to that which may have caused you to suspect that something unusual may have taken place in that area in about the middle of March? You might think about that a moment. Possibly you might have heard something at the club with the 174th Aviation Company, sitting around having a beer, or whatever you might do.

A. I anticipated the question and I've thought about it at length. Again, to my knowledge, other than the disparity between the 128 killed and the 3 to 5 weapons recovered, there's one other piece of information through hearsay that came my way, not in my official function as military intelligence detachment commander, but just as a body who happened to have ears. I overheard, I don't know the men, I didn't know them then, something about civilians being killed up north. Son My was not mentioned, My Lai was not mentioned, up north was mentioned. Someone had been at division and they at division said something about innocent civilians being killed. And these

people as I walked by, and I believe that was the context, said they believed the innocent civilians were killed in an operation inadvertently by an artillery prep and gunships firing into a populated area. Now, I'm making the connection as a possibility maybe up north refers to Son My-My Lai. They were not mentioned. Grid coordinates weren't mentioned. Source of information? I don't recall the personalities. It was hearsay. I was walking by. This was LZ Bronco and Duc Pho outside my detachment area. The source of information as a party relaying information to other people, said that they had been at division and those people at division said that innocent civilians were killed somewhere in relation to Duc Pho up north, I believe.

Q. Did they say who at division said what?

A. No, sir. They didn't mention, for example, the division staff, division aviation, division logistics, or whatever the other specific units are. Only "someone," or "they" or "those people." Very vague and indefinite, I know. If I had information--certainly I know how disconcerting it must be from your point of view. That is very general and vague and inspecific. "They" at division said something about it.

Q. Do you recall who these people were that were doing the talking?

A. No, sir.

Q. Do you know most of those people down there fairly well, Doctor?

A. I didn't know some of the enlisted men very well.

Q. Were these enlisted personnel or were these officers that were talking?

A. I don't recall.

Q. What is your impression of Lieutenant JOHNSON? How was he?

A. Lieutenant JOHNSON, I felt his strength was probably working with the men in the field. Again, I have only reports from commanders who have used him in the field, usually in the sense that he was an intelligence officer on the spot.

I've never been in the field myself. I was strictly kind of a base camp, desk officer manipulating intelligence as it came into my office, so I could not evaluate him firsthand. What I give you in the way of an evaluation is secondhand from me, firsthand from people like Major CALHOUN and probably Colonel BARKER himself. I don't recall anyone else who may have praised JOHNSON. But I generally got the impression that JOHNSON felt that he preferred working in the field rather than doing a desk job, to be quite frank with you, paper shuffler and pusher back at base camp. He didn't like the routine of writing reports. That was a difficulty because I or someone would have to rewrite the English of the reports, do you follow, before they were typed. And as JOHNSON preferred to generate intelligence on the spot, it was consumed tactically and locally rather than having to go through the business of recording it in English and structuring. I was kind of meticulous about, you know, paragraphs, et cetera; but we would always have to rewrite his work, in short, and when--

Q. (Interposing) Did you have to prepare an efficiency report on him?

A. Oh, yes, I did prepare an efficiency report on him.

Q. What would you base your efficiency report on if you didn't know what he was doing up there and check into his work and so forth?

A. Well, primarily from the reports from the field commanders that he was doing good work up there, that he had served with Task Force Barker from the southern Chu Lai TAOR, the Operation Muscatine TAOR, and then when he worked with us at base camp he worked long hours. The problem was that he needed to perfect his writing. I worked with him on sentence structure, et cetera, and he seemed very willing, able and eager. He just preferred working in the field.

MR MACCRATE: Do you speak Vietnamese, Doctor?

A. No, sir. I had a smattering of it, 8 to 10 weeks. I arranged a course at the Schofield Barracks in Army Education (East) and we spent 6 weeks. I know a few of the basic phrases like "What time is it?" (witness speaks in Vietnamese.) I'm sure I have the pronunciation wrong. I cannot speak or I cannot understand Vietnamese when it's spoken rapidly.

Q. You yourself used various interpreters that were assigned to your MI Detachment?

A. Yes, sir.

Q. Were there any ones in whom you developed particular confidence and with whom you recall working better than others?

A. I really myself didn't perform any interrogations. I was the section chief, and again, the raw reports on legal pads would come from my interrogators and I'd try to coordinate the intelligence information, rewrite the reports, polish them, in preparation for the typing. Then they'd be forwarded to Colonel BLACKLEDGE, the brigade S2. I don't recall that I developed rapport with any interpreter. Now my various interrogators performing the individual interrogations may have expressed preferences, but I can't relate individual interrogators at this time who preferred interpreters and say that specialist so-and-so liked to work with this interpreter. I think over a given long haul, personality conflicts and an abrasive relationship also may inevitably develop in that sort of thing. And the men tended to rotate through interpreters, as I recall.

Q. But you yourself didn't really get to know any of the interpreters?

A. I myself performed, I would try estimate the number of interrogations, not too many. As section chief it really wasn't my job to perform specific interrogations. I directed the team of interrogators. I did a few reports, however, when I first got there, so I knew what my men would be doing. But that was right after the brigade arrived in December or January.

Q. Now I'd like to show you a series of photographs that have been marked in this record as Exhibit P-8, P-10, P-21, and P-22. Perhaps you can identify some of the individuals in these photographs.

A. Yes, I think I can. How do you want me to?

Q. Just give us the number and identify.

A. Number 10, the man on one knee here with the weapon on its butt pointing upward looks to me to be First Lieutenant Dennis JOHNSON, the man about whom I'm speaking. This looks again like Lieutenant JOHNSON and this appears to be an interpreter with the 52d MI who was with JOHNSON, I assume, on this operation. Staff Sergeant--his last name I recall--MINH.

Q. This in P-21?

A. P-21, yes. The caucasian is JOHNSON, and the ARVN, I think, is MINH, M-I-N-H. Staff Sergeant MINH, who I assume was there with JOHNSON because he was the interpreter for that particular operation wherever it was taken.

Q. Was MINH a favorite of JOHNSON's or was it another individual to whom you referred as being his favorite?

A. I think "Trung Si", whom JOHNSON called "Trung Si" was JOHNSON's favorite interpreter.

Q. And he was not MINH?

A. Oh, no, sir, no. They're two different people, right. Yes, sir. Why, "Trung Si" had a girl friend in Duc Pho and would only tolerate this kind of thing up north for so long. In other words I could keep him up there for a month, and then I'd have a morale problem with "Trung Si". He'd come down with his girlfriend, and I'd rotate maybe MINH or one of the other interpreters. That's the reason, plus the fact that "Trung Si" I think, lived in a city, South Vietnamese type, maybe from Saigon, and he wasn't the country type. He didn't like the boondocks for various reasons.

Q. Do you recognize anyone in the other photographs?

A. Yes, I think again this is--I don't recognize the old South Vietnamese gentleman. This is Dennis JOHNSON, I believe, here, and this looks to me again to be Staff Sergeant MINH.

Q. In P-22?

A. P-22. This looks like MINH here standing in P-8. I don't--

Q. (Interposing) Do you recognize the individual on the telephone in the background?

A. I recognize him through current mass media publications, but I have never met, I assume, it's Captain MEDINA.

Q. Yes.

A. Nor have I ever spoken with Captain MEDINA or Lieutenant CALLEY. Incidentally, but from mass media photographs-- is this a Time magazine or did part of this appear maybe in Time or Life?

Q. It may have.

A. That's how I recognize him, but not from first-hand knowledge.

Q. Doctor LABRIOLA, did you have any procedure by which you attempted to gather information from among your interpreters? Were they the source of any intelligence information to you?

A. The interpreters, sometimes after an interrogation was performed, and the interrogatee would be taken back to the provost marshal's compound, would give a personal estimate to the interrogator who may have relayed that personal estimate to me. "That man lied," or "I think he knows more than he has said," or "What he said is somewhat colored."

Q. Was there an interpreter's tent at Duc Pho?

A. Yes, there was an interpreter's tent at Duc Pho, yes.

Q. And they would live there together when they were not out on assignment?

A. Yes, six or seven of them shared the same basic, I guess it's a squad, maybe it's not called a squad tent, but, yes, a large tent.

Q. Well, was there any member of your detachment who made it a point to sort of look after the interpreters there?

A. Well, some of the interrogation officers may have had closer contact with them.

Q. It's our information that Sergeant MINH was very troubled about this operation from what he had observed, and we have been seeking avenues as to whom he might have spoken upon returning to Duc Pho after the operation.

A. Yes. I can say with certitude that he did not ever speak with me about My Lai-Son My, and I'm about to say, or any, but I have to qualify that. My closest affiliation with MINH came with an incident when MINH and a group of my interpreters were leaving, and this is unrelated to the Son My, leaving LZ Bronco and got into a fight or ruckus with the provost marshal's men. The provost marshal's men wouldn't permit my interpreters to leave without a pass or having them back, I don't recall the details, at a certain time. And then I escorted the men, the interpreters, back to their tent--that kind of ruckus. But I then talked with MINH more at that point than at any other point about himself and that sort of thing, American troops in general. That sort of thing. But MINH did not mention to me the My Lai-Son My incident.

Q. What were your relations with Colonel HENDERSON?

A. Well, he was the brigade commander. I never talked alone with Colonel HENDERSON during my stay in Vietnam. By that I mean the two of us alone. Or even though other people were here, two of us saying things in confidence to each other, although you may be here and me standing here. Strictly a business relationship. I was in his business tent only once and he wasn't there. He made a request at a briefing. He said--I was in the field visiting with a company commander and he said that they don't have the bore brush that's used for the M-79 grenade launcher. Colonel RUSCHE, who was the battalion commander of the 6th Support Battalion was there. Colonel HENDERSON asked "What is that called? Can you find out for me what it is?"

Colonel RUSCHE said, "I don't know." That evening I went back and I looked through some manuals I had on care and cleaning of the M-79, and I gave him the federal stock number. I wrote it down on a DD Form 95 and I walked over to Colonel HENDERSON's business office. I knocked, there was no answer, and the staff officer said, "Who do you want?"

I said, "Colonel HENDERSON."

He said, "He's not in." He said, "What do you want specifically?"

I said, "Drop this in his in-box. He made a request for information at the briefing. I think I have even the federal stock number for the information that he wants."

And he said, "Well, here's the in-box," and I put it in his in-box. That's the only time I've been in his business office. I visited him in his trailer once with Colonel BLACKLEDGE. He lived in an air-conditioned trailer. He took me over because my CI section, I was commander of 52d MI, said that one of our good South Vietnamese reliable special agents said that an enemy force would be passing a certain intersection at a certain time en route to conduct a sapper attack against Bronco. I mentioned this in the presence of Colonel BLACKLEDGE to Colonel HENDERSON who wanted to direct H&I fire on a given grid coordinate. I don't offhand recall what his decision was. They may have pooped out a few rounds but--

Q. (Interposing) So that almost all of your contact within the brigade were with the S2?

A. Yes, sir. He was my immediate staff supervisor, Colonel BLACKLEDGE, exactly. I saw Colonel HENDERSON at the evening briefing and never talked to him privately. I filtered all of my information through the S2 who evaluated it because he had information I didn't have. He had the contact with RRU, the Radio Research Unit, which I didn't have.

Q. Well to your knowledge, did he have any greater contact with province or district advisory teams there than you did?

A. I don't know. He may have traveled by helicopter as the Brigade S2 to Quang Ngai City, let's say, to attend the staff briefing. The Duc Pho MACV advisor, Major SMITH at the time, would come to Bronco and he would not talk with me. He never came to see me. He would go to Colonel BLACKLEDGE or Colonel HENDERSON. He had sources of intelligence, you see, that Colonel BLACKLEDGE would not necessarily relay to me what Major SMITH, the MACV Duc Pho advisor told him. So in that sense he had contact with MACV personnel that I didn't.

Q. What's your evaluation and your relation with Colonel BLACKLEDGE?

A. Well, I think it was a very, very good professional relationship. Occasionally we had a beer together in the evening, but it was usually about business. I never recall discussing anything extracurricular with Colonel BLACKLEDGE. He was, you know, very dedicated to intelligence and that sort of

thing. And we would talk about it over a beer, what the enemy might be doing, and that sort of thing. I think it was a good, healthy, professional relationship. I think he liked my work. He had said that he liked my work, so I believe that he did.

IO: How would you classify him as an intelligence officer?

A. I think Colonel BLACKLEDGE was a very, very good intelligence officer. He would spend many hours into the night, maybe until midnight, absorbing the data that was funneled into his office from various sources. He was inundated with paperwork. He had a very remarkable memory, I think, for detail, for grid coordinates, hamlets, and villages. I think his public briefings in the evenings weren't as polished as they might be, but apart from that I think he was a good interpreter of intelligence. I don't know what his rapport with the battalion commanders may have been. I don't know, they may have relied more on intelligence gathered by their own soldiers through observation than on intelligence provided by him to them. I just don't know what his rapport with the battalion commanders might have been, but I think he was very dedicated and certainly zealous.

MR MACCRATE: What seemed to be his rapport with the Brigade commander?

A. I just don't know, that is Colonel BLACKLEDGE never told me that Colonel HENDERSON said that I was inadequate or adequate or thought that I was doing a good job, and I never observed any personal confrontations that would indicate to me that Colonel HENDERSON either thought highly or lowly of Colonel BLACKLEDGE. I would get the im--

Q. (Interposing) Did you get the impression that Colonel BLACKLEDGE was a confidant of Colonel HENDERSON?

A. I would say offhand, no, that Colonel BLACKLEDGE, this is my "guesstimate," and Colonel HENDERSON weren't close in that sense.

Q. Well, was there anyone within the brigade that, in your observations, Colonel HENDERSON did spend more time with than others, to whom he seemed to look as a confidant?

A. I could not observe his relationships with the battalion commanders. I feel personally that he had greater

affinity for his battalion commanders than he did for his brigade staff, S1 through S5, I mean obviously. I think, for example, he would develop greater rapport and have a more intense relationship with the field commanders. Colonel HENDERSON's problem, and you'll see I don't mean problem right after I qualify it, is that's he's extremely intelligent and he's very, very articulate. He is, in my estimation, the single finest officer I have ever encountered in 2 years in the service. Apart from whatever his connection may be with this, I don't know. I'm speaking only of his performance in briefings. He seemed to me to know more about what was going on in his brigade than the staff officers. He would have the S1 reporting on his specialty, S2, S3, S4, S5, and maybe have developed a blank spot or have given general information and he would've jumped in and said, "Do you mean?" He was very, very, specific, perceptive, and incisive, I thought. I thought that he knew what was going on, and I felt that he knew what was going on even when he was XO and General LIPSCOMB was commander of the brigade. I hardly ever saw General LIPSCOMB, but the point is that he was XO, and I guess he should, as I said. Colonel HENDERSON knew, to the nth detail, it seemed to me, what was happening in that AO in regard to the nature of a mine that had been detonated, who was injured, what unit, and he would even have to correct the brigade surgeon on occasion. He'd say, "say surgeon," over his shoulder, "that mine that was detonated at so-and-so, on Highway 1, grid coordinates, how about the man that you saw a few hours ago? What's the nature and extent of his injuries? What's his disposition?"

And the surgeon would say, "I think maybe a leg injury."

"Well, was it blown off or not?" And then Colonel HENDERSON sometimes would add, "Well, this is the nature, I think, of the injury and his disposition is 2d Surg at Chu Lai rather than down. It was a hostile act with (a designation) at Qui Nhon." In short, I can't exhaust superlatives. Again, apart from this business, I don't know what his affiliation was.

Q. Did you have any contacts with S5?

A. Captain KESHEL, I believe.

Q. Yes.

A. Yes. Well, I saw him at the briefings and he regularly gave an evening briefing, yes. And I had contacts because I had an agent, a Vietnamese agent, who provided intelligence information to my detachment, which would then be phrased as an intelligence report to be passed on to Colonel BLACKLEDGE who wished to have payment, not in piasters, but in rice. And I would go to Captain KESHEL and say, "Hey, Captain KESHEL, this particular agent wants 50 pounds of rice rather than 500 piasters." He would give me 50 pounds of rice from the quartermaster tent. We had maybe a couple hundred pounds of rice. Other than that there was an officer's club at Duc Pho, but it was built after I left. I think I had a beer or two with him; we had a beer occasionally. Other contact I may have had, not with him directly, but we would plan these operations, jamboree-type affairs, kind of a pacification business. And we would go to, not an outlying hamlet, but a hamlet on the periphery of Bronco and I think Captain KESHEL I guess was the overall supervisor. He would give candy to the children.

Q. Do you ever remember any problems he had with the division G5?

A. No, sir, I don't recall any problems that I can say with certitude. He never mentioned to me any problems that he may have had with the division G5. I know that he was interested in dropping leaflets. That's another thing, I would sometimes joke with Captain KESHEL about his leaflet drops. I said that you know the soldiers have to wait and waste time, but this information isn't relevant.

Q. Do you have any further recollection about this conversation you heard about the civilians being killed up north and a report brought down by someone from the division? Do you have any recollection of any of the auditors? Was Captain KESHEL among those that you seem to think of in the group, or was Chaplain HOFFMAN? Were you associated with any of the chaplains?

A. Chaplain HOFFMAN had a tent right across from where I lived and worked, but I don't think it was Captain KESHEL. The report, as I said, didn't come down from division. Someone had been at division.

Q. Well that's what I meant to capsule, what you had said. I understood you to say that someone had been at division, had heard this, and was coming in and talking about it at Duc Pho.

A. Yes. It may have been Chaplain HOFFMAN because I was walking from--I would have to always pass his tent, his area. I was walking through, I may have walked by his tent in the chaplain's area. It could have been Chaplain HOFFMAN. I don't know, with certitude. It didn't strike me because the reason deduced was artillery prep and gunships and it didn't strike me at the time as being significant. It may have been. It may have been the brigade surgeon, again, I just don't know.

IO: Doctor LABRIOLA, were you ever cautioned or did you ever hear anybody else cautioned concerning talking about anything that may have happened in the Son My-Son Tinh area in about the middle of March?

A. No, sir, I did not.

Q. Well, we appreciate very much your having taken time out to appear before this inquiry. Some of the things we have told you just may by chance fit into place with some of the information which you have stored in your memory. If this does bring to light some additional information which you have not provided here today, at a later date we'd very much appreciate you getting in touch with us so we could take advantage of this additional information. Moreover, if you have any documents of any kind such as memoranda, directives, letters, photos, aerial photos, or anything of this nature which may assist us in the purpose of this inquiry, we'd like very much to take advantage of those as well.

A. I have some information. May I bring it to light now?

Q. Yes, please.

A. Also on this issue, this may be somewhat significant, I hope you take into account the loss of memory, quite frankly.

Q. Oh, yes.

A. Is there anyone who said they told me--or can you answer that question--specifically?

MR MACCRATE: No, we have heard certain things said. You indicate to us that you heard certain things, and we're just trying to match conversations as we go along. There's no indication that I have that you were present when particular things were said.

A. You could mention a specific conversation or a specific person. I don't know the brigade surgeon or Chaplain HOFFMAN or Captain KESHEL, who told me or saw me walk by and thought that I overheard. That might resurrect or revive a memory. But I do have some information. Under Major FLETCHER, our former commander, we assigned an imagery interpretation officer to Quang Ngai City by the name of Lieutenant Victor MARTINE, M-A-R-T-I-N-E.

IO: MARTINE?

A. I think he pronounced it MARTINE. He was--I think he's still in the service, I received a Christmas card from him. He may be a captain now, but then he was a first lieutenant in imagery interpretation. And Major FLETCHER felt that we should have an officer in Quang Ngai to accelerate the reports of intelligence that we would normally get. By that I mean Quang Ngai had a ditto machine and they would say, "Secret agent reports that: cache of rice located at these coordinates. Reliability: such-and-such." That's all. And I'd get a copy maybe 5 days after that date. Major FLETCHER said, "Well, in this war you need intelligence immediately. Let's get an officer up there who would get these reports, let's say, the day or the day after they're generated and funnel them down right away on a chopper." And that was his job. But he was in Quang Ngai City and again I--

Q. (Interposing) Why would you send a photo imagery interpreter to--with all the talent that he has--to be a passer of messages which you could probably assign to a smart E-1 or E-2?

A. We had more I&I types than we needed at this time, and this man has an ability to establish rapport with people, I feel, and elicit information quickly. That was the nature of his assignment. He is not connected at all with My Lai-Son My. The point is I'm saying that there was a 52d MI type in Quang Ngai City, the province capital, that's all I'm suggesting.

Q. Fine, okay.

A. He may be a little closer ground-wise to the scene of action.

Q. All right, fine.

A. Did I give you anything? I guess you expected a lot more from the MID commander.

Q. We're always hopeful. I would at this time say to you if you have any questions which you would like to ask of us, we'd be happy to try to answer them for you. Similarly, if you have a statement which you would like to enter into the record, we'll give you an opportunity to make such a statement.

A. I have no questions, and I do not want to make a statement for the record.

IO: The hearing will recess at this time.

(The hearing recessed at 1503 hours, 19 January 1970.)

SUMMARY OF TESTIMONY

WITNESS: LACKEY, Carl L. CW2

DATE OF TESTIMONY: 24 February 1970

PLACE OF TESTIMONY: Pentagon

WITNESS SUSPECTED OF: N/A

COUNSEL: None

DUTY ASSIGNMENT ON 16 MARCH 1968: Pilot, 11th Brigade, Aviation Detachment.

1. DESCRIPTION OF TWO INCIDENTS WHICH OCCURRED IN THE SON MY AREA.

The witness along with another pilot, CWALEVY, was in Vung TAU for LOH training from 14 March until 28 March 1968 (pgs. 2, 3). The witness recalled flying protection for Mr. HONDA, who was in a scout aircraft, on a mission in which they covered a rifle company (pgs. 2, 3). He did not recall the date (pg. 9). He stated that they approached from the south looking for a company to escort back to LZ Uptight (pg. 3). He recalled passing Hill 85, and near coordinates 720790 he saw a woman lying spread-eagled off of a trail with her stomach cut open (pg. 4). There was an 11th Brigade patch beside her (pg. 4). The witness called Mr. HONDA's attention to this (pg. 4). He was flying 10 to 20 feet off of the ground (pg. 5). After HONDA took a closer look, they went to the northeast where they joined up with a company in the vicinity of 728826 (pgs. 5, 6). After flying cover for 10 to 15 minutes, they detected some people running to the front of the company (pg. 6). Some of the people jumped into holes, into which the ships dropped tear gas (pg. 6). The witness stated that HONDA found a man lying in a ditch 25 to 30 meters from a trail (pgs. 6, 8). They notified the company of this and in four or five minutes two or three soldiers arrived, and one bayoneted the man and then shot the man's head off (pg. 7). The soldier had the bayonet

(LACKEY)

1

SUM APP T-389

fixed on his weapon (pg. 8). The company then moved on to the vicinity of LZ Uptight and the ships went back to the south (pg. 7). On their trip back, they saw several military-age males who evaded them (pg. 9).

2. REACTION TO THE SHOOTING.

The witness was disturbed by the incident, thinking that the Vietnamese man should have been taken as a prisoner (pg. 7). He did not recall discussing the incident with the company (pg. 7), although they were in contact with the unit at all times (pg. 9). The company commander spoke on the radio, but the witness did not discuss the incident with him, although HONDA "might have" (pg. 11). After HONDA's discussion was described to the witness, he did not remember the details, but stated that there was a discussion that was "a little harsh and strong" (pg. 12).

3. OTHER INFORMATION.

The witness knew RIDENHOUR, whom he described as being "strongly opinionated" and argumentative (pg. 13). He stated that RIDENHOUR was a fairly good doorgunner (pg. 13).

(The hearing reconvened at 1016 hours, 24 February 1970.)

COL ARMSTRONG: The hearing will come to order.

RCDR: The following persons are present: COL ARMSTRONG, LTC BRANDT, and MAJ COOP.

The next witness is Chief Warrant Officer Carl L. LACKEY.

(CW2 LACKEY was called as a witness, was sworn, and testified as follows:)

Please state your full name, grade, Social Security number, branch of service, organization, and station.

A. My name is Carl L. LACKEY, CW2, , and my duty station is 2d Armored Cavalry, Fort Meade, Maryland.

RCDR: You are in the United States Army?

A. United States Army.

COL ARMSTRONG: Mr. LACKEY, have you read the preliminary instructions (Exhibit M-57)?

A. Yes, sir. I have.

Q. Do you understand them?

A. Yes, sir.

Q. Do you have any questions about them?

A. No, sir.

Q. Mr. LACKEY, will you explain to us, please, your duty assignments during your tour of duty with the Americal Division, when you joined the division and when you departed the division, and the units you were assigned to within the division?

(LACKEY)

1

APP T-389

A. Yes, sir, I joined the division when the 11th Infantry Brigade entered country. I believe it was in November or December 1967. On approximately 3 or 4 July 1968, I was transferred to the 123d Aviation Battalion, B Company aeroscouts. During my tour there in the 11th Brigade my duties were to fly some of the command and control in the UH-1 and a few combat insertions and resupply. Most of my flying was in the H-23.

Q. During the period of March to April, then, you were flying for the brigade aviation detachment of the 11th Brigade?

A. Yes, sir.

Q. Since last September or October, which was when the news media broke the stories about the My Lai incident, have you talked to or discussed with any former member of the Americal Division who was with you at that time any of the incidents and details of this?

A. Yes, sir. I have talked with Chief Warrant Officer LEVY who was with me at that time. We discussed whether we recalled seeing anything or hearing anything about this.

Q. Had either one of you felt that you had discussed this or seen anything?

A. No, sir. We hadn't seen or heard anything on it.

Q. Mr. LACKEY, will you explain to us where you were located during the period of 15 March until about March 1968?

A. Yes, sir. According to the personal copy of my flight record from the 14th to the 16th, I believe it is, there was a period of not flying. There's no entry and then for a week there is a period of LOH-6A entries and then some more non-flying. I believe that we were at Vung Tau or en route to Vung Tau for LOH training or en route back.

Q. So really during the period of time from about 14, 15 March to 27, 28 March you were absent from the brigade?

(LACKEY)

2

APP T-389

A. Yes, sir.

Q. Do you know who else accompanied you on this training?

A. Yes, sir. Mr. LEVY accompanied me.

Q. It has been reported to us, Mr. LACKEY, that you occasionally flew wing or guardian ship to Mr. HONDA when he was flying scout duties, is that correct?

A. Yes, sir.

Q. In his testimony, Mr. HONDA remembered a flight in which his basic duty was to fly cover for a rifle company moving north toward LZ Uptight from a position apparently which was just north of the Diem Diem River. I'd like to identify this area for you so that you can testify further.

(COL ARMSTRONG oriented the witness to Exhibit MAP-1.)

Now that you are oriented on this map, can you recall a flight that you had when you were flying protection for Mr. HONDA when he was in the lower-level scout aircraft, during which he saw a corpse of a female apparently spread out with an 11th Brigade patch displayed on her body. He circled the body once and then continued on north. It is our understanding that you were on the way at that time to perform your cover mission for that rifle company. During the mission of covering the rifle company, an incident occurred with a VC suspect that Mr. HONDA had cornered in the field or rice paddy. The VC was subsequently "taken care of" by the rifle company. Then on the return flight Mr. HONDA reports that he spotted five or six military-age males again just south of the Pinkville area who he chased into a bunker and because of a shortage of fuel had to continue on back to Duc Pho without taking necessary action to eliminate them. If you can recall this flight, would you explain the details of any one of those things that you saw pertaining to the corpse that was spread-eagled somewhere in the vicinity south of Pinkville, or the incident that occurred about the cornering of a VC suspect in the rice paddy, and any other significant things that you can remember that would bring this flight back to your mind?

(LACKEY)

3

APP T-389

A. Yes, sir. I remember we came up from the south and we were looking for this company that we were supposed to escort back into Uptight. On one sweep we went by this village off to the right.

Q. Could you identify that village on the map, do you think?

A. I might be able to, sir. I'm not too sure.

Q. Take your time.

A. I remember crossing this road about here.

Q. That's 521.

A. Yes, sir, and following a trail back up this way. I'm not sure about where it was now. I remember going by this hill right here.

Q. Hill 85?

A. Yes, sir. It was along here somewhere in this area.

Q. Indicate that Mr. LACKEY is indicating an area in the vicinity of coordinates 720790.

A. I saw a woman lying off the trail. She was on her back, not necessarily spread-eagled, but she was lying on her back and she had her stomach cut open. There was an 11th Brigade patch lying beside her. I called this to the attention of Mr. HONDA.

Q. You spotted the corpse first?

A. Apparently so.

Q. You were flying at what level, would you judge?

A. Unless we were in contact or encountered a target, we never flew high and low, we just kind of flew around each other until we got something. Then one man would investigate or attack or whatever, and the other man would go high to cover him.

Q. At what altitude do you think you were flying in this instance, if you can recall?

A. I believe it was about 10 to 20 feet.

Q. You were about 10 to 20 feet off the ground?

A. Yes, sir.

Q. Could you identify for us just how far off the trail the corpse was?

A. Yes, sir. She was laying about 4 or 5 feet off the trail. Just right on the trail, sir.

Q. Did HONDA get a chance to spot this corpse, too?

A. I think he did. Yes, sir.

Q. Do you recall any gyrations of the aircraft? Did you circle or did he circle or what?

A. Yes, sir. I made a pass over her, and I believe he came down to look at her, I'm not sure about it.

Q. And then what?

A. Then we went on to the north and east and joined up with the company and we followed them along for a little while.

Q. Do you recall where you picked up the company? Can you identify that area on the map?

A. As I remember, it might have been this bend in the river right here (indicating). It was pretty shallow right there in spots, and there was a bridge across there. It was right next to a rise in the ground where the river curves, and I think they were back up in here (indicating). Or possibly down in here somewhere. Then the trail parted. Then there was the bridge, and we waited there at the bridge for them to cross.

(LACKEY)

5

APP T-389

Q. You picked up this company in about the vicinity of 728826?

A. It was approximately there, maybe a little south of there, sir. We flew cover for them for about, I would guess, 10 or 15 minutes. Then we detected some people running to the front and several people jumped into some fox-holes and disappeared.

Q. Do you think you can pick that out on the map?

A. It was approximately in the same area. Yes, sir. It was approximately in this area right here (indicating), this village right here.

Q. Do you remember the company actually going into that village?

A. We broke off right about in here, sir, and as far as I can remember their mission was to go back into Uptight.

Q. Mr. LACKEY has indicated that the mission of the company as he understood it was to march from the vicinity of the Diem Diem River to Uptight, that they picked them up a kilometer or two north of the Diem Diem River and gave them cover until they were within a kilometer of Uptight. Let the record reflect that the village that Mr. LACKEY described, where he first stopped the VC suspects, is located at coordinates 728828.

A. Sir, we saw the people jump into some holes, and we tried to flush them out by dropping some tear gas down in the holes and then just hovering around there or flying very close until they came out, but no one came out. One man jumped up temporarily and then back down again when he saw us, because when he saw us, he disappeared. Just shortly after that happened, within a period of 2 or 3 minutes, I believe, Mr. HONDA found a man laying in a ditch. We didn't know whether he was dead or not. He was lying very still, so I went down and hovered right next to him. We tossed a tear gas grenade down there to see if he was going to move or not and he moved his head. He turned his head over but otherwise laid very still like he was playing dead or hurt. We then called the company and told them that we had a suspect over here that we were

(LACKEY)

6

APP T-389

covering, and they sent someone up there. It took a little bit of time, maybe 4 or 5 minutes for the people to get up there. Then we directed them in to where the person was, and the soldier that came up to where the person was lying bayoneted the guy and then shot his head off.

Q. Then what happened?

A. The company continued to move on out and go on up to the vicinity of Uptight there, and we returned back to the south.

Q. Let me ask you, what was the reaction of yourself and Mr. HONDA to this killing of the VC suspect?

A. Sir, I was a little bit disturbed about it, and Mr. HONDA was, too. I was right mad because I figured they should have taken the guy prisoner at least.

Q. What did Mr. HONDA do about this, and what did you do about it?

A. Well, sir, there was some talk on the radio. I said that they shot the guy, and I believe Mr. HONDA said something. I'm not sure about this.

Q. Did you talk to the company?

A. We were in contact with the company, yes.

Q. What did you say about this? Did you discuss this with the company?

A. I don't remember if I did or not, sir.

Q. Did Mr. HONDA discuss it with the company?

A. I can't remember, sir.

Q. How many soldiers went out to investigate this man lying in the ditch, from the column?

A. I believe I saw two or three, sir.

Q. How far off the trail was this man hiding in the ditch, would you guess?

A. It was about 25 to 30 meters.

Q. Was he hiding in a ditch, or was he hiding behind the dike of a rice paddy?

A. I believe he was in a ditch, sir.

Q. Did you notice anything peculiar in the way the company or the men were armed?

A. I can't remember anything unusual about them, sir.

Q. You mentioned that the man went up to the VC suspect and jabbed him a couple of times with a bayonet?

A. Yes, sir.

Q. Where was that bayonet located?

A. It was on the weapon, sir.

Q. In other words, he had a bayonet fixed on his weapon?

A. Yes, sir. As far as I remember, I never saw him put it on there, sir.

Q. Did you actually see the bayonet on the rifle?

A. Yes, sir.

Q. Now, the other men that came out also, with this man, did they have bayonets fixed on their rifles?

A. I don't remember noticing their weapons, sir. I couldn't say.

Q. In flying across the column and around the company, did you notice whether most of the men had their bayonets fixed or just some of them?

A. I never noticed their weapons that close, sir.

Q. Do you recall anything about your conversation with

Mr. HONDA? Specifically, any words or this sort of thing?

A. No, sir. I don't remember exactly what was said at all.

Q. Is there any way that you can fix the time that this flight was taken? Was this flight taken, do you recall, before you went to take your LOH training or afterwards? Is there anything that can fix this in your mind?

A. No, sir. I can't remember whether it was before or afterwards?

Q. Is there anything else about the flight that you recall?

A. As we went back south, we did pick up some military males. They were running very hard when we first saw them, and I believe I saw them drop some things, but never could actually get down and investigate them real close. They ran into a village. Some of them ducked into some bunkers, and some of them came up under some trees and some brush and disappeared. I caught one that stopped for a minute. He threw up his arms and opened this shirt and walked along and then he started running real hard again just as soon as he saw that I wasn't going to do anything, and he completely disappeared. I believe we were pretty low on fuel at that time, and we couldn't investigate any more. We had to go back. I believe there was seven of them.

LTC BRANDT: Just one question. Going back to the man in the ditch. You don't recall what was said or who said it, but you do recall that you were in communication or that your partner was in communication with the company?

A. Yes, sir. We were in communication.

Q. After the incident, as far as the bayoneting was concerned?

A. We were in communication with the company all the time during the day, after we had initially found them, and we were talking to them all the time.

(LACKEY)

Q. You say you were quite disturbed about this incident?

A. Yes, sir. We tried to capture the guy, and then this thing happened.

Q. Were you low man at the time of this incident?

A. Yes, sir.

Q. Then apparently your partner was flying cover for you. Is that about the way it was?

A. Yes, sir.

Q. How long would you say you maintained close surveillance of this individual, hovering over him?

A. We hovered over him approximately 3 to 5 minutes, sir.

Q. 3 to 5 minutes before anybody came?

A. It seemed like a long time, but I really can't say how long it was.

Q. You don't recall what your conversation was with the company at that particular point of time?

A. No, sir.

Q. Did you talk to the company commander?

A. I remember that the company commander did come on the radio a couple times, but I don't believe I talked to him.

Q. You say that you were quite disturbed about this?

A. Yes, sir.

Q. Do you feel that you expressed this to the company commander?

A. No, sir. I don't think I did.

Q. Do you think your partner did?

A. He might have, sir.

COL ARMSTRONG: Do you recall whether you were on the company command net when you checked in with these people?

A. We were on an air-ground net. I believe we were on their company net, but I really don't know.

Q. You checked right into their PRC-25's, the company-platoon net?

A. Yes, sir.

Q. Would this be the normal way you'd do this when you're operating with a company?

A. Yes, sir.

Q. Mr. HONDA indicated that he had quite a conversation with the company commander, something to the effect like, "Here we come out here and we expose ourselves and we sit around and put our equipment and our crews out here to corner this guy, and then you guys come up and shoot him. We're trying to get you prisoners because that's what we think you want, and I want to know why the hell you come out here and murdered this guy?" Then back over the net comes the call from the company commander to the platoon leader saying, "What happened up there?" The platoon leader apparently held down his transmitter key on his radio and turned and said, "What did you do out there?" And they could hear the rifleman, he was apparently talking, to say, "Ah-ah-ah-ah-." Then the platoon leader said, "You mean he was a Viet Cong? He had a grenade in his pocket?" And the rifleman's voice comes in loud and clear, "Yeah, that's it. He had a grenade in his pocket! He was a Viet Cong." They called back up the chain, the platoon leader did, and said to the company commander, "He was a Viet Cong. He had a grenade in his pocket!" That's when HONDA said something to them, "It will be a cold day in hell," or words to this effect, "before I ever fly for you again!" Do you recall that?

A. No, sir. I don't remember what was said at that time.

LTC BRANDT: Would you say that an exchange of this nature had possibly occurred?

A. It might have occurred, sir, but I don't remember all that went on at that time, the radio calls and all that.

COL ARMSTRONG: You don't recall overhearing anything like this on the radio, such as the communication between the platoon leader and the company commander, or could you monitor those transmissions?

A. Yes, sir. We were monitoring all that. I do believe they talked together, and I do believe that Mr. HONDA talked to the company commander, but I don't remember what they were saying.

LTC BRANDT: Well, would you remember if it was a relatively heated discussion?

A. Yes, sir.

Q. They weren't just exchanging pleasantries, as far as this was concerned. There was a verbal battle going on back and forth.

A. It wasn't really heated in that respect, sir. It was a little harsh and strong.

COL ARMSTRONG: Would you say that basically the conversation that I described to you might describe what actually went on from your view point? Or don't you recall anything like this?

A. That might have been it, but I couldn't say for sure, sir, because I just don't remember what they both said.

LTC BRANDT: You are unable to fix this in your mind now, as far as a time period is concerned?

A. No, sir. I remember it actually happened, but I don't remember which day it was, sir.

(LACKEY)

12

APP T-389

COL ARMSTRONG: You remember that HONDA was piloting the other aircraft?

A. Yes, sir.

Q. You remember that?

A. Yes, sir.

LTC BRANDT: Did he work with you prior to 15 March, as well as after you came back from your transition training?

A. Yes, sir. He did. We flew together quite a bit in the H-23, sir.

COL ARMSTRONG: Did you know one of his gunners, RIDENHOUR?

A. Yes, sir. I did.

Q. What was your opinion of RIDENHOUR?

A. Well, sir, he was rather strongly opinionated, and he didn't just go along with everything. He did sort of dissent on a few things, you know. He would argue about it if you told him to do something. He would try to see why you told him to do that, and if he didn't think it was right, he might start arguing as to why he should not do it.

Q. Was he an efficient gunner?

A. Yes, sir. I would say that he was a fairly good gunner.

Q. Well, Mr. LACKEY, thank you for coming in. I'd like to remind you that you are not to discuss this with anybody else, particularly other witnesses who might appear before this inquiry. I'd like you to know that we have seen up to 350 witnesses, and we know pretty well what went on. I'm just pointing this out to you in the form of discussion. It is not directly related to the My Lai incident, but it is something that we have also been ordered to check into, so every little bit is important. I can't say that you won't have people come to try to discuss this with you, because you may. For instance, there may be some CID individuals who will

(LACKEY)

13

APP T-389

come and wish to take a statement from you and discuss this with you. The fact that you have been cautioned not to discuss this with anybody does not mean that you may not discuss it with any official investigator, organization, or individuals. In this respect I point out that there may be judicial, administrative, or even legislative bodies working on this thing, so you may be asked to testify several more times. In the case of the legislative bodies, I am speaking specifically of the investigative subcommittee of the House Armed Services Committee. In that respect I understand that you are to appear before them this afternoon, so anything that you have said here will in no way keep you from testifying fully before that subcommittee. We appreciate your coming. At this time we give every witness the opportunity to ask any questions that he might have or to make a statement for the record if they wish. I give you this opportunity now.

A. I don't believe I have any questions I'd like to ask.

Q. Would you like to make any statment for the record?

A. No, sir.

COL ARMSTRONG: All right. The hearing will recess at this time.

(The hearing recessed at 1050 hours, 24 February 1970.)

FOR OFFICIAL USE ONLY

SUMMARY OF TESTIMONY

WITNESS: LIPSCOMB, Andy A. BG-Ret

DATE OF TESTIMONY: 23 January 1970

PLACE OF TESTIMONY: Pentagon

WITNESS SUSPECTED OF: N/A

COUNSEL: None

DUTY ASSIGNMENT ON 15 MARCH 1968: Brigade Commander, 11th Light Infantry Brigade.

1. PRIOR TRAINING IN RULES OF LAND WARFARE.

a. Troops.

Brigadier General LIPSCOMB (Ret) took command of the 11th Light Infantry Brigade from Colonel HENDERSON on 21 March 1967. He arrived in Vietnam with the advance party on 4 December 1967. He stated that the troops of the 11th Brigade were well-trained for their mission (pgs. 4, 5, 32, 33). He felt that they had above average discipline (pg. 32). The witness testified that the troops received all of the mandatory training subjects (pgs. 4, 5). However, they departed for Vietnam 700 men short in infantry, armor, and engineering MOS's (pg. 6). LIPSCOMB agreed that they departed three months ahead of schedule which necessitated a condensation of the training program. They were also forced to take troops as replacements that did not train with the brigade (pg. 6). The witness stated that he had stressed the impropriety of excessive and indiscriminate firepower and that he was more concerned over gunships than other elements. He did not recall any incident occurring from his troops reconning by fire while advancing (pg. 27).

b. Commanders.

LIPSCOMB testified that he continually stressed that

(LIPSCOMB)

1

SUM APP T-213

FOR OFFICIAL USE ONLY

CONFIDENTIAL

6. OTHER INFORMATION.

a. LIPSCOMB did not consider a shortage of regulations within the 11th Brigade a problem, nor was it ever called to his attention as a problem (pg. 8).

b. The brigade received a requirement after Tet to help the ARVN around Quang Ngai. Colonel TOAN and Lieutenant Colonel KHIEN were responsible for requesting their presence. They made a heavy contact in the vicinity of Quang Ngai on 7 February 1968 (pg. 15).

c. The witness stated that it was general practice to count as VC KIA anyone killed in preparatory fires particularly in a free fire zone. LIPSCOMB considered My Lai (4) a free fire zone (pg. 18).

d. He never heard that any of his men had engaged in rape or otherwise molested women while in Vietnam. The brigade staff was completely unaware of any problem or a lack of discipline in this area (pgs. 27, 28).

e. LIPSCOMB did not recall telling his commanders that there was a problem in "closing with the enemy" and following through with the assault (pg. 28).

FOR OFFICIAL USE ONLY

EXHIBITS

EXHIBIT NUMBER	DESCRIPTION	NOTES	PAGES
D-6	MACV Directive 525-3, 14 Oct 66, Combat Ops.	Wit was familiar with the contents.	19
D-7	Combat Ops. Rules of Engagement, 11th Bde, 30 Jan 68	Wit ordered this regulation prepared.	19,20
D-15	FRAGORD: 3-68, 22 Jan 68	Entered into evidence; wit recognized the document.	10
D-16	ADMINO 1-68, 11th Bde, 26 Feb 68	Entered into evidence. Wit remembered the document.	10
M-2	MACV card "Nine Rules"	Wit was almost certain it was issued.	7,8
M-3	MACV card "The Enemy In Your Hands"	Wit was almost certain it was issued.	7,8
M-4	MACV card "Guide for Commanders"	Wit was almost certain it was issued.	7,8
M-53	Preparation for Overseas Movement, 11th Bde 1 Nov 67	Entered into evidence. Witness recognized.	3
M-54	Phase Schedule of 11th Brigade	Entered into evidence. Witness recognized.	3
M-55	Training Memorandum 350-2	Entered into evidence. Witness recognized.	3

(The hearing reconvened at 1150 hours, 23 January 1970.)

IO: The hearing will come to order.

RCDR: The following persons are present: LTG PEERS, MR MACCRATE, COL ARMSTRONG, and MAJ LYNN.

Sir, the next witness is Brigadier General Andy A. LIPSCOMB.

(BG LIPSCOMB was called as a witness, was sworn, and testified as follows:)

For the record, could you state your full name, occupation and residence?

A. Andy Archer LIPSCOMB, Brigadier General, U.S. Army, Retired. I am now a stock broker for Merrill-Lynch in Fort Lauderdale, Florida.

IO: General LIPSCOMB, we've been going into detail with our witnesses here as far as the instructions are concerned. In your interest, rather than read these to you, I'd ask you to read these and ask if you have any questions concerning them.

A. (Witness reads the instructions.) I understand.

Q. Besides myself, here on my left I have Mr. Robert MACCRATE, a civilian attorney. He has volunteered his services to the Secretary of the Army to assist me in this inquiry and also to provide legal counsel. He may address questions to you this morning as well. On my right I have Colonel ARMSTRONG who has been designated by the Office of the Chief of Staff as an assistant in this inquiry. We have not made it a practice of having junior officers present in these inquiries. I would give you your choice this morning of having Colonel ARMSTRONG here, not to ask questions, but to be present for the purpose of later reviewing the testimony.

A. I'm happy to have him.

Q. You should know that in addition to this particular group we have other groups who are also taking testimony from other witnesses. In the final analysis, however, it will be

up to me to put together the report, weigh the evidence, and to determine the findings and recommendations. I think in your instructions you have been told that you are not to discuss your testimony here with others except as you may be required to do before a competent judicial, administrative, or legislative body.

To my knowledge, you have not appeared before any of the congressional committees.

A. I have not.

Q. I will indicate here that the term legislative would apply to any of the congressional committees. Specifically, you may conceivably be called by the investigative subcommittee of the House Armed Services Committee, in which instance any of your testimony here would not preclude you from testifying before that body or other legislative bodies.

I want to be sure that you have not been cited or cautioned by the military judge in the general court-martial case of the United States v. Calley.

A. No. No one has discussed this with me.

Q. The likelihood of you being so cited is remote, but in the event you are so cited, your testimony here, your appearance here, would in no way change either the effect or applicability of the order issued by that judge or any of the other military judges which may be connected with general courts-martial cases resulting from the My Lai (4) incident. Do you have any questions at this time?

A. No, sir.

Q. General LIPSCOMB, would you explain your duty assignment with the 11th Brigade? When you joined it and when you departed?

A. First of all, I took command of the 11th Brigade at Schofield Barracks, Hawaii, on 21 March 1967. I trained them in Hawaii. I was given a trip in June of 1967 over to Vietnam, an orientation tour, because it was pretty well established at that time that I was going to take the brigade to Vietnam later on. We didn't know exactly when. Anyway, I finally moved the brigade to Vietnam. The advance party

left 28 November 1967 and the main body left about 3 December 1967. I arrived in Vietnam on 4 December 1967 with the advance party. I commanded the brigade as a part of the Americal Division until, to the best of my knowledge, I left on 15 March 1968. I got back to Hawaii 15 March 1968; I know that, on a Friday. I checked this out with my wife. Coming back across the date line you gain a day. So I believe I left the command on 15 March. That is, as far as dates are concerned, the story of the thing.

Q. General LIPSCOMB, you were talking about the movement of the brigade to South Vietnam. You also had indicated that you visited South Vietnam. Did you have another group to visit South Vietnam for the purpose of picking up documents for training purposes and so on?

A. Yes, I did. I can't give you the dates on that, but there was another group that went over and got some information. Another thing that might shed some light on the thing is that a good number of the people in the brigade had already done a tour in Vietnam and were familiar with Vietnam operations. Quite a few officers and a good number of noncommissioned officers were going back on their second tour.

Q. Well, we are very interested in the training that your brigade received prior to the overseas movement. We're also interested in the indoctrination the brigade received on arrival in country. I have here some documents which I would like to enter into the record. These are all from the Americal Division. The first document is, subject, "Preparation for Overseas Movement, (POM)," dated 1 November 1967. The next document is dated 7 December 1967, subject, "Phase Schedule of 11th Light Infantry Brigade." The third document is undated, subject, "Training Memorandum, 350-2, Education and Training." I'd like to have all these entered into the record as exhibits.

RCDR: The POM will be entered into the record and marked as Exhibit M-53. The phase schedule for the 11th Brigade dated December 1967 will be entered into the record and marked as Exhibit M-54. The training memo 350-2 will be entered into the record and marked as Exhibit M-55.

IO: General LIPSCOMB, I show these documents to you and ask if you recognize them?

A. Yes. These are my initials on here. I recognize

(LIPSCOMB)

them. BARKER signed them. He was the S3 at that time. Yes, sir.

Q. I have here another document which I would like to enter into the record. This is an undated fact sheet or report, subject, "Operations-Training." I'd like to have this entered as an exhibit.

RCDR: This report will be entered as an exhibit and marked as Exhibit R-18.

Q. Are you familiar with that?

A. Well, I believe I've seen it. It seems to me that this was written by a higher headquarters about the brigade. I don't see any heading on it. Was it written by the G3 of U.S. Army Pacific or USARHAW?

Q. I'm not at all sure.

A. I don't believe it was prepared in my headquarters, but what's in here is true as far as I am concerned. This gives an outline of the training of the brigade.

Q. What we are interested in is the training of the brigade in some primary subjects. We're interested to what depth instruction in the Geneva Convention, Rules of Land Warfare, the handling and treatment of civilians, handling of POWs and that kind of instruction was handled with respect to the brigade personnel.

A. I would say that in a normal training program for a unit of this type to be moved overseas there are certain prescribed hours in these various subjects that are mandatory and that all the soldiers get. I would say that all of our troops certainly got that mandatory training in those subjects. In addition, I would say, in view of the fact that we had these Vietnam veterans, people who had been over there, in the brigade, but not all of them went back with us. For example, one prime example was Major CARPENTER, Bill CARPENTER, who had been highly decorated in early times. He was my training officer in the brigade in Hawaii. We used him to give us a lot of Vietnam knowhow. He'd been over there before. To get back to the question though, in view of the fact that we had this Vietnam expertise, so to speak, I would say that we got extra training, it would be an addition. If we were taking a subject, this would come

up to as how to handle, how to treat villagers. How to handle searching of hamlets was basic. I would add one thing further. When we first got over there, in some of our earlier operations, it became apparent to me, and I discussed it with the staff and my commanders, that if we weren't careful, we had so much firepower at our disposal that we could perhaps overuse it. That because we were going to make a combat assault on a hamlet or a village, it wasn't necessary always to prepare that village with fire if there wasn't a real reason, a strong reason, for preparatory fires in areas we knew civilians were. We would not do that. My thinking was, and was agreed upon by my staff and commanders, that if we were going to win the war, we had to win the people. When we weren't careful in our use of firepower we were going to turn people that might not be against us, against us. So I would answer the question in saying we were extremely conscious about not overusing our firepower, not being ruthless and needlessly aggressive. That would be my answer to that.

Q. Well, taking the general subject of training of your brigade now. Do you consider they were, by the time you were ready to go in December, do you think that brigade was trained and ready to go at that time? Or were there certain things that happened that mitigated against all the personnel being fully trained?

A. I think that--of course, every commander thinks his troops are pretty well trained, but I think these were exceptionally well trained for the following reasons. First, we knew where we were going; we knew what we were going to do. All of our training efforts were directed at doing this job, this particular mission. I even knew the area we were going into, and so did my staff. We could train for that type of operation. Second, we had people who had been over there. They knew how that type of operation ought to be conducted. So I would say that they were exceptionally well trained. Now, there was one flaw. We were short some 700 troops when we went into country that we thought we were going to get before we left and we didn't get. These were primarily in infantry, armor, and engineering MOS's. We were short in the companies. The foxhole strength was not what it should have been. This was a weakness, but the troops we had were well trained, General.

Q. Well, we've heard two things which happened prior to your departure from Hawaii. One, you were originally

scheduled to go perhaps in late February-March time period, and you pretty well focused on it. This caused a condensation or compression of training. Also, the fact that even before you left Hawaii, you had some people not POM or POR qualified for duty in South Vietnam who had been with the brigade when you were serving as the Pacific reserve but were not qualified for Vietnam. Losing those people and getting a lot of replacements just before you departed may have had some effect on it and also may have set up a degree of personnel turbulence?

A. That is true. The first part in your statement, the first point you made, would you repeat that again? I was following this second point.

Q. The first point was the fact that your departure date had been moved up approximately 2 to 3 months, perhaps.

A. That's true. We at first thought we were going later, but when it was moved up, I didn't feel that that was any major handicap in view of the fact that the troops that we had had been out in the hills in Hawaii training constantly for this search and destroy, this jungle type of operation. The second point is true, that there were some troops moved not long before we left, and we were filled up with some others. Filled up is the wrong word. We never were filled up. We got some others, but we went over, there as I recall, 700 men short.

Q. That indicates what I need to know. Now, your advance element that went over with C/1/20, did you have any particular reason for selecting that company?

A. Because it was an outstanding company. We decided, the staff, I guess, made a recommendation to me that the 20th be selected to go, Colonel BEERS, one of his units be the advance party. I'm sure in consultation with BEERS we selected MEDINA's C Company because it was an outstanding company. I always considered MEDINA an outstanding soldier.

Q. Now, when your brigade arrived in country, how did you receive your in-country indoctrination?

A. We were moved into the area that we were to go in and were given a period of time, as I recall, 25, 30 days there. We were to marry up with our opposite numbers and

go on these various operations and see how it was done over there. This was done. Our captain would go out with a 3d brigade, 4th Division company. The battalion commander would go with the battalion commander. I would go with the brigade commander. We married-up to see how it was done. This was insisted upon by General KOSTER and the Americal Division headquarters.

Q. Aside from this working together, on-the-job training so to speak, did you have any formalized training which may have been put on by the division or by elements of the 4th Division?

A. Yes, sir. I can't tell you exactly what, but I visited the various classes. I observed the training in which they were assisting in training us, particularly on those things that troops that had been over there would know that we wouldn't know. We had a smooth takeover as far as I was concerned.

Q. Do you recall General KOSTER coming down and talking to the troops along with his SJA, perhaps his chaplain and other people, concerning what he expected of them, about the care and handling of PWs, noncombatants, and things of this category?

A. Yes. As I recall, he gave an orientation. He visited us almost daily. He did what a normal division commander would have done. I can't give you the specifics that he covered at this time.

Q. I have here three of the cards which MACV and USARV used for pocket cards for personnel within the command. I'll refer these to you (Exhibits M-2, 3, and 4). I'm sure you're familiar with those cards.

A. That's right.

Q. Do you know whether you had received those cards in time to have them issued to your forces?

A. You mean upon arrival in country or before we arrived?

Q. Arrival in country. We understand that these in the Americal Division were handled through the PIO office.

A. I can't say positively when these were issued, but I've seen them. I'm almost certain that they were issued. When, I don't know. I can't say for sure.

Q. We have some indication that they were received at the brigade, and they were distributed, but there were some shortages.

A. If there were, generally they weren't brought to my attention. I personally have seen them, and I believe I had one or two of them in my wallet somewhere. I think that was generally what happened.

Q. We also understand that the brigade had difficulty in obtaining pertinent regulations in South Vietnam. Can you comment on that?

A. First of all, it wasn't a serious problem, as far as I know, or it would have been brought to my attention and would have made more of an impact on my memory than it has. It seemed to me that we brought so much stuff of our own over there that it was questionable how much we needed. We were overloaded when we got there as far as regulations and so forth were concerned. I never considered this any problem. I considered some other shortages much more of a problem than I did regulations or literature.

Q. Well, in certain instances that we've talked to people, rightly or wrongly, it appeared that in preparation of working SOP's and so on that they had problems because they couldn't get hold of the documents from the Americal Division or from III MAF or from USARV or from MACV.

A. Well, there might have been some staff sections that felt that they didn't get all the guidance from the higher staff and corresponding staff section above, but this was never brought to my attention to any strong degree. I didn't consider that any problem.

Q. It would be true, would it not, that if somebody were short any documents that, at least for a month or so, 3d Brigade of the 4th Division was there, and it would have simply been a matter of cross-checking to see that the applicable orders were in effect there?

A. I think that's right. I think the first real outline of the mission that I got for the brigade, I believe

was a copy of the mission that the 3d Brigade, 4th Division had, the AO.

Q. We understand after finishing this indoctrination and so forth that the brigade swung into operation with its battalions. We also understand that there was some shifting of forces that was going on about that time. I think it would be helpful for us if we knew why you created Task Force Barker.

A. All right, sir. General KOSTER, the division commander talked to me, I don't want to be held to these dates exactly, in January and said that we were going to have to take over another area. We had three battalions areas. Let me back up. The 11th Infantry Brigade was finally organized in Hawaii with four infantry battalions, a direct support battalion, and an artillery battalion; but when we went over, we only took three because the 21st Infantry wasn't ready. It was newly formed and was to join us later in April. When we got over there, we didn't have all four of our battalions. We only had three. We had three areas, all in our large area of operations. I had three battalions out working. General KOSTER told me that he wanted me to take over another area of operations.

Q. Batangan?

A. Batangan Peninsula, yes. The only way we could do it before we got our fourth battalion was to form a provisional battalion. I took the best man I had available, which was my S3, Colonel BARKER, Frank BARKER, who was later killed, and gave him the provisional battalion. Task Force Barker, I called it. In selecting the companies of this battalion, I knew that I couldn't leave it up to my battalion commanders because, naturally, they would want to give me the weakest companies. Since I had the 1st Infantry, the 3d Infantry, and the 20th Infantry Battalions, the logical way to do it would be to take A Company of the 1st, B company of the 3d, and C Company of the 20th. That's how we happened to get C Company of the 20th. Colonel BEERS would have never voluntarily agreed to let MEDINA go. It just came out that way because I selected them that way. Those three companies became Task Force

Barker and were sent up to the Batangan Peninsula and started on what we code named Operation Muscatine. This was toward the end of January when this started. Then I had, in effect, four bob-tailed infantry battalions working there.

Q. I have here a document which I would like to enter into the record, dated 22 1700 January 1968, order 3-68. I'd like to have this entered into the record as an exhibit.

RCDR: This will be marked as Exhibit D-15.

IO: Do you recognize this document as a brigade frag order which, among other things, also created Task Force Barker and assigned its mission to it?

A. That's right.

Q. Going back to my previous question with respect to General KOSTER's telling you that he had an additional area that you had to take over, did he explain why you had to take that over, or I believe you already knew why you had to take it over?

A. He had to move the troops that were in there to another area to release some troops to go back to the 4th Division I believe.

Q. Do you recall that in this area you had previously had a brigade from the ROK Marines?

A. That's right. They were moved out of there. That's right. This gave the Americal Division more area, and we had to spread out thinner. That's what brought it about.

Q. On the subject of the treatment and handling of noncombatants and PW's, I have here another document which I would like to have entered into the record from the 11th Brigade at LZ Bronco, dated 26 1600 February 68, admin order 1-68. I would like to have this entered into the record as an exhibit.

RCDR: This will be entered into the record and marked as Exhibit D-16.

IO: I refer this to you, General LIPSCOMB. I don't think it's necessary for you to view the entire document. You might pay particular attention to those items which are indicated. Do you recognize this as part of the instruction to the command?

A. Yes, sir.

Q. I think particularly significant is that portion which has to do with the briefing of all personnel concerning the treatment of noncombatants. For the sake of the record, would you read that so it may be entered?

A. "All commanders will brief their troops concerning proper conduct toward civilians."

Q. One problem we've been faced with, General LIPSCOMB, is to find out exactly what documents the brigade operated under during this time period. I'll go back and refresh you just a little bit, and I'm sure you can be of help to us. The Americal Division was also a new division. As a consequence, at the time you came in with your brigade, it was operating under the SOP of Task Force Oregon. The Americal Division itself was in the process of preparing its SOP which came out actually subsequent to your departure. As far as the brigade is concerned, we have found bits and pieces of instructions and orders. We do have a tactical SOP, which is undated, and we're not exactly able to put it in its proper context. Whether this came out in Hawaii, prepared in Hawaii for use in South Vietnam, or whether your staff prepared this after arrival in country, we are not at all sure. I wish you'd review this document and see if this calls anything to your mind as to when this might have been published.

A. I can't be absolutely certain, but I can be reasonably sure that this document was prepared in Hawaii and was certainly being worked on in Hawaii while we were at Schofield. Now, when I visited the divisions, the other divisions, including your division, in June and the 101st and others, I got several of the brigade commanders to mail me back tactical SOP's that were in effect over there. I put

some of my S3 section to work on developing this thing so that we would have it when we got in country based on the best points, more or less, of the ones that were sent back to me. Two or three of my general officer friends of mine, contemporaries of mine, sent me these things, so we did prepare this, to the best of my knowledge, before we ever left Hawaii.

Q. The question would be whether this document was published as an official document of the brigade to be put in force or whether this was distributed to personnel with the understanding that this was the procedures that were to be followed.

A. If my headquarters issued it, and I think they did, I'm sure there should be a command line here somewhere. It was with the understanding that this would be the order. These would be the procedures we would use there. Otherwise, I wouldn't have put it out.

Q. There may have been a couple of memoranda on this which I would assume were published.

A. I'm sure there were, as sure as I can be, because I had gone out of the way to get this information ahead of time and to get it prepared before we went over there so we would have a document that we could go to for all these things that would come up.

Q. Do you remember, when you were in country and you had the brigade of yours functioning, do you remember using that document so that your battalion commanders and your staff and so forth knew what was going on?

A. I can't. I'm almost certain I wouldn't have personally perhaps brought something to my attention out of it. I think Major MCKNIGHT could answer this question much better than I. I'm absolutely certain, but I would say it was printed in Hawaii. It was out as far as I was concerned. It was guidance for the brigade, and commanders did use it.

Q. I'm not going to enter this whole document into

the record. We will enter selected portions of this document into the record because of the size of it. I'd like to enter into the record extracts from this particular document.

RCDR: These extracts will be entered into the record and will be marked as Exhibit M-56.

IO: Can you give us your impression of the capabilities of the 48th Local Force Battalion?

A. I'm not sure that I first heard that name during my June orientation visit. I'm not sure, but certainly as soon as I got there in December, it was known by all the intelligence officers that briefed me anywhere that the 48th Local Force Battalion had a headquarters in what we called this Pinkville area. My Lai is a new name to me. It doesn't mean anything. I mean there were too many of these names, and I couldn't remember that until I saw it in the paper. Pinkville is the way we called it. It was singularly brought out to my mind too frequently when I would fly over it in my command chopper and they'd fire at us, take pot shots at us. This was a nasty area of the war, that whole peninsula where these ROK Marines had been. It was a tough, rough area. There was no question about that as far as I was concerned. We did know the 48th Battalion, through intelligence reports, we knew they were there or their headquarters.

Q. Do you recall their operations during the Tet period?

A. We had two, as I recall. During Tet, they hit Quang Ngai City pretty good, and then General KOSTER talked to me and got me with the 2d ARVN Division commander, Colonel TOAN, and we agreed to send some troops up to Quang Ngai City to assist him. Also as sort of an American show of force there to show that we were very much concerned with that area. As I recall, in February we had two pretty good sized battles in the My Lai complex as I've come to know it now. We called it Pinkville area. I checked this in some papers that I had, if I may refer to these?

These were answers to division historian questions which they asked me when I left there about operation of the brigade. We had two significant battles in the Muscatine area. Operations against the 48th Local Force Battalion in February which resulted in 74 KIA in the first encounter and 68 KIA in the second engagement in February. I was personally in Pinkville on about two or perhaps three occasions in February where we'd go in, sweep, have a battle, and then move out. While we were in there I would land. It was a constant thorn in our side because we didn't seem to be able to clean it out and because of the booby traps and mines that were in the vicinity. We'd lost a considerable number of soldiers, I believe. I can't quote figures on this, but they had lower limb wounds in that particular area. It was no question in my mind that Pinkville was one of the toughest nuts we had to crack.

Q. Would you have any objection if we asked you to review your answers to the historical questions?

A. This is the copy of the--

Q. (Interposing) May I ask you what the others are as well?

A. This was the TO&E that I had for the brigade. These were the figures, the troops. These were priority of tasks. I sat down with Bill CARPENTER and we came up with the tasks that each company and each platoon and each squad should be able to do. This was back in Hawaii before they got to Vietnam. These were the tasks that we came up with that they should be trained in. Then this is the assigned mission of my area of operations, the Duc Pho-Mo Duc area of operation. These were the missions I considered. This is a confidential extract. These were in my personal files. This is what we were doing there.

Q. Would you object to us having these duplicated?

A. Not at all.

Q. We will provide them right back to you.

A. No, not at all. Nothing there that you're not welcome to. The division historian came down when I was leaving and asked me these questions, and these were my answers.

Q. Mostly general questions, aren't they?

A. Yes, nothing too specific there.

Q. Do you recall that during Tet that the 48th Local Force Battalion, I believe there was another battalion as well, did attack Quang Ngai City? The 48th Local Force Battalion attacked an RF training center across the Song Tra Khuc and overran the camp. Then ARVN counter-attacked and inflicted heavy casualties on the 48th Local Force Battalion, something well in excess of 100, I've been led to believe.

A. Well, I was told this. I was informed by my staff that this happened. I also talked to Colonel TOAN about this. That's when he asked us to send more Americans to Quang Ngai City, and General KOSTER asked me to do that. We formed a Task Force Alexander and sent them up there. They had quite a fight in Quang Ngai City around 7 February. That's in one of these operations that's spelled out there.

Q. That's the first time we've known this. We know, for example, that there was more than a little concern on the part of the province chief, Colonel KHIEN, about the absence of American troops and the lack of support. This was undoubtedly in response to that.

A. That's right. I went up and had a meeting with Colonel KHIEN, the province chief, a lieutenant colonel, on about two occasions. We subsequently sent troops up there again. We sent them up in the APC's, a show of force type thing. Frequently they'd run into trouble on the way up there or on the way back. They got into battle and our armored cav outfit, E Troop, was commanded by Captain ALEXANDER. We called this Task Force Alexander, and they did some real good fighting up there in Quang Ngai on 7 February, I believe it was.

Q. I'm glad you mentioned this because we had heard that there had been some show of forces around Quang Ngai rather than in Quang Ngai City itself. Well, why don't we recess at this time?

(The hearing recessed at 1300 hours, 23 January 1970.)

(The hearing reconvened at 1400 hours, 23 January 1970.)

IO: The hearing will come to order.

(The witness was reminded that he was still under oath and he testified as follows:)

RCDR: All persons present when the hearing recessed are again present.

IO: General LIPSCOMB, you previously discussed some of the operations of the 11th Brigade into the Pinkville or the Son My Village area. Can you indicate why these operations didn't quite achieve their objective in getting this place cleaned up?

A. Well, that's pretty hard to answer positively. First of all, I think that we constantly ran into the problem of finding them after we had got in there. There was, I believe, quite an extensive tunnel complex in the area and these people would disappear when we got in there. And, of course, some of these, you would think by some of these body counts that we'd pretty well cleaned the battalion out. As I said, one time 74 and another time 68 or whatever the figures were. Then some fighting around Quang Ngai earlier when they came in there and had some fights with the ARVN and lost quite a few people. But I think it was because they did have an area in which they could hide, a tunnel complex, and were thoroughly familiar with the area, and we weren't. We didn't go in there and stay. We would go in there and then pull out. We didn't completely do the job, I guess. That's what the answer would be.

Q. Was there any problem about getting these units surrounded, or almost surrounded, and leaving a gap or not being aggressive enough to finish them off?

A. It could have been, but I think it was primarily that we couldn't find them. We couldn't pin them down. Now I'm talking here on hearsay. When this was going on, as was any other brigade commander, I was up in a chopper. The battalion commander was also up in a chopper. The men that were fighting that battle were the company commander and the platoon leaders down on the ground. We weren't on the ground directly observing this thing. The battalion commander would go in there and visit the company that was in the operation probably every day. As brigade commander, I didn't visit every day. I visited the battalion commanders every day and company commanders from time to time. I don't think it was a question of lack of coordination or lack of effort. I would think it was more a question that the odds were all in favor of them, with these tunnel complexes, and his ability to disappear to be a farmer in the daytime and a guerrilla at night.

Q. Did you ever have any question in your mind about the body count and so forth that all these people were VC?

A. I took all body counts with a grain of salt.

Q. On the operations that you conducted during February, one you had a KIA count in the neighborhood of 60 and another one 70. What was your weapons count?

A. I can't answer that, but I would say low, very low. I questioned; I never stopped questioning any body counts that would be reported to my headquarters. I think there were many, many estimations on these body counts. A lot of these body counts were estimates from the air, frequently.

Q. Did you ever have any suspicion at all that some of these people counted as VC might have been women and children or old men?

A. Had a suspicion? Yes, I'd say I had a suspicion. I think that the general feeling over there was that anything that was shot was a VC. I'm speaking bluntly here now, but I think that generally was the accepted modus operandi over there.

CONFIDENTIAL

feeling, at least the general word, in the brigade, to the best of my knowledge, was that there would be no shooting unless it was absolutely necessary. I constantly played that record more or less to the commanders. I would have a commanders meeting once a week, and I constantly stressed the point that this indiscriminate shooting was working to our disadvantage. If the people in the areas weren't Viet Cong, if we shot them all up, they would be Viet Cong.

Q. I have here two documents, General LIPSCOMB. One is Exhibit D-6, dated 14 October 1966, directive number 525, subject, "Combat Operations, Minimizing Noncombat Casualties." This is a MACV directive that has been entered into the record as D-6. I'd ask you, without reading every word in there, whether you are familiar with the general contents of this document. I would call your attention to certain paragraphs, paragraph 2b, 3-2, 3-3, 3a2, 3a3, paragraph 4.

A. Now, your question to me is what, sir?

Q. Whether or not you're familiar with the general contents?

A. I can't say that I specifically read this document, but I am familiar with the contents as a friend of what is ordered here.

Q. I have here another document which has been entered into the record as D-7 dated 30 January 1968, regulation 525-1 from the 11th Infantry Brigade. I'll ask if you recall this document.

A. Yes, sir. I believe I had this document prepared.

Q. You'll probably remember this document very well because it has one pointed and highly important error in it, which shows up in the first change which was published 9 February. Here I refer to Paragraph 4f(2) on page 4.

A. Well, that's poor English there. It's not saying what they mean.

Q. That's what I mean. If you look at the attachment, you see the first change that came out a few days later which changes maximum to minimum.

CONFIDENTIAL

A. Well, perhaps this was interpreted from some of my after action discussions with the commanders. I was never pleased when we didn't accomplish our mission, when we had more or less gone in there and I had gotten some fancy figures on body counts and so forth and then a week later we were fighting there again or somebody flying over in a chopper gets fired upon. It was a little bit hard for me to accept that the job had been done. That's true. But as far as me passing on to the sentinel who relieved me that the biggest thing in life was to take care of Pinkville no matter what else, that isn't so. That isn't true. It wasn't that important in my mind.

Q. You've given us a pretty good appreciation of certain people. You've talked about BARKER; you've talked about MEDINA; you mentioned CALHOUN; you mentioned MCKNIGHT whom you have a great deal of confidence in. How did you look upon BLACKLEDGE, your S2?

A. In the job he was in as a S2 I would say that he had a slightly above average degree of professional competence. This was primarily due to his eagerness, his energy, his willingness to work day and night. He was more or less a career S2 type. He had been in the field a long time, and he took his work very seriously. He could see things behind every bush and this type of thing, and I think S2's have to be suspicious. He was suspicious. He was energetic. He had an above average or certainly a good solid average degree of professional competence to be an S2 at the brigade level.

Q. A couple of other individuals. What did you think of MICHLES as a company commander with B/4/3?

A. I pinned a silver star on him. He was a rough, tough, aggressive commander. It just happened that in my selection of A, B, and C by virtue of 1, 3, and 20, I got three strong commanders. I would say, and I did say frequently, and not just before this board, that the strength of that brigade was at the company commander level. I considered I had good solid captains. TRINKLE, I recommended for the DSC. He had A Company. MICHLES I pinned a silver star on. He had B Company. He was a rough, tough captain, and MEDINA I considered as good as any of them. I don't know whether I decorated him or not, but I'm sure somebody did. I think that those captains were very capable.

Q. Do you think that these captains were so strong that they got beyond the control of a task force commander?

A. I don't think so, because BARKER was a tough little paratrooper. Not that that makes him tough, but he came up through the ranks and he was hardnosed himself. I don't think anybody pushed him, and CALHOUN was an outspoken, strong type.

Q. In the methods of operation of BARKER, did you see him down on the ground with the units very often? Think back on that one now. I'm not talking about back at Fire Base Dottie. I'm talking about out on the ground, out around in the field. Would he get down with the companies and move with them or coordinate things at 1,500-2,000 feet in the air?

A. I can't say that I saw him on the ground with the troops, and I can't say that I saw my other battalion commanders on the ground with the troops. I again say that, and it's so stated in the answers to my after action questionnaire, that this was a war of, at least it became a war of, companies and batteries. The captain on the ground was doing the fighting, and the battalion commander was in the chopper, and the brigade commander was in the chopper, and the division commander was in the chopper. There wasn't a lot of ground leading above the captain level. I would doubt that there is over there today.

Q. One other individual I'd just like to comment upon. We understand that subsequent to the arrival of the brigade in country that your IO officer a captain, then lieutenant, information we have is that he wasn't too much interested in being an IO, that he wanted to go elsewhere to a Special Forces kind of assignment which he had had before. Also the fact that either you or somebody else had given him several jobs or special assignments. Do you recall this?

A. MOODY? I know MOODY, but I can't--MOODY was an eager beaver, con man, fast talker. I don't know that I didn't see him, or I don't recall him knocking my door down to get out and lead any charges anywhere or go anywhere as far as I can remember. We had enough fighting there for any lieutenant that wanted to fight. I don't remember that. I'm not deriding MOODY, but this just doesn't stick in my mind.

Q. But you also know that once anybody had belonged to the Special Forces it rubs off on them, and they're always fighting to get back to it or something. You know, and I thought perhaps this might--

A. (Interposing) Well, maybe, but it isn't vivid in my mind. I thought he was pretty happy there to be the IO as far as I was concerned.

MR MACCRATE: General LIPSCOMB, you mentioned the fact that you were reiterating every week that this indiscriminate shooting was working toward our disadvantage. You indicated that this was an ever present concern with you. I wondered if this concern was based to some extent on some experiences that you'd been having in your AO that kept coming up and made you feel that a reminder was in order?

A. In fact, I think that it probably first struck me when I went out on an operation during my orientation visit in June. Then, when I went out with my opposite number in the 4th Division and observed some of these combat assaults, it occurred to me that it wasn't necessary, number one; and number two, it wasn't psychologically or militarily wise to always shoot up the area before you assault it, before you land troops in there. If you do this, there are going to be innocent people hit, and this is going to turn the population against the Americans with their firepower for bringing all this death and destruction. I guess subconsciously, I know the matters for which this board had been formed and for what we're trying to develop here. So I perhaps subconsciously am overemphasizing the amount of instruction that went out on this, and by so doing I am more or less saying that there was a requirement for all this direction, that something made me stress the fact that we shouldn't fire indiscriminately, and I hope I haven't overemphasized that. I didn't see a lot of villages or people shot up. I never saw a lot of that. It just occurred to me that if we keep throwing these masses of fire in there we're going to hurt a lot of people who aren't soldiers.

Q. Well, did you notice from time to time, after you were in country, the brigade was in the field, that there was a tendency of one or more of the units to overkill, to overshoot?

A. No, I can't single out any unit. I think that the element that I would be most concerned with there would be the gunships. When they move in, the gunships, the suppressive fires, the supporting fires on a combat assault, there is a great tendency to shoot everything up as you're going in. I stopped that where there wasn't some evidence of the fact that there was something in there to really resist us. We stopped all this shooting going in.

Q. We've heard of quite a bit of reconning by fire as we talked to members of the squads and platoons and how

they were conducting their particular part of an operation. I wondered what the brigade policy was, if any, in this respect, whether reconning by fire had been the subject of any of your briefings? What was the attitude within the brigade, within the units of the brigade in this regard?

A. I think that's covered in the memorandum that I put out there. We will not recon by fire in habitated areas, in areas where there are civilians. Certainly that's the spirit of this document here.

Q. Were you at any time aware that some of your companies were proceeding in this way, reconning by fire as they moved along on the ground through the hamlets? Did you have to pull them up for this?

A. I recall no incidents such as this. It doesn't mean that it couldn't have happened on occasion and I wouldn't know about it, but it wasn't the standard operating procedure to go along shooting up everything as you moved along. No.

Q. Was there any suspicion on your part that this was going on?

A. Not particularly. My biggest concern was these combat assaults that would go off at 0730-0800 every morning where they'd pick out a hamlet, and they'd want to plaster the hamlet with artillery for 5 minutes and then the gunships would come in and fire for 5 or 10 minutes or while the troops were landing. This didn't make sense to me. It wasn't humane. It wasn't right. It wasn't militarily or psychologically sound to go shooting up a village when you didn't know who was in there. This is what I talked against.

Q. Had you any indication in particular portions of the brigade of some lack of restraint on sexual proclivities? Were you getting reports from the field that as some of the units were moving through they were taking advantage of the ladies, the women, as they were going through?

A. I never in the whole time I was over there had any inkling of any type of molestation or rape or this type of thing. I never heard of this while I was over there.

Q. We've had a suggestion that, at least at some point in these companies, there was an evolving, growing

situation that there had been a discipline that started to disappear. I wondered if at the command level this was an emerging problem of which you at any time were aware and tried to move in on?

A. There again, if this be the condition, unless something very flagrant takes place, it never gets up to me at brigade. I had no evidence. The first time I ever heard of any sexual molestation, rape and so forth, was when I read it in the paper about this thing. This was never the subject of any discussion while I was over there, never considered as a problem, at least never brought to my attention. If the staff had known about it, certainly Colonel HENDERSON and I would have known about it.

Q. Did you ever in the period prior to your departure focus on the failure of any of your units to close with the enemy? This phase has kept coming up to us. Now, as you were describing it before, I didn't get this feeling from you. So I mention it: whether your recollection confirms any idea that you were concerned in the beginning of March, as you were reviewing the immediately preceding operations, that there had been some failure to close with the enemy and they were not picking up the weapons they should have been picking up?

A. That's a difficult question because in our after action critiques I would cover many things. What emphasis I placed on the various aspects, I'm not sure of at this time, but the phrase "close with the enemy," which is certainly a good military term that we use a lot, I don't ever recall telling my commanders that the soldiers aren't closing with the enemy or following through.

IO: What was the policy with respect to burning houses, or hootches, as many of them refer to them?

A. There certainly was no order that we would burn down houses, just indiscriminately burn. I would say that the general trend of my guidance or of the battalion commanders' guidance was that if a house became a stronghold we eliminated the house. Where a booby trap was set in the front yard of a house I would say that the people in that house knew something about it and that that house should possibly be eliminated. I won't say that I put that out, but that certainly would have been accepted. But we didn't go around burning up villages.

Q. Do you recall an order by General KOSTER and a procedure established by division headquarters which indicated that, other than instances such as your returning fire from a house which is being utilized as a fortified position or something of this nature, any house or hootch except those way out in the hills which the NVA were using as a base camp, but any place that obviously was an area of habitation such as you were talking about, that no house would be burned down without the explicit approval of the division commander or one of the ADCs?

A. Was that in writing?

Q. No. I understand that sometime in the January time period, General KOSTER at his commanders conferences discussed this at considerable length for the protection of property and lives and so forth.

A. I can't specifically recall that, but I would say that's probably correct in that that was the general trend. I believe that on more than one occasion I discussed with General KOSTER this matter of not overshooting, not overkill, overfire, too much massive American firepower. We had to use it wisely. This was discussed with General KOSTER, and the matter of burning houses would be consistent with that.

Q. Would this also be consistent about not killing animals or destroying crops and so on?

A. Yes.

MR MACCRATE: This may be a tough one, but I think it would be helpful to us if you have any insight into the frame of mind of Colonel HENDERSON at the time he took over command on 15 March. As he was stepping up to this command, can you give us a little feel of anything that was reflected to you at that time?

A. Well, of course, I had tremendous respect for Colonel HENDERSON. I'll go back and come up to your question. I think what I'll say will have some bearing on your question. First of all, when this brigade was formed, Brigadier General John HAY was assigned to command it. It became the Pacific Reserve to replace the 25th Division which had gone over. HAY left after a time and HENDERSON was given the brigade as a colonel. He had the brigade for a couple of months. I

don't know how long. Then I was moved in and given the brigade and took it. He became my deputy or XO. Had I been Colonel HENDERSON I wouldn't particularly have liked this either. I think that after HAY left and when the brigade didn't become a division and HAY left, I think HENDERSON more or less assumed, in fact he might have been told, that he was going to have the brigade. Then DA sent me out there to get the brigade. So HENDERSON had been the interim brigade commander, and then I came in on 21 March 1967, and it was my brigade and I took over. HENDERSON was my XO all the way through. He was a fine, strong exec as far as I was concerned, and I always felt that even though I had taken the position from him that he was completely loyal to me. When I left, and I made out an efficiency report on Colonel HENDERSON, I recommended him for promotion to brigadier general, which I didn't do to too many colonels along the way. As far as I was concerned, HENDERSON took the brigade over. He thought it was in good shape. He and I worked right together, and he had as much a hand in forming the brigade as I had in the character of the brigade. He took it over, and I thought it was rightfully his. I was real pleased about the whole thing. As far as I was concerned, I don't think he had in the back of his mind that he had to make his letter or he had to do something spectacular or that he had to show the world. I think he felt that it was his now, and he was just going to carry on. That we were doing a good job all along. I don't think there were any great changes made as far as I know, and I would say that his frame of mind was to do a good job, because he was a good aggressive soldier.

IO: General LIPSCOMB, I want to put a question to you. With your knowledge of this brigade up to this time and your knowledge of Task Force Barker, I would ask you why this thing happened, and let me tell you some of the things that happened. I'm not going to tell you all, but I can tell you enough of it so that you can understand that something happened. One, an artillery preparation was planned to be put on the village. Two, gunships went in and shot up everything on either side of the LZ. Three, all of the slicks when they came in, went in with their doorguns wide open. Four, there were numerous instances where small children, women, old men were killed; in some cases rounded up just like cattle and mowed down, not only in Charlie Company but we're finding at the present time that Bravo Company also did this in the process of this

(LIPSCOMB)

30

APP T-213

operation. There were seven hamlets or subhamlets that were burned to the ground. I'm telling you as a professional officer with the thought that this will go only as far as you, at the moment, to try to get an insight into this thing as to why under these circumstances with you leaving one day, Colonel HENDERSON taking over, this thing happened the next day?

A. Well, this is extremely difficult for me to believe. Apparently I failed some way to indoctrinate these troops if this type of thing happened. As far as relating it to the assumption of command of Colonel HENDERSON, I repeat that brigade's part in these operations, the normal operation, was minimal. These things were decided down at the battalion and frequently the company. The battalion would tell them to go in there, but the company would work out the details. Now, I'm not passing the buck. The battalion commander had to approve these things and theoretically the brigade and all the way up the chain of command. I can understand certain parts of the first few statements you made, the preparatory fires, artillery fires in an area that had been a constant thorn in their side, that caused them trouble, that they'd lost people in there, mines and booby traps. They're going to do this. That I can understand, the preparatory fire, the gunships shooting going in. But in the wildest stretch of my imagination I cannot understand Americans, and certainly not officers and non-commissioned officers, participating in, permitting, or condoning the rounding up and shooting of people. This is beyond my belief almost that this could happen.

Q. I could make it worse.

A. And the element you add in about rape and this sort of thing just shocks me. I don't even remember back before we actually got into combat any problems about Vietnamese girls, when they had more time for this sort of thing. There was no problem there as far as I knew. This surprises me. If this did happen, I can't tell you why it happened. I don't know whether there was a complete breakdown in command, in humaneness, or what. This is a big surprise, shock, to me if it happened this way. I can't picture responsible people like MEDINA and MICHLES permitting this to go on. By no stretch of my imagination could I visualize TRINKLE. Is there any indication that A Company was ever in any--

Q. (Interposing) Of course, you recall TRINKLE was wounded. TRINKLE was not even in this operation. In the operation you were talking about he had been wounded.

A. He was hit.

Q. And his company had been taken over by Captain RIGGS. As a matter of fact, this company was, as far as we know at the moment, it's conceivable that we might have to look into this one as well, but at the moment I have no suspicion on Alpha Company. They were sitting there in a blocking position, although they did take some casualties from snipers and from booby traps and mines in the blocking position, you'll notice north of the Song Diem Diem, there in the green. For the greater part they were pretty well isolated from the other two companies.

A. I don't have the answer to that question.

Q. Well, I'd be sure you don't. We don't have it either. But one of the things we're trying to put together, figure out, is why this thing happened. You've been very helpful to us, General LIPSCOMB, and we're most appreciative of you coming up. Conceivably you may remember something. If you get to thinking about this and if you can think of any rationale which would, not justify, because as you said, a thing such as this is not justifiable, but anything that would provide a reason for it happening, it would be helpful for us to get your insight into it. If you do think of anything like that or if you can remember any additional documents that will help us, these are helpful. As you can see, we have numerous documents, and these are just a small smattering of what we have connected with this. If you have anything that is directly related to this, any pictures or any air photos or memos or things of this category, we'd appreciate having those.

A. Right.

Q. We'd be happy to try to answer any questions that you may have, or, if you'd like, we'll give you an opportunity to make a statement for the record.

A. Well, I feel that I've pretty well covered everything. I trained a lot of troops in my 34 years of military service. I considered these fine troops and well trained troops because we knew what we were training for and we were prepared.

We went over there and I thought that they were doing a good job, did do a good job. I thought our discipline was above average. It's extremely difficult for me to see a breakdown that could occur that's this drastic. But again, frequently, the higher up you are the less you know about what the true picture is, unfortunately.

IO: The hearing will recess at this time.

 (The hearing recessed at 1505 hours, 23 January
1970.)

FOR OFFICIAL USE ONLY

SUMMARY OF TESTIMONY

WITNESS: MACLACHLAN, William I. LTC (USAF)

DATE OF TESTIMONY: 31 January 1970

PLACE OF TESTIMONY: Pentagon

WITNESS SUSPECTED OF: N/A

COUNSEL: None

DUTY ASSIGNMENT ON 16 MARCH 1968: Air Liaison Officer, 11th Brigade.

1. PREOPERATIONAL PLANS AND BRIEFINGS.

MACLACHLAN could not recall whether he was briefed about the operation (pg. 6).

2. ASSAULT ON MY LAI.

a. Observations while flying with HENDERSON.

As he recalled it, there was an artillery prep prior to the company's insertion, but he did not see it (pg. 7). MACHLACHLAN was aboard HENDERSON's helicopter (pg. 8). He did not have a good seat for viewing the ground, and he could not hear any radio transmissions (pgs. 12, 13). He did not recall speaking to his FAC's that morning, and there were no airstrikes (pg. 14). While over the area he recalled looking for the bodies of the VC which the gunships had reported engaging in the rice paddies (pg. 10). The command group attempted to direct troops to the area of the bodies and were finally successful in getting a squad to them (pg. 10). He saw approximately 150 people moving along the road towards Quang Ngai (pgs. 10, 11). He saw two bodies in a ditch on the south side of the road (pg. 17). An H-23 was circling two people on the road (pg. 11). MACHLACHLAN's helicopter landed just off the road

(MACHLACHLAN)

1

SUM APP T-287

FOR OFFICIAL USE ONLY

in the rice paddy, and a couple of troops brought over the suspects, who were wearing black pajamas, and put them aboard the helicopter (pgs. 7, 11, 12). After this they circled the area 10 to 20 minutes and then flew the prisoners back to LZ Dottie (pgs. 7, 12). These persons were not searched after they came aboard the helicopter (pg. 12). He did not know if they were searched before they boarded (pg. 12). Their wrists were tied, but they were not restrained in any other way (pg. 12). Later he heard these prisoners were PF's (pg. 17). He knew something about the H-23 locating mortar rounds on Hill 85 (pg. 14).

b. Actions at LZ Dottie.

When they returned to LZ Dottie they spoke to BARKER and CALHOUN in the command post (pgs. 15, 16). KOSTER arrived after this and spoke to HENDERSON, but MACHLACHLAN did not know what was said (pg. 16). He did not think KOSTER went into the CP (pg. 20). While back at LZ Dottie he recalled no conversation about 69 VC KIA due to artillery (pgs. 19, 24). From the bits of conversations he heard at the CP he was under the impression that the operation was unsuccessful because they did not locate the VC battalion (pg. 23). He did not remember a conversation about civilian casualties (pgs. 20, 23). After leaving LZ Dottie they made a few circles of the area and returned to Duc Pho (pg. 21). He did not remember the visit of General DOLEMAN (pg. 30).

c. Overflight in the O-2 aircraft.

Around 1300 he flew over My Lai in his O-2 and saw some burning (pgs. 23, 25). He saw some bodies along a road (pg. 26). He did not see a ditch with a lot of bodies in it (pgs. 26, 27). The U.S. soldiers appeared to be searching the area (pg. 29). He received no reports from his FAC's which described more than he saw himself (pg. 31). He saw no more than six to eight bodies (pg. 44).

3. INQUIRIES AFTER THE ASSAULT.

He did not recall hearing the results of the operation at the briefing that night (pg. 29). However, there was concern about the disparity in the body to weapons count

ratio (pg. 39). He did recall something about an aero-scout helicopter pilot reporting the unnecessary killing of civilians (pg. 32). Talk about this died because it was never corroborated (pg. 33). He did not know where he learned about the helicopter pilot's report (pgs. 34, 36). He recalled no extensive investigation about it, and he did not know who was checking it out (pg. 37). He did not remember speaking to HENDERSON about it (pg. 39). He knew of no investigation of a company commander's conduct (pg. 39). He heard nothing about a confrontation between air and ground personnel (pgs. 30, 33). He heard nothing about a gunship evacuating civilians (pg. 33). The 174th told him nothing about the operation (pg. 34). He could not recollect being questioned about the operation (pg. 34). He never saw any VC propaganda alleging U.S. atrocities (pg. 34). He did not hear about a similar allegation in a report from a village chief to a district chief (pg. 34). He did not know that a chaplain had received a complaint about the unnecessary killing of civilians (pg. 35). He thought he recalled a report being prepared by MCKNIGHT, but he could not relate it to a specific instance (pg. 39).

4. OTHER INFORMATION.

a. Conversations about the incident.

The witness had no conversations about the incident with persons from the 11th Brigade or anyone else since it became a matter of public knowledge (pgs. 2, 3).

b. Duties as liaison officer.

MACHLACHLAN had three forward air controllers working for him (pg. 3). They worked out of Duc Pho and flew O-2 type aircraft (pg. 3). They were available to any unit in the brigade needing reconnaissance or tactical air support (pg. 3). He attended the daily staff briefings given by the brigade CO (pg. 3). He assisted the S3 in planning air strikes (pg. 3).

(The hearing reconvened at 0837 hours, 31 January 1970.)

IO: The hearing will come to order.

RCDR: The following persons are present: LTG PEERS, MR MACCRATE, COL ARMSTRONG and MAJ LYNN.

Sir, the next witness is Lieutenant Colonel William I. MACLACHLAN.

(LTC MACLACHLAN reported to the IO, was sworn, and testified as follows:)

RCDR: Colonel, for the record, will you please state your full name, grade, Social Security number, branch of service, organization, and station?

A. William I. MACLACHLAN, Lieutenant Colonel, United States Air Force, Detachment 850, Air Force ROTC, University of Utah, Salt Lake City, Utah.

IO: Colonel MACLACHLAN, in addition to myself here this morning, on my left is Mr. Robert MACCRATE who is a civilian attorney. Mr. MACCRATE has volunteered his services to the Secretary of the Army, Mr. RESOR, to assist in this investigation team as a legal counsel. On my right is Colonel ARMSTRONG, an Army colonel who General WESTMORELAND and his office have appointed as an assistant to me in this inquiry. Either of these gentlemen, aside from me, may address questions to you this morning. You should know that we have other groups comparable to this which are likewise taking testimony from others. And, as you probably know, it will be my responsibility to put together a final report, to weigh the evidence, and to determine the findings and recommendations.

Have you read the preliminary instructions that were previously issued to you?

A. Yes, sir.

Q. Do you understand them or have any questions concerning them?

A. I understand them, and I have no questions.

(MACLACHLAN)

1

APP T-287

Q. Colonel MACLACHLAN, would you state your duty assignment as of March 1968?

A. I was the air liaison officer at the 11th Infantry Brigade.

Q. When had you taken over that job, Colonel MACLACHLAN?

A. I was assigned as the air liaison officer to the 11th in, I would say, July 1966. That was when the brigade was first organized. I arrived about a week before that actually at Schofield Barracks.

Q. And, you stayed with them and deployed overseas with them?

A. Yes, sir.

Q. And when did you depart from the brigade?

A. I left the brigade on 3 May 1968.

Q. Did you remain in the country?

A. No sir. I returned to Schofield Barracks and resumed my duty in Hawaii.

Q. Who replaced you in this capacity?

A. Major HARTENBARER. I can't remember any more of his name than that. An Air Force officer.

Q. What was your grade at the time, Colonel MACLACHLAN?

A. I was a lieutenant colonel at the time.

Q. This incident which we now refer to as the My Lai incident of 16 March 1968 became a matter of public knowledge in the time period of September or October last year, 4 or 5 months ago, through various means, television, radio, and the like. From that time, have you had any conversation with anybody who may have been associated with the 11th Brigade or the Americal Division concerning the incident, the reporting of the incident, or the investigation of the incident?

A. No, sir, no conversations.

Q. From the time you left your assignment with the brigade up until the time it did become a matter of public knowledge, did you have any discussion with any individuals concerning the matter which I have just mentioned?

A. No sir.

Q. I think it would be helpful, Colonel MACLACHLAN, to all of us if you would explain specifically what your duties were as the ALO and particularly as it pertains to the control of FAC's and all the other matters dealing with aviation and your relationship between yourself and your position within the organization of the brigade?

A. Sir, as the ALO I was the advisor to the brigade commander on tactical air matters. I had with me at Duc Pho three forward air controllers and a number of enlisted radio operators and radio maintenance personnel. We operated one or two O-2 type aircraft, which we used on general reconnaissance of the brigade AO and were available by radio at all times while in the air or on the ground to any unit within the brigade that might need assistance in the matter of reconnaissance or spotting or to call in and control tactical fighters if they become necessary. As the ALO I attended the daily staff meetings that the brigade commander conducted in the late afternoon at Duc Pho.

Q. Were you also responsible for laying on planned or immediate air strikes?

A. I was responsible for helping the Army S3 with recommendations and so forth. I didn't lay them on myself. I just acted as a go-between for him with the division.

Q. Who is the aviation officer at division, the ALO at division?

A. I can't remember his name right off, sir. It was a lieutenant colonel.

Q. But they would submit their request to him, and he would make the essential arrangements for laying on tactics?

A. Yes, sir. He would go to the air support center at Danang for the actual dispatch of the aircraft.

Q. Where were your aircraft located, your O-2's? Did you have those at Duc Pho or were they at Chu Lai?

A. They were at Duc Pho, sir, the entire time I was there.

Q. Were there any other light aviation there, fixed-wing?

A. No fixed-wing, light aviation, Air Force or Army, were there on a full-time basis. Occasionally a fixed-wing aircraft from the Army would come down and spend the day. They were based at Chu Lai and would go back in the evening. Ours stayed there all the time.

Q. Well, in terms of the VR aircraft, but I understand they came out of Chu Lai.

A. That's right. They would come down and spend the day, and they'd go back.

Q. I'm sure you were aware when Task Force Barker was organized?

A. Yes, sir.

Q. Do you recall the purpose of the organization of Task Force Barker?

A. As I recall, the purpose was to take over this additional area of responsibility from the--I believe it was the 198th Brigade on a--I don't recall if it was a temporary or a permanent basis. But we did have to form a task force because we didn't have another battalion to send up there.

Q. Well, that's essentially correct. There's a little antecedent to that in the sense that the 198th had moved in to fill the void of the ROK Marines.

A. That's right.

Q. And then when the ROK Marines had to move out, to pick up your story, they had to get something to fill in until the 4/21 arrived. You were also familiar with the operation of Task Force Barker out in this AO, looking at this map (Exhibit MAP-5) which generally speaking is north of the Diem Diem River and east of Highway 1, generally referred to as the Bantangan Peninsula.

A. Yes, sir.

Q. And I believe you would also be cognizant of the operations which they would conduct from time to time down in the area to the south, which is indicated there (Exhibit MAP-5) in the orange, which is an AO extension obtained from the 2d ARVN Division into the eastern end of the Son Tinh District. Generally speaking, it lies between the Diem Diem and the Song Tra Khuc Rivers. Do you recall the operations of Task Force Barker into this area in February?

A. Well, in February they did have two operations. One in the early part of February, generally pretty far out to the coast, and another one in the later part of February, which, looking at this map (Exhibit MAP-1) came out generally about as far as the My Lai (4) area, where they ran into resistance. My Lai (4) is down to the southwest of Pinkville. You can see it there where you have a darker orange.

A. Yes, sir.

Q. And they finally had to extract the company by using APC's. This was a combined operation, also using some ARVN troops along with them. Now, the operation we're interested in took place in March, the middle of March, actually on 16 March, utilizing C/1/20 and B/4/3. In a blocking position to the north is A/3/1. Do you recall that operation?

A. Yes, sir, I recall the operation. I can't remember just what day it was on, what the date was.

Q. Well, the operation took place on the 16th. What was your first knowledge of it as you recall?

A. I think I'm going to have to go back on normal events again. We normally heard about these operations about not even 24 hours ahead of time in my position. I would say usually about noon the day before, they would brief me on what was planned the next day and if they either wanted air strikes or they didn't. As I recall they didn't have any pre-planned for these operations. But they wanted us to be in the air over the operation at the kickoff time in order that we were available in case they did need us. To answer your question, sir, I would say not more than 24 hours ahead of time.

Q. Well, now let me focus just a little bit. I think I can bring you right down to the minute almost. This day, if you recall, the day before the operation, the 15th, General LIPSCOMB was replaced by Colonel HENDERSON. So, undoubtedly there was quite a large change of command ceremony there, probably on the airfield at Duc Pho or out on the pad?

A. Yes, sir.

Q. So, if you can place that, you can recognize that the operations are the next day. That may help you to get back in the situation.

A. Yes, sir. I recall the change of command. I knew the command had changed about that time, but I didn't remember just what date that was either. The change of command was in the morning, as I recall, possibly 8 or 9 o'clock in the morning. I don't really remember whether I knew about the operation and the plans for the next day or not. Honestly, I can't remember.

Q. Well, coming to the day of the operation itself, where were you located? Where would you normally be located during the conduct of one of these operations?

A. We would generally take turns, myself, and the other forward air controllers. One of us would be overhead about 15 to 20 minutes before the operation was due to kickoff. We would be in the vicinity. We wouldn't be flying directly over the target area. So I may have been in the air during that operation or I may not have. I can't honestly remember whether it was my turn or not. I do recall additional information of riding with Colonel HENDERSON in the command helicopter on one of these My Lai operations, but I don't remember whether it was this one or not.

Q. What do you remember about this particular operation that you did ride on?

A. Well, it was similar to the one that you described. It kicked off early in the morning, and there was at least one company that I know of that was moving in from the west or the southwest. I don't believe there were any APC's involved. I don't recall seeing any. And there was an artillery preparation, and the company moved in. They had some resistance initially. And then, to my recollection, it calmed down quite rapidly. It didn't consist of as much action as we had in the past. The only significant thing that I can recall is that we landed in a rice paddy, picked up two suspected prisoners, and took them over to LZ Dottie, flew over the area once or twice, and then returned to Duc Pho. I think we were in the air maybe two or two and a half hours that morning.

Q. Well, I think you were with Colonel HENDERSON on the morning of the operation. You have brought out some of the incidents. Did you see the artillery prep go in? Was the artillery still firing when you arrived in the area?

A. Yes, sir. If I recall we were there in the vicinity looking at a distance when the artillery prep came in. I had the disadvantage of being in the middle of the helicopter. I'm sure you have ridden in Huey. If you sit sort of in the middle, you can't see much out of either side. So other than seeing some puffs of smoke, I can't really say that I saw the artillery preparation.

Q. Do you recall whether the aircraft you were riding in had a radio console in it or not, and did it have a radio operator there with it?

A. Yes, sir. I was sitting just to the right. I think the operator was--I can't remember if it was an officer or enlisted man. I was sitting just to his right, though, next to the console.

Q. Do you recall the other people in the aircraft with you that morning?

A. The brigade sergeant major was in the aircraft. I believe he was sitting over in the seat on the side of the console. And the artillery battalion commander.

Q. Would that be Colonel LUPER?

A. Colonel LUPER, yes, sir. And Colonel HENDERSON. And I believe whoever was operating the console was sitting between myself and Colonel LUPER, but I can't remember for sure.

Q. Do you remember Major MCKNIGHT being with you that morning?

A. He may have been the one that was operating the radio, but I'm not sure whether he was with us that morning or not. I know he went with Colonel HENDERSON generally, but I don't recall whether he was with us that morning or not.

IO: Colonel MACLACHLAN, would you just make a sketch to show where, to the best of your recollection, people were sitting inside of the helicopter? Just the passengers. We don't have to have the pilot and the copilot, but just the passengers.

(The witness did as requested. His sketch was later introduced into evidence as Exhibit 0-8.)

IO: Who was sitting to your immediate right?

A. I don't believe anyone was, because when we stopped to pick up those suspected prisoners, that's where they put them. They put them between myself and the door.

Q. Do you recall that morning if you went into LZ Dottie before you came into the area?

A. I don't believe we landed at LZ Dottie before the operation. Maybe I'm mistaken. I'm just guessing actually.

Q. You had undoubtedly known Colonel HENDERSON before, because he was with the brigade since before it was organized. This is probably the first time that you had been out with him.

A. Yes, sir.

A. I guess I rode with him one time in the command aircraft. That would have been the first and last time actually.

Q. I have here, Colonel MACLACHLAN, an aerial photo of the My Lai (4) area, and I will take a minute to orient you.

(The IO oriented the witness to Exhibit P-1.)

Q. Now does this look quite normal to you?

A. Yes, sir, I recall the area in general. There was a number of these little My Lai's in the area, and I didn't pay much attention to which was which. Is this the area they referred to as Pinkville?

Q. Yes, that's right, it's just to the east northeast from there. Now do you remember the first thing--incidentally, do you remember the landing zone being out in this general area just to the west of the village?

A. I can't really say I do. I recall the troops being there, but I don't recall how they got there, because we were circling them, and I believe there were some suspects in the rice paddies, there in the grass, that the troops couldn't see. Colonel HENDERSON was trying to direct the troops in to where they were.

Q. Well, that was fairly early in the morning, wasn't it?

A. Yes, sir, maybe 7 o'clock or 7:30.

Q. Well, this landing took place at 7:30. It started about 7:30. The prep started at about 7:25, and the landing started at 7:30. The second lift came in at 7:37 and completed at 7:50. And up until that time, the troops had been moving generally along this line. So that brings you down to a fairly reasonable time element. Before this, had you seen the artillery going into the area?

A. Well again, everything was kind of hazy. I can remember they had an artillery preparation on one of these operations on the north edge of one of these villages. It may have been this one. But, it came from Uptight, I believe it was.

Q. The indication that we have, Colonel MACLACHLAN, is that when the landing was affected from out of this general area (indicating) a couple of armed VC came out, and the gunships took them under fire out in here to the north of the village. And the gunships killed them out there in the rice paddies. The gunships went about their business, but Colonel HENDERSON was concerned about picking up the weapons from them.

A. I recall looking, and trying to find some bodies, and trying to find out if they had weapons, and trying to get troops in there to search the people. That's what made me think it was over here (indicating).

Q. Well, this, to the best we have been able to put together--and as a matter of fact, it is determined by all the evidence that it's right in here that it took place (indicating). Two came out of here actually and picked up the weapons. After this incident, do you recall what happened?

A. I can recall that we were trying to direct the troops in on these. I assume from what you said it was the bodies and the weapons, but all I remember specifically is that we were looking for and trying to direct some troops in on some suspects. And it seems to me that they were finally successful in getting a part of the squad there. And, as close as I can remember, we climbed back up to a little higher altitude and circled for a little while longer until this other landing that we made in the area. Do you want me to continue?

Q. Well, yes.

A. I think it was on this road here (indicating) that our people--a lot of people were streaming along this road trying to get out of the area.

Q. Heading back towards Quang Ngai, then?

A. Yes, toward Quang Ngai, yes, sir.

Q. How many people would you estimate were there by just looking at them? 50? 100? 200?

A. On what stretch, sir?

Q. Along the entire road?

A. On the entire road? Oh, I'd have to say maybe 150 or 200. They were scattered out pretty well. It wasn't a mass of people. They were dotted all along the road. Probably more than just single file.

Q. It would be pretty hard to estimate the way they were all spread out?

A. Yes, sir. Some were moving at a fairly good pace toward Quang Ngai, and some were just walking along. It wasn't a rushing exit or anything like that.

Q. Now would you indicate what happened about this time?

A. I recall they had a couple of suspects along the road. Again I believe it was this road. It was a fairly main road. The troops were having a hard time getting them to stop and stand still. I remember hearing them over the radio. They would start running, and I don't know how they stopped them. Maybe they shot over their heads or something, and then they would stop.

Q. Did you see an H-23 there about that time?

A. Yes, sir, there was an H-23, but he couldn't pick them up, of course. I think he was down lower circling the two people on the road. It's coming back a little bit now. Trying to get them to stand still. And, as long as he circled them they would stand still. But, I guess at that time they decided to get down there and pick them up so the troops could move on, and the 23 wouldn't be tied up. So I believe it was about that time that we landed just off the road in the rice paddy, and a couple troops brought them over and helped them into the helicopter right beside myself on the right.

Q. Do you recall who it was that brought them into the aircraft?

A. No, sir. They were soldiers.

Q. And how were they dressed?

A. They were in black pajamas. I believe they just had white undershirts and black pajama bottoms. I don't believe they had any jackets on of any type. They were in white undershirts and black pajama bottoms, and no other clothing, no shoes, or sandals, or anything like that.

Q. And what happened after you picked them up?

A. We circled the area for another possibly 10 to 20 minutes, and took them over to LZ Dottie, and discharged them there.

Q. Do you recall while you still had those prisoners in there if you flew to the east out here (indicating) and watched the combat assault of Bravo Company?

A. We may have. I know we flew around for another 10 to 20 minutes. But as I said before, sir, I could see very little of what the colonel was looking at. I know we were flying generally over the area.

Q. That would indicate that somebody must have been in that seat, otherwise you would have been there, wouldn't you to observe what was going on?

A. Well, sir, this was the only time that I rode with him, and I was sort of relegated to a minor condition of importance. If Major MCKNIGHT would have been in the helicopter, I think he would have been in one of the prime viewing seats along with Colonel LUPER. But I don't recall whether Major MCKNIGHT was with us or not.

Q. Was anybody concerned about those two PW's?

A. Well, I was.

Q. I can imagine you would have been.

A. I think their wrists were tied, but they weren't restrained in any other way.

Q. Did anybody search them as you can remember?

A. Not after they got on the helicopter.

Q. Well, before they got on the helicopter?

A. I don't know.

Q. Colonel MACLACHLAN, I have some pictures here taken from helicopters coming in on the first lift. This would be the first picture (Exhibit P-196). It's sort of south-south-west. But you will notice here (indicating). Do you see this irrigation ditch? You see this road going into the village? Here's the same scene just a little bit later (showing witness Exhibit P-195). Of course, you may have been located in a different position, but were you in a position where you could see something like this going on?

A. Do you mean the general scene?

Q. That's right, the smoke. You get some of the gunships coming in here. You can see the gunship strafes coming in to here. You can also see the smoke from the artillery prep which is on the western end of the village.

A. I wasn't in a good enough position to see this good a view. They kept in a constant left-hand circle and I kept waiting for them to roll out so I could see something from the right-hand side. But very seldom did I get any more than a glimpse.

Q. When you were in the helicopter, did you have air communication? Were you hearing what transmissions were going on over the radio?

A. No, sir. If Colonel HENDERSON wanted to talk to me, I think I changed headsets with whoever was sitting on my left.

Q. That would be the radio operator.

A. It would be the radio operator or Colonel LUPER. Anyhow, whoever was sitting on my left would give me his headset, and then I'd give it back. I think, it seems to me that I talked to Colonel HENDERSON once during that flight. I can't remember what it was about, though. It wasn't about air strikes I don't believe, because I don't think we had any that morning.

Q. To the best of our knowledge, there were no air strikes on this day. We have no record. I think it would be good to have it in the record to see if you remember talking to your FAC's down here or anybody concerning air strikes.

A. No, sir. I'm certain that I didn't talk to my FAC's from the helicopter. All I can remember is it seems to me I remember putting on the headset one time and speaking to Colonel HENDERSON, but I can't remember what it was about.

Q. Did you, either over the radio or by other means, hear about helicopters locating some mortar rounds on the top of Hill 85 to the south?

A. Well, as I said, I didn't have any headset at the time. I knew of the locating of them. This may have been what Colonel HENDERSON asked me about. Or I may have heard it after we landed, I'm not sure. Because we had had mortar fired at us from this position on previous operations. So they were watching closely. And I believe the H-23 landed up there and searched the area, and found mortar rounds, and evidence of some people being there.

Q. Well, that rather fits with the story we have that is, that the H-23 had located them. He had not landed, but his unit landed. If you recall, the aero-scouts had a ground element. Do you recall the ground element being inserted to clean up the mortar position?

A. It seems to me that somebody was on the ground other than just flying over.

Q. Shortly thereafter we have been able to reconstruct as a fact that the ground element was inserted, and they did police up forty 60-millimeter rounds.

Do you remember, as I mentioned before, leaving My Lai, and going over to watch the artillery prep, and then the insertion of Bravo Company. Now I probably can refresh your memory a little bit because probably Colonel HENDERSON may have been a little vexed, and probably so with Colonel LUPER, because the artillery prep didn't lift when it was supposed to. As a consequence, it was necessary for the assault helicopters to make another round. In other words, they made a pass at the landing zone with the artillery coming in, so they had to make another swing and come back in. That cost them about 5 to 8 minutes. Do you recall that?

A. All I can recall is some problem with the artillery. I don't remember. I didn't know that was the problem. I remember there was a problem with the artillery either not coming in on time, or being too long, or something.

13 380

Q. But you do remember there was a problem out somewhere with the artillery at that time, which would again fix the situation. Now do you remember anything after that time until such time as you got back to LZ Dottie?

A. No, sir, except those guys sitting beside me there and making sure that they didn't try to disrupt the operations.

Q. We have some indication that maybe these people weren't both sitting there, but one may have been sitting here with sort of his back to the door (indicating on the sketch, later Exhibit 0-8).

A. No, sir.

Q. They were sitting right alongside you?

A. To my knowledge, there was only one seat with seat belts between myself and the door, and they were both jammed up next to each other and myself. I'm almost certain of that.

Q. You were sitting pretty close to them as the three of you would occupy the two seats?

A. Yes sir, I was right close. That's all I can remember.

Q. Well, I can understand that.

A. My mind isn't very good on a lot of the others.

Q. Now when you got back to Dottie, do you remember anything at Dottie?

A. Other than we went in to the command post and talked with Colonel BARKER for a few minutes, I can't recall any--

Q. (Interposing) Did you talk to Colonel BARKER? Did Colonel HENDERSON talk to Colonel BARKER? Did you see Colonel BARKER--

A. (Interposing) Yes, sir, I believe so. I think Colonel BARKER and his S3, Major--I can't recall his name now, but I think they were both in the command post.

Q. Do you remember him as being the old S1 of the brigade?

A. Yes, sir. I just can't recall his name. He was the S1--

Q. (Interposing) Major CALHOUN?

A. Yes, sir. When the Task Force Barker was formed.

Q. And as you recall it at the moment, Colonel HENDERSON was talking with Colonel BARKER and also with Major CALHOUN, then?

A. Yes, sir, I wouldn't want to be too specific. We were all in the command post, and people were conversing. The operation was still going on, so I didn't get into the act, so to speak, and talk with any of them myself. I sort of stayed on the perimeter.

Q. Well, that's in a good position where you could do some good listening. Do you remember General KOSTER being there at this time?

A. I think General KOSTER arrived a little after this, just before we left. It seems to me that we left the command post and were out in our helicopter when General KOSTER arrived but I'm not certain.

Q. Do you remember the conversation between General KOSTER and Colonel HENDERSON?

A. Not other than they spoke to each other.

Q. While you were there, did they determine who these two individuals were that you picked up?

A. Not while we were at LZ Dottie, I don't believe, sir. I heard later in the day about who they were and so forth.

Q. Well, maybe you can help us clarify this. We understand that these two were brought in, and they thought they were PW's. There had been some discussion with General KOSTER to find out what unit they came from, whether they were from the 48th Local Force Battalion or not. They had a quick readout of the individuals and found that instead of PW's they, in fact, had a couple of PF or Popular Force soldiers who had been captured by the Viet Cong and had been held prisoner. So that when all these people were escaping and moving out of the village, they moved down the road with them and when they had a first break, they ran off. This explains that sort of wierd action down there.

A. Yes, sir. I heard this story later. I don't think I heard it right there at LZ Dottie though. It seems to me that they took them down to Quang Ngai before they found out just who they were. I'm not certain though.

Q. Do you remember the S2 of the task force, Captain KOTOUC?

A. I know him, yes, sir.

Q. Do you recall whether or not the task force had its interpreters there at LZ Dottie?

A. I didn't see any.

Q. All right.

A. I would assume that they had some, but I didn't see them in the command post area.

Q. Now up to this time, you were flying around down here, Colonel MACLACHLAN, and I know you weren't sitting in a very good vantage point, but aside from what you have indicated so far, did you see any bodies located any place through here? You know, along the road. Did you see any bodies along Highway 521 or off to the side, or did you see any bodies up in the village at that time?

A. At that time I don't--I think possibly right after we took off from picking up those--I remember seeing some. I think it was right after we picked up those two down there. We kind of took off to the east along side the road, and it seems to me that I saw maybe two or three off the side of the road.

Q. Would it be off to the north or the south side of the road?

A. I think they were on the south side of the road sort of in the ditch on the side of the road.

Q. Did you see any U.S. troops down in that area at that time?

A. Well, they were scattered around a little bit. Right near the bodies I don't remember seeing any. Other than seeing a scattering in the rice paddies, I can't remember any concentration especially.

Q. Well, before we leave Dottie again here, Mr. MACCRATE, I'm sure you have a few questions.

MR MACCRATE: Do you remember the name of the brigade sergeant major?

A. WALSH.

Q. WALSH?

A. WALSH, I believe it's W-A-L-S-H.

Q. And he was the man sitting in front of you, and these two prisoners were to your right?

A. I believe he was sitting up here in front of me. I might be mistaken, though.

Q. You indicated you heard later in the week about the interrogation of the two prisoners and what that had disclosed. Do you recall the circumstances under which you received that information?

A. I don't really recall. I could tell you when I think I probably heard it.

Q. When was that?

A. At the staff briefing that evening. About 5 or 5:30 we had a daily staff meeting. Now this is probably when I heard it.

Q. After you got back to Duc Pho?

A. Yes, sir.

Q. You indicated that at that particular time the H-23 was having trouble with the two men on the road, circling them, and trying to detain them.

A. Yes, sir.

Q. That you overheard what was going on?

A. No, sir.

Q. Well, that's what I understood you to say.

A. No. I didn't have any earphones, so I didn't.

Q. Well, that's what I was interested in, whether you happened to have any earphones at that particular time.

A. No, sir.

Q. Do you recall how you got this information?

A. Well, as we landed I think I heard--I probably got it by word of mouth, but as far as that goes, I didn't even know why we were landing when we started letting down. All I know is that we were circling over, and I remember seeing the H-23 circling below us. I didn't even know why we were landing really. So I think that somebody must have shouted that they were a couple of VC and that we were going to set down and pick them up.

Q. Who were the individuals that were jacked into the radio console?

A. As I can recall, it would have been Colonel HENDERSON, Colonel LUPER, and probably Sergeant Major WALSH, or Major MCKNIGHT, if he was on the helicopter, and the radio operator.

Q. There were four jacks in addition to the one used by the radio operator?

IO: That includes him.

MR MACCRATE: That includes the radio operator. So only four individuals could be listening at one time?

A. I don't remember how many. I just remember there wasn't enough jacks so that I couldn't be listening.

MR MACCRATE: That's all I have.

IO: Well, now, when you were back at Dottie, Colonel MACLACHLAN, did you hear any conversation going on about the body count up to that time? For example, we know that up to this time they had reports, one report of one being killed, one report of 14, another report of 69. Now, do you remember that?

A. No, sir, I don't recall any specific figures. The general impression I remember was that this was a day that it wasn't really successful, or up to that time it wasn't.

Q. You indicated that you went down from the helipad, and you went to the TOC, and you were in the TOC evidently with Colonel HENDERSON, General KOSTER, and with Major CALHOUN.

A. This is in the Task Force Barker TOC.

Q. Yes. Were they all together then?

A. As I recall it, yes sir.

Q. Now, do you remember any of the conversation that went on there? Was there any conversation about civilian casualties, or anything of that nature, or seeing people on the road, or--

A. (Interposing) Sir, I think--no, I can't really say, sir. The bodies that I saw, I can't really tell what or who they were, or how they had been killed, whether it had been by artillery preparation or whether it was by the troops. But I don't recall any specific conversation about numbers of casualties or what caused the casualties or anything like that.

Q. Was there anything else that transpired at LZ Dottie that sticks out in your mind?

A. No, sir. It seems to me that there was just four or five of us there in the CP, and if I recall correctly, General KOSTER's helicopter was coming in, and I wouldn't really want to say that it was General KOSTER that came in to LZ Dottie. It could have been the assistant division commander. But I'm sure it was one of the two. So then we went outside, because he would be arriving in a few minutes. As I recall, they met and talked down on the helicopter pad for just a short time. Then, I think General KOSTER went up again and we left.

Q. You left after General KOSTER?

A. Sir, I don't think General KOSTER even went into the CP. My memory is hazy in trying to reconstruct that.

Q. I show you here the log of Task Force Barker for the 16th. This has been entered into the record as part of Exhibit M-16. If you will notice, at 9:35 it shows the commanding general of the Americal Division, supposedly General KOSTER, arriving at LZ Dottie.

A. That's about the right time, because we were airborne, I would say for about an hour and a half or an hour and 45 minutes before we left for Dottie.

Q. Now then, Colonel MACLACHLAN, when you left Dottie, what did you do next?

A. As I recall, we went back to the area and made possibly a few circles of the area and then went back to Duc Pho. I don't think we stayed in the area any considerable amount of time after we left Dottie. We may have gone straight back to Duc Pho, I can't recall.

Q. Well, let me refresh your memory about what happened after that, because Colonel HENDERSON had an appointment to make with the province chief of Quang Ngai, in Quang Ngai city. As I recall, the time was about 11 o'clock. Now do you remember that? I don't know where in Quang Ngai City you landed, at the Tropo Pad or whether you landed at the soccer field.

A. I don't remember. I landed in a helicopter in Quang Ngai City, but I don't remember landing there that morning. I thought we had just gone back to Duc Pho.

Q. Well, when you were flying over what we refer to now as My Lai (4), what altitude were you at when you returned? Did you come in high and stay high, or did you come in low and then make a low overpass?

A. I don't believe we went down low. The only time I remember going down low is when we picked up those PW's. Otherwise, we stayed about in the vicinity of about 2,000 feet above the ground.

Q. You didn't come in there and make a couple of low-level curves around here down through this area and then back around?

(MACLACHLAN)

21

APP T-287

A. Well, I don't want to say we didn't, sir, but I just can't remember.

Q. You indicated that you saw a couple of bodies down there south of the road, two or three or whatever it was. Well, after that did you see any bodies any place?

A. Not while I was in the helicopter, no, sir. If you want me to go on--I recall seeing some other bodies later in the day when I was flying in the O-2.

Q. Well, we'll come to that. But that's fine. That's what I wanted to get at. But at that time, and of course you weren't sitting in a good vantage point even if you had been low, but then you might not have seen it with all the obstructions, you know, three people between you and the door. You were flying in a counterclockwise orbit so to speak. So in other words, at this time, to your recollection, you didn't see anybody other than the ones you have indicated down to the south?

A. I think I saw those after we picked up those PW's.

Q. Now, when you came back into this area here, Colonel MACLACHLAN, what was the condition that you could see if you saw any of it? Was some of it being burned, or was there a lot of smoke around, or what did you see?

A. When we got back into the area?

Q. Yes, that's right.

A. As I remember, there was a little bit of smoke and a couple of fires still burning. This picture you showed me looks like what was happening in the area, but maybe some of the smoke was coming up at the edge of the village when we came back later. But I've seen so many scenes like this, I don't really know which is which.

Q. All right. Now, you don't recall--when you left this area, which was sometime before 11 o'clock, so that Colonel HENDERSON could go down and meet with the province chief, Colonel KHIEN, did you possibly go with Colonel HENDERSON to meet Colonel KHIEN. He was a lieutenant colonel at that time. He was the province chief in Quang Ngai City.

A. No, sir, I never met the province chief, but I believe I met the 2d Division commander briefly before one other operation in the west of the city.

Q. That would be Colonel TOAN?

A. That's right, sir.

Q. T-O-A-N?

A. Yes, sir.

Q. Well, to the best of your recollection of all events, you went back to LZ Bronco?

A. Yes, sir.

Q. Can you recall anything else that happened that morning that might be significant to what we're trying to do in reconstructing these activities?

A. No, sir. I remember when we got back to Duc Pho, everything was relatively quiet and not much going on. I believe I flew later in the day. As to what time it was, I don't know.

MR MACCRATE: May I inquire about the morning? There was one observation that you made that I find very interesting. You said that you had the impression when you arrived at LZ Dottie taking back the prisoners that it was not a very successful operation, and that this was the attitude at the time. Could you enlarge upon that as to how and from who you got that impression?

A. Well, I don't think I want to name anyone specifically. I think I got it probably overhearing conversations and what little I had been able to observe. They hadn't actually located this battalion or any part of it that they were looking for. All they found was some scattered resistance. I think it was in the February operation that you referred to that they did have quite a bit of resistance in that area. Or that was what they were hoping for, to capture this battalion again?

IO: Was there any indication while this discussion was going on about noncombatants being killed?

A. No, sir, not that I recall.

MR MACCRATE: And you do not recall any discussion of a large KIA figure?

A. Well, we had some KIA figures up in--well, I'd say maybe in the 80's in this particular Pinkville area once or twice, but I don't think it was on this operation. I'm not sure. As I said, there was quite a few operations, and they were all kind of confused in my mind to a certain extent. If I remember right, this wasn't one of the ones where they actually had resistance and found parts of this battalion. They never did find it all, I don't believe.

MR MACCRATE: Do you have any recollection when you were at Dottie of 69 VC KIA?

A. No, sir. I may have heard it at the staff briefing in the late afternoon, what the KIA was, but, I don't remember specifically.

Q. Well, it is very interesting, indeed, that you got this impression at LZ Dottie at a time subsequent to when they reported in their log 69 VC KIA.

A. Well, as I said before, I wasn't on the radio in the helicopter, so I couldn't hear anything that Colonel HENDERSON was saying. When we went into the CP, I sort of stayed in the background, and he and Colonel BARKER were talking, and I think Captain KOTOUC was kind of in and out trying to get some additional data on the radio or something. Major CALHOUN was on the radio part of the time. But as far as any specific figures, I honestly can't recall hearing the results of the operation at that time.

Q. Do you remember any inquiry coming in at that time from Duc Pho?

A. No, sir. I don't remember any inquiries at all, no matter what it was.

Q. Well, do you have any recollection up at Duc Pho of raising a question as to how many reports they had received as to the operation. Does that ring a bell?

A. No, sir. Again these things are confused because

in all operations there were inquiries back and forth. Whenever I'd be in the CP, they would be trying to confirm and double check casualty figures on each side.

Q. Well, this might have been a rather unusual inquiry. And you have no recollection of that coming in the TOC in the particular period that you were there?

A. No, sir.

Q. In addition of Colonel BARKER, Captain KOTOUC, and Major CALHOUN, do you remember anyone else in the TOC at this time?

A. Well, Colonel LUPER accompanied quite a few. I'm not sure if Colonel BARKER was in there with him.

Q. Was either Colonel BLACKLEDGE or Major MCKNIGHT?

A. I'd be pretty sure that Colonel BLACKLEDGE wasn't there. But I can't remember whether Major MCKNIGHT was or not. I wouldn't want to say for sure either way really.

Q. Do you recall if brigade Sergeant Major WALSH accompanied the party to the TOC?

A. No, sir, I don't recall whether he came in the TOC or not. It's a very small bunker, sort of, and there wasn't an awful lot of room in there. Sergeant Major WALSH is pretty good sized. I don't remember if he was there or not. I don't recall seeing him.

IO: Well, let's come down to the afternoon. You indicated that you had done some reconnoitering in the O-2.

A. Yes, sir.

Q. Would you explain that to us, please, about what time of the day it was and what you did?

A. That is again very difficult. I believe I flew that day. I'd have to go back to my records to be sure. And if I didn't get back to Duc Pho until probably 10 o'clock or after, I probably didn't fly until about--1 o'clock our schedule usually ran. I think we had a flight that took off about 1 o'clock, and I may have flown that one. In fact, I probably did, because I'd usually try to fly the short one because of the staff meeting. I probably flew the 1 o'clock one, and

went up there, and Vr'd the area again. I think I left over Hill 85, and it seems to me that this area was pretty well vacated by this time. I do recall in addition to these bodies here, it seems to me that I saw some just south of this area maybe along this road. This is a canal here?

Q. That's right.

A. In other words, along the road. I remember it was along a line of some type.

Q. Did you see some bodies in this general area here (indicating) along the road just south of the village?

A. I wouldn't want to be that specific. It may have been some place in this area that I had seen earlier in the day, and they were still out there.

Q. Did you see any more on the road or around?

A. No, sir. There might have been two or three here, or along in here someplace. I think I VR'd the other area. I think the other company was up in here sort of creeping through the Pinkville area. As I recall, there wasn't any resistance other than normal, booby traps and mines occasionally.

Q. Well, according to the information that we have, Bravo moved out from here and laagered in about this area. Charlie Company moved sort of east-northeast, and the two of them joined together about in this area somewhere around 3 and 3:30 in the afternoon. So we know generally where they laagered alongside a cemetery.

A. This sounds right to me. This is about where they ended up on a couple of others, too, but I can't tell which is which really.

Q. When you were flying in this area west of My Lai (4), did you by chance fly over this area and observe a ditch with a lot of bodies in it and laying along side the lip of it?

A. No, sir. No, sir, I remember seeing these, but I think it was along this road here. I don't remember this road or the built-up place there especially. I recognize this road. In fact, we usually stayed at an altitude of about 1,500 or 2,000 feet unless there was something specific down there, then we dropped down to check more closely.

Q. Did you have an observer with you?

A. I would have to say no, because generally I didn't. Occasionally we'd take one of the Army observers either from the artillery or from the MI detachment, but very seldom.

MR MACCRATE: Colonel MACLACHLAN, as you flew back in the afternoon do you recall if either in My Lai (4) hamlet, or in any of these other hamlets that they have extending to the north and out to the northeast, you saw any smoke or any indications of substantial burning.

A. Well, I wouldn't want to say. No, sir, not specifically. Generally, when the troops search these villages, occasionally they'll burn a hut for some reason or another, and you'll see the fire and smoke start up for 10 or 15 minutes. Specifically, I wouldn't want to say.

Q. My question extends to the area of operation of Bravo Company as well, starting up from the south to join in with Charlie Company.

A. Well, again, I wouldn't want to say. But from my recollection of the area there weren't any hootches, or huts or whatever you want to call them in this area to burn. This was pretty much a devastated area. As I understand from what the people that were on the ground in there said, there was a lot of caves and tunnel entrances and things like this.

IO: Well, are you talking generally about the Pinkville area now?

A. Yes, sir. So these were inhabited hamlets. There were people in there, but it wasn't green, and there weren't grass huts and so forth as you could see a little bit over to the west from there.

Q. I have here, Colonel MACLACHLAN, some pictures which I would like to show you and ask if any of these pictures here are comparable to anything you saw. Of course, these are ground pictures, and you are looking overhead at 1,500 to 2,000 feet. I recognize the problem.

(IO hands witness photographs, Exhibits P-26C thru P-42C.)

A. This looks more like something I may have seen (indicating Exhibits P-31C, P-38C, P-39C, and P-41C). I didn't see any, well, you know, little kids or great big bunches of people like that.

Q. Well, this is really the group that I'm asking about here, this one (Exhibit P-41C), as to whether you had seen that group of people on the road immediately south of the village in this area right in here, the same area.

A. No, I didn't. This (Exhibit P-31C) isn't the scene that I saw. It's more like what I saw. There was two or three scattered around. I remember seeing some animals in here.

Q. That picture was supposed to have been taken right along in here (indicating on Exhibit P-1), up in this direction heading east-northeast. You can see the trees along here, the hedgerow, or the canal.

A. This doesn't look like that road. Is this supposed to be this road?

Q. Yes.

A. It sure doesn't look like it. It was a pretty good-sized road. You could drive an automobile on it. Maybe even two ways, almost, not quite, though.

Q. Well, from what I observed of it, it is quite a wide road. Mr. MACCRATE and myself have been trying to place these pictures. The photographer puts them in one place, and we, frankly--I do at least--put them in another.

A. Well, it certainly doesn't look like this main road. This one or this one could possibly be this road in here (indicating on Exhibit P-1, P-31C, and P-41C). But, none of these look like that road. This one looks a little bit wider.

Q. Well, did you observe anything else that afternoon flying around in your O-2?

A. No, sir, I don't think I even talked to anybody that afternoon. It seems to me that they were just searching and going through the area. This is just the general impression I have of, that particular day. After that initial resistance maybe up till 8 or a little after in the morning, there wasn't much. I can't remember, but possibly later in the day when they got over in the other area, they might have run into some more. And I called air strikes into that area at least two different times, but I don't believe it was this day. I think it was probably on the one in February.

Q. Do you recall getting any reports, Colonel MACLACHLAN, or seeing anything over in the area of Bravo Company in the area just south of Pinkville?

A. No, sir.

Q. Coming back now, do you recall whether you attended the evening briefing that night or not at the brigade?

A. I assume I did, sir. I very seldom missed one.

Q. Do you recall the results that were reported that evening at the 5 o'clock briefing?

A. No.

Q. Well, the results up until that time were 128 VC KIA, 2 U. S. killed, 11 U. S. wounded, and 3 weapons captured. Do you recall those?

A. I can't recall the specific figures. I recall on an operation in that area that they had quite a high VC KIA figure with a very low number of weapons. This may be the one that I remember. It was very disproportionate in other words. But most of them were. For some reason or other, they'd gather up these weapons and hide them, and the troops never used to seem to find them. They knew that they got shot at a lot, but when they got there, they couldn't find the weapons.

Q. Well, I can understand that on a small operation. But on a big operation were they kill 128 or so, there aren't many left to be policing up weapons.

A. Well, I remember on one operation, they were quite disproportionate. These figures don't ring a bell.

Q. Do you, by chance, remember any discussion concerning this weapons situation?

A. Not other than what the brigade commander would normally say is, "Why can't they find them?" or something of that sort.

Q. Well, again we come back to the point that it was Colonel HENDERSON's first day as the brigade commander. And maybe comments from the new brigade commander might stick in your mind.

A. I'm sorry, sir, I can't really remember. I sort of have a picture in my mind that this was probably the first staff meeting of his, and it was usual at the end that the brigade commander would get up and give his sort of summary of the day's operations, and what could have been done better, and maybe a little bit about the plans for the next day. Probably nothing significant comes to mind as to what he may have stated. I've heard them so many times trying to find these weapons that the weapons were more important than the bodies. So, again, it's sort of a jumble in my mind.

Q. Do you recall this afternoon that the brigade had a visitor who stopped, I think, initially at Bronco for a little while and went from Bronco to Dottie? General KOSTER came in and met General DOLEMAN.

A. I can't really say I do. I know General DOLEMAN, but I don't recall whether I ever saw him.

Q. You saw General DOLEMAN in Hawaii then?

A. Yes, sir. I don't recall ever seeing him at Bronco.

Q. Well, after he retired, he headed a special study group on strategic communications. And in the process of it, he stopped by here. We know from the logs that he was at LZ Dottie with General KOSTER actually about 4:30 that afternoon. Of course, if you had been flying and so forth, this may also have set the briefing time, mightn't it?

A. Well, if I had been flying and I went at the normal time, about 1, I was probably back on the ground at that time getting ready to go to the briefing. I think the briefing was either at 5 or 5:30.

Q. Do you recall that day of any additional reports from your FAC aircraft or from even getting reports from the VR aircraft about seeing anything unusual out in this My Lai (4) area?

A. No, not from the VR's. My own FAC's that were up during the day confirmed pretty much what I had seen in the area that I've already related to you. My one FAC, Major HANKS, who I understand you're going to talk to also, is--oh, I don't know how you would describe him. He was an eagle-eye type. And if I remember, he confirmed what I had seen and possibly mentioned a few more things, bodies or something, which he had seen. But, again, this is a normal report that he would come back with after most operations. So, I can't recall whether it was this particular one or not.

Q. When you came back from one of these operations, did you file a report of any kind?

A. We would check with the TOC and more or less tell them what we had seen that may be of interest to them that they hadn't already recorded. Normally on this type of an operation where there was a lot of troops in the area, we didn't really, because they already had all the information. Most of our reports consist of a VR out in the fringes of the AO, and we would make a report on intelligence data that we think we may have collected and give it to the S2.

Q. Did you notice anything different within the headquarters about this time? Did you get any kind of feel at all for anything that was unusual?

A. No, sir.

Q. Did you hear through your aviators or hear Army and Air Force aviators together "grapevine" that one of the pilots that had been flying that day had reported through his chain of command that some civilians had been killed here unnecessarily this day?

A. Yes, sir. When I read this in the newspaper that-- yes, I remember a helicopter pilot from Chu Lai reporting some unnecessary killing and that there had been an investigation on the circumstances as to whether it was true or not. Whether it was this operation or not I couldn't really say.

Q. Well, are you talking about what you read in the paper?

A. Well, when I read it in the paper, it came back to me. And I remembered that a helicopter pilot had reported something at one time.

Q. Do you remember what you heard and who you had heard it from?

A. I can't recall who I heard it from, sir. The report that came back into my mind after I read the newspaper was that a helicopter pilot from Chu Lai, and I assume it was one of the aero-scouts, had reported some unnecessary killing. And this is all that I can really remember that popped back into my mind. When I first read about this My Lai investigation last September or October I couldn't really conceive of why, or who, or what the circumstances, or what the reason for it was. Then I read an article about this helicopter pilot and that sort of refreshed my memory. I do remember the helicopter pilot reporting something, but if you had asked me before, I wouldn't have been able to tell you whether it was in February, or March, or just when it was that he reported it.

Q. Aside from possibly the killing of civilians, did you hear anything about a possible confrontation or rather violent disagreement between some of the aviation personnel and some of the ground troops?

A. No, sir. I just remembered there was a report, and don't think I even heard that at the staff meeting. As I said, I can't remember who I heard it from, but I remember there was some disagreement. In other words, people couldn't believe what he said was true, this type of a thing. And I remember having some doubts myself as to the veracity of his report at the time.

Q. At that time, now, had you heard anything about a helicopter pilot landing and talking with some of the ground troops, or the fact that he landed and picked up a wounded boy, or the fact that he evacuated some of the civilians from one area and moved them to another area. Have you heard anything about that?

A. Evacuating some of the wounded civilians is normal, but I don't recall hearing anything specifically.

Q. How about the fact that one of the gunships had landed to evacuate one of the people?

A. I would believe it because this was fairly normal. If there wasn't any firing and there were some wounded people, they would very often try to help them. But any specifics, I can't say.

Q. You mentioned the fact that you heard there was an investigation. What did you hear about that?

A. Well, I just heard that they were checking on this helicopter pilot's report. The results, or being involved in the investigation, I never heard any more about it. In fact, all I can remember is that it sort of died away, and it was evidently not corroborated, or something of this sort, because I can remember the report and I can remember they were checking into it, and I don't remember anymore after that. In other words, there wasn't any big blow-up, or "By gosh, what he said is true!" or anything like that.

Q. Were they investigating the helicopter pilot for reporting or were they investigating his report?

A. Well, his report is what I recall.

Q. Do you recall where you got this information about the investigation? Was it from the S2, or the S3 shop, or was it from Colonel HENDERSON where it came from?

A. No, sir, I don't remember who I got it from.

Q. Did you hear any additional talk around the aviation booth, or over in the 174th Aviation Company, or in the 11th Brigade flight detachment?

A. No. I had almost no contact with the 174th. I would see Major SMITH, the brigade aviation officer on a daily basis, but the other pilots maybe once a week or something like that. But I don't recall talking with any of them on this subject at all.

Q. Did anybody ever come around to you and ask you if you saw anything, or if your FAC's had seen anything, or take a statement from you or anything of this nature?

A. Well, the only thing I can say for sure is that they didn't take any kind of a sworn or unsworn statement. They may have asked me some questions on it, but I don't recall anything specific. They may have asked me what my opinion was as to the report or something like that. It wasn't such a big thing that I actually recall it at the time.

Q. Did you hear of any other kind of report which may have alluded to something unusual having taken place in this area on that day, such as VC propaganda of any form, whether it be broadcast, or leaflets, or slogans, or anything of this sort?

A. No, sir.

Q. Had you heard anything about a village chief reporting to the district chief, and the district chief in turn reporting to the province chief the fact that there had been more than a few civilians killed in this area?

A. No, sir.

Q. Had you heard that Colonel TOAN and Colonel KHIEN were upset about the American activities?

A. No, sir.

Q. Did you ever hear of a chaplain from division, or from the brigade, or anyplace talking in terms of the fact that he had received a report of unnecessary killing of civilians?

A. No, sir.

MR MACCRATE: Colonel MACLACHLAN, at Duc Pho who were the officers with whom you were billeted?

A. We were billeted by ourselves in our own, well, you could say Air Force tent. My self, Major HANKS, Major GOLDEN, and Captain BROWN. And, in fact, we had our own little Air Force area more or less. Our tac air control party was in another little tent just outside our living quarters. And our airmen were in another one just beside it. And we were located right next to the TOC, about 15 or 20 feet from the rear entrance of the TOC. This may be one reason why I didn't overhear or get involved in any of the conversations. The brigade staff officers all lived in another area up on a hill quite a ways from the TOC. The 3d of the 4th Brigade (sic) which had been in there before had this particular arrangement established, and we concurred in it because I felt that the ALO should be right next to the TOC. So we stayed right there in that area more or less isolated away.

Q. Well, wasn't there a common mess, the brigade commander's mess, that you went to to take your meals?

A. Yes, sir.

Q. And you spent your leisure time, such as it is under those circumstances, in the company of some of the other officers who were not in the Air Force detachment, I gather?

A. Not really, sir. I saw some of the other officers at the mess for meals, but as far as any socializing and bull sessions or anything like that, there just were none. Everybody was either busy working or sleeping almost. And being billeted in separate areas, we had our own within ourselves, myself and the FAC's didn't have very much contact with the Army personnel.

Q. Well, I'd like you to think about when you first heard about this helicopter pilot's report and in what circumstances. Was it in the course of the morning of the operation when it came over the aviation net? Was it while you were flying? Or, was it after you returned to Duc Pho?

A. It would be the latter, sir. It may not have been that day. It doesn't seem to be that day. It seems to me the earliest would have been late that day or probably the next day that I heard about it. And it seems to me it was kind of removed from the operation when I heard about it.

Q. Do you recall where you were when you heard about it?

A. No, sir. I don't recall who I specifically heard about it from. I just remember hearing this report. And that came back to me after I read it in the newspapers.

Q. Well, it sometimes takes a few minutes to put these things together. But you do disassociate it from the operation itself? You do recall that it was a time subsequent? There must be something more there, if you will reflect upon it--where you were, what your movements were--that would be the kind of circumstance in which you would hear such things. Now, I suppose that you wouldn't be picking it up down where you are billeted, but, on the other hand, you're 15 feet from the TOC, and you do go in the TOC. You recall the way the TOC was arranged with the S3 sergeant on the side of the table, and the S2 sergeant across from him. You remember the S3 assistant, perhaps, Captain HENDERSON. And you also remember Major MCKNIGHT in and out of the TOC. Do any of these things help you to put together what you heard and where you heard it?

A. I'm sorry. But my normal activities I accounted for you. Maybe you can understand. I'd eat and we'd talk a little bit over the breakfast table, or the lunch table, or especially at dinner. We'd spend a little more time at the evening meal.

Q. And with whom would that be?

A. Well, it would be with anyone who happened to be there. All of the staff officers were there, S1, 2, 3, 4, and the assistant S3, myself. And Major HANKS and Major GOLDEN would be there, and occasionally the colonel. And then I would go into the S2 tent in the evening after supper to see if there was anything or any new information of the next days activities. And then I'd usually check with the S3 either in his office or in the TOC. Before I went to bed later in the evening to see if there was anything going on. But, other than this little circle of places, I never really got outside of that area. When I heard it, it would have to have been one of these places. But whether I heard it in the TOC, or the S2 tent, or S3 tent, or in the messhall, I don't remember.

Q. Well, after the time that you heard about it, had they yet prepared the report on it?

A. No, sir. I don't recall any investigation, any extensive investigation at all. That's one thing that surprised me when I read about it in the paper, that there had been an extensive investigation. Because I remember that there was a helicopter pilot's report, and it was being checked out. And beyond this, I can't really say. I even asked the next day what the results of it were.

Q. You remember who was checking it out?

A. No, sir. I would assume that it would be some of the Task Force Barker people.

Q. Colonel, our information is that you were in the company of people who had a great deal to do with this investigation. And I, quite frankly, find it unbelievable that you cannot recall anything that they said to you about which we have heard. I'd like you to think very hard on this, because you have been placed in the company of people who were working on this investigation. There is no indication that you were a part of the investigation, but you were there when this was being discussed.

A. I'm sure they would have asked me questions about it, and I would have asked my other FAC's too. And what I told them--

Q. (Interposing) But you keep saying "they."

A. Those are things that I can't remember specifically.

Q. I'm sure that if you think about it, you can help identify some of the "theys" who were talking to you about this. This was a command responsibility that was given to some of the people with whom you were regularly associating and of whom you were speaking today.

A. I can tell you who it probably could have been, but as far as them actually sitting down with me and trying to, like we are today, trying to dig events up and pinpoint things-

Q. (Interposing) Now there's no suggestion that it was that kind of a conversation.

A. This is why it doesn't, like I said before recall any statements or anything like that. I could have remembered sitting down and thoroughly discussing the matter.

Q. Well who are the individuals you are identifying?

A. Well, I would identify Major MCKNIGHT, and Colonel BLACKLEDGE as the ones that I probably talked to about this mess. But honestly I can't remember. As I said before, when the newspaper reports came out about this investigation, I thought at the time that I remember there was one, but I don't remember participating in it to any extent at all.

Q. Do you remember talking to Colonel LUPER about this?

A. No, sir. I didn't see Colonel LUPER very often. He usually came to the brigade mess in the evenings, I think, but I'm not sure of that either. It seems to me he ate in his own mess, because his artillery headquarters was on the other side, quite a way on the other side of Bronco.

Q. Do you recall any relation of Colonel LUPER to this investigation as brief and as limited as it may have been?

A. No, sir.

Q. Do you remember any conversation with Colonel HENDERSON about this?

A. Not specifically. Again I can say I probably talked with him, because I talked with him every evening as a general rule in the TOC about what had gone on during the day, and what was planned the next day, and so forth. As far as specifically answering questions and then trying to dig facts out of me, I don't remember that.

Q. Do you remember any reference in this investigation to the fact that the body count was being investigated?

A. Not really specifically. Not anything that I'd really want to swear to. As I said before, I can remember the disparity between the body count and the weapons found on a particular operation. And from what you said, it was probably this one. There was concern about this.

Q. Who in addition to Colonel HENDERSON expressed that concern as you recall?

A. No specific people. I think everybody was concerned about this as they were after all operations, because there was always a disparity. So the S3, and the brigade commander, and everybody would be concerned about why we can't find the weapons.

Q. Do you remember any interest in connection with this investigation as to the conduct of a company commander?

A. No, sir.

Q. Do you remember at any time seeing or being told about a brief report of just one sheet which was a report upon this investigation that Major MCKNIGHT had in preparation?

A. Well, now, I'm not sure whether you're putting thoughts in my mind or whether some thoughts are coming back. I can't tell which is which. But there is a thought in my mind that Major MCKNIGHT was making up a report. Now again, I can't relate it to this specific instance, but it probably was because there was no other like it. I can remember now that Major MCKNIGHT was making some kind of a written report, and he probably, as you say, asked me questions about what I had seen in order to prepare this report.

Q. Do you remember anyone who was working with him on this report?

A. No, sir.

Q. Do you remember who the other people were in the S3 shop who worked with Major MCKNIGHT?

A. I'm real bad on names, but I can remember that Major MCKNIGHT's desk was here, and there was a desk over here, and he did have an assistant. And if you would mention the name, it would probably all come back to me. But right now, I can't remember who it was that sits there by him.

Q. Well, do you associate that assistant as assisting Major MCKNIGHT in the preparation of this report?

A. I would assume he did, but I don't specifically associate the assistant with the report. Like I just said, something was coming into my mind about Major MCKNIGHT making a written report.

Q. Do you remember the sergeant?

A. Sergeant FITZGERALD, the S3 sergeant?

Q. Sergeant KIRKPATRICK?

A. Sergeant KIRKPATRICK, that's right. I don't remember him being associated with this report.

Q. Do you remember Sergeant GERBERDING?

A. Yes, sir. He was the S2 sergeant, wasn't he?

Q. Yes. Do you have any recollection of his being involved with the report?

A. No, sir.

Q. How about Captain SHELTON?

A. Well, I know that Captain SHELTON had been General LIPSCOMB's aide, and when the general left--he stayed at Duc Pho for a short period of time, probably in the neighborhood of a week or 10 days--then he was given a company in Task Force Barker. I wouldn't want to say which company it was. Is it germane? I remember he was given a company. He had it a few days, and then he was wounded and evacuated. But I can't remember Captain SHELTON in relation to an investigation at all.

Q. Do you remember a specialist five, dark-headed and wore glasses, and in this case we're looking for the individual's name? He worked in the TOC.

A. He worked in the TOC. Did he work with Captain HENDERSON?

Q. He may have, yes. He worked--

A. (Interposing) As I remember the TOC, the main people in there were Captain HENDERSON, Sergeant KIRKPATRICK would be in there quite a bit of the time, and on the other side of the area, Sergeant GERBERDING. Was it JOHNSON?

Q. Yes, there was a Sergeant JOHNSON.

A. Sergeant JOHNSON worked in there. He was KIRKPATRICK's assistant, I believe. And the two of them traded off pretty much, as I recall.

IO: During that time, do you remember JOHNSON being up at Task Force Barker?

A. I guess he was. He went up to Task Force Barker for a while, yes, sir. He probably wasn't in the TOC at that time.

MR MACCRATE: Do you get any other faces into the TOC?

A. Well, over on the other side there was the artillery position, but that man changes quite a bit. Oh, I think I know who you are talking about. He's a real young, dark-headed kid. Short. I'm so poor on names, I just can't I can picture him now, and I think he's probably the one you're talking about, because he did work in the TOC all the time. I think it was his only job.

Q. Was he a typist?

A. Yes, sir, he was an administrative clerk. Very intelligent. Very above average for a lower grade Army type. He had some college education. We talked once in a while, and he planned to go back to college and so forth. But I sure can't remember his name.

Q. Well, I would appreciate it when we're finished here if you would sit down with one of our people and the brigade roster and possibly identify him.

A. Oh, I could pick it out right off. As soon as I saw it, I would recognize it.

Q. You indicated that you would sometimes make informal reports to the TOC when you came back from the recon. Now did you also make reports of your flight that went into your permanent records?

A. We made a report on our normal VR's out in the Tong Be valley, which was called--well, it wasn't our AO. It was the Americal --I can't recall the terminology they used for it, but it was Americal AO that we could go into.

IO: Further to the west?

A. Yes, sir, we got permission.

Q. Or where the CIDG camps are located?

A. Yes, sir. And we'd make a report of observation of what we had seen in these areas so that we could compare them a couple of weeks later if something different appeared or something like this.

MR MACCRATE: Did you make any such report in an area such as this that we have been speaking about?

A. I don't believe I would have made any written report, because we didn't normally in the area where the battalions were operating. We'd occasionally, well, almost always, we'd verbally debrief Sergeant GERBERDING or Captain HENDERSON on what we had seen more or less to make sure they knew everything. We assumed in most cases they knew it anyway from the battalion itself.

Q. You made no contemporaneous record of the fact that you had been in the air for a certain period of time in a particular aircraft?

A. That would be the only record, yes, sir.

IO: Would you log the number of the aircraft or just the type of the aircraft?

A. Well, in our permanent records, just the type of aircraft. The number of the aircraft would be on the date it was scheduled.

Q. On the unit log, then?

A. Yes, sir. It was just a temporary record, just for the day, just to show who was in what numbered aircraft, when, and so forth.

MR MACCRATE: Would it show if by chance when you made this recon on this day that we fix as 16 March whether you had someone fly with you that day?

A. It would, yes, sir. But if somebody went with us, we'd put him on the clearance form we called flight clearance. It's a record who was in the airplane at the time. So we would have put him on the clearance.

Q. And this would find its way into the permanent record of the unit?

A. No, sir, these were all temporary records.

Q. Retained for how long?

A. Well, I think regulations say 90 days. They may have stayed in the unit at Duc Pho longer than that. But, yes, sir, it is a temporary kind of record. The only permanent record is the flight record which is taken on the aircraft and logged itself, not the flight clearance.

IO: Well, you had your own personal log that you logged your time in, do you not?

A. Well, I don't do it personally, but it is taken from the aircraft. At the completion of each flight we put in the aircraft log name, rank, serial number, how much time we flew, how many landings we made, and all this data. Then this is taken--in our case was sent to Danang, and reported in our permanent log.

Q. The logs are not kept with the individual or with the unit?

A. The permanent ones, yes, sir, not temporary. Now the other ones, the flight clearance, well, you just say that so and so is taking off in such and such aircraft at such and such time for an estimated time, for 2 hours or 3 hours. That's kept in the unit, and that's also a temporary record.

Q. Colonel MACLACHLAN, as you were flying over there now, you had some low-level work, and then you had some O-2 after that. How many bodies do you think you saw?

A. It's pretty hard after seeing those pictures to say that I didn't see that, but when I was in the O-2 other than the two or three that I had seen in the morning and an additional two--and it could have been three or four that were scattered along this road--I don't recall seeing any in addition. That morning when you placed us up in there (indicating on Exhibit P-1) when they were looking for the weapons, I got a glimpse of a body down in the rice that they were trying to get the troops to find.

Q. You saw six to eight bodies all day long?

A. I'd say that's the maximum, sir.

Q. Did you ever put what you saw there with the village burning, and at least the few bodies that you saw, together with what the helicopter pilot was reporting?

A. Well, not in the sense of believing his report. Because it didn't look like excessive numbers to me. In other words, it didn't impress me at the time that this was an excessive number of bodies. Then, when I heard the helicopter report, the fact that the helicopter pilot had made a report, well, I kind of imagined some doubts as to what he was reporting. But then again, the helicopter people can see so much more than we can, that I wouldn't really want to refute his statement either.

Q. Well, my question isn't whether or not you refute his statement, but only whether or not you mentally put together these two incidents or any other thing that you had seen or had had reported to you?

A. Well, mentally, right now, I can't even put the helicopter pilot's report together with the same day. All I can remember is that there was a report made by a helicopter pilot. And I remember what I saw that day, as I have related. From the events I read in the newspaper, evidently they were all in the same day.

IO: Well, Colonel MACLACHLAN, we appreciate very much you coming in. I am going to ask you to stay behind for just a little while with Major LYNN and make out another drawing of the seating arrangement as you recall it so we can make that a matter of the record. Also he will go over with you a roster of the headquarters of the 11th Brigade at that time to see if you can pick out the name of this individual.

A. I know I can, sir.

Q. I would request also that you continue to think about this and if you do recall anything about this from the general orientation of our questioning, which would be an assistance to us in the the conduct of this investigation, we'd appreciate knowing about it. We're trying not to leave a single stone unturned, and I think you can recognize that we already know a great deal about it. In addition, I think it would be advisable to check your log to find out if you were flying that day, to make sure and get that information passed back in to us, to have this as a matter of record. You recall having flown, but--

A. (Interposing) I flew almost every day of the week, so I assume I flew that day. I'm sure I could find out for sure.

Q. All right. If you can think of any additional documentation, reports, papers, maps, photos, or anything that would be of assistance to us, we'd appreciate those, too. I'll give you an opportunity at the present moment to ask any questions you may like to ask, or to enter a statement into the record.

A. I don't have any questions, but there is one thing I've been thinking about ever since I read about this. I would like to put in the record, for whatever it's worth, that I was very proud of being in the 11th Brigade. One of the particular reasons was that when we went over there, General LIPSCOMB established the policy that there wouldn't be any excessive killing in going after a body count. This particular area, especially the Task Force Barker area, had been under the Korean Marines. And I believe the 101st Airborne had been in that area first, and then the 3d Brigade of the 4th Division.

And, it had been--I don't recall. It seems that there had been thousands killed in this general AO up to the time that we got up there. And General LIPSCOMB stressed time and time again with all the people at the staff meetings that we were there to try to, as the phrase had been coined, win the hearts and minds of the people now. We had done enough killing. This really impressed me as the theme of the operation of the whole 11th Brigade. Even though Colonel HENDERSON was the commander when this particular thing happened, I'm sure that he concurred in this general doctrine, and it was continued after he took command. That's all I have.

Q. Well, we appreciate that very much.

I'd like to again caution you, Colonel MACLACHLAN, that you are not either to directly or indirectly talk to people concerning this testimony, including the witnesses that have or are to appear in this inquiry, except as you may be required to do so in terms of judicial or legislative bodies. There is, of course, a possibility that you may be called to testify before one of the congressional committees, most likely the investigation subcommittee of the House Armed Services Committee. Your appearance here would in no way preclude you testifying up there.

A. May I ask one question, sir?

Q. Yes.

A. The Chief of Staff's office asked me to give them a little run down on what took place. I think what they're interested in is what type of questioning this was.

Q. No. You are not to answer them. You can tell the officer at the Air Force Office of the Chief of Staff that if he wants to know that, he can contact the Army Office of the Chief of Staff to get his information.

A. Okay, sir.

Q. You tell him that I said that.

A. Okay.

(The sketch by LTC MACLACHLAN of the seating arrangement in COL HENDERSON's C&C helicopter on 16 March 1968 was received in evidence as Exhibit 0-8.)

IO: The hearing will recess.

(The hearing recessed at 1053 hours, 31 January 1970.)

SUMMARY OF TESTIMONY

WITNESS: MCANAW, John P. MAJ

DATE OF TESTIMONY: 23 January 1970

PLACE OF TESTIMONY: Pentagon

WITNESS SUSPECTED OF: N/A

COUNSEL: None

DUTY ASSIGNMENT ON 16 MARCH 1968: Commanding Officer, C/4/3, 11th Infantry Brigade.

1. BACKGROUND INFORMATION.

The witness joined the 11th Infantry Brigade on 1 September 1966. He commanded C/4/3 for one year. He came with the unit to Vietnam as the Battalion S3 air and in early May 1968 became the battalion S3 (pg. 3). The battalion commander at the time of the incident was Colonel Alvin ADKINS (pg. 8). Colonel BARKER subsequently took over 4/3 from Colonel ADKINS (pgs. 9, 10). The witness recalled the creation of Task Force Barker to settle down the area around the Batangan Peninsula, which he called the Pinkville area. B/4/3, one of their rifle companies, was part of Task Force Barker (pg. 3).

2. HIS RECOLLECTION OF THE RESULTS OF THE MY LAI INCIDENT.

a. His knowledge of the assault.

The witness was not familiar with the operation on 16 March (pg. 3), but he did recall hearing results of it within the brigade (pg. 4). Although he felt he was briefed on the statistics, he did not recall them (pg. 4), but felt it was a disproportionately low number of weapons to the number of bodies reported and felt only three or four weapons were found or captured (pg. 5). He stated he was concerned with the battalion operations at the time and items not relevant to their command had secondary importance (pg. 5). He also pointed out that on 20 May he went home on emergency leave because of his father's death (pg. 10). He remained

there until early June (pg. 14).

b. His knowledge of Captain GOUZOULES.

The witness recalled that Captain Winston GOUZOULES, the battalion S5, informed him that an atrocity had been committed in that a number of civilians had been killed by ARA, field artillery, and TAC strikes (pg. 4). He felt that GOUZOULES had gotten the information either at Binh Son District or at LZ Dottie (pg. 4). The remarks made by GOUZOULES got back to Major CALHOUN, the battalion S3, and to Colonel BARKER. They were both concerned and felt that GOUZOULES' remarks were unjustified. The relations between CALHOUN and GOUZOULES eventually settled down (pg. 4). The witness felt that in late March or early April GOUZOULES brought it to his attention at LZ Sue. The witness felt that the rumors indicated some civilians had been killed senselessly or needlessly but he did not hear anything about deliberate murder of civilians (pg. 4). The witness assumed that GOUZOULES, in the performance of his duties as S5, had gotten the information at Son Tinh District, or at Binh Son District (pg. 6). The witness did not recall GOUZOULES saying anything about the burning of villages, the killing of animals, or the destruction of property (pg. 7). Major CALHOUN stated in conversations with the witness that there was no basis to the comments made by Captain GOUZOULES (pgs. 4, 11).

c. Remarks by pilots about the operation.

The witness stated that the aero-scout company of the 123d Aviation Battalion supported his battalion (pg. 6). He also stated that he heard nothing about a pilot reporting the incident on 16 March until he read it in Time magazine (pgs. 6, 7).

d. Information from Captain MICHLES.

The witness recalled B/4/3 returning to the battalion shortly after Task Force Barker was disbanded (pg. 7). He recalled that he spoke with MICHLES upon his return, as did Colonel ADKINS (pg. 8). He did not recall MICHLES mentioning Co Lay, Co Luy, or My Lai (pg. 8). He did discuss with MICHLES the general operational difficulties (pg. 8). MICHLES' report was eventually written up in a small handbook for incoming personnel to the Americal Division. The witness felt that the ARVN's did not give expected support to the operation and this was the "crux of the conversation" with MICHLES

(pg. 15). He did not recall MICHLES mentioning the body count, the weapons count, or anything about women and children (pg. 16).

e. Information from Major GAVIN.

The witness stated that he visited the districts and knew Major GAVIN (pg. 12). He did not recall GAVIN mentioning receiving any reports concerning unnecessary killings and stated he was not familiar with the names Tu Cung or Co Lay (pg. 13).

f. Knowledge of HAEBERLE and other correspondents.

The witness stated that Specialist HAEBERLE was assigned to his company while they were in Hawaii. He did not recall speaking with HAEBERLE in Vietnam (pg. 13). Although the witness was in Ohio, where HAEBERLE lives, he did not recall any mention of an atrocity while he was home in May and early June (pg. 14). The witness did not know Specialist Jay ROBERTS (pg. 14).

3. DIVISION POLICY ON DESTRUCTION OF HOOTCHES.

The witness stated that if an area was positively Viet Cong, they would ask permission from higher headquarters to destroy the particular facility (pg. 9).

4. INQUIRIES CONCERNING THE ASSAULT.

The witness recalled an investigation at Binh Son District but did not recall any investigation taking place in their AO (pgs. 11, 12).

5. OTHER INFORMATION.

The witness mentioned to Colonel Albert RUSSELL, and Colonel CROMWELL that he was coming to appear before the Inquiry, but that was the limit of his discussions (pg. 3).

(The hearing reconvened at 1630 hours, 23 January 1970.)

IO: The hearing will come to order.

RCDR: The following persons are present: LTG PEERS, MR MACCRATE, COL ARMSTRONG, COL FRANKLIN, and MAJ LYNN.

Sir, the next witness is Major John P. MCANAW,

(MAJ MCANAW was called as a witness, was sworn, and testified as follows.)

Major MCANAW, for the record will you state your full name, grade, Social Security number, organization, and station?

A. MCANAW, John Patrick, Major, Infantry, presently stationed at the Armed Forces Examining Station, Fargo, North Dakota, part of the 5th Recruiting District, United States Army Recruiting Command.

IO: Major MCANAW, have you had an opportunity to read Exhibit M-57, the instructions which were given to you?

A. Yes, sir.

Q. Do you understand them or have any question concerning them?

A. No, sir.

Q. On my left, Major MCANAW, is Mr. MACCRATE, who is a civilian lawyer. He volunteered his services to the Secretary of the Army to assist me in this investigation and also to provide legal counsel to me and to other members of the inquiry team.

A. Yes, sir.

Q. On my right is Colonel ARMSTRONG and beyond him is Colonel FRANKLIN who have been designated by the Office of the Chief of Staff as assistants in the conduct of this investigation.

(MCANAW)

1

APP T-216

A. Yes, sir.

Q. You should also know that there are other groups such as this that are taking additional testimony from others.

A. Yes, sir.

Q. It will be my responsibility, however, to put the report together, to weigh the evidence, and to determine the findings and the recommendations. You are ordered, as a military officer, not to discuss your testimony in this investigation with others, including other individuals who may have appeared as witnesses before this investigation, except as you may be required to do in the performance of official duty or before competent judicial, administrative, or legislative bodies. I say legislative. There is a possibility that you may have to appear before one of the congressional committees. Specifically I would refer to the investigative subcommittee of the House Armed Services Committee. I think the possibility in your instance is quite remote, but if you are so asked to testify, your appearance here would in no way preclude your providing testimony there.

A. Yes, sir.

Q. I do not believe that you've been designated, cited or cautioned by the military judge in the general court-martial case of the United States v. Calley?

A. No, sir.

Q. Nor do I think you will be, but if you are by chance so cited, your testimony here would in no way change either the applicability or the effect of the instructions of that military judge or any of the military judges having to do with the general courts-martial cases relating to the My Lai incident. Do you have any questions at this time?

A. No, sir.

Q. Major MCANAW, would you indicate your duty assignment with the Americal Division when you joined it and when you departed?

A. Sir, I joined the 11th Infantry Brigade on 1 September 1966. I commanded C/4/3 for one year. Then I went up to become the battallion S3 air. I went with the unit to Vietnam as the battallion S3 air. In early May 1968 I became the battallion S3. I departed the Americal Division on 30 November 1968.

Q. Since the matter of the My Lai (4) incident has become public knowledge, which took place in September or October 1969, about 4 or 5 months ago, have you had any conversations with anybody connected with the 11th Brigade or the Americal Division concerning the incident, concerning the investigation of the incident, or the reviews of such investigations?

A. Well, sir, I mentioned it to my old battalion commander. This was last evening, this is Colonel Albert RUSSELL, that I was to be here for the inquiry, but the case was not discussed. I also discussed the fact that I was coming here with a Colonel CROMWELL, who is the AFEES commander in Cincinnati, Ohio, another part of the 5th RD. I knew that he'd been down at Quang Ngai with the 2d ARVN Division, but the circumstances, reference the investigation, were not discussed, just the fact that I was coming here. I did wonder about why I would be here. That's about it. But this was before he had come.

Q. I see. Do you recall the creation of Task Force Barker?

A. Sir, we had the AO to the west and our boundary was about 500 meters west of Highway 1. It's been quite some time since this has occurred. I was aware of the fact that the reason it was created was to settle down the area around the Batangan Peninsula or what is now called the Pinkville area. I'm quite familiar with the composition of the task force, our B/4/3 was one of three rifle companies, a part of the organization.

Q. Were you familiar with the operation on 16 March?

A. No, sir.

Q. Do you recall, within the brigade, hearing the results of it?

A. Yes, sir. To the best of my recollection at no time did I hear that there was an atrocity committed by ground troops on this date, on this particular incident. I had heard that a number of civilians had been killed by ARA, field artillery and TAC air strikes. However, I do not recall hearing any time the fact that these purported atrocities took place by members of C/1/20. I think the first time I heard about it was from the battalion S5, a Captain Winston GOUZOULES, who I think had picked up the information, perhaps either at Binh Son District or at LZ Dottie, which was Task Force Headquarters. He had mentioned it or made some comment I think. It got back to Major CALHOUN, who was the battalion S3, and to Colonel BARKER, and they were quite concerned about the comment because they felt, or at least Major CALHOUN felt, it was quite unjustified. Later when we took over LZ Dottie and it became our battalion base, I talked to Major CALHOUN reference the coordination. He mentioned at that time he was quite upset by a comment, an offhand comment perhaps, which Captain GOUZOULES had made, and later on, I think late April, we got the idea that perhaps Colonel BARKER was going to be our next battalion commander, and no doubt Major CALHOUN would become our executive officer. I had seen nothing on paper but this was strictly a rumor among the other staff officers. By that time, I think, the relationship between Captain GOUZOULES and Major CALHOUN had pretty well settled down, and there was no friction. I think Captain GOUZOULES brought it to my attention and the attention of other staff officers up on LZ Sue, which was located about 6,000 meters west of LZ Dottie, and I don't know exactly when this happened, perhaps very late March and/or early April. I don't recall the exact date. I think I had heard rumors from, I don't know who the individuals were, offhand comments that some civilians had been killed senselessly or needlessly. But at no time did I hear anything about the deliberate murder of civilians by members of C/1/20.

Q. Were you familiar with the statistics that came out of that day's operation?

A. Now I am, sir. I think it really didn't strike. I'm sure we were briefed on it. Our battalion S2, Captain

Peter LAWSON, we had a daily meeting, must have brought it up. I believe it was a disproportionately low number of weapons to the number of bodies reported.

Q. Right.

A. I don't know the exact numbers, but I believe three or four weapons were found or captured.

Q. The statistics which conceivably may refresh your memory and show up in the logs of the task force, and the brigade and the Americal Division are 128 VC KIA, 2 U.S. killed by hostile action, 11 U.S. wounded and 3 weapons captured. I take it there was some discussion then concerning this disparity between the weapons and the body count?

A. I'm not trying to avoid the questions here, but I'm vaguely familiar of the count. I was so wrapped up in our own battalion operations, and those items which weren't really relevant to our command almost had secondary importance. I was interested in doing the best job I could.

Q. How do you spell the name of your S5?

A. Sir, I believe it's spelled G-O-U-Z-O-U-L-E-S, Winston.

Q. GOUZOULES?

A. GOUZOULES was the last name, yes, sir, and Winston was his first name. Gus. We called him Gus.

MR MACCRATE: Do you know where he is today?

A. Sir, he left our battalion and went up to join the 196th Infantry Brigade as the assistant S5. I later heard, I think right before I came back to the States, that he had extended for 6 months and had become the S5 of the 196th.

IO: I'd like you to think back now a little bit on what you heard, and I'd like you to try to recall the circumstances and specifically what you heard. What did Captain GOUZOULES tell you?

A. Sir, I'm trying to think. The best I can recall, sir, it all started as a result of a comment that he'd dropped, I believe, at Binh Son District headquarters or down at LZ Dottie, which was overheard by several members of Task Force Barker. These individuals relayed the word back to Major CALHOUN and Colonel BARKER that this comment had been made, I believe I first became acquainted about it--Captain GOUZOULES was aware of this also, that Task Force Barker was particularly upset about the comment which he had made. I think that was the circumstance around it, sir. I don't remember the date. It must have occurred after the atrocity business. It seemed like it was right after this purported atrocity. I think several weeks.

Q. Did he indicate how he might've gotten his information?

A. No, sir. I cannot recall. I was thinking about that last night, and I don't remember what he said about where he got his information. A possibility, since Captain GOUZOULES is a very energetic officer in the performance of his duties as the S5, he might have picked up the information either at Binh Son District or at Son Tinh District when some of the refugees from that area had come in to the jurisdiction of the--

Q. (Interposing) You are just assuming that? You don't know?

A. I don't know, sir. That's the only thing I can think of. I don't know where he got his information, sir.

Q. Were you supported periodically by the 123d Aviation Battalion?

A. Sir, is that the aero-scout company?

Q. It has one company of aero-scouts with it.

A. Yes, sir. They supported us and Task Force Barker.

Q. That's right. Did you hear anything at all about a pilot reporting what he had seen down there on the 16th?

A. Absolutely nothing, sir, until I read it in, I believe, Time magazine.

Q. Did Captain GOUZOULES say anything about the burning of the villages, or killing of the animals, destruction of property and things of this category?

A. To the best of my memory, I don't know, sir.

Q. What area did he say, do you recall? Did he say Pinkville, or what did he say?

A. Sir, it's been a long time. I don't think he pinpointed the area, sir.

Q. Yes.

A. I was concerned about our AO and anything he told us was just generally lumped into one area. We had a pretty good idea where the Viet Cong were operating, but I couldn't be specific on a map as to where he said it had occurred.

Q. The Batangan area?

A. Well, south of Batangan, Batangan area, generally. We use Batangan area as almost including My Lai.

Q. Now tell me, you got your B/4/3 back in due course, I believe?

A. Yes, sir.

Q. Task Force Barker was disestablished or disbanded on 9 April, and I would assume either then or shortly thereafter you received your company back?

A. Yes, sir. I don't recall the exact date, but I know we did get it back shortly, just right around the time that Task Force Barker disbanded.

Q. Do you remember Captain MICHLES bringing his company back to the battalion?

A. I remember seeing Captain MICHLES when he came

onto LZ Dottie, and I recall Colonel ADKINS gave him a warm welcome when he returned.

Q. Who was the commander at that time?

A. The battalion commander was Colonel ADKINS, Alvin ADKINS.

Q. How do you spell it?

A. A-D-K-I-N-S, sir.

Q. ADKINS?

A. Yes, sir.

Q. Yes. And he welcomed him back into the fold then?

A. Yes, sir. Colonel ADKINS, when one of his men returned, he would see them, once they were back, as soon as possible.

Q. Did you ever talk to Captain MICHLES or any of the people in the battalion concerning their operation, specifically concerning this operation into the Pinkville area?

A. Sir, the general operational difficulties were discussed. The encounter where, I believe, two platoons of Bravo Company and one platoon of tracks encountered VC, I think, a day before the alleged atrocity at Pinkville, and it was discussed at length. But nothing specifically on Pinkville. In fact, I didn't even know that B/4/3 was involved on this alleged atrocity at Pinkville.

Q. Did he ever use any terms such as Co Lay, Co Luy, or anything of this particular category, My Khe, Tu Cung, My Lai?

A. I don't recall, sir.

Q. What was the attitude in that outfit when they re-joined?

A. When Captain MICHLES returned, I think he was glad to get back to the battalion. Mainly I think since he was assigned

to the 4/3 rating-wise as well as everything else, it came from our battalion. I can't speak for the enlisted personnel, how they felt; I know that the company felt very strongly that they had done a good job. They had been bloodied through the loss of a number of personnel to booby-trapped 105's and M-16A1 AP mines which were in that area in abundance, I think the feeling, when they returned, they thought they had accomplished the job very well.

Q. Well let me ask you a matter of opinion, well more than opinion, a matter of fact. What was your policy as announced from battalion, and from brigade, and from division with respect to burning down hootches or houses?

A. I think, sir, the policy we had is that if an area was positively Viet Cong, proved to be Viet Cong controlled and was used by Viet Cong, say for example as a training site, we would ask permission from our next higher headquarters to destroy that particular facility.

Q. Well suppose it was a village or hamlet?

A. Sir, in a matter like this I think the policy was if we had gone into a hamlet and found it to be a storehouse of Viet Cong supplies, equipment, and was used by Viet Cong troops, we would not destroy it until we got permission from higher headquarters.

Q. Yes. While you were with your battalion you undoubtedly from time to time had National Police with you. Did you ever see any maltreatment of prisoners or hear about any maltreatment of prisoners within your battalion?

A. The only instance that I can think of, sir, was several prisoners being brought back to LZ Sue. Captain GOUZOULES and I were standing by the helipad, I believe this was right around early March, and one of the troops started to rough up one of the prisoners that we were putting into our stockade. Captain GOUZOULES and I stopped him. I was right behind him and we stopped it right there, but that was just a hard push. It is the only instance I can recall, sir. No, actually I wouldn't consider that to be maltreatment, sir.

Q. Colonel BARKER subsequently took over the 4/3 I believe, perhaps from Colonel ADKINS?

A. Yes, sir. I would like to mention one thing. At this time, about 20 May, I got word through the Red Cross that my father had died and I went back on emergency leave. I didn't return to the battalion until after Colonel BARKER was unfortunately killed in the helicopter crash in June. So actually I did not serve under Colonel BARKER.

Q. After this incident where BARKER and Captain MICHLES were killed, did you hear any other discussions concerning anything that may have gone on in this My Lai area or Pinkville area?

A. Well, sir, that's hard to say. Rumors are ripe over there, and you hear a lot of things. I can't think of anything specifically about the Pinkville or My Lai, particularly My Lai (4) for the remainder of the time we were there. The first part of July, I believe, on 3 July, we pulled out of the old Muscatine AO and came under the 196th Infantry Brigade and participated in Operations Hawthorne and Pocahontas Forrest. That was actually the last time our unit, until after I left anyway, that we saw the Batangan-My Lai (4) area.

Q. Now when Captain GOUZOULES talked about this, did you get any visualization about how many people he was talking about?

A. No, sir. Absolutely no visualization as to number.

Q. Just some women and children killed by artillery and some gunships and--

A. (Interposing) ARA. ARA, field artillery and TAC air. It was my understanding that prior to this operation on the 16th a lot of preparation had gone on. Firepower preparation had been placed on the objective and LZ.

Q. For the record, will you indicate what the term ARA means?

A. Aerial rocket artillery, sir, gunships.

MR MACCRATE: From whom did you get the impression that there had been a substantial prep in advance of the operation?

A. Well, I know our policy, and I think the policy of Task Force Barker, that if we could get the TAC air and if we could get the gunships, we always had the gunships, we would use it. I don't know exactly how much they did use, but it was SOP unless it was in an area where you had an intelligence target or it was in proximity to a civilian population. Then we would not use it and be very selective as far as where we would place that fire. I don't know the policy of Task Force Barker as to how much they did put in. It was just an impression that I'd had, sir.

Q. Well did you get this impression when either Colonel BARKER or Major CALHOUN came over and were objecting to what Captain GOUZOULES had said?

A. I don't know what Colonel BARKER said. I know I talked to Major CALHOUN on it, and Major CALHOUN felt there was no basis to the comment which was made by Captain GOUZOULES that some civilians had been killed needlessly during the operation.

Q. Did he indicate that the deaths had resulted from artillery and gunships?

A. Sir, I don't know if Captain GOUZOULES specified that or not.

Q. No, I'm talking now about what Major CALHOUN said to you?

A. I can't recall, sir. I do know that Major CALHOUN felt there was no basis for the comment which was made by Captain GOUZOULES and had been overheard by several members of Task Force Barker and transmitted to him.

Q. Did you ever hear from Captain GOUZOULES or from Major CALHOUN that an investigation was going on of that operation?

A. I was thinking about that last night, sir. I was trying to piece it together. I remember vaguely, back in April, early April or perhaps right after we had taken over Dottie that there was an investigation up at Binh Son District. To the best of my knowledge, no investigators on this particular

incident were in our area of operations. None that I can recall were at LZ Dottie after we took over on the date mentioned by the general, which was the 9th. I don't recall seeing any or hearing any in our area. I vaguely remember something to the effect an investigation was occurring or had just completed up in Binh Son.

Q. Is that Binh Son or Son Tinh?

A. Binh Son. I know I pulled out my 1:100,000 map and even though the My Lai (4) lies within Son Tinh District it is possible that some of the refugees from that area come up to Binh Son District. I don't know why they would do this but I think this is a possibility why some of the investigators, if there was, again I don't know, I never saw them firsthand, were up at Binh Son District.

Q. Did you know any of the advisors down at Son Tinh District?

A. Yes, sir. Well our S2 and S5 used to coordinate regularly with both Binh Son District and Son Tinh. I never talked to anybody, but on a number of occasions I went down and visited the districts. I knew a Major GAVIN who was later promoted to colonel. However, the other officers at the sub-sector headquarters I cannot recall.

Q. Captain RODRIGUEZ? Lieutenant DAWKINS?

A. I know I saw Lieutenant DAWKINS prior to coming in today but I did not remember him.

IO: Did Major GAVIN ever mention anything to you about some reports they'd received?

A. Well, sir, you mean after we had taken over at LZ Dottie?

Q. Yes.

A. Well, we coordinated regularly with him, sir, particularly since that area was our responsibility. Actually I believe My Lai (4) was not part of Task Force Barker's regular AO. I believe to get down in that area they had to get an extension from 2d ARVN Division. If there was intelligence and

Colonel GAVIN thought there was a worthwhile operation, he would certainly give the information to us.

Q. That really isn't my question. Did he ever mention to you receiving reports from people concerning, you might say, unnecessary killing and so forth out in the Son My area or the My Lai area or actually Tu Cung or Co Lay?

A. No, sir. I can't recall it. I'm not familiar with these names.

Q. Well this is the area we're dealing with. It's shown in the orange, you see (indicating MAP-1). Now these are the generally accepted U.S. terms, but the Vietnamese normally used quite different terms.

A. Sir, I can't recall any comments by him concerning any needless killing in that area.

MR MACCRATE: It was the recollection of someone we've talked to that perhaps it was you who had referred to having heard of a correspondent speaking of this incident. Do you have any recollection of that?

A. Sir, I remember, when I came back after emergency leave, I briefed the new battalion commander Colonel Albert RUSSELL as best I could on everything I knew about the area. Now I do know that I possibly heard this as a rumor and transmitted it to him. This Specialist HAEBERLE who was a photographer with the 11th Infantry Brigade when we were in Hawaii was assigned to my company with duty at brigade. Perhaps when he came around the fire base he might have dropped word of it. I can't recall any specific individual, sir, who made a comment on it, but again on the briefing of the battalion commander, I don't remember this specific comment about a correspondent. I know I mentioned to him what I knew about the occurrence out there, and most of the information I got was strictly rumor. Well, all my information was rumor.

Q. Did Specialist HAEBERLE speak to you about the operation after it occurred?

A. Sir, I can't recall. I know that when he came around to take pictures of the battalion or go out in the field

he normally had another individual with him. He might have said something but I can't recall it was him.

Q. He left, actually in the middle of March and was out of the service by the end of March of 1968.

A. Well, sir, if that was the case then it would not have been him, but I don't recall specifically what correspondent would make it.

Q. Do you remember Specialist ROBERTS, Jay ROBERTS?

A. Not by name, sir, no.

Q. He was a correspondent in the PIO at Duc Pho.

A. But again I doubt, even now, if I saw him, I'd recognize him, recognize that I knew him then.

IO: Where is your home in the States?

A. Sir, my home is Cincinnati, Ohio.

Q. And you came home for several weeks in the middle of June you say or the latter part of May?

A. The latter part of May and early June, yes, sir.

Q. Did you hear anything when you were back home? I'll tell you this, HAEBERLE lives in Ohio.

A. No, sir. I heard absolutely nothing. In fact, I knew nothing about the atrocity by C/1/20 until after I read it in a magazine. I knew nothing about this.

Q. Well, we know for example, just to bring out a few things, that Mr. HAEBERLE was also making some lectures around the countryside in which he was using some of these pictures--not then knowing there was any atrocity but to show the other side of the war among other things.

A. No, sir. I can't recall.

Q. I don't know whether he was giving these lectures at that time, but I do know that some of his pictures were used in these lectures.

A. I would like to clarify one point here, sir. I don't recall what I told specifically to Colonel RUSSELL when I briefed him on it. That's to say I don't remember saying anything reference a correspondent. I don't remember seeing any correspondent other than brigade correspondents my whole tour. I know that we'd brought in a couple, but I never saw them personally. We captured a 105 howitzer west of Quang Ngai and they brought in a crew to take pictures of that, and there was a touring reporter from Utah who had absolutely no knowledge of the situation. He stopped by our fire base for a while. Other than that we just didn't have correspondents in our area.

COL FRANKLIN: You say you discussed in detail with Captain MICHLES the action when he had two platoons and that platoon of tracks?

A. Sir, to some detail. Also it was written up in, I believe it was in, this little handbook that they give all incoming personnel in the Americal Division. It was also in there, something about the engagement, not very long. But I do know that it was felt that the ARVN did not give the expected support on the operation. I believe this was the whole crux of the conversation. They had two platoons and later, I think, they were joined by a platoon of tracks and were pretty well left on their own. This, I think, was the crux of the conversation I had with him.

Q. Do you recall his body count and his weapons count on that operation?

A. No, sir, I do not. The only thing I remember him telling me is that it was plenty hot, that they were unable to move out with some of the crew-served weapons that he overran. I believe he was speaking of .50 caliber machineguns which we knew the 48th VC Battalion had. They were under heavy fire, and when they pulled out of the area, they just did not have the time, due to the heavy fire, to police up the weapons and bring them out with them. At that time of the year the clouds are very low. It was impossible to get decent air support in, gunship-wise, and I believe it was closing in. If I remember him correctly, he mentioned it was closing in towards dark and he wanted to get himself established before nightfall. That's the reason they got out.

Q. Did he ever talk about the high body count of Charlie Company on the operation that we are discussing here?

A. Not to me, sir, no, sir.

Q. You don't recall him ever saying something about some of this body count being women and children? Did he ever talk about any kind of body count in Task Force Barker, including women and children?

A. Not that I recall. Captain MICHLES was a very fine commander and very competitive. He definitely was trying to do the best job he could and outshine the other commanders I think. I don't remember him ever making a comment like that, not even in jest.

IO: We appreciate you coming in, Major MCANAW. I will say that with what we've had to discuss here today that if any additional bits and pieces start falling into place to refresh your memory, I'd like very much to have you get in touch with this office so we can take advantage of that information, especially if you can think of, with respect to this operation in this area, any maps, photos, memoranda, letters, or anything which will bear upon this, that you know of or that you have. We'd like to take advantage of those.

A. There is one item, sir, as far as background, I did do. I don't know if it will be of any value. I did write up a number of observations and recommendations after I came back to the States and sent to the present Americal Division commander. However, there's nothing in there that has any bearing on this case, but that's the only thing that I can think of.

IO: I think maybe we'd like to see them, to have an opportunity to look them over to make our own judgment on it. And we'll get them right back to you.

A. Yes, sir. I've got a copy of them here, sir. There is one thing I'd like to say, off the record.

IO: Well, before we go off the record I would like to give you an opportunity to ask any questions that you'd like to ask or if you'd like to enter a statement into the record.

A. No, sir. The only thing I can say is that I served 27 months with the 4/3 and the 11th Infantry Brigade. I was very proud of the unit. I thought it was an exceptionally fine combat unit. I thought it was ably led. I know that, speaking for my battalion and the two commanders I served under, we had very tight controls as far as treatment of civilians and civilian property. This was under Colonel ADKINS and Colonel RUSSELL, and as I said I'm very proud to have been a member of that unit.

IO: Anything further?

A. No, sir.

IO: We will recess at this time.

(The hearing recessed at 1708 hours, 23 January 1970.)

SUMMARY OF TESTIMONY

WITNESS: McKNIGHT, Robert W., MAJ

DATE OF TESTIMONY: 3 December 1969

PLACE OF TESTIMONY: Pentagon

WITNESS SUSPECTED OF: N/A

COUNSEL: None

DUTY ASSIGNMENT ON 16 MARCH 1968: S3, 11th Infantry
Brigade

1. PREOPERATIONAL PLANS AND BRIEFINGS.

The witness had been present at the brigade briefing on the evening prior to the operation in issue and heard nothing that would incite the persons present to commit the acts alleged (pg. 29).

2. ASSAULT ON MY LAI.

a. Whereabouts of witness.

On the morning of the operation, the witness accompanied the Brigade Commander, Colonel HENDERSON, in the command and control ship (pg. 1), which arrived in the area at 0730-0745 hours (pg. 3). In the command and control ship, in addition to the aforementioned, were: a Sergeant ADCOCK, Colonel LUPER, Sergeant Major WALSH, Warrant Officer COONEY, a co-pilot, and two door gunners (pg. 17).

b. Operational area.

The landing zone in issue was some 200 to 300 meters west of My Lai (4), and artillery craters were seen in that area (pg. 11). The area of operations, as extended for the operation of the 16th of March and the following days, was east of north-south grid line 70 and north of east-west grid line 78 (pg. 14). The witness testified that the area around My Lai (4) and (5) was not considered a free fire area by the U.S. forces since civilians were known to be

CONFIDENTIAL

(5) The witness did hear some reports of the weapons count - body count disparity and a report of Captain MEDINA killing a woman, but did not remember anything else out of the ordinary (pg. 19). He did note that Charlie Company was lifted out of the area on the 17th, and that Bravo stayed out another day (pg. 14).

3. REPORTS AND INVESTIGATIONS.

a. Immediate reports.

Upon questioning about reports to division, the witness pointed out that a report of a day's activity was due at 1630 each day and was forwarded verbally. This was in addition to the normal SITREP (pg. 20). Concerning investigation of the incident in issue, the witness noted that he had heard that a warrant officer saw the commander of C/1/20 shoot a woman. The warrant officer told Major WATKE who told Lieutenant Colonel BARKER. Colonel HENDERSON then heard this report from the warrant officer and Major WATKE. Colonel LUPER told the witness that Colonel HENDERSON had questioned Captain MEDINA, commander of C/1/20, about the incident and accepted his explanation (pg. 21). He also heard that some personnel of C/1/20 had been questioned by Colonel HENDERSON about what had happened (pg. 21).

b. Later reports.

Further, the witness testified that he saw a report of Colonel HENDERSON's in letter form in the latter part of March or early April (pg. 22). He remembered having seen Exhibit R-1 which he thought to be HENDERSON's report as well as the inclosures to Exhibit R-1 (pg. 24).

c. ARVN reports.

Later some VC propaganda about the operation in question prompted Colonel HENDERSON to mention such information to the Americal commander as well as to the ARVN Division Commander. Colonel TOAN reportedly told Colonel BLACKLEDGE that it was VC propaganda and said to ignore it. However, the ARVN's did make an investigation and found the allegations unwarranted. This report was read by the witness (pg. 23).

d. BARKER's report.

The witness did not recall seeing the report marked Exhibit R-2 nor its inclosures (pg. 25). He testified that the normal combat after action report from a battalion or like outfit would go to brigade, with a copy going to the S3 of the brigade for submission to the division with the quarterly combat report (pg. 26). A report such as Exhibit R-2 would not have been filed, according to the witness, unless it had been at the request of the brigade commander (pg. 26). He had heard of the report from the village chief to the district chief; however, the weight of it was negligible to the witness since the village chief had not been in the area since 1964 or 1965 (pg. 28). Nothing was heard of a subsequent report from Colonel KHIEM (pg. 28).

e. Reporting requirements.

The witness was not familiar with any requirements for reporting suspected atrocities (pg. 31), nor did he believe that the brigade had a copy of MACV Directive 20-4 (Exhibit D-1) (pg. 31). He related that the brigade suffered generally from a shortage of publications (pg. 32) and noted that he could not recall seeing Exhibits M-2, M-3, or M-4 (pg. 33).

4. OTHER INFORMATION.

a. Training of personnel involved.

He then summarized the training given the members of the brigade and the matters covered pertaining to treatment of prisoners, the Geneva and Hague Conventions, the Rules of Land Warfare (pgs. 35, 36). He noted that a check of personnel records would indicate whether or not an individual had received such training.

b. Opinion of Captain MEDINA.

Concerning the alleged incidents at My Lai (4), the witness opined that Captain MEDINA was an outstanding officer, and that he would never have issued the orders now attributed to him (pgs. 43-35). The witness added that Colonel HENDERSON did not have the authority to order a village destroyed (pg. 44). However, as to any investigation of the alleged acts, the witness stated that he had never been questioned by anyone in the brigade or the task force (pg. 51).

SUMMARY OF RECALL TESTIMONY

WITNESS: MCKNIGHT, Robert W. MAJ

DATES OF TESTIMONY: 12, 14 February 1970

PLACE OF TESTIMONY: Pentagon

WITNESS SUSPECTED OF: Failure to obey or violation of general orders, dereliction of duty, withholding evidence, falsely testifying, suppression of information, and conspiracy to suppress information.

COUNSEL: Kenneth A. GRIFFITHS, CPT, JAGC, appointed military counsel, stationed with the Office of the Judge Advocate General, Washington, D.C.

DUTY ASSIGNMENT ON 16 MARCH 1968: S3, 11th Infantry Brigade.

The witness was advised of his right to counsel and he decided to exercise that right. Upon being provided with military counsel, the witness refused to make a further statement or answer any questions of the interrogators.

(The hearing reconvened at 0906 hours, 3 December 1969.)

IO: The hearing will come to order.

RCDR: The reporter will be sworn.

(The reporter, SP7 Milton J. BROWN, 250-44-5476, was sworn.)

The following named persons are present:
LTG PEERS, MR WEST, COL MILLER, COL WILSON, and MAJ LYNN.

(MAJ Robert W. MCKNIGHT, Command and General Staff College, Fort Leavenworth, Kansas, was sworn and testified as follows:)

IO: This investigation was directed jointly by the Secretary of the Army and the Chief of Staff of the United States Army for the purpose of determining facts and making findings and recommendations concerning:

(1) the adequacy of the prior investigation and inquiries into, and subsequent reports and reviews within the chain of command, of what is now commonly referred to as the My Lai incident of 16 March 1968, and

(2) possible suppression or withholding of information by any person who had a duty to report and furnish information concerning this incident.

This investigation is not being conducted to investigate all the facts and circumstances of what happened at My Lai, but is directed to those specific purposes which I just stated.

I have had made available to me a transcript of your prior statement obtained in an earlier investigation of the My Lai incident.

Your testimony will be taken under oath. A verbatim transcript will be prepared. A tape recording is also being made in addition to the verbatim notes being taken by the reporter.

The general classification of the report will be confidential. It is possible that the testimony or

parts of it may later become a matter of public knowledge.

There are several people in this room who may ask you questions. These individuals are my assistants and they are authorized to ask questions in my behalf. However, I have the responsibility of weighing the evidence and making the findings and recommendations.

You are directed not to discuss your testimony with others except in the performance of official duties or as you may be required to do before a competent judicial or administrative body.

Do you have any questions at this time?

A. No, sir.

IO: There being no advice necessary as to the matter of rights at the moment, we will proceed.

Major MCKNIGHT what was your duty assignment on 16 March 1968?

A. I was the S3, 11th Brigade.

Q. How long had you been in that position?

A. Since January the 16th of that year, 1968.

Q. Approximately 2 months?

A. Yes, sir.

Q. How long did you stay in that position?

A. Until June of 1968, and off and on being the assistant S3 and the S3 between June and November 1968.

Q. So you stayed in the operations section all during that period?

A. Yes, sir.

Q. Would you please explain, in brief, your activities during the period of the operation of Task Force Barker?

A. My activities largely consisted of accompanying the brigade commander during the conduct of the operation in the command and control helicopter, which flew over the area during the time the operation was going on, and advising and assisting the brigade commander in my capacity as the S3.

Q. Would you explain in some detail what you did, what you saw, what you heard, during this period.

A. Yes, sir.

Q. You may use the map if you like and refer to it. It is on the back wall.

(The witness utilized the Exhibit MAP-1.)

A. The combat assault was scheduled to go in at 0730 on the 16th, but due to some difficulties with the command control aircraft, the brigade commander's ship was not able to arrive in the area at the time that the combat assault was scheduled to go in. We did arrive in the area shortly after 0730 after the lift of C/1/20 which was one of the companies of Task Force Barker had going into the LZ. Now I believe we arrived in the area at about the time the last lift went into the area.

The scheme of the maneuver, basically, was that Charlie Company was to go in to the south part of My Lai (4), and they were to sweep through My Lai (4) and link up with Bravo Company, which went into an LZ northeast of My Lai (4). The operation was to have been preceded by an artillery prep, which was to be fired from an artillery position that we had at LZ Uptight, which was in this area.

Q. If you will notice, Uptight is there a little further north.

A. Right, sir. And it was to be prepped--also, the LZ's were to be prepped by gunships when the initial lift went into the area. It was the troops of Charlie Company going into this area and Bravo Company going into this area.

Q. How large an artillery prep was planned?

A. Sir?

Q. How large an artillery prep was planned?

A. I don't recall specifically. Normally our artillery preps were from 3 to 5 minutes. They were short in duration, to surprise the enemy and to enable us to get into the area before the enemy had a chance to man his defensive positions and react to our assault.

Q. All right.

A. We arrived in the area, as I stated earlier, at about the same time the last lift of Charlie Company was going into the area. We received a report from the helicopter that the LZ's were cold; however, when the ground assault started moving toward My Lai (4) they reported that they had received light ground fire and that they had returned that fire.

The gunships that were in support of the operations at about this time reported seeing two people evading to the northwest of My Lai (4), that they engaged these people, and that they were killed. We immediately went to that area, circled in that area to pick up the people in that area on the ground. They were dressed in what appeared to be a grey or green uniform and appeared to be wearing some sort of military gear.

Q. Did you pick them up on the north?

A. Yes, sir, in this area. We marked their position with smoke and directed the ground troops to go into that area and search for those people and see if they could recover the weapons.

Q. But didn't you say you picked them up? Does this mean that you landed?

A. No. We detected them on the ground. We observed them on the ground, and we stayed in that area, circled and orbited the area until we were certain that the ground troops knew where they were located and could recover the weapons.

Q. What time was this, approximately?

A. I would say that this was roughly 0750, at which time we proceeded from this area to the area where B/4/3 was conducting their combat assault, in this area here, near Pinkville. We orbited this area while they were conducting their combat assault. They reported no ground activity.

Q. You moved from the My Lai area over to the east to observe the air assault?

A. Yes, sir.

Q. For B/4/3?

A. Yes, sir.

Q. And while you were over the area to the north of My Lai (4), at what altitude were you flying?

A. Our altitude varied all day from 1,500 feet to ground level. We landed one time. I would say it was equally divided between a high altitude of 1,500 feet and treetop level. We were down at treetop level in this area and when we went over to observe Bravo Company we climbed to about 1,500 feet.

Q. All right, continue.

A. When we saw that there was no action here, we again went over to where Charlie Company had went in. They were continuing to report light ground fire as they moved on My Lai (4).

Q. Did you see Charlie Company?

A. Yes, sir.

Q. Plainly?

A. I'm sorry?

Q. I say plainly? Could you see them plainly on the ground?

A. No, sir. The area is broken by tall grass, hedgerows. We could see them moving, but not plainly. Intermittently, we could see the soldiers moving on the

ground and by the time that we had gotten back over here they were in the area of the village, and we could just see some of the people moving into the edge of the village. The gunships down in this area south of My Lai (4) had reported observing two people evading in that area, and they had observed them to have thrown something in a rice paddy which was to the south of this road that leads from My Lai (4) into Quang Ngai. So we went into that area to try to determine if we could observe what they had thrown away. Again, we descended to treetop level. We hovered, I would say, at times about 6 feet above the ground in the area where the gunship had reported seeing these people discard some article. We were unable to pick anything up. We went from this area to the south of the road, at treetop level, to this area in here north of the road, still south of My Lai (4). And on the road itself we observed two men and a woman laying on the road. They had apparently been killed either by the artillery prep or by gunships. I would say they were killed by the helicopter gunships or by the artillery because the combat assault went in north of there. We did not have, as far as I am aware, any troops in that area at that time. We moved a little further to the north to the edge of a rice paddy and we observed a water buffalo which had been slain, and I saw also a man and a woman that were dead again apparently, to me, from artillery and or gunship fire, because we were still south of the area where the company had gone in on combat assault.

At this point we observed two military-age males evading to the southwest along this primary road. I believe that's 521 that goes into Quang Ngai. We suspected that they were VC trying to get out of the area. I might also add at this point that there were a number of civilians moving along this road. I would estimate between 300 and 400 civilians.

Q. Where did they come from, do you know?

A. They came, not specifically from My Lai (4), but from all the little villages and hootches and huts in this area, as soon as the operation started. They were on the road by the time we got into the area. The road was literally clogged with people. This is an unimproved road, and it was clogged, and they were heading in this direction toward Quang Ngai. I believe that the brigade commander

contacted the task force commander and asked him what action he had taken to screen these people and the task force commander, I'm not sure what he replied, but I believe he said that they had been screened or would be checked. It was not possible to get all of them because they started out of the area before our troops actually got on the ground and were able to organize themselves and take a position to oversee them. The majority of the people had started to move out of the area before we could do anything about them, as far as screening them is concerned. At no time were these people, moving along the road, molested in any way.

To get back to the other point that I was developing, the two people that we saw evading, we tried to get them to stop by low-level flight of the helicopter trying to intersect their path of movement. We were not able to do so because we were in the Huey, and its mobilities are not the best. We did, however, contact one of the aero-scout helicopters which was in support of the operation. They are organized with both the Huey and OH-23's. We contacted one of the OH-23's, and he moved over into that area to assist us and try to detain or stop these people from evading on the ground so that we could apprehend them. He placed some automatic weapons fire along the side of the road to get these people to stop. They did stop. We landed our helicopter somewhere in this area (pointing to the map) around Hoa My. We had our doorgunner dismount from the Huey, and he went out into the rice paddy and apprehended the two and brought them on board the helicopter, and we took them back to LZ Dottie, right here (pointing to the map), where we turned them over to the MI team that was in support of Task Force Barker. These people later proved to be PF's who had been held prisoner by the VC at My Lai (4) and, of course, this is only hearsay on my part, but during the interrogation they stated that they figured that there was a platoon-size element in My Lai (4) and that they had moved out of My Lai about the time that we had moved in with our combat assault, or shortly before. Apparently the two people that we killed north of My Lai (4) were a part of this VC force that had been in the village that night.

From this point we refueled at LZ Dottie and came back over the area to observe the operation.

Q. While at LZ Dottie did you see anybody there, talk to anybody?

A. Yes, sir. I think General YOUNG, who was the assistant division commander of the Americal Division, arrived at LZ Dottie at the same time or shortly after we did, and Colonel HENDERSON talked to him there. I am not aware of what transpired or went on.

Q. Did you have an opportunity to visit the TOC while you were there?

A. Not at that time. No, sir.

Q. Did you have any reports available at that time concerning the progress of the operation?

A. Yes, sir. We were monitoring the operation all the time that we were going back to LZ Dottie. Of course, we had to cease monitoring the operation while the helicopter was being refueled, although we did start monitoring it once we were airborne. So we were aware of what was going on in the area. We were hearing all the radio reports during that period of time.

Q. Please continue with your story.

A. After we left Dottie we came back to this area and observed the operation, I think, until about 1100, because the brigade commander had assumed command of the brigade the day before, and we had arranged for him to pay a courtesy call on the 2d ARVN Division commander at Quang Ngai. I don't recall the specific time, but I believe that it was at 1100, so we arrived back at Quang Ngai about that time, and the brigade commander consulted with General TOAN, who was then Colonel TOAN and later General TOAN. From that appointment we went to Duc Pho. We had lunch and that afternoon we flew back into the area to observe the operation, I would say, for the better part of the afternoon. Then we returned to Duc Pho around 1630.

Q. What time did you arrive at LZ Dottie from picking up the two suspected prisoners?

A. I would say between 0930 and 1000, sir.

Q. You were there for how long?

A. Less than 30 minutes. It was closer to 20 minutes.

Q. And when you returned to the operational area again, what area generally did you cover?

A. We covered both areas. Both the My Lai (4) area and I believe this is the My Lai (1) area here. We were in both areas. The action had more or less subsided when we returned to the area. There were some hootches burning in the My Lai (4) area, and there were also some fires in the area where Bravo Company went in, My Lai (1). But there was no ground activity. The units were conducting a ground search mission, Charlie Company moving from My Lai (4) toward Bravo Company's position here at My Lai (1).

Q. When you were over the general My Lai (4) area did you notice any bodies?

A. None, other than I have already covered.

Q. And you would indicate that that would be how many?

A. Well, five what appeared to be civilians, three men and two females, and the two military types that we observed north of My Lai (4).

Q. What altitude were you maintaining on your return?

A. We were at about 1,500 feet, sir. I don't think we got down the second time.

Q. Did you hear any, when you were monitoring the radio transmission, did you hear any of the reports being given?

A. Yes, sir.

Q. What were the reports to the best of your recollection?

A. We monitored the battalion net between the company commander and the battalion commander and the battalion TOC. I don't recall any of the specific reports that were out of the ordinary that concerned the progress of the units on the ground. There were reports that the unit had captured, I believe, three weapons. At that point I assumed that to be those two up here (pointing to the

map) plus another one that they recovered. They had reported casualties, not casualties, but they had reported killing VC in the area but I don't recall any details. There were several different reports. I don't recall any one specifically, but I would say that they did report VC being killed on the ground. The final count of the action in My Lai (4) did not come in until later in the day when they had a chance to complete the search through the area and had counted the number of VC that had been killed. And I think as a result of that count it was reported 128 VC KIA.

Q. Is that just for C/1/20 or was that for the entire operation?

A. That was for the entire operation, sir.

Q. Including Bravo?

A. Yes, sir. As I remember it, they didn't have any contact in Bravo's area. All the contact was in Charlie Company's area.

Q. Were there any reports coming in concerning civilians being killed?

A. Yes. Well not reports as such, but the brigade commander, of course, saw the same ones that I had already covered, and he brought this to the task force commander's attention. And I'm not sure what he actually told him. I believe he indicated that the task force commander should make an effort to determine how the people got killed. Insofar as the task force itself reporting civilian casualties, I remember none at that time.

Q. Did you hear of a body count as a result of the artillery prep?

A. No, sir.

Q. At any time during that period did you hear somebody say, over the radio, to stop killing civilians and noncombatants?

A. No, sir. I did not.

Q. Did you hear any instructions being issued to stop burning houses and so forth?

A. Yes, sir. There was one. The brigade commander, of course, observed the houses in My Lai, and he contacted the task force commander and told him that they should not burn the houses in that area, and the task force commander imparted something in the context that it had been stopped or would be stopped. I believe the fires that were in the area--that were started in the My Lai (4) area--were not started by the troops but were started by the helicopter gunships firing into the edge of the village. Because there were fires in the area--in the village before Charlie Company reached the village--just as they were getting into the edge of the village.

Q. Could this have been caused by some of the artillery?

A. Well, it is possible. The artillery prep had already been fired, but the LZ was to the southwest of the village and unless the artillery was off considerably it would not have been caused by the artillery. It's more likely that it was caused by the helicopter gunships.

Q. You personally didn't see artillery impact in the area or craters indicating that the artillery hit in the village?

A. Yes, sir. There were craters all over the area there. There appeared to be fresh craters in the area of the LZ.

Q. How far west of the village was the LZ?

A. I would say 200 to 300 meters, sir. I conducted before this operation, two similar operations in the same area so in anticipation of the questions that you would ask I tried to filter through my thoughts and decipher and determine and distinguish between the three different operations. They were all conducted in January and February and March of that year.

Q. Had you in this previous operation--had you run into stiff resistance?

A. Yes, sir. Very stiff resistance. During the first one in the My Lai (4) area itself and in the second operation a little bit, well up here in My Lai (5). Very stiff resistance.

CONFIDENTIAL

around 1700, 1630 to 1700 on the afternoon of the 16th to the east of My Lai (4) and to the west of Pinkville, somewhere between there. They went into a night defensive position in that area. The plan was for Charlie Company to sweep back through My Lai (4). This had been directed by the brigade commander.

Q. When did he direct that?

A. Sometime in the afternoon when we found out what the casualties were--the VC KIA's--I keep saying the casualties, but I mean the VC KIA--because it was so high and the weapons count was so low that it was somewhat suspect on this point. He wanted to determine, I suppose, where the disparity was and perhaps that there had been some weapons overlooked on the ground. He wanted to make sure that this area was thoroughly policed and that he knew exactly what had went on there, and I'm not sure about the intervening orders. Anyway, they did not sweep back through that area, I suspect, for Colonel HENDERSON talked to General KOSTER, who is our division commander, for fear of running into booby traps going back through the area, which had been our previous experience. Once before, we went through an area, we tried to go back through it, and it had been heavily booby-trapped. But anyway Charlie Company was lifted out of the area, and I believe they went back to LZ Dottie.

Q. When were they moved out?

A. The following day, sir, and I believe they went back to LZ Dottie. B/4/3 continued with the operation in this area of Pinkville and I believe they moved from this area directly to the west of Pinkville somewhat to the south and then back to the north.

Q. How far south did they go? Do you know?

A. I would say they stayed somewhere north of this grid line (pointing to the map). I don't see it numbered here but I would say 500 to 700 meters from Pinkville.

Q. Did they go as far as the Song Tra Khuc?

A. The Song Tra Khuc? No, sir. They did not.

Q. How far above--north of grid line 78?

A. I don't remember what our area of extension was. As I pointed out earlier, we had some other operations in this area, and we have had our area of extension down to the Tra Khuc River, but in this case, to the best of my knowledge, we did not go that far south in this operation. We went, I believe, from the river down the 70 north-south grid line to the 78 east-west grid line, and east to the ocean, and everything in that area to the north.

Q. And that conceivably may have been the area that you operated in. But as far as obtaining the area from ARVN, as you have to do from 2d ARVN Division, would it be possible that you took the whole area east of north-south grid line 70?

A. Yes, sir. It is possible. As I said, I find it difficult to remember which AO we had at that time because of the other earlier operations. But in this instance, I believe we only had a small AO; and the reason why I believe this is because in our two previous operations we had sent from LZ Dottie, by road, all the way down to here (pointing to the map) and then on 521, a platoon or company minus of APC's, along with ground-reinforced infantry units, went along this road to attack in this direction. And of course this required a greater AO. But since we didn't do that on this operation I believe the AO was smaller, because we really didn't need the real estate. If we got the AO we would be responsible for it.

Q. Now to come back to your story again, after you left the area and you returned to Duc Pho, your headquarters, did anything happen that night?

A. No, sir. I don't believe so. Again, I find it difficult to distinguish from the other operations because on one or two occasions, in the past, on one of the other operations, we had been mortared in there at night in our defensive positions, but I don't believe that we were, during this one. I believe it was on the two previous ones.

Q. I wasn't thinking so much about the operation itself, but so far as your activities were concerned, did anything come up, for example, concerning the ratio of weapons and VC KIA, the ratio of enemy KIA to friendly KIA, the number of civilian killed? Did any of these matters come up and were they discussed at the staff meeting that night or did you have a staff meeting?

A. Yes, sir. We always had a staff meeting. It was a very, very rare circumstance when we did not have one, so I have no reason to believe that we did not have one scheduled that evening at 1700 hours. The brigade commander had already directed Colonel BARKER to send Charlie Company back through that area to determine why the disparity of the weapons-body count ratio. And I don't recall whether or not this was mentioned at that particular staff meeting or not. I don't believe it was, because the facts had not been accurately determined as to why the disparity--that is, the reason for the disparity.

Q. Did you accompany Colonel HENDERSON the following day?

A. No, sir, I did not.

Q. Did he take anybody with him, to your knowledge?

A. The following day?

Q. Yes?

A. Yes, sir, he was normally accompanied by his driver, who was a Sergeant ADCOCK, and the brigade sergeant major who was Command Sergeant Major WALSH.

Q. WALSH?

A. WALSH.

And the artillery battalion commander, Colonel LUPER. And I believe these people were with him all the following day. There might have been other people, but I don't recall, sir.

Q. Was Colonel LUPER with you on that day--on the 16th?

A. Yes, sir, he was. In addition to the air crew there was Colonel HENDERSON, Sergeant ADCOCK, Colonel LUPER, Command Sergeant Major WALSH, myself; the pilot was Warrant Officer COONEY from the 174th Aviation Company, and I don't remember who the copilot was.

MR WEST: How many total?

(MCKNIGHT)

16

APP T-2

A. Six passengers.

Q. Six passengers?

A. Five passengers.

Q. Plus the pilot, the copilot and the two door-gunners?

A. Yes, sir.

IO: Continue with your story.

A. I believe it was a normal custom or policy to have a daily staff meeting, with the brigade staff and brigade commander, to summarize the day's activities and discuss plans for the next day or for the future. The brigade commander did not talk to the battalion commanders then, as he visited them almost daily. He did not assemble them in one group until Saturday. It was the policy in the brigade to have the battalion commanders, when possible, into the brigade CP to have a commander's conference on Saturday afternoon of each week, and I believe Colonel HENDERSON covered this with the battalion commanders the next time they were assembled during a regular commander's meeting.

Q. The following Saturday afternoon after the 16th or 17th?

A. Yes, sir.

Q. On your SITREP's, who approved the SITREP going from brigade to division?

A. That was my responsibility or my assistant's responsibility. The operations SITREP was prepared under my supervision. It was my responsibility, although I had designated the assistant S3 the responsibility for seeing that the SITREP was submitted when it was supposed to be, and in the format that it was supposed to be, and that it contained the things that it should contain. Every day it had to be in to division by 2000 hours, I believe, as of 1900 hours. It included activities up until 1900 hours and to be submitted to division by 2000 hours.

Q. Do you recall the SITREP that was submitted on

that date?

A. No, sir, I do not. It is possible that I submitted it because I did check the SITREP's as often as possible, and it is possible that I approved the SITREP for that day, or it could have been submitted by my assistant, Major DAVIDSON.

Q. How long did this operation continue?

A. C/1/20 pulled back the following day, I believe. Bravo Company stayed in there until the following day and I believe they came out the day after that, on the 18th.

Q. And they would have been airlifted from there to LZ Dottie?

A. No, sir. I don't think they were taken to Dottie. I think they were taken up to Uptight.

Q. Did you have a radio relay station at Uptight?

A. Yes, sir. There was one.

Q. What was the purpose of that, in respect to this operation?

A. The communications at Dottie to the area were blocked by a high hill mass along here (pointing to the map). We established a relay at LZ Uptight so as to have a clear shot into the operation area. It was established for the purpose of permitting the people in the operation area to communicate with LZ Dottie.

Q. Did this delay transmission? Was it an automatic relay or a vocal relay?

A. It was a vocal relay, yes, sir. If they had an automatic relay I'm not aware of it. The relay that I am referring to was a vocal relay. But there was no information required for submission to Dottie which was of an immediate operational concern. The information was relayed to Dottie so they could forward it on to brigade headquarters. There was a TOC set up here at Dottie, and they communicated with brigade headquarters, which was at Duc Pho.

Q. You also had, in effect, direct communications

with the task force commander. Is that correct?

A. Yes, sir.

Q. When I say you, I'm referring to the units on the ground.

A. Yes, sir.

Q. And he is in his helicopter orbiting the area?

A. Yes, sir.

The people on the ground could communicate with Dottie at times, but mostly they would have to go through the relay back to Dottie because they couldn't talk to Dottie from the ground directly. I say they couldn't but there were times when they could, intermittently, establish contact, but we established the relay to be certain that we had responsive communications.

Q. Now I'd like you to tell me anything you know about any investigations that were made into the My Lai incident of 16 March.

A. I think the investigations actually started the following day. I wasn't with Colonel HENDERSON, but I heard what happened. I will have to say that this will be hearsay in some respect.

Q. Hearsay from whom?

A. From the brigade commander and from the people who were with the task force, Major CALHOUN, the operations officer. I heard that a warrant officer who was from the scout company of the 123d Aviation Battalion, which had been in support of the task force for the operation, had reported to his commander, who is a Major WATKE, who had brought it to the attention of Colonel BARKER and the people in authority--commander of C/1/20 shoot a woman. This was passed on to Colonel HENDERSON the next day when he arrived at Dottie to visit with Colonel BARKER and to get an update on the operation. Colonel HENDERSON, reacting to this, heard the warrant officer's story from the warrant officer himself and from Major

(MCKNIGHT)

19

APP T-2

WATKE. Colonel HENDERSON went to the area where Charlie Company was in their night blocking position, or in their laager position here (pointing to the map), and he talked to Captain MEDINA. And I had this told to me also by Colonel LUPER, who was with him that day when he talked to Captain MEDINA in that area about shooting this woman. Captain MEDINA's explanation to Colonel HENDERSON was that he had seen or detected a movement to his rear and to his side and that because they were receiving light ground fire from the area he whirled and fired and apparently he killed a woman, as it was later found out. The movement was apparently partly concealed and partly in the open and Colonel HENDERSON, I assume, bought his explanation because Captain MEDINA was one of our better unit commanders. He had no reason to doubt his word in that particular regard. And I think later on in the day after that, Charlie Company had been lifted out of this area back to Dottie. It may have been in this area (pointing to the map), I'm not sure which, but I think it was back to Dottie. Colonel HENDERSON assembled some of the personnel from Charlie Company that had been in My Lai (4) and asked them if they had seen any civilians killed or anything out of the ordinary, and they replied negatively-- that they had not.

Q. This is all hearsay?

A. This is all hearsay, sir.

Q. Reported to you by Colonel LUPER?

A. Yes, sir. Part of this from Colonel LUPER. I don't remember my exact sources, because at the time I had no reason to question them, but I remember talking to Colonel LUPER about it and Colonel HENDERSON, of course, informing me of what had taken place, and also the people that were in the task force that day--Colonel BARKER, who had been my previous boss, and Major CALHOUN with whom I worked closely.

Q. Do you know whether--at any time, did you hear of any other thing besides Captain MEDINA's killing this woman that had been alleged by Warrant Officer THOMPSON or that Colonel HENDERSON spoke to Captain MEDINA about, or to any other individual?

A. No, sir. That was the only thing that was reported arising from the operation.

Q. That you heard?

A. That I heard, yes sir. Of course, the final body count of 128 stood out, and this was reported to higher headquarters, and the task force did report, I believe, 25 civilians being killed. Now this was the result of their further search through the area.

Q. Was this information forwarded to the Americal Division electronically?

A. Yes, sir. I'm sure it was as a matter of normal course. I'm sure it was. I have no specific knowledge of that information being sent to Americal, but it was the policy within the brigade and within the division that the information would have been forwarded. Now it would have been forwarded on one of three different occasions. One of these being, as it was received from the unit in the field at the brigade TOC, it would have been forwarded to the division TOC and at 1600 hours--1630 hours--each day the Americal required that we submit a verbal summary, by secure voice transmission, of the days activities to their headquarters, so they could use it for their daily division staff briefing. That would be the second instance whereby they would have received it.

Q. Was your secure voice transmission made a matter of record in your headquarters and also at the Americal Division headquarters?

A. Yes, sir. It should have been entered in the log. All the messages sent out were normally entered in the log that was maintained there in the TOC. And the third means would have been by the daily operational reports, situation reports, which were transmitted by teletype to the Americal Division. Division consolidated their situation reports from all the brigades and forwarded it to higher sources.

Q. Repeat again when your SITREP was due. It was as of 1700 to be submitted by--

A. (Interposing) No, sir. It was to be submitted by--the time changed while we were over there, but it was submitted not later than 2000 hours as of 1900 hours.

Q. As of 1900?

A. Yes, sir. 1900--7 o'clock.

Q. Seven p.m.

A. Yes, sir, 7 p.m. And we had to have it in 1 hour after that.

Q. It had to be in 1 hour after that?

A. It may have been 1 extra hour after that, yes, sir.

Q. All right, come back again to my question. I want you to tell me everything you can tell me about any investigations of this incident that took place.

A. There was an investigation conducted by Colonel HENDERSON, but I am not exactly sure how it came about.

Q. Do you know how Colonel HENDERSON reported to division his findings?

A. Yes, sir. I read his report. He conducted an investigation. As I stated earlier, I am not exactly sure how it came about, whether it was a requirement from division because of the 25 casualties that we had reported, or some other reason, I'm not sure. But, anyway, he was directed by General KOSTER, I assume, to conduct an investigation and he did so. I'm not aware of how he conducted the investigation, for I was not with him when he did so; but I did read the report that he forwarded to division. It was in letter form, with an explanation of the operation and the sequence of events and the scheme of the maneuver, the fire support plan and what actually happened during the conduct of the operation, and what the results were, and an explanation of how the civilian casualties occurred.

Q. Were you privy to any of the information in this investigation?

A. None other than reading the report that was sent forward.

Q. Would you give the time--the approximate date of this report?

A. It was in the latter part of March or the first part of April. The thing was reopened, this is what is confusing me about it. It was reopened at a later time in

April, because we had, or our S2, Colonel BLACKLEDGE, had received from--through ARVN channels, I believe, a PW propaganda leaflet which referred to this operation. They stated in that leaflet that we had killed something like 300 to 400 people, massacred or slaughtered them. This Colonel HENDERSON brought, and again I don't have any personal knowledge of it, but I know he did as a matter of course bring this to the division commander's attention. He also discussed it with the 2d ARVN Division commander. I was present during that discussion.

Q. When did it take place? Colonel HENDERSON discussed it with him?

A. Yes, sir.

Q. When was this, approximately what date?

A. It was in April, I don't recall what date. I would say the first half of April. And General TOAN's reaction was that it was a VC propaganda stunt that they had relied on in the past, and he stated that--I'm not sure that he was aware of this report--that he was conducting an investigation or would have one conducted. And later on, I believe it was in the latter part of April or, yes, it was in the latter part of April, we received a report of the ARVN investigation. I read an interpretation of that report which had been translated into English. And it, in essence, discounted the report, stating that it was a propaganda stunt of the VC.

Q. Who made this report, the ARVN report?

A. We had received an information copy and I believe a copy had been forwarded to the Americal Division and the brigade. The investigation of the paper had been prepared by the province chief, who was a Colonel KHIEN. I believe that was his name. I have it written down here in my book. (The witness referred to a small green Army notebook.) K-H-I-E-N, Lieutenant Colonel KHIEN. And that's the point that I'm confused on, I'm not certain whether Colonel HENDERSON's investigation was submitted after this. I believe it was before that, that he had received a report from ARVN channels, and his investigation was submitted prior to that time, which was more or less a confirmation.

Q. How was Colonel HENDERSON's report delivered to the

Americal Division?

A. I'm not certain, sir. Normally, a report of that nature would have been hand-carried by the liaison officer or one of the staff members. I'm not certain. I don't know how it was delivered. But that would be the normal procedure. A report going to the division commander would be personally hand-carried by the liaison officer, whom we had going back and forth each day or it might have been taken up by one of the staff officers. I did not take the report myself.

Q. Were there any subsequent investigations?

A. None to my knowledge, no, sir.

We had no reason to believe that anything was out of the ordinary other than what I've covered. The civilian casualties we attributed to either artillery fire or gunship fire in that area at that time. And the story that Captain MEDINA had relayed to Colonel HENDERSON was plausible and acceptable at the time. We had no reason to believe that there had been anything out of the ordinary.

(The hearing recessed at 1016 hours, 3 December 1969.)

(The hearing reconvened at 1023 hours, 3 December 1969.)

RCDR: All persons who were present when the hearing recessed are again present.

IO: Major MCKNIGHT, I have here a document here which has been entered into evidence as Exhibit R-1. I would call this to your attention and ask if you have seen this document previously, in its original form (handing document to witness).

(The witness examines the document.)

A. Yes, sir. This appears to be the report of investigation which was submitted to the Americal Division.

Q. Did the report which you saw, Colonel HENDERSON's, have attached to it two inclosures which are also appended hereto?

A. Yes, sir.

Q. Were you familiar with the report--or the letter from the Son Tinh District chief to the chief of Quang Ngai Province, the contents of it?

A. No, sir. I don't recall having seen that one.

Q. With respect to--

A. (Interposing) Can I modify that?

A. Yes.

Q. It may have been a part of the report of the investigation that I read from the district chief--may have been appended to that report--the letter from the district chief to the province chief. I don't recall specifically. No, sir.

Q. With respect to Inclosure 1, dated 14 April, do you know who prepared this document?

A. No, sir. I don't.

Q. I now show you Exhibit R-2, which has been entered into evidence as part of the record, and ask if you have previously seen this particular document?

(Hands document to witness.)

A. I don't specifically recall having seen this, very possibly I did.

Q. Normally on a combat action report, an after action report such as this, what is the normal process? What would you expect to happen to a paper such as this coming in from the task force, for instance, and addressed to a brigade commander?

A. Well, if it was addressed to a brigade commander as this one is, it would be shown to the brigade commander, sir. And this particular paper he would have probably have signed off on and returned it to me or to the S3 shop, and it would have been held there for consolidation with the quarterly report of the operations summary that we submit.

The only operations which required a specific report was a named major operation. This paper did not fit the particular requirement, requiring a separate report.

Q. To division?

A. Right, sir.

Q. Would you normally send a copy of such a report to division?

A. No, sir. Not unless they requested it.

Q. Do you have any knowledge of division requesting this report?

A. No, sir. I do not.

Q. Do you have any idea of what may have generated this report? You will notice that this report covers only one day.

A. Not unless the brigade commander had asked for it specifically from the task force commander to be submitted to brigade, in connection with his investigation or to assert exactly what happened during the operation.

Q. Have you ever seen the inclosure to this combat action report?

(Witness examines inclosure.)

For the record. This is a letter report from the district chief of Son Tinh District, Lieutenant Colonel TOAN, to the province chief, Colonel KHIEN of Quang Ngai Province. Inclosure to Exhibit R-2.

A. No, sir. I don't recall having seen this.

Q. Then, as the S3 of the brigade, you saw neither the combat after action report nor its attachments, that were submitted by Lieutenant Colonel BARKER on the 28th of March?

A. No, sir. I do not recall ever seeing them.

Q. I would like to return again to Exhibit R-1 which

you have there with you. Would you notice the date on the report?

A. Yes, sir.

Q. Does this refresh your memory as to the time frame of when this report was made?

A. Yes, sir. It does.

Q. You've indicated in prior testimony that you thought it was in the early part of April?

A. Yes, sir. This is correct.

Q. Going back to your previous testimony, about the number of individuals that were killed, VC killed, in the village of My Lai, you indicated that 128 had been killed?

A. Yes, sir.

Q. You also indicated that subsequently--or subsequent to the operation, it was determined that there had, in fact, been a platoon in My Lai (4)?

A. Yes, sir. This is hearsay on my part. It's from the S2 interrogation of the two PF's that we picked up. That's what they said.

Q. Would this not then cause you to wonder how a platoon of 128 or so, in excess of 128 or so, happen to be in My Lai? What would you normally accept as the strength of a VC platoon?

A. Something less than 30.

Q. In the neighborhood of 25 or 30?

A. Yes, sir.

Q. Wouldn't you use the information that you received from the PF's?

A. No, sir. Not necessarily so, because the reliability of such reports is questionable. It's doubtful if they knew--that the PF's knew--exactly what was in the village at that particular time that they were prisoners.

Q. Did you ever see a report or hear of a report from the village chief in Son My to the district chief?

A. Yes, sir. I heard about one.

Q. Did you ever see it?

A. I don't recall, sir, where I heard about it, but I did hear about the report, and I do recall that the village chief had made such allegations about this occurring in that village. The reliability of such a report is highly questionable because the village chief hadn't been into that area, to the best of my knowledge, for a considerable period of time. He was in fact in Quang Ngai at the time of the operation. The village chief could not go into the area because it was VC dominated. I think the report that I had was that he had not been in that area since 1964 or 1965.

MR WEST: Please be sure the reporter hears you, and everyone else, also.

A. Yes, sir.

IO: Did you ever hear of a report of killing of noncombatants in My Lai Village from Colonel KHIEN?

A. No, sir. I know of no such report.

Q. To your knowledge did anybody from the division or the task force ever interrogate any of the people that had moved out of My Lai Village?

A. No, sir. There were no reports forthcoming of any interrogation. After we had moved out of the area, of course, it is just supposition on my part that the people moved back in, because there were no additional refugees collected by the district or the province of Quang Ngai. They, presumably while the operation was going on, moved out of the immediate area, and after it was over moved back in. Of course, when we moved out of the area, once again the area belongs to the VC.

Q. Would you normally have your civil affairs people, ARVN, and so forth, geared up to take care of refugees from an operation of this sort?

A. Yes, sir. If there were any refugees recovered. It was not a plan or a mission of this operation to accumulate refugees. There was no encouragement for the evacuation of refugees while the operation was being conducted, primarily because the refugee facilities for the division or Quang Ngai District--or Quang Ngai Province--were overloaded at that particular time. They could not handle any additional refugees. Had it been a part or plan or design of the operations, we could have evacuated some people out of the area; but, we did not attempt to do this because of the fact that we went in solely to combat the 48th Local Force Battalion that had been reported in that area.

Q. What kind of operation would you classify this?

A. It was a search and destroy type operation.

Q. To search and destroy what?

A. The VC forces that were encountered in the area and any enemy installations that they might encounter.

Q. Were you present with Colonel HENDERSON when he spoke to the task force commanders the night before the operation?

A. Yes, sir. The day before, I believe it was in the afternoon of the 15th, before the operation kicked off on the 16th. It was conducted in a small briefing tent on the outside of the task force TOC and Colonel HENDERSON, as I stated earlier, had just assumed command of the brigade; and the first of his remarks to the assembled group, the unit commanders, the task force commanders, and staff personnel, was directed to the fact that he had just assumed command, and he was soliciting their support--the usual type introductory remarks--and as best I recall, he did comment on the operation that was coming up the following day, because it involved a major part of the assets of the task force. He pointed out to them that in the previous operations we had had in that area, we had difficulty with the 48th Local Force Battalion. I believe he cautioned them to be particularly alert, to expect a certain amount of resistance if we did encounter any VC--if we were able to find them--and that's about all I remember of it.

Q. Could his statements have in any way incited

strong reprisals by U.S. members of the task force against the VC or against the civilian population?

A. No, sir. I did not interpret them that way.

Q. Did he make any reference to destruction of the village?

A. No, sir. He did not.

Q. Did he give any caution concerning the killing and wounding of civilians?

A. I'm not certain whether he pointed--he certainly knew and so did Colonel BARKER and so did the other company commanders there know that there were civilians in the area. I do not specifically remember him mentioning this, but he may have.

Q. What were the reporting procedures within your task force and within the division for reporting atrocities?

A. I do not recall the reporting procedures on atrocities. I do not recall anyone mentioning atrocities. I don't know--

Q. (Interposing) In your SITREP's did you make it a practice of reporting noncombatant casualties?

A. Yes, sir. Our SITREP was a summary of the day's activities--what the brigade did during that period of time--a requirement of the SITREP summary of the day's activities, in condensed form.

Q. Explain the SITREP. You say it was a condensed form? Did you have any, or could you put forth any reason why, for example, in a combat after action report of Colonel BARKER on the 28th of March that it didn't include the civilian casualties?

A. No, sir.

Q. Did your brigade have an SOP which considers such things as the handling of PW's and treatment of non-combatants, women, children and the like?

A. Yes, sir.

Q. Did it also include the reporting of atrocities?

A. No, sir. I don't believe it did.

Q. Or war crimes?

A. No, sir.

Q. Did you receive or have any instructions from higher headquarters in that regard?

A. Not to my knowledge.

Q. Were you familiar with the MACV directive in this regard?

A. No, sir. I was not.

Q. I have here, Major MCKNIGHT, a copy of the MACV Directive 20-4, dated 27 April 1967, entitled "Inspections and Investigations, War Crimes." This was transmitted to us electronically. We do not have it in its original form. I would ask you to review this document, in brief, down to the mark on page 5, and tell me if you have ever seen this document or something similar to it. For the record this is Exhibit D-1, the MACV Directive 20-4, of 1967.

(The witness examined the document.)

A. No, sir. I have not seen this document, to the best of my knowledge.

Q. Do you know whether or not a copy of this was available in headquarters of the 11th Brigade?

A. No, sir. I do not. If I may expand on this? At the time when the brigade--for background I will have to go back to the time the brigade deployed from Hawaii. There was a group that made a liaison visit to Vietnam, I believe it was in September of 1967, and they brought back a number of documents with them. Regulations and so forth, which pertained to the arrival of the brigade in the country and the conduct of operations after the arrival of the brigade there. This document was not among those that they brought back, and I believe I saw all that they did bring back, in the operations field, of this nature.

When we arrived in country, initial distribution was made on a number of MACV and USARV directives that pertained to the operational field and others of this nature. I screened, I think, all of them, and I do not remember seeing one of this nature. After we were in the country the documents came in periodically as they were published, and those that we were required to have on hand we requisitioned, but we rarely ever received them. To the best of my knowledge the ones that we had on requisition we never received. So, consequently, the brigade was severely short of MACV and USARV directives. And I believe, but I'm not sure, that the MACV or USARV inspector general came down to the headquarters and the fact was brought to his attention that we were short of publications. Not this one specifically, but publications in general.

Q. When did this take place?

A. The inspection was in June or July, I believe, sir, 1968.

Q. Well after this incident to which we are referring?

A. Yes, sir.

Q. I show you Exhibit M-2, entitled "Nine Rules," and ask if you have seen these in card form as they were issued by Headquarters, MACV?

(IO hands the exhibit to the witness.)

A. Yes, sir.

Q. Who had these documents?

A. At the time the brigade arrived in country we received somewhere in the neighborhood of 3,000 of these cards. That left us about 1,500 to 2,000 short for distribution to the brigade. We made distribution of those that we had, and we requested through channels, the remainder of the cards so as to make distribution to everyone that came into the brigade. To the best of my knowledge this requisition was not filled. So we were short that number. The battalion commanders were informed by the brigade commander, who was General LIPSCOMB at that time, to make sure that the instructions contained on these cards were disseminated to all personnel within the command.

Q. Could it be inferred, then, from what you have stated, that every man in the command either had one of these or was aware of the contents of it?

A. Yes, sir.

Q. I show you another card which has been entered into the record as Exhibit M-3, entitled "The Enemy in Your Hands," and I would ask if you have seen this document previously?

(The witness examined the document.)

A. No, sir. I do not recall seeing this. I do recall seeing a portion of it, that is, the key phrases on the back of the card, but I do not recall the card.

Q. Did you see the entire content?

(The witness examined the second page.)

A. No, sir--only the key phrases translated from English to Vietnamese. I saw them in some form or other, but I don't believe they were on this card.

Q. I have here a document which has been entered into evidence as Exhibit M-4, entitled "A Guidance for Commanders in Vietnam," by W. C. WESTMORELAND. This is also in the 2- by 3-inch card form. I would ask you if you have seen this previously?

(The witness examined the document.)

A. No, sir.

Q. I would like now for you to tell me everything you can concerning the training which had been given within the brigade concerning the treatment of women and children and noncombatants, reporting of atrocities, reporting of war crimes, and all matters related to this?

A. To the best of my knowledge they had received no training in reporting atrocities or war crimes. If I could go back and start a little earlier--at the time I joined the brigade, I initially joined them as the IG in July 1967, and during the reorganization a lot of slots were taken away so I became the assistant brigade S3 plans officer, and this was in October of 1967 and the training

of the brigade had been completed at that point or almost practically completed. I was aware of some of the training that went on at that time, but I was primarily concerned with plans and the training of the brigade which, at that point, had become counterinsurgency oriented, because we were aware that there was a good possibility that we would go over, and this consisted primarily of operational training. And I do not recall any instructions of this nature being conducted. At the time the brigade deployed I was still the plans officer for the brigade, although I did plan the initial in-country training of the brigade. This included, after we arrived in country, a very short period of time for training. The brigade closed in, I believe, on the 26th of December, and we deployed the first battalion in an operational situation the 2d of January. The initial training after we arrived in country consisted of combat assault training, and air assault, to include classroom phases, so to speak, familiarization of the aircraft, familiarization in loading and unloading procedures and so forth, and actual practice assaults. We also had village search and booby trap training which was conducted by a battalion of the 2d ARVN Division, chemical warfare training. Rules of engagement for the troops were not covered at brigade level; this was the responsibility of battalion. They also had a requirement for handling of PW's and so forth in the battalion. We didn't have but a very limited period of time to conduct the training as a battalion saw fit. These were the primary things that the brigade covered.

There was also an orientation course covered by our host brigade which was the 3d Brigade, 4th Division. This was an 8-hour block of instruction on things such as scout dogs, booby trap training, helicopter firing demonstrations, medical evacuation, survival, and our local area orientation, and then, finally our Duc Pho AO area. In connection with this, the company commanders and battalion commanders spent 2 or 3 days orientation period on field operations with the 3d Brigade of the 4th Division. That was the extent of the training from the time we arrived in country until we became operational.

Of course, the matter of conducting training after we became operational was severely restricted and limited primarily to the periods of time when the unit would be on a fire base--the training being conducted by the company commander or the battalion commander, as they

saw fit, and in those periods of time when the unit went on standdown. To regress for just a minute there was shipboard training. As I went over with the advance party, I am vaguely familiar with the shipboard training schedule. This included weapons familiarization, and there was, I believe, a requirement to conduct Code of Conduct training in accordance with the Geneva Convention as part of the shipboard training schedule. There were other subjects which I do not recall.

After that period--after the brigade became operational--we started receiving--this ties in vaguely--we started receiving replacements from other units within the division through the infusion program. This started the first part of March. Each individual is required to have with his records a training card and on this card are required subjects that USARV or MACV require. They are listed on this card and are checked off as the individual satisfies the requirements. The battalions have access to this, and if an individual is not qualified they are responsible for qualifying him in these areas. Replacements arriving in the division and in the brigade pass through division replacement center, and all of these requirements shown on that card are satisfied at that time. I don't recall specifically what they are but I do know some of the areas. It is a 5-day replacement training process and some of the subjects were survival, Code of Conduct to include the Geneva Convention, rules of engagement, in-country familiarization with customs and so forth, the Vietnamese people, handling of PW's, the basic weapons familiarization, the use of the protective mask, and basically that's it, sir. Everyone, every replacement that came into the division was required, in the grade of captain and below, was required to attend this training.

We were pretty much up to strength when we went over there, and at that time we had received very few replacements up to that point. The division training program which incorporated all these things except for the procedure had not been disseminated at that time. I don't recall again the specific date, but the division training program came down to the brigade in draft form sometime after June--between June and November of 1968. Based on this division draft training program, which was to be submitted to higher headquarters for approval, I had prepared in the S3 shop a training program based on this draft, and we submitted this to battalion. It set forth this procedure. About the

only immediate requirement it had other than character guidance to be conducted by the unit commanders and chaplains, was the weapons zero once a week.

Q. From what you said with respect to the Geneva Convention and the rules of land warfare, treatment of PW's, and noncombatants, was it your impression that everybody had been indoctrinated in this?

A. Yes, sir.

Q. Were you familiar with any combat information programs on this subject which were disseminated by MACV or other commands?

A. No, sir, I'm not.

Q. Based upon a word of caution from Colonel MILLER, I would like to go back to the subject of being sure that people had received this training. Do I take it from you that you are of the opinion that all the people had received training and indoctrination in the Geneva Convention, rules of land warfare, the handling of PW's, noncombatants, and reporting same?

A. Yes, sir. The only possible exception would have been people that were reported into the brigade and shipped over with us at the very last minute. We were receiving people into the brigade up until the day we left. However, they should have picked this up once they arrived, either on the way over on the ship or after they got into the country. There was provision for it.

Q. And if they had received it, it would have been indicated on the individual's "66" or the individual's personnel record?

A. It would have been indicated on the individual's training record which is maintained by the battalion and transmitted to follow the individual wherever he is assigned within the area. For those people who went over with the brigade, I believe it's a matter of POR qualification to receive the instruction which you have mentioned--the handling of PW's, and along that line. They are not POR qualified unless they have received this orientation. And, of course, before we left the people who were in the brigade were POR qualified.

Q. What was your relationship with either the district or province chief or their U.S. advisor?

A. My specific relationship?

Q. Yes?

A. It varied depending on the location. We were concerned with the Duc Pho District chief, the Mo Duc District chief, the Son Tinh District chief. Because of the isolated nature of the Mo Duc and the Son Tinh District chief I did not work with them nearly as close as I did with the Duc Pho District chief, and the district advisors. And I use the two synonymously. I did periodically make liaison visits to both Mo Duc and Son Tinh and to Duc Pho, but it was almost a daily, not daily, but two or three times a week I would say. More often, in some cases, I would see the Duc Pho District chief and his advisor. Of course, we were right in the Duc Pho AO. They were located adjacent to the brigade headquarters. We were concerned with providing them security and conducting operations with them. We had a most close relationship and I saw the Duc Pho District chief and his advisor more than I did the other two. But I did make liaison visits to them. The people that we had, the 3/1 Infantry, deployed in the Mo Duc District, and they worked very close with the district chief and his advisor in the Mo Duc District and Task Force Barker and the 4/3 Infantry worked closely with the Son Tinh District chief and his advisor, as well as the Binh Son District chief and his advisor. Task Force Barker's area was partly in the Binh Son District, and they worked closely with him.

Q. Now, Binh Son, is that to the north?

A. Yes, sir. Its district line runs somewhere to the north of LZ Dottie, but there is a very close relationship with the units located in the district and somewhat of a lesser relationship on my part.

Q. Did you ever hear anything from the province advisors or the province and district advisors or the province and or district chiefs which might cause you to suspect that something unusual happened in My Lai (4) on or about the 16th of March?

A. No, sir. Nothing other than what we have

discussed. The letter that I read from the province had been submitted to brigade, the info copy of the report, the propaganda leaflet--those things that we have discussed so far. There was nothing other than that that I can recall.

Q. Did you have any reports from any other source or rumors or otherwise which might have led you to believe that something unusual took place or that some atrocity took place?

A. No, sir.

Q. For the record I would like to clarify the status of the 3d Brigade of the 4th Infantry Division. Do you know under whom they operated?

A. Yes, sir. They were under the operational control and attached to the Americal Division at that time.

Q. And were they under their operational control?

A. Yes, sir, they were. They were attached to the division. Well, I don't know what the relationship--but I think for administrative control and attachment purposes, they still continued to get some of their support from the 4th Division. But it was an operational control type of plan that they were employed in the Americal Division's AO, and they received their missions from the Americal Division.

Q. So all operation instructions were received from the Americal Division?

A. Yes, sir. They were our host brigade.

Q. After the 16th of March, did either U.S. or ARVN forces return to the village of My Lai (4) for the purpose of checking into the situation that existed there?

A. After the 16th?

Q. After the 16th?

A. Not to my knowledge. No, sir.

Q. Now, I can extend this for a period of 6 months. Looking at a period of 6 months after the incident, did anybody, ARVN or U.S. enter that area?

A. Yes, sir. We were in that vicinity after that. I don't think we were specifically in My Lai (4) but we were in the vicinity, south of the river, north of My Lai (4). But as far as going into that village I don't believe we did. I have no knowledge of it, sir. We were in the vicinity. That is the same area where Colonel BARKER was killed. Of course we had troops in there on the ground--security forces and so forth. We had other operations in there but around the vicinity of Pinkville, not in the vicinity of My Lai (4).

IO: Could I have the photos please?

RCDR: Here they are, sir.

Q. Major MCKNIGHT, I have here a series of photos which have been received into the record as Exhibits P-2 through P-25. These photos were taken by Sergeant HAEBERLE, then a member of your PIO section. I would ask you if you have ever seen these photos?

(Hands photos to witness.)

A. I have not seen this particular photograph but I have seen similar photographs.

Q. What is the number on that?

A. P-23. The individual on the left is Captain MICHLES, who was later killed. He is the commander of Company B.

Q. Specifically, have you seen photograph P-16?

A. No, sir.

MR WEST: Let the record show that General PEERS excused himself temporarily to talk to Secretary RESOR and that I assumed the conduct of the interrogation temporarily.

A. I have not seen any of these photos prior to this.

Q. All right. Major MCKNIGHT, I show you Exhibits P-26 through P-42. These are other photographs taken by Sergeant HAEBERLE of the PIO detachment with his own camera in color.

(MR WEST hands photos to witness.)

A. I have seen Exhibit P-26 and P-41 in either a newspaper or magazine.

Q. But did you not see them in March 1968 at the time of the My Lai operation?

A. No, sir. I did not.

Q. I show you Exhibit M-1 which is an issue of Life magazine of December 5, 1969, which contains seven prints--prints of seven of the series of prints that you last looked at. These prints were supposedly taken by Sergeant HAEBERLE and, as you perhaps read in the press, sold to Life magazine.

A. I have not seen this photograph, the one marked P-29, but I do recognize the aircraft because of the emblems painted on the front. This one belongs to the 174th Aviation Company, which is known as the Dolphins and has a dolphin on the front of it. And this has a cobra, and I believe that belonged to the 71st Aviation Company.

Q. What is the number of that color print?

A. Number P-29.

Q. Do you recognize the area?

A. No, sir, I do not. It doesn't mean anything, that it is a dolphin. They supported our operations, but they also supported other people. This, of course, is number 41, the same photo I referred to a while ago. This photograph was also in the other group, but I have seen it before.

Q. What number is that?

A. P-38. Of course, P-33 is one that is included in that group also. So is this one, P-15 and P-39 is also and also P-34 is in that group.

Q. Going back to 16 March 1968 in your observations of that area with Colonel HENDERSON, both morning and afternoon, flying over My Lai did you observe any scenes similar to those pictured in these photographs?

A. Yes, sir. There was one scene. I'm not sure it was the same scene. The photograph was included in that group.

Q. Are you referring to the first group you were shown?

A. The first group I believe.

Q. I hand you Exhibits P-2 through P-25.

A. It must have been in the second group.

Q. I hand you Exhibits P-26 through P-42.

A. Number 31 appears to be similar to one of the scenes that I saw from the air.

(Hands exhibit to MR WEST.)

Q. Would you describe this scene for the record as you saw it?

A. Well, the scene includes a roadway and a rice paddy with what appears to be three dead Vietnamese laying on the edge of the road.

Q. Does this scene correspond roughly with what you and Colonel HENDERSON observed earlier?

A. Well, we did, in one instance, see laying on the side of a road two men and a woman in pretty much the same configuration as these. This may be it and it may not.

Q. This is the sighting you mentioned earlier in your testimony?

A. Yes, sir.

Q. On the morning of the 16th?

A. Yes, sir.

Q. Is that road 521 in the photograph?

A. I am unable to identify it as such.

Q. Well, thank you. Directing your attention again to 16 March 1968, you testified that, after returning from the 2d Division headquarters, you and Colonel HENDERSON again spent some time observing in the area of My Lai (4).

Would you state the time involved and the altitude that your helicopter cruised at?

A. On the afternoon, I know the times only generally, I would say it was approximately 1:30 or 1330 when we arrived back in the My Lai (4) area. We were flying at an altitude which would range from somewhere around a 1,000 to 1,500 feet.

Q. Did you go back down on the deck in the vicinity of My Lai (4) hamlet anytime during the afternoon?

A. Not that I remember, no, sir.

Q. During that day did you or Colonel HENDERSON have any contact with Captain MEDINA?

A. I'm not certain, but I believe Colonel HENDERSON talked with Captain MEDINA on the radio that day, the morning right after the operation first kicked off. And I believe the conversation was with regard to the dispatch of some people up to the north of My Lai (4) to check out the two people that had been reported killed in that area.

Q. Could you fix a time?

A. I would say it was somewhere between--around 0745, I suppose. Somewhere in there between 0745 and 0800.

Q. Do you recall any other conversations between Colonel HENDERSON and Captain MEDINA on 16 March?

A. Yes, sir. There might have been one other time. If you recall my earlier testimony, I stated that we left the My Lai (4) area and went over to observe B/4/3, and we went back to this area south of My Lai (4) and south of Highway 521 where the helicopter gunships supporting the operation reported seeing some people evading and discarding something in a rice paddy. Well, we were in that area searching, and I believe that Colonel HENDERSON may have contacted Captain MEDINA at that time and directed him to send someone down there to search that area. I got involved with seeing these other people later on and if he did send someone down there they did not find anything, or at least we did not get any report of it.

Q. Do you recall any other communication with Captain MEDINA that day?

A. Not to my knowledge. No, sir. It was normal policy within the brigade that unless there was some matter of immediate operational concern the brigade commander did not talk to the company commander, although he may have monitored the company net--the net that the company talks to his platoon leaders on but he did not enter that net. Most of his transmissions were sent to the battalion commander.

Q. All right. Did the brigade issue a written operations order for this assault on My Lai (4)?

A. No, sir.

Q. If you have been reading the newspaper accounts concerning the My Lai (4) incident and listening to the radio and television reports, you are aware that some witnesses have stated to reporters in effect, that members of Charlie Company got orders to go into My Lai (4) and destroy the village, burn houses, and kill every living thing. These are some of the more extreme statements. Do you have any knowledge of any such orders having been given at any level?

A. No, sir. Knowing Captain MEDINA, I don't think he would issue such an order, sir.

Q. None were issued by higher headquarters?

A. No, sir. Not to my knowledge.

Q. Did the brigade ever have a mission of destroying a village, going in tearing it up, burning all the houses--huts?

A. No, sir--not to my knowledge.

Q. How well did you know Captain MEDINA?

A. Well, I didn't know Captain MEDINA prior to going to Vietnam. He went over with the advance party. He was selected by General LIPSCOMB as the outstanding company commander in the brigade to accompany the brigade in the advance party and to provide security for the advance party in Vietnam. I got to know him there as a member of the advance party. It was my initial meeting with Captain MEDINA, and I got to know him later in January when he deployed--when his company was designated to become a part of Task Force Barker, I was instrumental in helping him

plan his move from the Duc Pho area to the LZ Dottie area, and I saw him on infrequent occasions between that time and the time the incident occurred. I knew him by reputation. I knew that his battalion commander and his contemporaries thought very highly of him.

Q. Then would you say you knew him well enough to form an opinion as to his character?

A. Based on all the information that I have, yes, sir.

Q. As you know, the Army has been investigating this incident for some months. We have taken many statements. Included in those statements are opinions of witnesses as to Captain MEDINA's performance of duty, competence, and character. He is seen by many as a very dedicated officer, a man who followed the book, stern but fair, and who took care of his men, was well liked by his men. Some others have referred to him as "Mad Dog" MEDINA, some as ambitious, overly interested in body count as an indication of success of the performance of his company. We would like to have your opinion on this and also your opinion as to whether he is the type of person who could have, on his own, issued orders to burn the village, to kill civilians, or to kill every living thing in the village. There have been some allegations that he issued such orders.

Q. No, sir. I think he is not of the character that would assume on his own responsibility--and my assessment of his character is such that he would not have committed such an act or issued such an order.

Q. Do you have any knowledge that he did so or not?

A. No, sir. I do not. And the first time I heard about the nickname "Mad Dog" MEDINA was when I read about it in the newspaper. I never heard it used while I knew him in Vietnam.

Q. I am unable to assess the truth of these statements but they have been made. Did Colonel HENDERSON, to your knowledge, have authority to issue such an order?

A. No, sir. He did not. I believe it was a policy within the division that no village would be destroyed without the authority of division.

Q. Now, returning to this Lieutenant CALLEY,

how well do you know him?

A. I do not know Lieutenant CALLEY, sir.

Q. You are in no position to give an opinion of his character?

A. No, sir. I am not.

Q. It has been alleged in statements that he ordered noncombatant men, women, and children gathered together during the My Lai (4) assault and ordered them killed. Have you ever heard of this or have any knowledge?

A. None, other than what I've read in the newspaper.

If we could go back to Captain MEDINA for a moment?

Q. Certainly.

A. He is a high caliber company commander. My assessment of him as an individual is such that his control over the company during that operation would not have permitted such a thing to occur. I can't believe he was there and let his platoons get so much out of control that they could have done that. It's beyond the realm of belief.

Q. You say it's not in his character?

A. Yes, sir.

Q. Moving from that again to the matter of investigations that were made after 16 March 1968, of the assault on My Lai (4) you have covered very thoroughly what you know of the report Colonel HENDERSON submitted. It has been admitted as Exhibit R-1, I believe. I believe you are aware that a second investigation was made. A second report on this operation was rendered on this operation--let me say that we have evidence that there was a second investigation and a second report--that the report was made and the investigation conducted by Colonel BARKER.

A. At the time I was not, sir. I have recently had knowledge that there was one. I was informed of this but not at that time.

Q. We have been told of a report around mid-May?

Does this fit in with what you heard?

A. Yes, sir.

Q. Would you tell us what you did hear concerning this second investigation?

A. Well, I heard that--well, I met Colonel HENDERSON, before he appeared here yesterday, and we discussed certain aspects of the case. There were certain areas that he was not familiar with that I was, and we were trying to determine in our own mind what had transpired.

Q. This was a matter of refreshing your memory, I take it?

A. Yes, sir. He informed me at that time that a second investigation was conducted. I believe he had been directed by General YOUNG or General KOSTER to conduct the investigation, and Colonel BARKER was at that time acting as the brigade executive officer.

Q. In May?

A. Yes, sir.

Q. But at the time, did you have any personal knowledge?

A. No, sir. I didn't. I went on R&R in May. It's possible that this came out at that time.

Q. You never saw the report of this investigation?

A. No, sir.

Q. We have not been able to find copies of this report. From your knowledge of the organizations involved and how they were administered, could you suggest to us any place that the report might have been filed? We are told by Colonel HENDERSON that, to the best he can recall, three copies were forwarded to division. None were retained in the brigade. This is his testimony. Could you suggest, perhaps, where it would at least be a standard operating procedure for a copy to be filed?

A. No, sir. I would not have any idea. I don't know. Probably either the secretary of the general staff's

office--

Q. (Interposing) In the division?

A. Yes, sir. Or the chief of staff's office, maybe.

Q. I'm not sure we covered this. Did you have authority to approve SITREPS?

A. Yes, sir.

Q. At noon on the 16th, around 1100, you visited Colonel TOAN in the 2d Division headquarters. Was anything said at that time about going into--was there any discussion at that time in regard to civilians being killed in My Lai?

A. No, sir. I don't think there was any discussion at that time.

Q. Did you have any personal knowledge of a report by Warrant Officer THOMPSON, the helicopter pilot, about civilians being killed in My Lai (4) on 16 March 1968?

A. No personal knowledge. No, sir.

Q. From your observations and from what you heard on 16 March 1968, are you able to place Captain MEDINA on the ground in My Lai (4) or in the vicinity at a particular time in the morning?

A. Yes, sir. I gather from the radio conversations between Captain MEDINA and the task force commander and the time that Colonel HENDERSON talked with him, that he was located somewhere in the southern part of the LZ. Other than that general description, I am not able to say where he was, sir.

Q. If I understand your testimony you did not observe him?

A. No, sir.

Q. During your testimony you referred to a green notebook, and you apparently have some notes. Do you have any records or anything that might help the investigation?

A. No, sir. This is just a reference book that I

carried while in Vietnam. For some reason or other I retained it. I had a list in here. The number of casualties for that particular operation because I disagreed with it at the time. The casualties--I mean the VC KIA.

Q. You did not keep a diary?

A. No, sir. I didn't.

Q. What was the SOP for making a body count? Did you have certain rules that would insure accuracy?

A. Yes, sir. The rule was that someone had to specifically see the body on the ground, not see it, but be on the ground with it and ascertain that it was a casualty, a KIA.

Q. It wasn't good enough to see it from the air?

A. No, sir, a confirmed report--I have a note here I just saw I don't know whether it's germane or if it's been discussed or not. Task Force Barker was inactivated 1200 hours on the 9th of April 1968.

Q. I'm glad you mentioned that. What happened?

A. When the 3d Infantry assumed the responsibility of the AO, the companies in the task force were returned back to their parent units.

Q. What happened to the staff of Task Force Barker?

A. They went back to the jobs that they held prior to the formation of the task force.

Q. Do you recall what these were?

A. Well, Major CALHOUN had been the S1 prior to the formation of the task force, and he held some job before that. He later worked for me in the S3 shop. Sergeant Major JOHNSON, who was the operations sergeant of the task force, had been in the brigade S3 section prior to the formation and came back to the brigade S3 section and became the operations sergeant for the division. Those are about the only ones I recall.

Q. A Master Sergeant THOMPSON?

A. JOHNSON. I was going to mention him, that he would probably--although he wasn't in the area--he would probably have a pretty good idea of the scheme of maneuver on the ground. He was certainly on top of everything that was reported in that mission.

Q. I was about to ask you if you would suggest names of people that you think might help us to determine what went on that day on the ground at My Lai (4).

A. Colonel LUPER who is also located at Fort Leavenworth. I conferred with him before I came to Washington. We discussed the operation. Again, I was trying to refresh my memory on some aspects of the incident. He mentioned the time that he was with Colonel HENDERSON on the day after, it was the 17th, at the time Colonel HENDERSON talked to Captain MEDINA. Of course, he was with us on the 16th, so he would be a good source to confirm some of the things that have been said.

Q. Do you know the initials of Master Sergeant JOHNSON?

A. His first name is William, I think. I don't remember what his middle initial was. W. O. sounds familiar. I wouldn't swear to it.

Q. Anybody else you can think of?

A. There was an SP4 who was probably on the operation. He was Colonel BARKER's radio operator. SP4 BEARDSLEE. He probably is not in the service any longer. He was, I think, with the colonel all the time the operation was in process.

Q. He was his RTO?

A. Yes, sir. A Warrant Officer COONEY was a pilot in the chopper.

Q. Yes, you mentioned his name.

A. Major WATKE was responsible for the aeroscouts supporting the operation.

Q. Any others?

A. Just the others in the command and control ship: Sergeant Major WALSH and Sergeant ADCOCK.

CONFIDENTIAL

Q. Did you ever see any moving VC?

A. No, sir. I can't say that I did.

Q. You were over the area then for approximately an hour and a half to two hours in the morning and again in the afternoon. What would you say was your total time over the My Lai operational area?

A. Well, I had my flight time logged, but I don't have it in this book.

Q. Well, just a reasonable estimate.

A. On the 16th of March I had a total of two and a half hours.

Q. Did anybody, either in the brigade or Task Force Barker or from the division ever question you concerning what you saw?

A. No, sir.

Q. On the 16th of March?

A. No, sir.

MR WEST: Well, Major MCKNIGHT, is there anything else that you would like to say or add that might be helpful to us?

A. No, sir. I can think of nothing that we haven't covered.

MR WEST: Thank you very much. I appreciate your coming in and talking to us, and giving us a very explicit account. I know it is going to be helpful to us. It may be that we will have additional questions to ask later. We may have to ask you to come back to see us.

A. Yes, sir.

MR WEST: Let me refresh your memory, Major MCKNIGHT, of General PEERS' instruction not to talk about the proceedings today.

This completes our questioning of you. You may go ahead and return to your organization.

A. Yes, sir. Thank you, sir.

MR WEST: The hearing will recess until 1300 hours.

(The hearing recessed at 1202 hours, 3 December
1969.)

(The hearing reconvened at 0855 hours, 12 February 1970.)

IO: The hearing will come to order.

RCDR: The following named persons are present: LTG PEERS, MR MACCRATE, MR WALSH, COL MILLER, LTC ROGERS, and MAJ LYNN.

Sir, the hearing recalls Major Robert W. MCKNIGHT.

Major MCKNIGHT, I remind you that you remain under oath before this hearing.

IO: Major MCKNIGHT, since you were last here in the early part of December we have gained much information as to what happened at My Lai, which we now know as Thau Yen Subhamlet, and in the various other hamlets around there, and for that matter throughout the Son My Village area. We have done this through extensive interrogation. To date, we have talked to approximately 350 people. In some instances we have talked to them as many as five times.

In addition to that we have a large number of documents to supplement the testimony which we have. In addition to that, we have also had an opportunity to visit South Vietnam, Headquarters, MACV, USARV to look through their files and the same thing for III MAF, General LAM's headquarters at I Corps. We have visited the Americal Division and have gone through their files. We have likewise gone through the 11th Brigade. In addition, we have visited LZ Dottie. We have visited and talked with personnel in the 2d ARVN Division, General TOAN, then Colonel TOAN as you would perhaps know him, and some of his officers and some of the elements of the advisory group. We have visited province headquarters and talked to Colonel KHIEN and his successor, Colonel BINH and some of the other Vietnamese officials there. We have also visited the advisory group and interrogated a large number of individuals with the advisory group, and the same is true of Son Tin headquarters.

In addition, some of us on the investigating team took an opportunity to visit My Lai (4) itself, to get on the ground, to go through the village and to see the things that had been reported, so as to fix them from a point of view of

(MCKNIGHT)

53

APP T-2

geography. In addition to that, we have over-flown the area and we've talked to more than a few of the civilians, some of whom were at My Lai (4), and some of the officials that had cause to know what took place at My Lai (4).

So the point that I'm making is the fact that when we first talked to you we were more or less searching for information. At the present time we don't have to search for information because we have quite a detailed picture of what transpired with respect to the incident, the reports of the incident, and the investigations of the incident. We do have some gaps in our information and the purpose of our recalling you is to talk about some of these gaps with you and also to go over some of the things which you had testified to previously.

A. Yes, sir.

Q. Before we get down to any details with respect to questioning, I'd like Colonel MILLER to go over the instructions and provide you guidance and also to warn you as to what we may suspect of you.

COL MILLER: Major MCKNIGHT, when you testified before General PEERS in December, you were not before or during the interrogation suspected of any offense. General PEERS told you we have received much information in the form of testimony and exhibits since that time. Now you are suspected of several offenses. These are not charges. They are not allegations that have been formally lodged against you. These are suspicions, that is, feeling in the minds of one or more members of the board who will be questioning you, that you may have committed certain offenses under the Uniform Code of Military Justice. I'll tell you what those are in just a moment. Then I will advise you concerning your right to counsel and your right to testify or refuse to testify.

IO: Before you proceed on that, I would like to do one thing if I may for the matter of the record. There will be other individuals who will join us later on, but here this morning on my left is Mr. MACCRATE and on my right is Mr. WALSH. Mr. MACCRATE and Mr. WALSH are civilian attorneys who have volunteered their services to Secretary RESOR to assist in this investigation and to provide legal counsel to me and to other members of the inquiry team. We have other groups that are taking testimony from other individuals.

COL MILLER: You are suspected of a failure to obey or violation of general regulations concerning the reporting of knowledge, reports or information which pertain to alleged, suspected or apparent war crimes. You are also suspected of dereliction of duty with respect to your actions or your failure to take action on reports and information concerning alleged unlawful killing of civilians by American troops, more specifically Task Force Barker troops, in the Son My area in Vietnam on or about 16 or 17 March of 1968. All of these offenses are suspected offenses relating to the actions of Task Force Barker and the subsequent actions by you or other people relating to that incident. Third, when you appeared before, you took an oath to testify to the truth and to tell the whole truth. You are suspected of having intentionally withheld relevant information and of having given some false testimony under oath at that time. The giving of false testimony under oath is a violation of Article 134 of the Uniform Code of Military Justice. You are also suspected of having suppressed or of having conspired to suppress information and reports concerning and the investigation of acts which were allegedly committed by the American troops, again Task Force Barker, during the task force operations of approximately 16 to 18 March in the Son My area. The information and the reports in this investigation to which I refer, which you are suspected of having either suppressed or conspired to suppress, concerned alleged serious offenses which were in violation of the war laws and the Uniform Code of Military Justice.

These acts I refer to were the alleged acts pertaining to what Task Force Barker troops may have done during this operation. Inasmuch as you are suspected of these offenses, you have several rights.

First of these is your testimonial rights. You have the right to remain silent, to answer no questions at all. Any statement that you do make may be used in evidence against you in a criminal trial. You also have a right to counsel and to consult with counsel. By counsel I mean a qualified lawyer. If you elect to have one, he can be present with you at the hearing and you will be given time to consult in or outside the hearing, or both. You may retain civilian counsel of your own choosing, at your own expense, or the military will provide military counsel for you. In fact, you may want to do both: retain civilian counsel and have appointed

military counsel.

If you decide that you do want military counsel, and if you have one of choice who is reasonably available, we will try to obtain him. If you want counsel and you don't have any particular counsel in mind, we will appoint one for you. You may decide that you wish to proceed and answer questions today without counsel. If you elect to do this, you may either answer questions or refuse to answer them as you in your own mind deem appropriate, or you may stop answering questions at any time. If you decide to testify without counsel, you also have the right at any time during your testimony to ask counsel be appointed for you.

Do you understand the general nature of the suspicions which I--

A. (Interposing) Yes, sir.

Q. Would you like to have me go through them again at this time?

A. No, sir.

Q. Do you understand you do not have to make any statement or that you may refuse to answer particular statements?

A. Yes, sir.

Q. Do you understand you do have a right to have counsel, either civilian counsel or military counsel, or both, and that they can be with you?

A. Yes, sir.

Q. Understanding that, do you wish to have either military counsel appointed or an opportunity to seek civilian counsel--

A. (Interposing) No, sir, I would like to have military counsel.

Q. All right. Do you have anything else, Mr. WEST?

IO: Any questions? The hearing will recess at this time.

(The hearing recessed at 0907 hours, 12 February, 1970.)

(The hearing reconvened at 0900 hours, 14 February 1970.)

IO: The hearing will come to order.

RCDR: The following named persons are present: LTG PEERS, MR WEST, MR MACCRATE, COL MILLER, COL FRANKLIN, and MAJ LYNN.

Sir, the hearing recalls Major Robert W. MCKNIGHT.

Major MCKNIGHT I remind you that you remain under oath before this hearing. Are you represented by counsel?

A. I am.

RCDR: Will counsel please state his full name, rank, Social Security number, organization, and station?

IC: Yes, sir, my name is Captain Kenneth GRIFFITHS. I'm attached to the Office of the Judge Advocate General, Legal Assistance Division. My Social Security number is

RCDR: Thank you.

IO: Now wait just a minute. Where are you assigned?

IC: I'm assigned to the Office of--I'm assigned counsel for Major MCKNIGHT.

Q. What's your permanent official assignment?

A. Legal Assistance Division, sir, Office of The--

Q. (Interposing) You're not attached there. You are assigned there.

A. Yes, sir.

Q. Let the record so indicate. He's assigned there, not attached.

COL MILLER: Major MCKINGHT, when you last appeared here you were advised that you were suspected of certain things, offenses.

These were not allegations or charges but suspicions based upon the evidence that has been received before this hearing. After you were so advised and informed of your rights with respect to testifying and to counsel, you requested that military counsel be made available. Captain GRIFFITHS was then made available to you. You are a lawyer, are you not, Captain GRIFFITHS?

IC: Yes, sir.

Q. Have you had an opportunity to consult with him sufficiently at this time?

MAJ MCKNIGHT: Yes, sir, I have.

Q. Are you satisfied to have him represent you as your counsel?

A. Yes, sir, I am.

Q. My next question is: are you willing now to make a statement and to testify?

A. On the advice of my counsel, and in accordance with my rights under the 5th Amendment of the Constitution of the United States, and according to my rights under the Uniform Code of Military Justice, I decline to make any statement.

IO: Do you decline to answer questions?

A. Yes, sir. I do.

Q. Let me give you and your counsel some information and what I would consider to be some guidance.

A. Yes, sir.

Q. I don't look upon you as the ordinary American citizen. You are a senior Army officer. You're a Regular Army officer, so you cannot be put in the same category with other people. I don't think you realize the enormity and the gravity of the situation that is being investigated by this particular inquiry and the effect this is going to have upon many, many people. Let me tell you what we're looking into so that you might think this over to determine that you might

not want to help. We know at the present time that in this particular operation something in excess of 200 women and children, old men, noncombatants were killed, and it may get up to as many as 500. I would also say that, in addition to the killings, there were repeated rapes by members of the command. I would also say that what is referred to as My Lai (4) was for all practical purposes levelled, the houses destroyed and burned, and the livestock were killed. In addition to that there were six other subhamlets that were burned. So it is not just Task Force Barker, and it's not you and myself. This gets way beyond the two of us. This is going to have drastic effects upon the United States Army, on our military establishment, upon our country, and upon our people. Now, I haven't the slightest intent to incriminate you, and I would under no circumstances ask you to testify against yourself. We know a great deal about this situation at the present time, but there are some areas that you can, I feel, testify to without jeopardizing your position, or incriminating yourself. So looking at this situation, and looking at you as a senior officer, and the authority and the responsibility invested in you as a senior officer and a regular officer, having been so designated and approved by Congress, I think it takes an entirely different light. You recall I mentioned before that this report is going to go to the Secretary of the Army, and it will be confidential. What will happen above and beyond that I do not know, but looking at past history it is likely that the report, including the testimony, or at least parts of the testimony, will become a matter of public knowledge. So I would suggest to you that rather than declining and so on that you might give this some thought as to your own participation in this and your willingness to cooperate on the basis of non-incrimination of yourself.

IC: Sir, may I make a comment.

IO: I'd prefer to have it from Major MCKNIGHT.

IC: Yes, sir.

IO: You can consult with him. You can consult with your client. That's perfectly all right.

IC: This is a relatively well reasoned approach that we have taken. It's taken us through two evenings and through a full day yesterday. Major MCKNIGHT's declining to answer

questions and declining to make a statement is as full a statement as he wants to make at this particular point. It would be my advice that he make no further statement. This panel, as I understand it, cannot offer immunity and apparently has no intention of doing so. I see no reason at all, and my advice would have to be to Major MCKNIGHT that he make no statement and answer no further questions.

MR WEST: For the sake of your client, I suggest that you confer with him for a few minutes outside the hearing.

IO: This decision is Major MCKNIGHT's, what he wants to do. You can advise him any way you want.

IC: Right, sir.

Q. But there is the man that has to make the decision.

IC: I think in the interest of saving time quite frankly, that we have gone through this several times, certainly more than once.

Q. He did not have the benefit of this information and I want him, and I want you, to think of what I've said.

IC: Yes, sir. I have thought about it for 2 days.

Q. We'll recess so that you can have an opportunity to talk about it. I want you to have this opportunity and then come back and give me your response.

A. Yes, sir.

Q. The hearing will recess at this time.

(The hearing recessed at 0909 hours, 14 February 1970.)

(The hearing reconvened at 0914 hours, 14 February 1970.)

IO: The hearing will come to order.

RCDR: All persons present when the hearing recessed are again present.

IO: Have you had an opportunity to consult with your counsel?

A. Yes, sir. I have, and I have elected to make no further statement.

MR WEST: We understand your election, and we understand it on the basis of the advice of your counsel. Nevertheless, because of the gravity of the situation, the fact that we believe there are some areas in which you could answer questions without the danger of incrimination, we are going to indicate some of those areas to you and ask you some questions.

IC: Mr. WEST, if I may object to this, sir.

Q. You may object.

IC: I would like it to be noted that this is a continuing objection. Major MCKNIGHT has made a statement that he wishes not be questioned in this regard, that he does not wish to make any statement, and I think that this is probably where we should let the matter lie at this particular point.

MR WEST: I understand your objection. It's entered on the record. It's understood to be a continuing objection.

MR WALSH: Major MCKNIGHT, you have told us that you attended the meetings with Colonel HENDERSON and General TOAN in discussing VC propaganda leaflets alleging that U.S. forces massacred or slaughtered 300 or 400 people. We have obtained General TOAN's statement, entered in the proceedings on the record as Exhibit M-36, the documents which you discussed at that time. I show you M-36 which includes both Vietnamese and English versions and three documents.

IC: I would like to make an objection to your handing those statements to the witness. We have made a statement that we did not wish to be questioned in this area at all. I do not understand what the point of making such a statement is if you are going to totally disregard that statement. I don't know why we were asked to be counsel if we are going to have our advice disregarded by the members of the committee. I appreciate your position, but I think that he has a right under the Constitution not to listen to the questions, and certainly not to answer them.

MR WALSH: Captain, the Constitution says nothing about not answering questions, and I'm not aware that the Uniform Code of Military Justice has anything about not listening to questions.

IC: I think that, sir, the case law is quite specific in the area. After a man has declined to answer a question, anything further in that regard would probably tend to taint the evidence in that area.

MR WEST: Now, Captain GRIFFITHS, we understand the basis of your objections--

IC: (Interposing) Then what, sir, is the reason for the questions?

Q. I have already stated the basis. Now will you please let us proceed. We understand you are objecting to every step.

IC: Is it to be my impression that he is to answer every question at this point, then, with the idea that he does not wish to make a response to it, and we are going to sit here and listen to this for 2 hours?

Q. Nobody said anything of the kind. We're exploring to see if there are some areas in which he possibly could answer some questions.

IC: I would be glad to make this offer. If the committee would like to have us read over all the testimony taken up to this point, to peruse and have made available all the previous statements made by witnesses to this committee,

we would be at least interested in making a perusal of some written interrogatories and based on that we may be willing to answer some of them. But in the form of verbal questioning our position is well stated as it stands at this point.

MR WEST: That's not feasible, Captain GRIFFITHS. I understand your objection. Now will you please let us proceed? You are here. You will be able to take care of your client.

IC: I feel this is intimidation, coercion, and harassment.

IO: That's all recorded. Now I'll ask you--we're not going to ask specific questions. These are going to be areas which are highly important to this investigation. Mr. WALSH, will you proceed with the general areas that we would like to cover.

MR WALSH: We would like to pursue the nature of the discussions held, which you attended, between Colonel HENDERSON and General TOAN. We would like to show you the documents that came from General TOAN, discussed at that meeting, including the letter dated 11 April 1968 from the district chief to the province chief, a piece of VC propaganda, and a memo from the G2, 2d ARVN Division, to General TOAN, and entered as Exhibit M-36. We ask you, to the best of your recollection, as to the matters discussed at that meeting.

IC: The witness does not want to make any statement, sir.

Q. I'd like to ask you, Major MCKNIGHT, if you will be able to testify on that subject?

A. I believe my previous statements contain what I know about that particular briefing.

Q. We would also like to question you with respect to the seating arrangements in Colonel HENDERSON's command and control ship the morning of March 16. We understand you were sitting opposite Colonel HENDERSON. Colonel LUPER was sitting on his immediate right, Sergeant ADCOCK next to him, Colonel MACLACHLAN next to him, Sergeant Major WALSH in the

jump seat on the other side of the aircraft. I ask you if you can confirm that those were the seating arrangements in the aircraft that morning?

IC: The witness once again does not wish to answer the question.

Q. May we have the witness state the basis of his refusal?

IC: He's stated it now three times. I don't know what counsel is supposed to do in here if he's not supposed to object to your questions.

IO: From now on, as of this moment, any objections will be--you are here to counsel the witness.

IC: Right, sir.

Q. Anytime you want you can talk to Major MCKNIGHT, but I would like to get responses from Major MCKNIGHT.

MR WALSH: We would also like to question you, Major MCKNIGHT with respect to your observations, what you heard in the way of radio transmissions or conversations, in the course of your flight over My Lai (4) on the morning of March 16, prior to 0830. Did you observe the operations of Task Force Barker? Will you be able to answer questions on that subject?

A. I do not have anything further to say in regard to that in addition to my previous statement.

Q. We would like to ask you what was said among you, Colonel HENDERSON, Lieutenant Colonel LUPER, and other passengers during that portion of the trip over My Lai (4) prior to 0830 on 16 March?

A. I do not have anything to add to my previous statement.

Q. We would like to ask you what happened at LZ Dottie between about 0840 in the morning on March 16 and about 0955, during the period you, Colonel HENDERSON, Colonel LUPER,

and the others in the command and control ship were present at LZ Dottie. Would you be able to answer questions along those lines?

A. My previous statement contains my response to that question.

Q. We would like to know what discussions you participated in or overheard with respect to the 84 VC KIA reported by Task Force Barker prior to 0830 on the morning of 16 March 1968?

A. I believe my previous statement contains my recollection in this area.

Q. We would like to ask you about what transmissions were made from your brigade command group to the brigade TOC about the time you were in LZ Dottie with respect to VC KIA by Task Force Barker on the morning of 16 March 68?

A. Again, I refer to my previous statement. I have nothing further to add.

Q. We'd like to inquire what discussions were held with Major General KOSTER when he arrived at LZ Dottie about 0935 on the morning of 16 March 1968.

A. I have nothing further to add to my previous statement.

Q. We'd like to ask you what transmissions over the aviation net you monitored during the morning of March 16 with respect to the activities of the Warlords? Will you be able to answer questions along those lines?

A. I have nothing further to add to my previous statement.

Q. We'd like to ask you what discussions you had, either by radio or after returning to Duc Pho, with Captain HENDERSON and Sergeant KIRKPATRICK with respect to reports and transmissions they had received from LZ Dottie and Task Force Barker. We'd like to ask you questions with respect to information you received with respect to reports by Major WATKE

with respect to observations made by a member of his command over the My Lai (4) area on the morning of 16 March 1968. Will you be able to answer questions along those lines without incriminating yourself?

A. Not in addition to what I have already testified to.

IO: Well, I think you have seen, Major MCKNIGHT, the general areas of questioning that we would ask you, and I assume from what you said that you do not desire to comment on any of these questions at this time?

A. No, sir. My previous statement as made before this committee contains the sum total of my knowledge of what happened at My Lai (4).

Q. We recognize this. I'll say this, that it's very difficult to take one back over 2 years and expect one to recall every bit of that which was said, every incident, and so on. So when we talked to you in the beginning we had to pretty much rely upon your own memory. In the meantime, however, we have assembled quite a bit of information which would provide some assistance to let you know some of the things that took place to help refresh your memory, and that was the purpose of the recall.

A. Yes, sir.

Q. To try to fill these gaps, and to take advantage of the knowledge and the information that you have. In view of the fact that you have invoked your rights under the 5th Amendment and Article 31 of the Uniform Code of Military Justice we will recess here very shortly, but before we do I again want to caution you that you have been ordered, and you are so ordered (indicating to counsel) that you will not discuss your testimony, or the questions with others, including other individuals who may have appeared, or who may appear as witnesses before this investigation.

A. Yes, sir.

Q. If you recall I did give you some exceptions, and

the exceptions were in an official capacity, or as you may be required to do so before competent administrative, judicial, or legislative bodies.

A. Yes, sir.

Q. Now I believe that you have already appeared before the investigative subcommittee of the House Armed Services Committee?

A. Yes, sir, I have.

Q. In the event you are required to appear before that committee again, subcommittee, or any other such legislative body, your appearance, prior appearance and your appearance here today would in no way preclude your appearing and testifying before such bodies.

A. May I ask a question? If I am recalled to testify before the House committee, am I at liberty to testify as to things that transpired during this session, or the previous session, as to the nature of the questions, or specific questions?

Q. Not the questions that were addressed to you here this morning.

A. Right, sir.

MR WEST: This is not of course any restriction as to testifying of what you know about My Lai (4).

A. But as to questions and the documents that I have seen here, I'm not permitted to testify there as to what I've seen here or as to the questions asked of me here?

IO: You are permitted to testify about what you know about the My Lai incident, and the reporting of it, the investigations of it, and the reviews of it, but not of the inner workings of this particular investigation.

A. Right, sir.

MR WEST: You should not disclose any information that we may have exposed to you as a basis for asking you questions because we are required to keep the testimony here, and the evidence, the information we've developed, confidential, as we indicated to you.

A. Yes, sir.

MR WEST: There's no objection to telling the House Armed Services subcommittee we did have you back and you refused to answer questions, no objection to that. But, for example, General PEERS has given you some information which is not generally known, and there are reasons for not disclosing it until our investigation is completed.

A. Yes, sir.

MR WEST: This is what he meant by not disclosing any additional facts you may have learned here.

IO: I'm sure you understand what's going to happen when this is made a matter of public knowledge?

A. Yes, sir.

Q. There is quite a controversy going on at the present time, some people saying that there was an atrocity of some kind and some people saying, "I don't believe it." When it comes out and the order of magnitude is explained to the public, and what really transpired, it's going to have grave implications.

A. Yes, sir.

Q. The hearing will recess at this time.

(The hearing recessed at 0930 hours, 14 February 1970.)

FOR OFFICIAL USE ONLY

SUMMARY OF TESTIMONY

WITNESS: MELTON, Carol W. MAJ

DATE OF TESTIMONY: 3 February 1970

PLACE OF TESTIMONY: Pentagon

WITNESS SUSPECTED OF: N/A

COUNSEL: None

DUTY ASSIGNMENT: S1, 4/21, 15 April 1968 - 1 November 1968,
S1, 11th Brigade, 1 November 1968 - 26 March 1969.

As the 11th Brigade S-1, the witness did not inspect the files because there was an AGI shorty before his assignment on 1 November 1968 (pg. 3). He did not recall any inquiries concerning a report of investigation on the My Lai incident (pg. 4). He never heard any statements concerning the incident, nor did he see any VC propaganda about it (pgs. 4, 5). He knew nothing about any investigations being conducted (pg. 5).

(The hearing reconvened at 0945 hours, 3 February 1970.)

IO: The hearing will come to order.

RCDR: The following named persons are present: LTG PEERS, MR MACCRATE, COL ARMSTRONG, and MAJ LYNN.

Sir, the next witness is Major Carl W. MELTON.

(MAJ MELTON was called as a witness, was sworn, and testified as follows:)

Major MELTON, for the record, would you please state your full name, grade, Social Security number, organization, and station?

A. Carl William MELTON, Major, , U.S. Army Advisory Group, Mississippi, with duty station, McComb, Mississippi.

IO: Major MELTON, on my left is Mr. MACCRATE who is a civilian attorney who has volunteered his services to Secretary RESOR to assist in the conduct of this investigation and also provide legal counsel to me and other members of the inquiry team. On my right is Colonel ARMSTRONG, an Army colonel designated by General WESTMORELAND, the Chief of Staff, to assist me in this investigation. Aside from myself this morning, both Mr. MACCRATE and Colonel ARMSTRONG may address questions to you.

I will have the responsibility, of course, to put together the report, weigh the evidence, and determine findings and recommendations.

Have you had an opportunity to read the instructions?

A. Yes, sir, I did.

Q. Do you understand them or have any questions?

A. No questions, sir.

(MELTON)

1

APP T-303

Q. Major MELTON, would you indicate your duty assignment with the Americal Division, time you joined, any change of assignment you may have had, and when you terminated your service with the brigade?

A. Sir, I arrived in Vietnam on this tour on, I believe, 15 April 1967 as a member of the 4/21. I was serving in the capacity of adjutant. I served in that capacity until 1 November, effective date for morning report purposes, at which time I assumed the position of adjutant of the 11th Brigade.

Q. Now, what date was this?

A. That was 1 November 1968, sir.

Q. You came in in 1967?

A. Excuse me, sir, I came in April 1968, in country with the 4/21, and arrived in country on 15 April. Then I stayed there with the battalion until 1 November 1968 as the brigade S1. I stayed in that capacity until 26 March 1969 at which time I returned to Hawaii.

Q. The My Lai incident which was supposed to have occurred on 16 March 1968 became a matter of public knowledge about 4 or 5 months ago, September and October 1969. Since that time have you had any conversations with anybody from the brigade or from the division concerning either the incident itself, the reporting of the incident, the investigation of the incident, or any of the papers related to such a report.

A. I have not, sir, until yesterday en route up here, I happened to run into Major HANKS who worked with us in Hawaii. He's an Air Force major, FAC. He went to Vietnam with the unit, and as I was sitting on the airplane in Montgomery we made a stop and he got on, and I said, "Hey, HANKS, what the hell ya doing?" or words to that effect. And he said, "Well, I'm going up in conjunction with the Peers' board." And I said, "Well, I am too." And that is all of the conversation that I have had with anyone.

Q. There wasn't any discussion of substance between yourself and Major HANKS?

A. No, sir.

Q. Would you indicate what your responsibilities were within the 11th Brigade headquarters November 1968 through March 1969?

A. As the adjutant I conducted the normal adjutant duties with various side duties as the acting inspector general and what have you. Primary attention, naturally, was directed to the area of casualty reporting, and that took the majority of our time. As you are well aware, most personnel, routine personnel work, went straight from battalion to division, unless it pertained to two offices, and we didn't enter into it. Really, it's just the normal S1 activities with heavy emphasis upon casualty reporting and keeping division happy as far as meeting suspense dates and accuracy and what have you.

Q. But you were there as the S-1 and also in the dual capacity as the IG. Did you have anything to do with conducting an inspection of the files or cleaning of the files or retiring the files?

A. No, sir, I did not. They had had their AGI inspection prior to my assuming the duties of the S1 in brigade, and of course, none was scheduled until approximately 5 months after my departure. I did nothing as far as running through the files and throwing out or anything like that, no, sir, and I conducted no inspection. Of course to our subordinate units, I was there more or less as a grievance individual to preclude personnel having to make a trip to division in the event I could solve the problem.

Q. When you were in this capacity, did you ever have an inquiry from division, from USARV, from any individuals who belonged to or had belonged to the brigade, concerning the location of a report of investigation?

A. No, sir, not to my recollection. And definitely not anything on the My Lai incident, because it struck me cold when it happened. I knew nothing about it.

Q. Well, let's change it from My Lai and let me give you a few additional titles that may perhaps have entered into a paper. Son Tinh District?

A. No.

Q. Pinkville?

A. No, sir.

Q. Son My Village?

A. No, sir. I don't believe so, sir.

Q. Tu Cung?

A. No, sir.

Q. Co Luy?

A. No, sir.

Q. When you were with the division and also during the period when you were with the 4/21, did you at that time ever hear any statement or comment to the effect that an aviator had reported through channels that some civilians had been killed unnecessarily in the area?

A. No, sir.

Q. About the middle of March 1968?

A. No, sir.

Q. Did you ever hear of any confrontation between an aviation unit and a ground element to the point that machine-guns were trained on other people?

A. No, sir. I did not.

Q. On friendly people?

A. No, sir.

Q. Did you ever hear that Captain MEDINA had shot a woman?

A. No, sir. I did not.

Q. Did you ever see or hear any reference to VC propaganda which may have been focused on reprisals or revenge for something that may have happened in this area, either by broadcast, by leaflets, by slogans, by arm bands, posters, or any media?

A. Not in that particular incident, sir. Of course, I saw VC propaganda by attending staff meetings, even when I was down at the battalion, but I cannot recall any directed specifically to this incident.

Q. Did you ever hear that there was an investigation being conducted on the U.S. side for what may have happened in this area of Son Tinh District or in the My Lai area, Pinkville?

A. No, sir, not until it broke in the newspapers.

Q. Did you ever hear of an ARVN investigation or government of South Vietnam investigation while you were there?

A. No, sir.

Q. In your discussion with people within the headquarters and informal discussions in your mess and in your spare time, did you ever have any cause to suspect, something you heard may have caused suspicion that something may have happened in this My Lai area about the middle of March.

A. No, sir, I have searched my brain since I received notification to come here Saturday, and I can recall no incident or any discussion along this line at any time.

MR MACCRATE: Who was your S1 sergeant during this period?

A. Sergeant ROSADO initially when I took over the duties. He came home shortly thereafter, and I had a Sergeant--I want to say BERNARD, but I don't recall if that's his first name or his last name.

Q. Could it have been Sergeant WALKER, Bernard WALKER?

A. I'm not sure of his first name, but WALKER was his last name.

IO: Who preceded you as the S1?

A. Major DAKNIS.

Q. And who replaced you?

A. Major HAYDEN.

MR MACCRATE: Did you at any time receive any inquiry with respect to casualties during past operations from the ARVN division, 2d ARVN Division?

A. No, sir, not from the ARVN Division.

Q. Did you ever receive any inquiries from Colonel HENDERSON for information going back into the period of his command, or that you were aware, came into the brigade while you were there?

A. I did not receive any personally. I only communicated with him one time. That was on an OER that was failed to be filled out when he departed, and I sent that to him and he returned it. I am not aware of any communications coming in. Anything addressed to the commander, I got it and opened it. I am not aware of anything coming in.

Q. Do you recall any communication with Colonel BLACKLEDGE, who was the S2?

A. He had departed the command when I went up as the S1, and I had no communication with Colonel BLACKLEDGE.

Q. Did you have any communication with Major MCKNIGHT, the S3?

A. He was still there when I took over. He departed, and I had no communication with him.

Q. Did you know Sergeant CAMELL?

A. Yes, he was in the S2 section.

Q. Did you ever have any conversations with Sergeant CAMELL about any records that he was holding?

A. None whatsoever.

IO: We realize in calling you in that you were not on the scene during a couple of periods that we're interested in, but we do want you to know that even though you couldn't provide us information, that it is essential for us to even know that there was nothing going on during this period. We do appreciate your coming in for this purpose. Now conceivably, based upon the line of inquiry that we followed this morning, you may recall something at some time in the future. If you do, we'd appreciate you getting in touch with us so that we can take advantage of such information. Additionally, if you can think of any documents or materials of any kind which would be helpful, we'd appreciate that. I'll give you this opportunity to ask any questions that you may care to ask, or if you care to make a statement in the record.

A. No, sir, I have no questions and no statement to make.

Q. Before we recess I'd like to again caution you that you are not to discuss your testimony here with others, including other witnesses before the inquiry, except in the performance of official duty or before a competent administrative, judicial, or legislative body. It is possible, although I would think in your case it may even be somewhat remote, that you'd be called before a congressional committee. If such does come about it would probably be the investigating subcommittee of the House Armed Services Committee. Your testimony and appearance here would in no way preclude you testifying before such a body. The hearing will recess at this time.

(The hearing recessed at 1000 hours, 3 February 1970.)

SUMMARY OF TESTIMONY

WITNESS: MOODY, John W.

DATE OF TESTIMONY: 23 January 1970

PLACE OF TESTIMONY: Pentagon

WITNESS SUSPECTED OF: N/A

COUNSEL: None

DUTY ASSIGNMENT ON 16 MARCH 1968: Public Information Officer, 11th Infantry Brigade.

1. KNOWLEDGE OF THE 16 MARCH OPERATION.

The witness recalled being in the TOC on the morning of 16 March and remembered a report of large action and a large body count. He recalled a discussion of a disparity between the body count and the weapons recovered, but did not remember the disparity being as great as 128 to three (pgs. 5, 6). The witness noted that since the brigade was new in the country, they did not think that this action was extraordinary (pg. 5).

2. REPORT OF THE OPERATION FROM HAEBERLE AND ROBERTS.

The witness stated that he briefed HAEBERLE prior to his going out on the operation. He added that he thought HAEBERLE was anxious to see some action (pg. 7). The witness recalled that upon the return of HAEBERLE and ROBERTS they were elated with having been in the field during a fight, but somewhat negatively impressed with all the bodies and killing they had seen. The witness asserted that he did not get the impression that they had seen a massacre of women and children, but only that they had seen much killing and were somewhat depressed (pg. 8). The witness offered that he did not have the impression that HAEBERLE and ROBERTS were reporting a slaughter to him; however, he noted they were appalled with what they had seen (pg. 9). From the discussions that he had with ROBERTS

FOR OFFICIAL USE ONLY

and HAEBERLE there was nothing from which he could detect that there had been a massacre (pg. 17). The witness did not recall their saying that they had seen many bodies of women and children (pg. 9). The witness asserted that he could not explain why HAEBERLE and ROBERTS did not tell him of their observations, particularly in view of the pictures HAEBERLE had taken (pgs. 28, 29).

3. PROCEDURE CONCERNING PICTURES IN THE INFORMATION OFFICE.

a. Generally.

The witness stated that when he first arrived in-country, Major DIONNE told him to be careful with pictures. He stated that anything that was capable of being misinterpreted should not be released (pg. 14). The witness noted that there was no policy saying that every photograph that was taken was to be examined (pg. 15). He noted that although he had seen pictures of burning hootches, he had not considered them as indicating atrocities (pg. 25). The witness asserted that during his tour in Vietnam he never saw any pictures of an atrocity being committed (pg. 15).

b. Recall of pictures from the 16 March operation.

The witness said that HAEBERLE took some pictures and arranged to have them developed upon his return. The witness did not check all the pictures, because he trusted HAEBERLE and at the time he had no idea that the pictures contained the basis for a scandal (pg. 13). He noted that it is not difficult to look at the pictures, knowing what is now known, and realize that they show an atrocity; however, at that time he might not have considered them to do so (pg. 27). He stated that burning hootches was a common occurrence in Vietnam, the division, and the brigade (pg. 26). The witness was not familiar with the division and brigade policies concerning the burning of villages and hootches (pgs. 25, 26).

4. DUTIES OF AN ARMY PHOTOGRAPHER.

The witness stated that when an Army news photographer took a picture of news value it was Army property (pgs. 10, 11). He believed that even when photographers used personal cameras they should turn their film over to the information

office if their pictures had news value (pg. 11). However, he noted even though a man is an Army photographer, this should not deny him the privilege of taking pictures for his own personal use. These pictures should not be sold to the commercial news media. This was understood in his office (pgs. 12, 13). The witness stated that the question in his mind was why did HAEBERLE take these pictures, if he did not plan to bring them to official attention (pgs. 29, 30). He admitted that the answer to that question was that the pictures were taken in an attempt to make money through yellow journalism (pg. 30).

5. OTHER INFORMATION.

a. The witness' attitude toward his duty.

The witness stated that he felt he represented the brigade commander in the information office and, therefore, he was not as close to the enlisted men as were Lieutenants DUNN and REHM. He noted that this might have been the reason that he was not privy to information of HAEBERLE and ROBERTS concerning the My Lai incident (pg. 20).

b. ROBERTS' story.

The witness stated that he recalled no incident in which ROBERTS' name was put on a story that Lieutenant DUNN prepared, because ROBERTS could not bring himself to write it (pgs. 21, 22).

c. The routing of news stories up command channels.

The witness explained that news releases were prepared by his brigade and sent up to division. Then they went to III MAF and on to USARV or MACV. Generally, they were carried by couriers; however, each evening his office would call division to tell them what stories to expect (pgs. 22, 23).

d. Knowledge of the investigation.

The witness had no indication that an investigation was being conducted about My Lai either in the brigade, the division, or by Vietnamese sources, government or Army (pg. 30).

FOR OFFICIAL USE ONLY

EXHIBITS

EXHIBIT NUMBER	DESCRIPTION	NOTES	PAGES
M-23	Americal News Sheet, 17 Mar 68	Shown to witness.	22
M-58	Press Release	Witness did not recall. Admitted into evidence.	20,21, 22
P-2 thru P-42	Miscellaneous Scenes	Shown to witness.	23
P-26 thru P-42C	Miscellaneous Scenes	Shown to witness.	23
P-56 thru P-70	Miscellaneous Scenes	Shown to witness.	23
P-14	Miscellaneous Scene	Wit would not have inquired about	25
P-16	Miscellaneous Scene	Wit would not have inquired about	24,25, 28
P-18	Miscellaneous Scene	Wit recognized MICHLES.	23
P-23	Miscellaneous Scene	Witness recognized MICHLES.	24
P-30C	Miscellaneous Scene	Appeared to be contrived.	27
P-25	Miscellaneous Scene	Wit would not have inquired about.	24
P-31C	Miscellaneous Scene	Appeared to be contrived.	27
P-33C	Miscellaneous Scene	Obvious yellow journalism.	27
P-37C	Miscellaneous Scene	Obvious yellow journalism.	28
P-40C	Miscellaneous Scene	Obvious yellow journalism.	28

(The hearing reconvened at 1508 hours, 23 January 1970.)

IO: The hearing will come to order.

RCDR: The following named persons are present: LTG PEERS, MR MACCRATE, COL ARMSTRONG and MAJ LYNN.

Sir, the next witness is Mr. John W. MOODY.

(MR MOODY was called as a witness, was sworn, and testified as follows:)

RCDR: Mr. MOODY, for the record would you please state your full name, occupation, and residence.

A. John W. MOODY, I'm a graduate student. My address is 747 1/2 North Lafayette Park Place, Los Angeles, California.

IO: Have you had an opportunity to read the instructions?

A. Yes, sir, I have.

Q. Do you understand them or do you have any questions?

A. No, sir, I don't. I believe I understand them.

Q. On my left here is Mr. MACCRATE. He is a civilian attorney who volunteered his services to the Secretary of the Army to assist in this investigation and also to provide legal counsel. On my right is Colonel ARMSTRONG who has been designated by the Office of the Chief of Staff to assist in this investigation. Either of these individuals may address questions to you this afternoon. We also have other groups that are likewise taking testimony from other individuals. In the final analysis, however, I will be responsible for putting the report together, weighing the evidence, and making the findings and recommendations.

We have been directing that all military representatives who testify before this inquiry not discuss their testimony with others. Being in a civilian capacity,

(MOODY)

1

APP T-211

we cannot so direct you, but we would request that you not discuss your testimony with others, including other witnesses for inquiry, except as you may be either requested or required to do before administrative, judicial, or legislative bodies. That may include perhaps congressional committees, specifically the investigation subcommittee of the House Armed Services Committee.

I do not think you have been cautioned or cited by the military judge in the general court-martial case of the United States v. Calley. I would only say that if you are so cited in any of these cases, your testimony here would in no way change either the applicability or effect of any of those orders by either this judge or any of the other judges for comparable cases. Do you have any questions at this time?

A. No, sir.

Q. Mr. MOODY, would you state your duty assignment with the Americal Division in March 1968?

A. Yes, sir. I was brigade information officer and doubled as commander of the 31st PID.

Q. How long had you been the information officer?

A. I had been the brigade information officer since--this would be approximate, sir, because I was also serving double duty as assistant S1 several months prior to leaving for Vietnam, I would say approximately in July or August 1967. That's when I began the duty.

Q. And how long after March did you remain in that capacity?

A. Only about a month and a half, sir. I left in May on an extension in country to join Special Forces.

Q. Had you been with Special Forces before?

A. No, sir. I went only because they were hurting for a PIO, and I knew some people that knew me, and they recommended me to the commander.

Q. Since the time the My Lai incident became a

matter of public knowledge, which took place about 5 months ago, roughly in September or October of last year, have you had any discussions with anybody from the brigade or from the Americal Division concerning this incident or concerning the report of investigations of any incident which may have taken place?

A. Yes, sir. I have, a couple of friends of mine, one of whom I spoke to downstairs, who I had occasion to talk to occasionally.

Q. Who is this?

A. This is Tom GREER. And another friend of mine who was with the 11th Brigade for some time but did not serve with it in Vietnam, who I later served with in Special Forces. We have a lot of common friends who live near me in California, and I had talked to him.

Q. With Mr. GREER. What was your conversation there?

A. Oh, I don't know that it had a direction. It was somewhat erratic. I think we each asked each other if we could remember Lieutenant CALLEY, and I think neither of us could. I still can't. We both knew Captain MEDINA, and I think generally along the lines of, "Do you think MEDINA would have lined up a bunch of civilians and shot them?" I think we agreed that that's unlikely. We more or less came to the conclusion that the most likely thing that happened there was what happens on a smaller scale--in my experience, not with frequency, but hardly anything unusual--and that particular situation is that civilians start moving in the middle of a fire fight. Certainly under artillery fire they get a lot of people killed and wounded. And when there's actually close contact, anybody that moves is likely to get shot. The feeling that we had is that this is what happened in an extraordinary degree, but not that Captain MEDINA would be doing anything like this.

Q. We understand your duties as information officer for the brigade and also heading the 31st PI Detachment. What other duties did you have about this time?

A. In terms of official duties, sir, that was my

assignment. I think you have something in mind.

Q. Well, yes. I've talked to a great number of people that were in this detachment, and the indication was that you were away from it a great deal of the time and spent a great deal of your time over in the S1 area, and I've been trying to--

A. (Interposing) Oh, now I follow you. Yes, sir. No, there was no official duty in addition to that. I think there was some feeling in my office that I was perhaps too cooperative with the 1 section and that they, a couple of the 1's--

Q. (Interposing) What do you mean by that comment?

A. Well, I had been in the brigade for a long time, and the people who were in my office were all relatively new with the exception of Sergeant STONICH. All of them were relatively recent graduates of the DINFOS, the Defense Information School. And they had the feeling that we were military reporters and shouldn't be expected to do anything else but that. I tried pretty hard to encourage a feeling of cooperation with the staff and discourage any feeling that we were a special bunch, that we were a super-professional form of almost civilian-Army people. I wanted to get across that we had to cooperate with everybody. There was a feeling I know. I had several discussions with Lieutenant DUNN and Lieutenant REID. I did things as favors a couple of times and assisted the 1 section in writing, which I had done before. They felt that by doing this, I was allowing myself to be taken advantage of. But I never felt that I spent any time in the 1. I can remember a couple of times at night that I went over there, but I don't think I ever ignored my duties in the PIO business by doing favors for the people in the 1 section.

Q. Do you feel that you really had a grasp of that PI detachment and everything that was going on in it? Were you familiar with Task Force Barker?

A. Familiar is a pretty relative term. I, of course, knew about it, and I knew of its AO and I was pretty friendly with Colonel BARKER. He'd been with brigade for

some time, and I worked rather closely with him when I was in brigade headquarters as an assistant S1, a long time before when he was functioning as S3 and also as brigade XO. I had occasion to go up a couple of times, and I also knew Major CALHOUN rather well, who was up there and I'd worked with him. I guess I was familiar.

Q. Were you familiar with the operation which was initiated on 16 March in the area of what people refer to as Pinkville or Son My Village?

A. I had been up prior to that, but there was action at that time. I frequently went out with the units on operations and such and rode around with the battalion commanders in the C&C ships and things, and tried to keep in touch with what was going on. I had been up to Task Force Barker not too long before that and in that area, but I personally had never been in Pinkville, actually on the ground. No, I was not there on the day of the incident. My first knowledge of it was through channels, through the TOC at brigade base camp. Our first knowledge of it was that it was a large action and large body count.

Q. Were you in and out of the TOC that day?

A. Yes, sir. As I recall, I was. I mean I do remember Task Force Barker and know that C/1/20 had a big action up there. But in retrospect, it doesn't seem at all as big an event. It certainly seems like an event of literally world-shaking importance now, and it seems ironic that at the time there I think you could only say that there was about the sort of elation you would expect from a new unit in country which had not had a heavy contact and finally had one. It seemed to us in the brigade base camp to have done well.

Q. Well this is the largest contact, the most successful contact, for the entire brigade since the brigade had been in country.

A. Yes, sir. But I think because we were new and because you expect the worst if you've never been to Vietnam before, probably we thought, "Well, things are finally getting normal," rather than things are finally getting extraordinarily big. As I'm sure you know, we replaced a

unit there in Duc Pho in that AO and had occasion to hear all sorts of bloodcurdling stories from them, and we couldn't understand why things were being quiet so long. I think there was a general feeling that in the area we were certainly being watched and avoided until the enemy could figure out just exactly what kind of an outfit they were going to be up against.

Q. Do you remember the figures that came out of the operation?

A. No, sir, I don't. I remember a figure of over a hundred on one contact. I couldn't say that I remembered the figure.

Q. Do you remember any discussion in the TOC at the time or at the evening briefing about the disparity between weapons captured and the enemy KIA?

A. Yes, sir. I remember that being mentioned. I couldn't tell you who mentioned it, but I do remember that subject being brought up. Here again, it was known, at least to us, that it was a completely--I don't even think the word "dominated" would be appropriate. It was a VC area that had been a VC area as long as anybody around there could remember, and this I don't think surprised anybody because we felt that the people in that area were pretty much supporters of the Viet Cong. The fact that they did not have weapons physically with them could be understood. It just seems a rule of thumb in Vietnam that if you're searching an area, and people get up and start running, and you speak to them in Vietnamese and tell them to stop, and they don't, then people start shooting because they have a tendency to come back 5 minutes later with weapons.

Q. Well, the statistics for that day were 128 VC KIA, 2 U.S. KIA, 11 U.S. WIA, and 3 weapons captured. Does that ring a bell for you?

A. I didn't remember the disparity being that great, but, yes, sir, that sounds right.

Q. I'll refresh you in a little while with some articles and so on. Who assigned the photographic and

information teams to go out on an operation such as this?

A. I did, sir, or I shared that responsibility with Lieutenant DUNN. But I always knew when somebody was going out.

Q. Who briefed them?

A. Prior to going out?

Q. Were these people briefed before they went out so they would know what they're going to do?

A. Yes, sir. I normally talked to them before going out because I had by that time managed to go out with just about every one of our field units.

Q. Did you brief HAEBERLE and ROBERTS before they departed for this operation?

A. Yes, sir. Here again, it's a situation where it was not a tremendously memorable event at the time. And so much time passed before I learned of this, you know, greater emphasis on it, that I frankly don't have truly accurate memories of the briefing. I do know that I talked to them. I can remember HAEBERLE had over a very brief period of time all of a sudden realized that he had been in Vietnam several months and had never been anywhere where anything was happening to any great extent. This is only my own imagination, but I think he felt that he better get out with some units if he was ever going to do it. And he asked when he could start going out. And I said: "Whenever you want to go, I'll set you up. Where do you want to go?" And we put him up with that unit.

Q. They've had this to say, that it wasn't earthshaking and so on, but as far as the excitement in the TOC and as far as the brigade was concerned, this was quite an important event, if I'm not mistaken, that's correct?

A. Yes, sir.

Q. Well, what about your discussion now with

ROBERTS and HAEBERLE when they came in that evening?

A. In terms of--

Q. (Interposing) "Well, you were out there. What did you see?"

A. Yes, sir.

Q. I mean what did they tell you?

A. They told me that there was a hell of a big fight and a lot of action, and HAEBERLE said he had some pictures. They were at that time negatively impressed with what they had seen.

Q. What do you mean by that?

A. Well, they didn't like it very well. They were somewhat elated, I think, by having been in contact. It's an exciting thing when there's all that shooting going on, and they seemed to have been affected by that excitement and by the fact that they had gone to the field and been out with troops and this sort of thing. But at the same time, they did not like seeing all the bodies and the killing.

Q. What kind of bodies?

A. Of course, I've gone over in my mind many times since this has begun, and can't honestly say that I recall him saying to me or in my presence that they saw a massacre or that they saw women and children lined up and shot. I do remember that they spoke to the effect that they were simply repelled, but I think that perhaps they were voicing an honest emotional response to what they saw, but perhaps tempered by the fact that since it was their first action, they didn't want to sound unmanly, perhaps. Again this is my imagination. But I feel that at the time, what they expressed to me was not that they had seen a fantastic massacre of women and children. It was that they had seen a lot of killing and were somewhat depressed by it. But I heard no accusation from them in terms of, "We saw the troops killing innocent people," or any words to that effect.

Q. Did they tell you that they had seen more than a few bodies of women and children?

A. They certainly had told me that they saw a lot of bodies. I don't believe that they said specifically "We saw many bodies of women and children."

Q. We've talked to both ROBERTS and to HAEBERLE.

A. Yes, sir.

Q. And ROBERTS indicated that he was so upset that he couldn't possibly have written an article about it. HAEBERLE indicated he was just sick all over. It seems to me that if they had been debriefed, this would have come out that they had been more than a little bit appalled.

A. Yes, sir. I would have felt so, but perhaps as I say, they were being hindered by a desire to not sound squeamish. I don't know. But I understood or I thought I understood what they had said and how they said it. Apparently one obvious conclusion would be either that I was unreceptive or that they did not pose it to me that strongly. And, of course, in my own mind I can only say that I feel that it was not put in that strong a message to me. I don't feel that I'm thick when it comes to receiving messages from people in terms of what they're saying and in terms of how they're behaving. I've known Jay and Ron for a long time, and I just don't think that they were giving me all those messages. If they feel that they were, then there's a disparity between our feelings. I mean I've searched my own mind of any sign, and I can remember that they felt bad, but nothing in terms of "We saw people slaughtered" or "We saw little babies--"

Q. (Interposing) Did you sit down and talk to them in depth or was this in a passing conversation or did you ask him to put it in writing? Did you ask any of your field teams to write an after action report to indicate what they saw and what they did?

A. Yes, sir. We did cover the actions in the brigade paper, and as I recall we sent releases to division. But here again there's a form of an inferiority complex that you have with your new unit. This tended

to make people in brigade puff out their chests a little bit, but I had had the experience that to us it was a big deal that we were in Vietnam at all. You know, a major thing in each individual's life. But it didn't take me long to find out over here that in terms of the press, you were just one more brigade of many, many brigades of infantrymen and that you were out there doing your job, and that was about all they saw unless something unusual happened.

Q. Did HAEBERLE talk to you about the film he had taken?

A. He said that he had pictures, yes, sir. I remember him saying, "Well, I'll show you pictures," but I don't remember him saying they were pictures that would turn your stomach.

Q. How many cameras did he take with him?

A. As I recall Ron took two cameras with him, a Nikon and a Leica.

Q. Well, I think we know that he had another Leica with him. What about the Nikon, who did that belong to?

A. That was his.

Q. And what about the pictures out of that camera? Who did they belong to?

A. The pictures that he took while he was out there, as far as I'm concerned, belong to the Army because--

Q. (Interposing) Was that policy enunciated in writing someplace?

A. In terms of right there in the office?

Q. Yes.

A. No, sir. That's Army policy to my knowledge. I mean I don't stretch that to pictures--I mean half the troops in Vietnam are carrying cameras and as far as I was concerned if guys wanted to take their own pictures like colored slides or something, that's okay. But the

idea was that if there was a picture of news value, then that's what you took on black-and-white film for our use. Of course, that's Army film and Army property. They all understood that you don't stop and take your pictures when you're supposed to be taking Army pictures. I couldn't tell people, "No, you can't take pictures for your own use." But the point is--

Q. (Interposing) Well, if he's on an operation, though, is that different?

A. Oh, yes, sir.

Q. It's not like a mortarman going out someplace. His job is a professional photographer. Is that not right?

A. Yes, sir.

Q. And did that make him different than other people?

A. Yes, sir, because his judgment should be much proportionally sharper in determining whether a picture is just his, you know, personal picture--

Q. (Interposing) Who's it up to to make the determination whether the picture is of use to the Army? Is it up to the individual who takes the picture or somebody in the IO shop?

A. Well, I left it up to the individuals. I mean in terms of if the man wants to take a color slide, I trusted these people to not take a, you know, take a colored slide of classified information or anything that would be advantageous to the enemy. But I didn't feel that--

Q. (Interposing) Did you ever have any of this film that was taken by private cameras? As I would understand it from all the people I've talked to, initially you didn't have many cameras, hardly any, so people were encouraged to use their own cameras.

A. Yes, sir, that's true.

Q. Did you ever have any of that film turned in for use by the brigade?

A. You mean color film that was taken?

Q. No. I said any film that was taken on a private camera by one of your photographers turned into the brigade for use by brigade IO shop?

A. Yes, sir. This was on a voluntary basis. People that had their own cameras and were seriously interested in photography, if they wanted to use their own camera, then, of course, we allowed them to do that. No one ever ordered anybody to take his camera. And if it were a situation, which did develop a couple of times, where people just didn't want to take their own equipment, I said fine.

Q. But would you insist on having the film back?

A. Yes, sir. This is to me not a matter of giving direct orders or something, it's a man-to-man rational way of operating. If a man says, "Yes, sir, I'm going to take these pictures," and you give him the film, he gives it back.

Q. Yes. Well, now, color film and so on, you didn't have the capability to develop.

A. That's right.

Q. Would you still expect that if there were pictures of military value, those would be turned in?

A. I'll say that I never encouraged anyone to use color film for any sort of photograph that would be of military use, because that would be silly. I mean that's strictly a personal thing. I would say that my attitude was that because the man's duty is of a photographer, that's no reason to deny the man the privilege that every other soldier enjoys of taking pictures for his own personal gratification or use, as long as those pictures are not used in the news media. That was the understanding. Now any time a guy goes out and takes

pictures, taking advantage of his position as an Army photographer, and then turns around and sells those to a civilian news media, that's flatly wrong, and I think everybody in that office understood that.

Q. When you talked to HAEBERLE that evening, and he indicated he had some of this on film, did you make any arrangements to have this film processed?

A. Yes, sir. I said, "Go ahead and develop them, and we'll take a look at the contact sheets."

Q. Who developed his pictures?

A. On that specific occasion, sir, I don't know. It could have been either Ron intended to do his own, or he might have trusted Mike RECKEWEG, or we all worked in that little dark room. I did some work in there myself. Again I know this sounds rather strange, but the whole irony of the matter to me is what looks to be a storm now, I was unaware of.

Q. Did you see the black and white pictures that were produced?

A. I saw some of them.

Q. Why didn't you see all of them?

A. Well, here again I trusted these people to-- these were all experienced people. Ron HAEBERLE had been shooting pictures for a long time.

Q. Yes, but Ron HAEBERLE was on his way home.

A. No, sir.

Q. He left a day or so thereafter. He was back in Hawaii on the 23rd.

A. Yes, sir. Well, I had no suspicion of Ron. I had no suspicion that he would even consider sneaking pictures away, and I had no feeling at the time that there was material for a scandal there. So it frankly didn't occur to me to--

Q. (Interposing) Well, wasn't somebody responsible for reviewing all the film that these photographers took?

A. No, sir. When you take that many pictures, you can spend your whole time looking at pictures and not be doing anything else.

Q. How many pictures are we talking about?

A. Well, I'm talking about at that time with so many people qualified to operate a camera. I mean just looking at pictures all the time, you have to assume that people know their own work and know which ones are even going to be of reasonable value. I wanted to approve any picture which we produced and the proper number to be released. But to look at all the contacts would seem like a fruitless thing.

Q. What was the policy about what kind of pictures were to be taken within the brigade?

A. Well, we took a lot of people getting stripes and bars pinned on. In terms of news value, it's not an easy thing, it's like the policy on maintenance of a jeep. It's not so easy to pin down what has news value and what doesn't. I think we all understood that the human element plays a big role in a picture, which is of interest to other human beings. If you caught some sort of action, then that would be of some value. The Army policy was that any picture which was even capable of being misinterpreted was not a picture for release. I think this was the first thing I heard about the second day in country when at that time Major DIONNE talked to me. He had just, I think, been through some sort of a problem with--oh, as I recall, it was the 1st Division that had a problem with a television cameraman who had talked some soldiers into staging some thing and then released it as an actual fact, something about cutting the ear off a VC. So the first thing I heard about from Major DIONNE was be careful with pictures. We don't want hot stuff.

Q. Well, would another way to put this be to say that you were taking pictures that would create a favorable image of the brigade and its operation?

(Witness nods affirmatively.)

Now suppose they had pictures of atrocities or pictures of things being done which were in violation of the policies of the brigade and the division. What about those?

A. Then it would not be a matter of release through PIO channels. It would be a matter for the JAG to determine if this would become what it apparently has become in this case.

Q. Well, that's what I'm getting at now.

A. Sir, what you want to know is if I saw these photographs, why didn't I come tell somebody.

Q. That's right.

A. I never saw any photograph of an atrocity being committed in the brigade.

Q. Well, that's why I'm asking you if anybody reviewed any of these films.

A. Yes, sir. And I can see now why you want to know. But at the time there was no formula or policy by which every photograph was checked over. No, sir, there wasn't. And apparently this produced as a result of what I assume is HAEBERLE's taking either negative film or positive prints out of the country without checking with anybody, and taking what apparently was of the most yellow-press news value.

Q. Well, we'll come back to that in a little while. But the fact still remains that there were some indications on the black-and-whites which were available in the PIO shop, and I'm asking why those weren't looked at.

A. Yes, sir. Again the reason they were not looked at was because there was no firm policy of looking at every picture.

Q. Well, all the people that I've talked to, I've never gained the impression that the PIO shop was really overworked to the point where we couldn't have somebody looking at pictures and this, that, and the other. As a

matter of fact, as I would recall it, the PIO shop was well overstrength in all respects, and everybody was pretty much an easy go.

A. Yes, sir. I would say that's not an unfair statement. There were a lot of people in there and not a great deal to cover in terms of what was going on. And I would say that had I felt that to be an important factor, I could have had somebody poring over each photograph. But even then I would have been in a position of putting someone probably less qualified to evaluate the photographs than the people that shot them.

Q. Well, this gets debatable, but I think in almost a matter of 10 minutes a day you could have looked over all the photos that you had in each day.

A. Yes, sir. Well, here again I have to reemphasize that I never thought of myself in terms of a detective, and I wasn't aware of the likelihood of atrocities. I didn't look at my pictures with that view in mind. I was concerned with news value and public information aspects, so I didn't feel that I was going to look at a picture and say, "Wow, that's a beautiful picture," without the photographer having some idea that he had taken a good picture.

Q. Now this PIO shop, frankly, has just got a handful of people. When you get a situation like that, everybody, officers, noncoms, and even the privates, tend to live pretty close together.

A. Yes, sir.

Q. Were you aware, for example, that HAEBERLE had quite a sizable slide collection that he was putting together?

A. Yes, sir.

Q. Did you ever see any slides?

A. Yes, sir. We shot film together in Hawaii.

Q. I'm talking about in South Vietnam.

A. Yes, sir. I had seen some.

Q. While you were with these fellows and living this close now, and ROBERTS in particular stayed on afterwards and all the discussion was going on there, did you hear anything about any killing of any women and children out there that day?

A. No, sir, not that I can recall. I do recall that Jay made mention of that action to the effect that he was not terribly interested in being in contact again. But I took that in much the same vein that I took the first account, that he felt that he'd been out and he'd done it and that was enough that he didn't particularly derive enjoyment from seeing people killed and just didn't have that much desire to do that again, which I found a perfectly understandable attitude. But here again there was no detectable note of distress about a massacre, or a butchery, or whatever you want to call it.

I think there may be one possible area, grey area, here in our discussion. I've noticed you mentioned two or three times now how closely we lived together. This was at one time a point of contention with myself and Lieutenant REHM and Lieutenant DUNN who had never served, who came directly through OCS, through DINFOS, and to the information shop. They did tend to become quite close with the enlisted men in the office. It was Lieutenant REHM who griped, I thought, beyond the point of reasonable complaint and was just moping around the office cursing the commander of the unit and this kind of thing. I had to take him outside and tell him that he had certain responsibilities and that it was the easy way to relax and consider all the boys in the shop pals and stuff, but that eventually would cause far more problems than aid. And this tendency continued on and I tried to keep reminding him that that's creating problems when the enlisted man begins to feel that they can ask you for a favor because you're a pal rather than a superior. I would imagine that that impression of this close living and all of us being jolly pals is not as true in all respects as you might have been led to believe. I felt that I got along well. We had our problems, and I do feel that they're friends, but I don't feel that I went to the extremes that Carol REHM went to in terms of drink-

ing with the guys and generally lowering all the barriers.

Q. Well, I'm not referring to that either. I don't want you to get misled by what I've said, because I've been around this Army for a long time, too, you know, and I've seen IO sections function, and I've seen little signal outfits on the hill, and I've seen advisory detachments of 4, 5, 10 people and so forth, and I would maintain that an officer can be an officer and still be a friend.

A. Yes, sir. I would, too.

Q. And maintain his dignity in his position and insist on things being done the way they should be in a soldierly manner.

A. Yes, sir, I would, too, and I think you would also agree that there are certain limits beyond which friendship goes that it becomes very difficult for that officer to insist on certain things. It's a matter of style, sir, and how one goes about these things. I don't think there's any disagreement, between my viewpoint and yours, but what I'm trying to say is that I would not necessarily have been privy to all bull sessions that may have been conducted in the office and in the EM's quarters and this sort of thing.

Q. No, but I wonder whether or not these men were close enough to you that they could come to you and they could talk to you and they could confide in you and tell you what they saw, because these men had been through a horrendous occasion.

A. Yes, sir.

Q. At least the impression that I get is that these men came back and were quite shaken by what they had seen. This is not to say there were not some personal motives and so forth involved. I'm not for one minute putting that aside. But the fact is that they did not come in and tell you what they had seen.

A. The question in your mind is why.

Q. That's right. That's what I'm trying to find out--

A. (Interposing) Naturally, if I had felt that the fault was mine, I would have changed it. I guess you never really know what anybody thinks of you. But I know how these guys feel about me now. I've enjoyed working with all of them. And again I point out I'm certainly not going to tell you that we didn't have our hassles, but I'm inclined to think that there is a change of attitude after leaving Vietnam. I've experienced this myself. And it becomes difficult to sort of transpose your mind to that same viewpoint. When you live where everything you talk about all day long is combat, then somehow you get back here and begin to take certain things for granted. An atrocity becomes more atrocious. Just thinking in terms of the reflex action of pulling a trigger is taken for granted in Vietnam. When you think somebody's about to shoot you and something moves, you fire. But to talk about that here in the United States when you're not worried about someone shooting you, it becomes a very foreign concept, and it takes an effort for me now to go back to that kind of thinking. I think that over this period of time that elapsed, perhaps Jan and Ron's horror grew, and I think perhaps it's only normal and human that they feel a great deal more fear and horror in what they saw than at the time.

Q. Well, I think you could make that assumption, but I would say also that there are some other people who were in there that were in a comparable position disassociated from the unit, that were just jolly well happy to leave--because they couldn't stomach it.

MR MACCRATE: What was your relation to Colonel HENDERSON, Mr. MOODY?

A. Well, he had been commander of the brigade and then deputy commander of the brigade, resumed as the commander of the brigade on 15 March, and I had worked for him. I worked for him indirectly the whole time I was in the brigade headquarters back in Hawaii in December 1967. As deputy commander and commander I had occasion to deal with him with some frequency.

Q. Was he a pretty austere commander?

A. Yes, sir, I think that's a fair description.

(MOODY)

19

APP T-211

Q. Do you think you communicated a little bit of this to your shop when you were dealing with them?

A. Yes, sir, I tried to. I wanted them to understand that he was a no-funny-business man.

Q. You think this played a part in your communication with HAEBERLE and ROBERTS about this time we've been talking?

A. Yes, sir. I think these are pretty tightly interrelated, and if there was a communication gap as General PEERS was talking about between myself and these men, I think it might have had a great deal to do with the fact that I was in a position in the shop where I, by default almost, had to support the commander of the brigade by virtue of the fact that Lieutenant DUNN and Lieutenant REHM were almost never inclined to do so. So I suppose I became the devil's disciple in their eyes. Sometimes I know I did. And we were ordered to do things, and we did them, and a lot of people in the shop disliked it. A frequent recurring thing in the shop was the feeling that we are the professionals in the reporting business, and nobody should tell us what to do because we know how to do this better than anybody else. I tried to counter this with the fact that no matter how professional you are you always work for somebody. And whoever you're working for tells you what to do.

Q. Do you think you tended to pooh-pooh them when they came in with their story after this operation?

A. No, sir, I don't. I really don't recall that I would respond in such a way as to embarrass them or say, "No, it's not that big a deal."

Q. Essentially talk them out of what they were saying they had seen.

A. No, sir.

Q. I'd like to show you a release (later Exhibit M-58) that bears the byline of Specialist Five Jay A. ROBERTS and ask you if you have any recollection of preparation of that release.

A. (Examining the release) What was it you wanted, sir? If I'd ever seen it before?

Q. Do you have any recollection as to the writing of that release?

A. No, sir.

Q. Any recollection of under what circumstances it was written, the attitude of Specialist ROBERTS at the time? The fact that he--

A. (Interposing) Well, as I've said, the attitude as I described it when they came back and, of course, this was written shortly thereafter. But in terms of actually being there at the time or working with him on the writing of it or, in other words, direct knowledge of the actual act of writing it, no, sir.

Q. Well, the indication to us has been that he did not, in fact, write this.

A. Who did?

Q. And that he couldn't bring himself to write a story about this and Lieutenant DUNN really put this down on paper. Do you have any recollections of that one way or the other?

A. No, sir. Did anyone happen to say why ROBERTS' name was put on there?

Q. Well, he was the man on the operation.

A. And so for credibility reasons DUNN wrote it, and they used ROBERTS' name. No, sir, that's a new one on me.

Q. You never were aware of anything like that?

A. No, sir.

Q. For the sake of the record, I think we better mark the document.

(The document, a 11th Infantry Brigade information office news release, number 113-68-75, purportedly written by SP5 Jay A. ROBERTS, was received and admitted into evidence as Exhibit M-58.)

IO: I think it might be said there that it wasn't just DUNN writing it but ROBERTS was in such a condition that he couldn't write it, and by collaborating, with ROBERTS providing the statistics, the article was put together.

A. Yes, sir. There was a great deal of professional pride or whatever you want to call it in all IO shops in Vietnam. We complained bitterly for long periods, because on all the releases the names were removed at division. Specifically Stars and Stripes tended to be pretty bad about using stories that you wrote word for word without giving a man a byline. And this is something that IO's were still complaining about when I left Vietnam a year ago. So I find it a little bit difficult to believe that. These people who were writers in that shop--I find it a little bit difficult to believe that either Jay would want his name put on something that he did not, in fact, write or that Art DUNN would be inclined to write it. Well, I don't know, I guess if Jay wanted it, then Art would probably go along with it. He was certainly a generous fellow.

Q. This is Exhibit M-23, which is The Americal News Sheet of March 17, 1968. You will see that the story of the operation on the preceding day appears there on the first page. How would that news item get from brigade at Duc Pho to division at Americal?

A. Courier, sir. We had a helicopter that went up normally twice daily as I recall. And we prepared our releases and put them in big manilla envelopes and marked them for the IO shop. They had to be--each release had to be in so many copies and pictures the same way. A certain number of copies because one had to go to III MAF and division kept one and we got one back and this sort of thing. This would have been sent up by courier.

Q. So they weren't telephoned up?

A. Oh, yes, sir. Each night we talked by telephone and told the division IO shop generally what we heard from

our evening briefing. At this time division would handle the clearing of it through MACV channels and USARV. And once they approved it it was released to the press at the briefing in Saigon.

IO: I have here actually three sets of film. I'll show you the first set here and ask you to go through those very rapidly due to your time problem and--

A. (Interposing) Is it important to keep these in order, sir?

(IO provides witness with photographs, Exhibit P-2 thru P-42, P-26C thru P-42C, and P-56 thru 70.)

Q. Yes. And what I want you to do is look for pictures in there that you would consider to be pictures that should be called to the attention of others.

A. I see. I'm sorry, sir, are you talking about news value or--

Q. No, I'm not talking about that. I'm talking about pictures that may be pictures of atrocities or violation of regulation and things of that category.

A. All right, sir.

(Indicating Exhibit P-18.)

The reason I'm looking at this one, sir, is that it looks a great deal like a lieutenant that I know who was not in that unit.

Q. I'm sure you know that lieutenant.

A. I don't know the fellow's name, sir, do you have it?

Q. You know what he was assigned to?

A. He was a problem boy, sir, of the brigade, if it's the one I'm thinking about. He's the man who was responsible for a man's leg being injured shortly after we arrived in Vietnam and was shuttled around a little bit. And as I

recall he finally wound up in B-52, Special Forces. But maybe I've got the wrong man. That's not CALLEY, is it?

Q. No.

MR MACCRATE: Do you recall this man's name?

A. I can remember his face and his voice and that he was from New York, but I can't remember his name right off hand.

Q. That is in P-18.

A. I would--were these taken--

IO: (Interposing) These are all pictures that were taken on this day that we're showing.

A. Yes, sir. In that case, I'm probably mistaken because I'm pretty sure he wasn't there. Well, my memory must be really getting strange, because that sure looks like Earl MICHLES (indicating Exhibit P-23).

Q. That is Captain MICHLES.

A. I understood that these were Charlie Company, sir.

Q. No, I said they were taken in the Task Force Barker operation that day.

A. I'm sorry, I misunderstood you.

MR MACCRATE: Both Charlie Company and Bravo Company were in the operation.

A. Yes, sir, but I don't know. I had the impression that we were primarily concerned with a particular platoon and a particular company. I guess that's the news media effect. Well, I--from Major DIONNE, sir, anything that's being burned down is kind of in a grey area. I wouldn't have looked at any of those and said, "Well, this is an atrocity because--"

IO: (Interposing) Would you not look at this picture (indicating Exhibit P-16)? Look at this man being burned.

Would you look at this and knowing the regulations and the policy of the division against burning--

A. Yes, sir, well--

Q. With a man--what's he doing (indicating Exhibit P-14)?

A. He's burning down the house.

Q. You're the IO for the brigade commander, be it General LIPSCOMB or be it Colonel HENDERSON.

A. Yes, sir, that's true.

Q. Would things like this not be called to his attention? I can show you some more. Here's more pictures of burning. Here's 69 (Exhibit P-69) for example, setting a house on fire. Here's 68 (Exhibit P-68) which is basically the same thing.

A. Yes, sir. I think that the burning of structures, if it's determined that they are used by the VC, it was common knowledge there all through I Corps. This one picture with the bodies in it, there would be a question of why did that happen, if this were done by heavy artillery fire and not a matter of somebody arranging it. And this again, here we are with this retrospect thing. Apparently from the testimony you've heard you have reason to believe that this was all set up and done very deliberately. Then it's atrocious. There's no other word for it.

Q. All I'm getting back to really is the review of the film, to find out if we've got anything like this.

A. Yes, sir.

Q. (Indicating an unidentified photograph) And then if you'd seen a picture such as that--

A. (Interposing) This one, yes, sir.

Q. It would be a simple matter of finding out the circumstances.

A. This one would cause me that measure of concern. I'd like to be able to say, yes, had I seen these I would have been terribly excited about them. But I have to tell you, sir, that this was a common occurrence in Vietnam at that time. Many units--

Q. (Interposing) Are you sure what you're saying?

A. Well, I can't guarantee it, sir, but I mean I'm talking about--

Q. (Interposing) Well, I'd like you to tell me what the policy of the division commander and the brigade was with respect to burning houses. You're in this brigade now, and you're in the Americal Division.

A. Yes, sir.

Q. And you're one of the special staff officers, and I would like, therefore, for you to tell me what the policy was.

A. I don't recall ever reading a specific policy on it, sir, or being informed in an official manner of what the division commander's policy was. I would say that my understanding would have been that you did not burn villages just to be burning villages. If this is a case of where the people are being moved out and, you know, that these structures could only be used by the VC, then they're destroyed.

Q. Well, that's why you'd have to get down to the circumstances.

A. Yes, sir.

Q. And our people would not move people out. That is a job of the ARVN. That was put out by division and made very clear by division. The policy of the division commander which has been well cited by many, many people is that there will be no houses burned down without the specific approval of the division commander or, in his absence, an assistant division commander. And the requirement was to stop right there and get on the horn and get approval before you do it.

A. That sounds very good, sir. All I can say is that I never heard of that before.

Q. All right. Now I have here another set of pictures. Would you cite those numbers of those pictures?

A. 14, 15, and 25.

Q. Picture number 16 (Exhibit P-16), let the record show that Mr. MOODY would have definitely checked on picture number 16 which shows a burning house with also a couple of bodies and material on top of one body which is in flames. The other pictures which indicate burning of buildings necessarily would not have attracted undue attention. Is that a correct statement?

A. Yes, sir.

Q. I have here now the colored photos (Exhibit P-26C thru P-42C) which were slides taken by HAEBERLE. That particular photo incidently, we understand that's the only photo in that group that does not belong there (indicating an unidentified exhibit). Some way or another that has crept into the pictures, and we understand that it does not belong there. Nobody knows for sure where it is, even Mr. HAEBERLE.

A. That would attract my attention because it's an obvious setup (indicating Exhibit P-30C). I'm having trouble being completely honest, sir. It's getting increasingly difficult for me to look at these by virtue of the fact that by the questions I'm being asked, my opinion of what may have happened that day is changing. I have to say that it's getting pretty difficult for me to look at this picture with what I've heard today and be able to, you know, solidly say-- it's just now that I'm beginning to see that there's three civilians and there's oxen back here that looks like somebody was interrupted at their work and killed (indicating Exhibit P-31C). So--

Q. (Interposing) All right. Well, go ahead. Just flip them over, you have some more there.

A. I think I should say that that would call my attention (indicating Exhibit P-33C). This is in the same--

Q. Same context, that's the same picture you just saw (Exhibit P-16) taken from a little different angle.

A. Maybe it's color, I don't know, this begins to look more like it was set up that way.

Q. That is the picture of a dead man in a well (Exhibit P-37C). Shortly after that picture was taken--is that the picture of the women?

A. Yes, sir.

Q. Shortly after that picture was taken (indicating Exhibit P-40C) they were all laying on the ground dead. Now I can ask you the question, two questions: one, why is it that we find so little on the black and white and so much on the color?

A. I think the reason is pretty obvious, sir. I mean it's deliberate, no question of that.

Q. All right. And the second: two individuals had been out, and they were right together all day long. And this is not the entire story, there are still other things that could be said, but I think the pictures tell the story fairly well.

A. Yes, sir.

Q. With what I've told you now, with this background of what we know, and what you know right now, can you give me any plausible reason why these individuals did not tell you what they saw?

A. No, sir. I don't know.

Q. You can see that these pictures all fit into sequence. I can show you this set and--

A. (Interposing) Yes, sir.

Q. There are two or three black-and-whites and then you may get a color and so forth, but all fit very nearly together.

A. Yes, sir. I don't know, sir. I wish I did, I--

Q. (Interposing) Could it have been that these individuals were so appalled that they couldn't tell? Or could it have been that since this really was the first time they'd been out that they'd been thinking that that's the way things ran all the time?

A. I won't say that that's impossible, but it doesn't seem likely to me. I can see the obvious possible interpretation, sir, and I hate to think that those guys could possibly--I just don't know how to respond, sir. Frankly it's disgusting enough to me that these people--if a person had pure greed as a motive, he would have done very well with these, but I wouldn't have thought that of Ron HAEBERLE. Well, I know of no other reason for taking a series of pictures like this, sir. I mean if the man is shocked and appalled, then it seems like a pretty callous thing to be doing. And if he's shocked and appalled--

IO: (Interposing) I'd like to make sure I'm not overstating this case. Am I overstating this, Mr. MACCRATE--

MR MACCRATE: (Interposing) No.

IO: From what you can gather from the previous testimony, as far as the condition of ROBERTS and HAEBERLE when they had returned from LZ Dottie to Bronco?

A. Well those two facts don't jibe to me, sir.

Q. We know that Mr. HAEBERLE had a large photo collection, slide collection.

A. That's nothing to put in a slide collection, sir. To me any man who knows photography and takes pictures like that, I mean he knows what he's doing. You don't take those accidentally.

Q. Could he have been taking these pictures to show the other side of the war?

A. I think he may well have been doing that, sir, but the question in my mind is who he wanted to show them to. I mean there's a difference to me. The shock value

in a picture like that is impossible to gauge. And a man who takes that picture (Exhibit 42C)--it's pretty hard to ascribe the altruistic motive of, "I'm going to show people the other side of the war." That's what I would describe as, the old yellow press. Those pictures are worth a lot of money.

Q. Let me ask a couple other questions. While you were there, you'd indicated that you had not heard of any rumors or anything else to the effect that women and children were killed this day, maybe unnecessarily so?

A. No, sir.

Q. Were you ever aware that an investigation was going on in the brigade of the incident which may have occurred at My Lai or Son My on the 16th.

A. No, sir.

Q. Were you aware that the Americal Division was conducting an investigation?

A. No, sir.

Q. Did you ever hear of the GVN or the ARVN looking into it?

A. You mean while I was still in the unit? No, sir.

Q. Well, you've been quite helpful to us, Mr. MOODY, and we appreciate you coming in. If sometime in the future you do remember anything that transpired concerning this investigation and whether you heard anything or not, I'd appreciate very much you getting in touch with me.

A. Yes, sir.

Q. So we can make this a matter of record for our information and input into our report. Also if you can think of any pictures, or memoranda, or aerial photos, or anything material that would be of assistance to us that you have or you know of, we'd appreciate hearing about that.

A. Yes, sir.

Q. I'll give you this opportunity to ask any questions that you may like to ask or if you'd like to enter a statement into the record.

A. I'm sure I'll think of several things on the way home, sir, but I can't think of anything.

(The following documents were received into evidence and marked as exhibits as follows: Exhibit M-59, a copy of Volume 1, Number 11, of the 11th Infantry Brigade Trident, dated 19 April 1968; Exhibit M-60, a copy of Volume 1, Number 333, of the Americal Division News Sheet, dated 18 March 1968; Exhibit M-61, MACV Office of Information News Release 76-68, dated 16 March 1968; Exhibit M-62, an extract from Volume 1, Number 4, of the Americal Division Southern Cross, dated 1 August 1968; Exhibit M-64, a copy of Volume 1, Number 334, of the Americal Division News Sheet, dated 19 March 1968; and Exhibit M-65, a copy of Volume 1, Number 335, of the Americal Division News Sheet, dated 20 March 1968.)

IO: The hearing will recess at this time.

(The hearing recessed at 1625 hours, 23 January 1970.)

(MOODY)

31

APP T-211

FOR OFFICIAL USE ONLY

SUMMARY OF TESTIMONY

WITNESS: PITTMAN, John L. MAJ

DATE OF TESTIMONY: 20 January 1970

PLACE OF TESTIMONY: Pentagon

WITNESS SUSPECTED OF: N/A

COUNSEL: None

DUTY ASSIGNMENT ON 16 MARCH 1968: Provost Marshal,
11th Infantry Brigade.

1. PRIOR TRAINING IN THE HANDLING OF PRISONERS OF WAR
AND DETAINEES.

a. Generally.

The witness stated that all infantrymen were extensively trained in Hawaii on the handling of prisoners of war (pg. 3). Further, they were trained in accordance with the Geneva Conventions, but were not extensively trained in the methods of reporting suspected war crimes (pg. 11).

b. Military police training.

The military police were instructed in the proper channels for evacuation and releasing of detainees (pg.12). He admitted that his men received no instructions about reporting violations under the MACV and USARV regulations while they were in Hawaii (pg. 12). The witness did not believe that his men were specifically instructed about war crimes (pg. 12).

2. THE HANDLING OF PRISONERS IN THE 11th BRIGADE.

a. Standard operating procedures.

The witness stated that the SOP for the handling of prisoners of war was never completely finalized, although it had been drafted and was utilized in the briefing of the

supporting military police (pgs. 7, 20, 21). The SOP was not published, since the drafters wanted to completely check it against the MACV and USARV regulations (pgs. 19, 20). The witness stated that he did not borrow the SOP from any existing brigade (pg. 20). He averred that the provost marshal of the Americal told him that division did not have the MACV and USARV directives (pg. 20). The witness asserted that in spite of the lack of a published SOP or printed regulation, his men were thoroughly trained in the handling of prisoners of war and of detainees (pg. 3).

b. Responsibilities and duties.

Attached to the 11th Brigade was a platoon of military police, about 60 to 70 men. This was an overstrength platoon (pg. 2). One squad of these military police had the responsibility of interrogating prisoners (pg. 8). The witness stated that he had formally briefed his men on their duty to report war crimes violations from time to time during their equipment checks prior to their going on duty (pgs. 13, 14). The witness did not believe that the source of his information about how to report war crimes was the MACV Directive 20-4, but he stated that he did instruct them in the gist of that directive (pg. 14). He did this even in Hawaii (pg. 14). The witness admitted that he gave no formal classes to his unit on the handling of prisoners, but he did speak to the NCOIC from time to time concerning it (pg. 16). MPs did not normally accompany troops in the field on combat operations (pg. 9). Suspect noncombatants were brought back to a brigade prisoner collection point at Duc Pho and then processed by military intelligence personnel to determine their classification as innocent civilians, civil defendants, or prisoners of war (pgs. 3, 4). If suspects who were interrogated turned out to be innocent civilians they were returned to their home area by the local chief of police or by the U.S. forces (pg. 6).

3. KNOWLEDGE OF REQUIREMENTS TO REPORT POSSIBLE WAR CRIMES.

The witness stated that he was not familiar with MACV Directive 20-4 until late in the spring of 1968 (pg. 13). He reiterated that the brigade had no regulation concerning the handling of prisoners until late in the spring (pg. 13). The witness was not familiar with the III MAF order concerning the reporting of war crimes, and asserted that he did not have any III MAF orders during his tour with the 11th Brigade (pg. 15). He averred that there was a regulation from higher headquarters concerning war crimes and the reporting of war crimes, but he did not know from which headquarters this regulation had been issued (pg. 15).

4. REPORTS OF MALTREATMENT OF PRISONERS.

The witness stated that no war crime was ever reported to him by his men (pg. 14). He added that he never received any report of mistreatment of prisoners by his men (pgs. 16, 17). Upon more than one occasion, the witness reported to the brigade commander that prisoners received by his men had been mistreated by their captors (pgs. 17, 18). He had no knowledge of any investigation, nor any other action, that resulted from these reports (pg. 18).

5. KNOWLEDGE OF THE INCIDENT AND INVESTIGATION.

The witness never heard a report from any of his men who interrogated prisoners concerning an operation of TF Barker (pg. 8). He was not familiar with the My Lai operation and received no report concerning it from SGT WARREN, the MP Sergeant at LZ Dottie (pgs. 21-23). The witness stated that he heard no reports or rumors about anything unusual having happened at My Lai around mid-March of 1968 (pgs. 25, 29). The witness was not aware of any investigation taking place, and he stated that he never discussed an investigation concerning an operation with Colonel HENDERSON or Lieutenant Colonel BLACKLEDGE (pgs. 25, 28). The witness recalled no investigation concerning allegations of war crimes except for one in July, which was unsubstantiated, according to the witness (pgs. 31, 32). The witness stated that had the division provost marshal heard of any allegations of atrocities, he would have made it known (pg. 39). The witness asserted that he did not believe that prisoners could be rounded up and shot without the brigade staff having known about it (pg. 40).

6. OTHER INFORMATION

a. Use of Marijuana

The witness stated that a small number of brigade personnel used marijuana frequently, and a large number used it from time to time (pgs. 33-35).

b. Exhibits

Exhibits noted by the witness are listed below.

(The hearing reconvened at 1650 hours, 20 January 1970)

COL WILSON: The hearing will come to order.

RCDR: The following named persons are present: COL WILSON, LTC NOLL, and MAJ THOMAS.

The next witness is Major John L. PITTMAN.

MAJ PITTMAN was called as a witness, was sworn, and testified as follows:)

State your full name, grade, and Social Security number.

A. John Luther PITTMAN, Major, MPC,

RCDR: State your organization and permanent duty station?

A. U.S. Army. Headquarters, U.S. Army Civil Affairs School, Fort Gordon, Georgia.

COL WILSON: Before we proceed with any questions, I'd like to inform you of several matters.

This investigation was directed jointly by the Secretary of the Army and the Chief of Staff of the Army for the purposes of determining facts and making findings and recommendations on two matters:

(1) the adequacy of prior investigations and inquiries into, and subsequent reviews and reports within the chain of command, of what is commonly referred to as the My Lai incident of March, 1968, and

(2) possible suppression or withholding of information by any person who had a duty to report and furnish information concerning that incident.

This investigation is not being conducted to investigate all facts concerning what happened at My Lai. It is directed to those specific purposes which I mentioned.

(PITTMAN)

1

APP T-191

This is Interrogation Team C. General PEERS has designated two additional interrogation teams to handle witnesses to assist him in his investigation. Nobody on this team has any authority to make findings or recommendations. This is strictly the responsibility of General PEERS. You can expect General PEERS or other members of the board to come in at any time and question you. In fact, he probably will come down during the interview. There are normally three of us who are on this particular team. Colonel NOLL is at the end, and Mr. WALSH, a civilian attorney, who has been designated by the Secretary of the Army to assist General PEERS, will probably in here in a few minutes. Those individuals have the authority from General PEERS to question you during these interviews. If at any time you desire to question anyone's authority to do that, then just ask me and I'll tell you if he has been appointed by the board. Do you have any questions on that?

A. No, sir.

(MR WALSH enters the hearing.)

Q. Major PITTMAN, what was your assignment on March 16, 1968?

A. Provost Marshal of the 11th Infantry Brigade, sir.

Q. Were you assigned to the brigade?

A. Yes, I was.

Q. Did you have a detachment which was attached to the brigade, or did you have a MP section as part of your--

A. (Interposing) It was part of the headquarters, sir. I had a provost marshal staff section and I had a platoon of military police within the headquarters company.

Q. How many people did you have in that platoon?

A. Well, it was overstrength because of the reorganizations we underwent. About that time I had roughly 60 people, sir, 60 to 70.

Q. How long had you been in the position as brigade provost marshal?

A. Since the reorganization, sir, approximately in August of 1967.

Q. You were with the unit in Hawaii?

A. Yes, sir.

Q. When did you leave that job?

A. On 7 August 1968, sir.

Q. Did you have any information regarding the operation that Task Force Barker conducted on the 16th of March prior to the operation?

A. No, sir. I presume you're speaking of the My Lai operation. No, sir.

Q. Well, I'll ask you some questions in a little while about that anyhow. In relation to prisoners of war, was there any specific training given to the brigade personnel in handling PW's?

A. Sir, there was a brigade regulation on the handling of PW's. My military police were thoroughly trained. I don't believe there was any lack on the part of the brigade personnel in the handling of PW's, sir.

Q. How about the infantry units?

A. Nearly all of them had come over with us from Hawaii. I know we had trained extensively on the handling of PW's. I think they were well-versed in the prescribed procedures.

Q. How about the handling of noncombatants?

A. Well, there was always a question there, sir, as far as the prescribed manner. I think the general rule as I understood it--it appeared anyway when they went into one of these operations they generally brought everybody back as suspects, because they were in a hostile area or one where they had frequently had problems. Then they were placed in my PW collection point, and processed by the MI who determined their classification as to innocent civilians, civil defenders, or PW's.

Q. These people were placed where?

A. In my PW collecting point, sir.

Q. Where was that?

A. At Duc Pho, sir.

Q. How many people could you retain at that point?

A. Sir, my strength ran as high as 165 at one time. That's the highest I recall it being. May I explain one thing, sir?

Q. Yes, sir.

A. At this particular period--I've been trying to recall, but I can't I don't believe that prisoners were processed back to me this early in 1968. As I recall, there was an overlapping of jurisdiction over the Task Force Barker area. Now, a lot of the things, including the assigned military police, other than a small detachment that I had with Task Force Barker, went to the 198th Infantry Brigade. A lot of the PW's or the people that were apprehended or picked up on these raids, on the operations, would go directly to the division collecting point. They would not even pass through the brigade collecting point.

Q. Well, was this adjusted at a later date? You got it straightened out?

A. Yes, it was. The brigade commander went to division and got it straightened out where all of these prisoners would be processed through our collecting point. He felt it was vital to our intelligence process.

Q. Was this only effective for Task Force Barker, or was it the same situation with the other battalions in the brigade?

A. No, sir. The other battalions processed the people that they picked up through our collecting point at the brigade.

Q. I wonder why Task Force Barker got--oh, it must have been the location?

A. Sir, it was located outside of our original area of operations.

Q. Right.

A. Now, our original area of operations stopped short of Quang Ngai City, and Task Force Barker was north of Quang Ngai City. I would say about 10 kilometers, 7 or 10 kilometers or something like that. When they were first detached and sent there, there were many problems that arose along this line, especially in my area of police.

Q. What about 4/3?

A. 4/3 was one of our battalions, sir, and it replaced Task Force Barker as I recall.

Q. Well, at the time Task Force Barker was in this Muscatine area, 4/3 was also in the Muscatine area. In fact, they extended over to the west of Task Force Barker, which is north of Quang Ngai?

A. My memory is a little hazy there, sir, but now that you mention it, they were. I can recall visiting them once with the brigade commander. They were west of Highway 1, where Task Force Barker operated east of Highway 1.

Q. Right.

A. But then later, 4/3 moved into the Task Force Barker AO.

Q. So your problem on a location basis was applicable to 4/3 as well as to Task Force Barker during this period?

A. Sir, I don't believe they both went up at the same time. I think 4/3 went north after the Task Force Barker and by the time 4/3 had gone up there, or at least as I recall, we had pretty well got that ironed out. I don't remember 4/3 being involved in the channel of the PW problems.

Q. Well, as long as they were up in this particular area, it was a handicap to have to bring the PW's south to Duc Pho instead of taking them up north to the division PW point and during this operation this is what happened, your prisoners went north?

A. Yes, sir.

Q. Your VC suspects went north?

A. For a while they were, yes, sir.

Q. Within the brigade, and try to fit it during this period, closely after that time that you started processing VC suspects, what was the relationship, between the intelligence-gathering apparatus and the military police control of prisoners or suspects?

A. The MI, sir--the brigade had a MI detachment, and they established an interrogation facility just outside, I'd say within 50 feet, of my PW collecting point. They would sign the prisoners out of the PW collecting point, and take them to their interrogation booth that they had set up. They would interrogate the prisoners and classify them, and then they would return them to us and advise us of their classification so that we could make proper disposition.

Q. If they were eliminated from any further suspicion of being a VC suspect, did you release them at that point?

A. Not at that point, sir. We would do one of two things. We would return them to the point that they were picked up, or in most cases, we turned them over to the chief of police who would return them to their home area.

Q. The chief of police of what area?

A. The Duc Pho District, sir.

Q. This operation up there in the Pinkville complex or up in the Quang Ngai area, to whom would they be turned over?

A. Those were returned to the people at the Task Force Barker fire base, and they would in turn return them to the area where they were picked up or the nearest point they could get to on the road. They didn't try to release them at the exact, same spot, only within the vicinity. I had a that small detachment that I had accomplished this.

- Q. For the Duc Pho area?
- A. No, sir. That was for the task force area.
- Q. That's right, the detachment you had at Task Force Barker?
- A. Yes, sir.
- Q. You mentioned a brigade regulation on prisoners of war. Do you remember the number of that regulation?
- A. No, I do not, sir.
- Q. Do you remember when it was written? Was it in effect prior to coming to Vietnam?
- A. Sir, I believe it was the SOP. I recall discussing it with the brigade commander, and as I recall it was never completely finalized. Now this is my PW SOP. Because of the lack of experience, it was determined that we would hold off in finalizing the SOP until we got the MACV and USARV regulations and a little bit more experience in handling the PW's.
- Q. Was it your responsibility to write that SOP?
- A. Yes, sir.
- Q. Was it written prior to the time that you departed the country, in August 1968?
- A. It had never been published in final form, sir.
- Q. So the brigade regulation pertinent to PW's in March was not in existence?
- A. I do not recall one, sir.
- Q. Your detachment was with Task Force Barker. This was, I assume, a provisional detachment?
- A. Yes, sir.
- Q. It was taken from the 60 or 70 people you had in your platoon?
- A. Yes, sir.

Q. Was there any basis for selecting these people and sending them to Task Force Barker when it was activated?

A. No, sir. There were none.

Q. Was this a section or a squad, or was it an integral unit?

A. A short squad, sir.

Q. But the people had worked together before?

A. Yes, sir.

Q. They weren't just collected at random?

A. No, sir.

Q. A detachment like this going to Task Force Barker would be expected to perform what duties?

A. Their primary mission, sir, was handling PW's brought in by the combat forces.

Q. That was their primary duty?

A. That was their primary duty.

Q. Did we establish how many people were in this detachment?

A. I don't believe so, sir. It usually ran 6 to 9 people, 1 NCO, E-6.

Q. Did any one from this detachment ever approach you concerning a complaint or statement about the operations of Task Force Barker at any time?

A. No, sir. They did not.

Q. Did any members of this detachment ever try to get out of this job with Task Force Barker and ask to come back to Duc Pho?

A. I believe I had one or two, sir, that did ask to be transferred back down Duc Pho.

Q. Do you know who they were?

A. No, I don't, sir. I don't recall their names.

Q. Do you know the reason for their request?

A. Well, the duty was pretty hard up there with only 6 or 8 men on a 24-hour PW operation when we had PW's. We were also running a checkpoint, and then the Task Force Barker commander saddled them with the additional duty of security of base camp. I was also trying to establish some type of police action, at least gathering intelligence along Highway 1 area through that AO. Their hours were quite extensive, sir, a lot more than the ones back down in Duc Pho.

Q. What type of checkpoint were you talking about that was established?

A. Coming off of Highway 1, sir, there were about 25 meters off Highway 1, across LZ Dottie which was the fire base of Task Force Barker. Headquarters set about, I would estimate, 200 meters off Highway 1 and it came off Highway 1 there, about 50 meters from Highway 1. There was a little sandbag hootch they set up there and used as a checkpoint to check all traffic coming in.

Q. Was this checkpoint established by you?

A. No, sir.

Q. Who established the checkpoint?

A. It was established by order of the task force commander by my noncommissioned officer.

Q. Who had operational control of this detachment, you or the task force commander?

A. Officially, I did, sir.

Q. Was it normal to expect these military police to accompany the units when they participated in the combat assaults?

A. No, sir. It was not.

Q. Their duties were other than this type of participation?

A. Yes, sir.

Q. Was it normal to expect National Police to accompany the units when they participated in the combat assaults?

A. Not to my knowledge, sir, with the exception of the National Police Field Forces that we employed.

(IO and MR MACCRATE entered the hearing.)

Q. Major PITTMAN, how many times did you have an opportunity to observe your detachment at Task Force Barker? How many times did you go up there to check them?

A. I tried to get up there every week, sir.

Q. Do you remember the NCO, the E-6, whom you had in charge?

A. I recall his last name, sir. His name was WARREN.

Q. Did there appear to be any problem with that detachment up there aside from the fact that you said they were working harder than they worked at Duc Pho? Was there any problems that you knew of?

A. No, sir.

Q. I believe you stated that you didn't know that this particular operation on the 16th of March was going to be conducted?

A. I probably wouldn't have known, sir. The only way I get in on the combat operations was through the daily staff briefings that I heard them discuss there. This one would have had no more significance or stood out no more than any of the others that they conducted daily.

Q. Would you have any reason to know when National Police were supporting an operation of this type?

A. Well, are you speaking of National Police, sir, or National Police Field Forces?

Q. As far as I know, we are speaking of National Police?

A. All right, sir. That's uniformed police. No, sir. I was informed by my sergeant who was in charge of that detachment. From time to time, he got intelligence from National Police in that area and passed it on. On a few occasions, I believe, he told me that they actually went out and showed them areas where the VC was supposed to be located and so forth, but I did not have any specific knowledge of any of these operations where they did this.

Q. Did you ever hear of the National Police going on an operation or combat assault operation in civilian clothes?

A. No, sir.

Q. Would you expect them to go in uniform?

A. Yes, sir.

Q. Did you ever have at any time an indication that there was anything irregular concerning the operation on the 16th, 17th, or the 18th of March?

A. No, sir.

MR WALSH: What kind of instructions did your detachment receive with respect to your reporting of atrocities and war crimes?

A. They were all trained under the Geneva Convention, sir, prior to departure from Hawaii. Other than that, I'm not sure that they were trained extensively in the reporting of war crimes. This was something that was normally determined by the CI on an initial investigation.

Q. Well now, are you telling me that it is part of training of a policeman?

A. Yes, sir.

Q. This does not include anything beyond the scope of what is given to all soldiers with respect to the Geneva Convention and the obligation of soldiers to report non-combatants and PW's?

A. I think, sir, that there was a lot of emphasis placed--I know personally that there was a lot of emphasis placed on the handling of PW's.

Q. All soldiers receive instructions in the handling of noncombatants, Geneva Convention, and the rules of land warfare. What I'm trying to get is what additional instructions and training was given to the military policemen beyond the instructions given to everyone with respect to these matters?

A. I think it's just more specific instructions, sir, in the Geneva Convention and the regulations in effect concerning the handling of PW's, the "do's" and "dont's" and the proper channels for evacuating them and releasing them and whatever. This is something that the average soldier would not get into necessarily, the channels of processing PW's.

Q. Did you give any instructions to the men of your unit about these matters in Hawaii?

A. Yes, sir.

Q. Did you give them instructions with respect to the reporting of possible violations of the Geneva Convention as specified in MACV or USARV directives before you shipped out from Hawaii?

A. Well, sir, I did not, because I did not have those directives.

Q. I see. How about after you arrived in country? Did you conduct any classes or give any instructions to the policemen in your unit with respect to their obligations on reporting war crimes and violations of the laws of war?

A. Sir, I couldn't honestly single out that I did conduct a class in which I informed them of their obligations to report anything of this nature. No, sir.

Q. Did you give them any instructions at all?

A. Specifically on war crimes?

Q. That's right.

A. Sir, I don't believe I did.

Q. Were you familiar with MACV Directive 20-4 relating to investigations and the reporting of war crimes?

A. I can only answer that, sir, in a very--not a very good way. For a long time we had no MACV and very few USARV regulations, none on the handling of PW's. It was late in the spring when we finally got that, but at some time later on I did receive a copy of the regulation that covered war crimes and I was familiar with it. I cannot recite the provisions of it, but I had it later on up there, I think in June or so, where I could refer to it if anything came up.

Q. Major, could I have that 20-4?

(The recorder did as requested.)

I show you MACV Directive 20-4, dated 27 April 1967, and which has been entered into the record as Exhibit D-1, and ask you if that refreshes your recollection as to the document that you had received on or about June (handing Exhibit D-1 to the witness)?

A. I don't remember this one at all, sir. "Grave breach," I think I would have remembered seeing that in there and I don't recall seeing it.

Q. We'll return to the subject when we get another exhibit, but I have one further question. Do you recall, without specific reference to the MACV and the III MAF directives on the subject, giving any lessons or instructions while in country to the military policemen under your command with respect to their unique position to observe and to report violations of the laws of war, war crimes, and abuse of the civil populace?

A. Yes, sir.

Q. When did these lessons and instructions take place? How were they given?

A. Usually during the briefing, sir. We would have equipment checks by the noncommissioned officers in charge of the shifts going on or any details going out, and I attended as many of these briefings that I could. I covered different subjects at different times. Reporting violations was always something that I touched on, and I know that I covered this particular type thing in these informal briefings several times.

Q. Now these informal briefings took place where?

A. There in the area where the men--where the operation--military police operations were at Duc Pho, sir.

Q. And these would be to all of the men under your command in an assembled group, or one or two at a time, or how?

A. It would be the group that was going on duty, sir, on a specific detail.

Q. Well now, in the course of your tour with the 11th Brigade, did you have any occasions when military policemen under your command reported to you violations of the Geneva Convention or the laws of land warfare?

A. No, sir.

Q. I would like to call your attention to paragraph 5 of MACV Directive 20-4, dated 27 April 1967, and ask you to read--which I will now read to you. I quote:

"Responsibilities".

a. It is the responsibility of all military personnel having knowledge or receiving a report of an incident or of an act thought to be a war crime to make such incident known to his commanding officer as soon as practicable. Personnel performing investigative, intelligence, police, photographic, grave registration, or medical functions, as well as those in contact with the enemy, will, in the normal course of their duty, make every effort to detect the commission of war crimes and will report the essential facts to their commanding officer. Persons discovering war crimes will take all reasonable actions under the circumstances to preserve physical evidence, to note and identify witnesses present, and to record (by photograph, sketch, or descriptive notes) the circumstances and surroundings".

I wonder if that portion of the directive was known to you, and whether you communicated those instructions to the men under your command prior to March 1968?

A. I can't say that they were known from this regulation, sir, but I'm aware of these requirements and I'm absolutely certain that they were included in training and briefings for my personnel.

Q. That would have been in Hawaii before you came?

A. Yes, sir.

Q. I now show you Exhibit M-8 on the letterhead of Headquarters, III MAF, subject: "War Crimes Investigation," dated 3 June 1967, and ask you if you were familiar with that directive in March 1968?

(IO hands Exhibit M-8 to the witness.)

A. I can't answer that for sure since it is similiar to this one and other things that I have read, sir. I don't recall having a III MAF Regulation at all during my period as the provost marshal of the brigade.

Q. Do you recall having any written directives given to you either before or after you arrived in Vietnam spelling out the matters specified in MACV Directive 20-4 or III MAF Directive 5820-1, dated 3 June 1967, subject: "War Crimes Investigation"?

A. Sir, we had a regulation. I can't say from which headquarters it originated, but we did have a regulation from higher headquarters pertaining to the war crimes, reporting and investigation of war crimes.

Q. What can you tell me about it?

A. Well, it was, of course, precluding or preventing the commission of war crimes, and then reporting immediately any war crimes that came to the attention, and investigations by qualified personnel to determine if, in fact, they were war crimes. This, of course, from 1 March until the middle of July would have had to have been referred to division, because I had no CI personnel or qualified personnel to conduct such an investigation. As I recall, there was something about a military tribunal or something of this nature that would order--a body would be appointed to investigate the crime and determine if it was a war crime. Now, this is as I recall it, sir.

Q. Do you have a copy of that directive?

A. No, sir.

Q. Do you recall from whom you got it?

A. No, sir.

Q. But you do not recall having copies of either MACV Directive 20-4 or III MAF Directive 5820.1, Exhibit M-8?

A. No, sir.

Q. You do not recall giving any formal classes or instruction to military personnel under your command in the matters dealt with under the paragraph headed "Responsibility" in these two directives, that is, focusing specifically on their responsibility, based on their unique position, to observe and to report any violations?

A. Yes, sir. In Hawaii we gave specific classes on this.

Q. With respect to this detachment that you set up in the Task Force Barker area, do you recall whether you gave any specific instructions to them as to their responsibility to report to you any mistreatment of civilians or any war crimes that they might observe while they were there?

A. The first part, yes, sir. I did not talk to the entire detachment, I don't believe, at one time after I sent them up there, but I did talk to the NCOIC on the treatment of PW's frequently. This was my primary concern.

Q. How about the mistreatment of civilians and commission of war crimes by troops in the field as opposed to mistreatment of PW's in your particular jurisdiction, under your control?

A. Well, sir, there was never reported to me that there was any mistreatment by the troops in the field. I gave up on trying to get military police on combat operations so they could--I went over with the idea that they would go along

on combat operations and take care of PW's, take charge of PW's and channel them on back to the collecting point. I finally had to abandon this idea, because I couldn't work my military police in on the combat operations.

Q. Was there ever an instance that you recall during the period that you were with the 11th Brigade when detainees were turned over to your people bearing evidence of physical mistreatment?

A. Yes, sir.

Q. How many times?

A. It would be pure estimation, sir.

Q. More than once?

A. Yes, sir.

Q. What action did you take in those instances?

A. I reported it to the brigade commander, sir.

Q. What individual would that be?

A. Colonel HENDERSON, sir. On one occasion I think--

Q. (Interposing) Would you speak a little louder? The reporter is having some difficult hearing. Do you have that answer?

RPTR: No, sir.

A. I said I reported to Colonel HENDERSON, the brigade commander, and I believe that I reported it once to General LIPSCOMB.

MR WALSH: When you say you reported to Colonel HENDERSON, do you imply by that you reported on more than one occasion to Colonel HENDERSON?

A. Yes, sir. I think the matter came up two or three times.

Q. Did it, any of the times it came up, involve more than one civilian?

A. No, sir. As I recall, they were individual cases.

Q. Can you remember anything specific about any of these individual cases with respect to the injuries suffered by the detainees?

A. In general, sir, they just looked like they had been roughed up, mistreated, maybe beaten a little bit. There were no wounds--gashing wounds or anything like this, just mistreatment.

Q. Now, with respect to the one instance you reported to General LIPSCOMB, what action was taken?

A. I know that he talked to the--in the staff meeting he made--he put out specific instructions as to how these people would be treated.

Q. Was an investigation conducted?

A. Not by me, sir.

Q. Do you have any knowledge as to whether an investigating officer was appointed?

A. No, sir.

Q. How about the instances in which you reported such matters to Colonel HENDERSON? Was an investigating officer appointed in any of those instances?

A. Not to my knowledge.

Q. Did Colonel HENDERSON take any action with respect to those cases?

A. I don't know what action that he took, sir.

Q. Do you know of any actions that he took?

A. As I recall, he, like General LIPSCOMB, did comment on this specific area during the staff meeting. That was the only one I was present at, sir.

Q. Were any of the individuals that were involved in any of these instances reported to you by Task Force Barker?

A. I do not recall any, sir.

IO: I have two documents that I would like to show you. One is entitled, "Combat Operations: Rules of Engagement", dated 16 March 1968, Exhibit D-5 from Headquarters, Americal Division. I ask if you are familiar with this regulation (handing Exhibit D-5 to the witness)?

A. I recall the heading on this regulation, sir.

Q. You will notice paragraph 4 which starts on page 2. The simple theme of this paragraph, and as a matter of fact the one upon which the entire regulation is based, is the protection of noncombatants.

(The witness reads the stated paragraph.)

A. Yes, sir.

Q. You're familiar with the simple theme of this regulation?

A. Yes, sir.

Q. I have here another exhibit entitled, "Safeguarding of Noncombatants", dated 24 March 1968, for all commanders and entered into the record as Exhibit M-9. This is a document signed by the commanding general of the Americal Division (handing Exhibit M-9 to witness).

A. I'm not sure of your question, sir.

Q. My question is whether you are familiar with this document or not?

A. I am not with this one, sir. I can't say that I have not seen it, but I don't recall seeing this particular document.

Q. When I came in I was informed by Colonel WILSON that by the time you left, which I believe was mid-1968, you still did not have an SOP for the operation of your personnel. Is that a correct statement?

A. I had an SOP, sir, but it was still in draft form. It had not been finalized and published over the commander's signature.

Q. Why is this?

A. It had been delayed, sir, pending the receipt of MACV and USARV regulations and some experience factors. I had written one previously, and I had been told not to publish it until we had gotten the regulations from USARV and MACV so that we could check it thoroughly.

Q. Did you not have the SOP of the 3d Brigade, 4th Infantry Division, who had been operating in that area for approximately a year before you ever arrived on the scene?

A. No, sir. I did not.

Q. Did you ever go and ask for it?

A. I don't recall whether I asked for it or not.

Q. Well, this seems preposterous to me, that you can sit here and tell me that you weren't getting these directives and so forth. Had you gone up to Chu Lai and asked the division provost marshal for documents?

A. Yes, sir.

Q. And he didn't give them to you?

A. I was told that he didn't have them either, sir.

Q. You have seen these documents that he had available to him. He had this III MAF document. He had the MACV 20-4 document available to him. I don't see what more guidance you need for the operation of your detachment?

A. Sir, I feel my detachment was properly briefed and trained, and if they operated in the manner they were supposed to operate--

Q. (Interposing) Not if they don't even have an SOP, if you have to go along and brief each and every individual every time you have a rotation of a man and you have no basic document upon which to work.

A. We had a written SOP.

Q. Where is it? When did you publish it? You just finished telling me you didn't have, and now you're telling me you did have?

A. I'm saying it was in draft form, sir. We had the SOP published that I published myself in February. However, it had not been published as an official brigade directive.

Q. Do you have a copy of your SOP?

A. No, sir.

Q. Where would we find a copy of it?

A. In the brigade provost marshal's office in Duc Pho I presume, sir.

Q. You also said that you didn't, back in Hawaii, know how to train your people because you didn't have any directives and so on. This is my recollection of what you stated?

A. There were many directives that we didn't have in Hawaii, sir.

Q. Your brigade had a whole advance party that went to MACV, went to South Vietnam in the month of October. They stayed there for nearly a month, gathering the essential documents and so forth for the briefing, orientation, and the training of people prior to departure. Now can you tell me any reason why they would come back and would not bring back such necessary material in this instance?

A. No, sir.

Q. I can't either. I would rather assume they brought them. This is one of the most critical items in all of MACV's guidance, and I would be sure that--I know that they took back for example, all the cards like "Nine Rules," "Know Your Enemy," "Rogers Rangers," and "Guidance For Commanders." All of those cards they brought back in several copies. They also took large numbers of directives back with them from MACV, from USARV, and from Task Force Oregon and so on. They had a pretty broad base to operate on and to get their units trained. If you didn't have it by the time you got there, and you're the

commander of that outfit, and you waited until June to get something out, I don't think, personally, that that's really the kind of command emphasis that I expect. Now, you had a noncommissioned officer in charge of your detachment up there at LZ Dottie, right?

A. Yes, sir.

Q. What was his name again?

A. WARREN, sir.

Q. WARREN. Now, you said that you tried to get up there every week?

A. Yes, sir.

Q. My question now is did you get up there every week?

A. No, sir.

Q. How often were you able to get up there?

A. I think it was--the best answer would be to say I missed a week occasionally, sir, getting up there.

Q. Did you get down to WARREN and find out how things were operating and what he was doing and so on?

A. Yes, sir.

Q. What did WARREN tell you about this operation when it was terminated?

A. Sir, the first time that I can recall hearing about My Lai other than--I dimly recall that this was a place that we lost a lot of troops during operations--was when I started reading it in the paper. Nothing was told to me other than what I heard in staff briefings. I don't recall WARREN telling me anything about the My Lai operation, sir.

Q. Was he responsible to you or was he responsible to the task force?

A. He was more responsible to the task force commander, sir, than he was to me because of the line of communications.

Q. But if he'd been aware that something unusual was happening in there, and even though he might have reported it to the task force commander or somebody else, you would have still expected him to have told you about it, wouldn't you?

A. No doubt in my mind, sir, he would have.

Q. Did you attend the staff briefing on the night of the 16th? Did you normally make it a practice to attend the staff briefing?

A. Yes, sir, every night.

Q. Do you remember the figures that came out of that operation that night?

A. No, sir. I do not.

Q. If I would recite to you 128 enemy KIA, and 2 friendly KIA, and 3 weapons captured, would that ring a bell?

A. No, sir.

Q. Up to this time the 11th Brigade had been in country for 3 months. This is the biggest operation that the brigade has conducted. The best results that they had achieved so far. Now, do you remember?

A. No, sir.

Q. It didn't stick then?

A. No, sir.

Q. What did you establish as a requirement for your noncommissioned officers to report? Did you require them to fill out a periodic report, or any kind of an after action report, or anything of this nature?

A. Any report, sir--military police reports for the patrols, the detachment that operated out of LZ Dottie ran a journal in which entries were made on all incidents. This was brought down to me as frequently as I could get a courier or an aircraft down, normally daily.

Q. Were you aware that on this operation WARREN and evidently some of his men were initially scheduled to go?

A. No, sir.

Q. Then it was cancelled later on in the evening?

A. No, sir.

Q. He never talked to you about the fact that he wasn't too happy about going on this operation?

A. The only discussion, sir, that I recall along this line was WARREN did inform me that he and some of the MP's were going occasionally out on the combat operations in the task force commander's helicopter as observers or as assistant radio operators or something of this nature, but not physically on the operation itself. I didn't--I considered them more as straphangers, so to speak, than I did as participants in the operation.

Q. Well, there's some indication here that he might have been more or less a crew chief for a 90mm recoilless rifle according to the information that I have, and was cancelled out. Was he a weapons expert too?

A. Well, he was familiar with the 90mm and all the other crew-served weapons we had, sir.

Q. Did you have an information net?

A. Pardon, sir?

Q. Within the brigade, had you developed an informant net within the American units?

A. We had developed one, sir. It was primarily established around my CI investigator that I took to Vietnam with me, and he was pulled away from me on the 5th of March. I was just beginning to get one established again, not as good as we had, because we had some going over there, but we lost most of what we had on the 5th of March. I had no replacement for my criminal investigator. I was only authorized one, and from the 5th of March until the middle of July I had no criminal investigator. I lost my intelligence net so to speak. I had another pretty good one going by June.

Q. Did you try to pick up this net before this man departed? A net such as this isn't too difficult to operate once you have it established.

A. It's difficult to shift from one person to another sir. I tried to by shifting it to another individual, and I picked the wrong man to shift it to.

Q. It's my understanding that there was more than a little talk going around the 174th Aviation Company and among some of the enlisted personnel in that headquarters concerning what had happened up around My Lai on the 16th of March. You had your MP's down there, in and around the headquarters, and they must circulate and be part of the headquarters, and they lived fairly close to these people. But you never had any reports coming back to you concerning anything that would arouse any suspicion or anything else concerning something happening there at My Lai or Son My about the middle of March?

A. No, sir.

Q. Were you aware that an investigation was being conducted?

A. No, sir.

Q. How many CI men did you have down there? You only had one?

A. I took one with me, sir, and lost him on 5 March.

Q. But if an investigation had been necessary you would have been able to provide somebody who had at least a semblance of CI background, would that be correct, from within your MP capability?

A. No, sir.

Q. What about yourself?

A. I could have conducted an investigation, yes, sir.

Q. Or assisted in the conduct of an investigation if you would have been called?

A. Yes, sir. I did have what I called my PMI types that I was trying to fill in on minor investigations, larcenies and so forth. Those were just military policemen I was trying to train as investigators.

MR MACCRATE: Major PITTMAN, do you recall sometime during your time with the 11th Brigade an instance where, I think, a cook shot some civilians?

A. Yes, sir.

Q. Did you conduct that investigation?

A. My criminal investigator did, yes, sir.

Q. When was that?

A. It was in early February, sir.

Q. 1968?

A. Yes, sir.

Q. Do you recall what came of that investigation?

A. Yes, sir. The conclusion of the investigation was that he committed murder. It was three or four counts. The last I heard, as far as the processing of the charges and so forth, was that he had been declared insane or something of this nature.

Q. Do you know when you completed that investigation?

A. Sir, it was about the 5th of March. The reason I say it was about the 5th of March is because I know that Mr. SPEESE, my investigator, was hurrying up to get everything concluded on this prior to his departure, and he departed on 5 March.

Q. Have you any recollection of Colonel HENDERSON at any time talking with you about any investigations that he wanted you to undertake or that you were in the process of conducting?

A. Yes, sir. There were occasions when I discussed all of the investigations I conducted with Colonel HENDERSON or the executive officer.

Q. Did you find Colonel HENDERSON accessible to you?

A. Reasonably so, sir.

Q. But you did have some difficulties sometime?

A. His primary concern was combat operations, sir.

Q. You might have explained before I came into the room your efforts to have military police on operations. What was Colonel HENDERSON's attitude towards that suggestion?

A. They weren't needed, sir.

Q. Do you recall any specific conversations with him about this?

A. No, sir, but I recall that I did discuss it with him.

Q. Can you place in time such discussions with Colonel HENDERSON?

A. No, sir, but it wasn't too long after we got in country when he made his feelings known. I recall--I believe it was about the time that Task Force Barker went north to that additional AO where we had to send them. I wanted to send a larger detachment than the one short squad, and he said they weren't needed.

Q. You still have before you Exhibit M-9?

A. Yes, sir.

Q. Do I understand that as far as you know, Colonel HENDERSON took no steps to bring that directive from the commanding general to the attention of the staff of the 11th Brigade?

A. Sir, I do not recall having seen this directive before.

Q. I would like to show you Exhibit M-17, which is an issue of your brigade paper of 22 March 1968, and ask you to read the lead news item on the right-hand side of the first page (handing Exhibit M-17 to the witness)? I would like to ask you if that doesn't refresh your recollection as to the briefing regarding the operation on the 16th of March and what was being said around the headquarters at that time regarding the operation?

A. Specifically, no, sir. Now that I see Pinkville, the area brings back a lot of things. I remember Pinkville was a real bad word there--I mean everybody--it was quite notorious, the Pinkville area. I recall that there were several pretty hot battles up there in the Pinkville area, and that's about the extent of it. As far as remembering the specifics, no, sir, I do not.

Q. Don't you recall around headquarters sometime after this reference to the Pinkville incident?

A. No, sir. I never heard that.

Q. You never heard this discussed?

A. I did not recall hearing about the Pinkville incident prior to the headlines that I've been seeing.

Q. You never heard anything mentioned along these lines among other officers on the staff?

A. No, sir.

Q. Colonel HENDERSON never indicated to you that he was at work on an investigation with respect to that operation?

A. No, sir.

Q. He never consulted you in any way about what he was doing?

A. No, sir.

Q. Did you ever talk to Lieutenant Colonel BLACKLEDGE with respect to that investigation?

A. No, sir.

Q. Did you see Colonel BLACKLEDGE from time to time?

A. Oh, yes, sir.

Q. You worked fairly closely with him?

A. There were several aspects of my job, sir, such as registration of war trophies and control of captured weapons and materials. I'd go through him if I had problems with the MI or anything of this nature, like my PW collection point was overflowing or I needed an MI to start processing faster or something like that then I'd go to see Colonel BLACKLEDGE.

Q. So he was someone with whom you had considerable contact?

A. Yes, sir.

Q. He never mentioned to you anything about the investigation with which he was concerned in connection with this operation of March 1968?

A. Sir, no one ever mentioned an investigation of this incident to me.

Q. None of your channels of communication out among personnel of the brigade brought back to you any information about what was being said and talked about among the brigade with respect to this operation?

A. No sir, I--this particular operation rings no bell in my mind as to what I had heard or anything out of the way that I had heard prior.

MR MACCRATE: I have nothing further.

COL WILSON: Did many propaganda documents come to your attention?

A. You mean from the other side, sir?

Q. Yes.

A. Occasionally I saw one that was brought when I was down at the PW cage. Normally, those were brought in and turned over to the MI by the units. Sometimes they would send them in and leave them at the PW cage, and then we would turn them over to the MI. No, I wouldn't say many did, sir.

Q. I show you Exhibit M-3, a MACV card entitled, "The Enemy In Your Hands". Did you ever see that card?

A. Yes, sir, I've seen it.

Q. It is a facsimile, you know?

A. Yes, sir.

Q. Do you have a copy of this card?

A. I had a copy of it, sir, and if I'm not badly mistaken all my personnel had a copy of it.

Q. Where did you get these cards?

A. I don't know, sir, where they came from.

Q. Do you know if they were issued to the brigade?

A. Well, I was under the impression that they were, sir.

Q. You didn't issue them, though?

A. Only to my people, sir.

Q. You issued them to your people?

A. Yes, sir.

Q. Do you remember where you got them, before or after you got to Vietnam?

A. Sir, I--maybe I'm falling back on something that General PEERS said a while ago, but as I recall those were issued about the same time as those rules, "Rogers Rangers" and so forth, which were issued--I am not absolutely certain on that.

Q. That would be where?

A. That would be--he said they brought them back from Vietnam, the advance party, so that would have been in Hawaii. I can't say for sure where they were issued.

Q. Did you ever have a requirement to investigate a criminal incident that could've bordered on a war crime prior to or during your tour in Vietnam?

A. Yes, sir, once.

Q. And that was the one that was mentioned earlier?

A. I don't think it's been mentioned--

Q. (Interposing) About the cook?

A. No, sir.

Q. Which one is it that you refer to?

A. There was a statement, unsworn statement, made by an accused in a court-martial in which he claimed that several people in his unit had committed acts that would have been, had they been proved as alleged, war crimes. I was called by the SI who let me look at the copy of the unsworn statement, and I immediately put my CI man to work on it. He started interviewing people to determine the truth of the statement, and he could not find any support whatsoever for the man's statement.

Q. When was this?

A. Well, this was in July, sir, because it was after I got the other CI. He didn't join me until about the middle of July.

(IO and MR MACCRATE departed hearing.)

Q. Who was your CI agent then in July?

A. BABINE, sir. I believe he was an E-7.

Q. Other than that, were there any types of incident which bordered on war crimes?

A. No, sir. I'd call that one where the cook was involved a murder, a criminal act. I did not consider that a war crime.

Q. Right.

A. No, sir. That is the only one that came to my attention, and he was investigated.

Q. Are you familiar with "Blue Bell" reports?

A. Yes, sir.

Q. Have you ever made one?

A. Personally, no, sir.

Q. Do you know the procedures for making those reports?

A. The only thing that we were required to do in Vietnam, sir, was to call it in to division headquarters. We had a format to go by, my desk sergeants had, and they collected all the information. I, in turn, would call in to division and give them the information, right down the checklist, and they did the "Blue Bells".

Q. Would a war crime or an atrocity be submitted on a "Blue Bell" is it was reported?

A. I would say yes.

Q. Now, would this type of report be submitted before it was in the allegation form?

A. Not if they were completely unsubstantiated, sir, until there were some--

Q. (Interposing) Substance?

A. Well, something to back up just a plain allegation. No, sir, I would not report it.

Q. Well, was the obligation to report a "Blue Bell" incident a provost marshal responsibility or was it a responsibility throughout the brigade staff? Who had this responsibility? You seem to maintain the formats for this?

A. I handled all the flash reports, sir, and the "Blue Bells".

Q. So, if such an incident was to be reported, it would be reported through the provost marshal's channels?

A. Yes, sir.

Q. Am I correct, then? The "Blue Bell" is a provost marshal's report?

A. Sir, it is not a provost marshal report, but it usually winds up with the provost marshal, and the provost marshal handles it.

Q. I see. Within your area of responsibility, I would imagine that you had quite an insight into use of narcotics or drugs within the brigade and the units in the brigade. Was it your responsibility to maintain statistics on this?

A. As far as incidents, sir, or cases, yes, sir.

Q. Would you say that there was a narcotic or a marijuana problem within any units of the 11th Brigade?

A. Yes, sir, there was a problem.

Q. Was it more with any one unit than another?

A. I don't believe so, sir, unless you--I felt it was most prevalent around that base camp, the brigade base camp, where we had all the service troops more or less.

Q. What about your tactical units?

A. I think it was a problem out there too, sir, but I couldn't reach them.

Q. Well, how much of a problem was it? Was it a problem which may have influenced the operational procedures or operational results?

A. I felt, sir, that marijuana was being smoked frequently by a small number of people throughout the brigade, and it was being smoked from time to time by a large number of people throughout the brigade. I based this on the evidence that I ran into, like finding the marijuana butts in the bunkers. I found it impossible to catch one of these. I wouldn't send my men out there to raid a bunker at night, because if he got shot it would be my fault. That's where I felt that the marijuana was being smoked. This endangered the entire--not only the people in the bunkers, but it endangered the entire brigade headquarters.

Q. You're speaking of security bunkers?

A. Yes, sir.

Q. Not living bunkers?

A. No, sir, perimeter bunkers.

Q. Perimeter bunkers?

A. Yes, sir.

Q. And you found marijuana butts in front of the bunkers?

A. Yes, sir.

Q. Very often?

A. Just about any time I took a walk around the perimeter, sir, and checked the bunkers.

Q. Would you remember offhand what the incident rate on marijuana was in the brigade over a period of a month?

A. I found cases, sir, but it would be insignificant. I wouldn't remember, but marijuana found around the area-- someone kicking over a stone and finding where somebody stashed something, or someone checking the bunkers and finding some stuffed back in under the sandbags. Something of this nature was fairly frequent.

Q. What about apprehension? Did you have many apprehensions concerning marijuana or as a result of marijuana possession or use?

A. Not very many, sir. I devoted a lot of time to trying to coordinate with the National Police and trying to cut down on the supply. It was readily available. They could buy it from any kid from one end of our AO to the other along Highway 1. I understand when we would have work details out around like rebuilding the breast works and so forth, the kids would come out there and peddle it.

Q. I originally mentioned the purpose of this investigation of the My Lai (4) incident. Then you later read The Trident, Exhibit M-17, and you saw for the first time or mentioned during this interview the name Pinkville. Did you not relate My Lai (4) to Pinkville in the original introduction to this interview?

A. Initially I didn't, sir, but I went back when I was reading the articles as they were coming out. I remember relating it to the fact this was Pinkville that they were talking about. I don't know where it was spelled out or what, and then it seemed to jump out at me when I saw Pinkville here. Pinkville is a notorious place throughout the brigade. Everybody has heard of Pinkville. I doubt seriously that too many people remember My Lai.

Q. But I originally told you that this interview was concerned with My Lai, and at that time did you think of Pinkville?

A. No, sir, I did not, but I knew where you were talking about.

Q. Would you consider My Lai as part of Pinkville?

A. Yes, sir.

Q. Did you ever hear of Colonel HENDERSON conducting Any type of investigation?

A. No, sir.

Q. Did you ever hear of any individuals being questioned by Colonel HENDERSON either under oath or not under oath, statements taken concerning an operation?

A. No, sir.

MR WALSH: Let's go back a minute to July. What were the facts that were related to you--the allegations that were related to you?

A. Sir, I would have to rely strictly on my memory and I may be wrong. It may be off some.

Q. We understand that it's a long time ago?

A. As I recall, there were two things that stand out. One of them was that an officer had been standing near two men, and the two men had made a bet or something about hitting a Vietnamese out in a rice paddy. The Vietnamese had been fired at and went down, and no action had been taken. The other one was that some people were machinegunned down in a well in a village. Those were the two things that I recall about the allegation.

Q. You mean people were hiding in a well and then machinegunned, or they had been put in a well and machinegunned?

A. Well, I don't recall whether it was clear or not, sir, but I got the--I remember that it came out, this point I do remember. They were determined to be VC in the well, and equipment and so forth had been--military equipment had been removed from the well when they went down in there after they had shot these people down in there.

Q. Now, these were two different incidents which were related by the same individual?

A. Yes, sir.

Q. How did this come to your attention?

A. Through an unsworn statement, sir, submitted by the defendant in a court-martial, as reported to me by the S1 of the brigade.

Q. Did the S1 of the brigade give you a copy of the statement?

A. Yes, sir, he did.

Q. All right, now--

A. (Interposing) I know he showed me a copy of the statement, sir. I can't say that he gave me a copy.

Q. Where did the court-martial take place, at Duc Pho?

A. It was a brigade court-martial, yes, sir.

Q. Did you conduct an investigation and after that sworn testimony was taken?

A. Yes, sir.

Q. And your CI man conducted that?

A. Yes, sir.

Q. What was his name, do you recall?

A. BABINE, sir.

Q. BABINE, that's right, and he had replaced your earlier CI man?

A. Yes, sir, he came in about the last of July, sir.

Q. Was a report of investigation filed by you then?

A. A DF was made up and signed by the investigator, and this was--I took this to the brigade commander and briefed him on it.

Q. By DF what do you mean?

A. Disposition form, sir. This is a 2496, I believe, it's the DA form number. It's an interheadquarters communication form, a standard form.

Q. Did this form have annexed to it statements taken by BABINE?

A. Well, it was not that it would have--yes, sir, I would say that it did.

Q. And did the single report cover both allegations?

A. Yes, sir, because it all had to do with one unit and one officer.

Q. And one operation?

A. That I don't recall, sir.

Q. Do you remember if the unit involved was Task Force Barker or any of its component companies?

A. It was another battalion, sir.

Q. Where was that document filed in the brigade headquarters?

A. It should be in the provost marshal's files, sir, in Duc Pho.

LTC NOLL: When your unit went from Hawaii to Vietnam, did you take all of the people with you or most of the people with you that you had trained, or did you lose a great number of people?

A. The majority of them went with me, sir. You're speaking of military police?

Q. Yes?

A. The majority of them went with me. We lost a few, due to short time before ETS.

Q. But no significant personnel turbulence?

A. No, sir.

LTC NOLL: I don't have anything else.

COL WILSON: Major PITTMAN, do you have any further testimony, anything that you could offer that might assist us in this investigation, keeping in mind that we're concerned primarily with previous reports or inquiries or suppression of information, and particularly on the operation that was conducted during the period 16, 17, 18, and 19 March in the Pinkville

area. We have an extensive CID effort going on over there now indicating that there were quite a number of noncombatants indiscriminately killed. It would appear that if an element of the brigade did this, and this did reach any large portions, that somebody should have told you about it, you being the provost marshal.

A. Yes, sir, and I'm sure that if the division provost marshal had known about it, he would have told me about it.

Q. You don't feel that he knew anything about it?

A. No, sir, I do not. It was a feeling there though, sir, that--I feel this is significant here and I feel--I felt that I failed in Vietnam in one aspect, and this is convincing my commander, Colonel HENDERSON, of the value of my military police, how they could be used, being used to the utmost to support the brigade. He didn't rely on military police as much as I felt that he should, and knowing him, it's quite possible that he conducted this investigation without saying anything to me.

Q. Did he ever appoint you at any time to make any kind of investigation, informally or formally?

A. Well, I mean the routine criminal investigation, sir, when they came to my attention I immediately--

Q. (Interposing) No. I mean you as an individual authority to make an investigation for any purpose by Colonel HENDERSON?

A. I do not recall any instance, sir.

Q. Well, do you have anything further that might assist us in the matters that I referred you to?

A. No, sir.

Q. Do you believe that such an event or such an occurrence as a large number of noncombatants being indiscriminately killed as alleged, in some cases rounded up and shot, could have happened without the brigade staff knowing about it?

A. Stood up, rounded up and shot, no, sir. I do not believe it could have happened without the brigade staff knowing about it, and I won't believe that it happened in that manner until somebody proves it to me.

Q. Well, I say, I'm taking the situation if it had occurred, even with the separation of Task Force Barker like it was from the brigade headquarters at Duc Pho?

A. I don't see how it could have gone by my people, sir. Somebody would have had to say something about an incident of that nature, sir. There might be a few gangsters in the outfit, but it couldn't be a whole company of them out there at one time. I just don't believe it could've happened and not been reported.

COL WILSON: Major PITTMAN, you are ordered not to discuss your testimony during this investigation with others, including other witnesses for the investigation, except in the performance of official duties or as you may be required to do so before a competent, judicial, legislative, or administrative body.

I also would caution you that if you do receive an order from the military judge in the case of United States v. Calley, your appearance here in no way changes the applicability and effect of that order. It's not likely that you will, but in case you do. We appreciate your coming.

The hearing will recess.

(The hearing recessed at 1841 hours, 20 January 1970.)