

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

Volume II
TESTIMONY

BOOK 28

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

VOLUME II

TESTIMONY

BOOK 28

T'SOUVAS
WEST
WILLIAMS, F.
WRIGHT
ARCOREN

CORNWELL
FAGAN
FLYNN
HEIN

JOLLY
KINCH
MARONEY
OLIPHENT

14 MARCH 1970

SUMMARY OF TESTIMONY

WITNESS: T'SOUVAS, Robert W. SP4

DATE OF TESTIMONY: 31 January 1970

PLACE OF TESTIMONY: Pentagon

WITNESS SUSPECTED OF: Murder; Violation of Laws of War;
and destruction of private property.

COUNSEL: None

DUTY ASSIGNMENT ON 16 MARCH 1968: Machinegunner, Third
Platoon, C/1/20, 11th Infantry Brigade.

1. PRIOR TRAINING IN RULES OF LAND WARFARE.

Specialist Four T'SOUVAS testified that he had received no prior training on illegal orders. No one ever told him that he did not have to obey an illegal order (pg. 24). He also claimed that he had received no prior training on the proper treatment of PW's or civilians. He knew from common sense that it would be wrong to shoot them (pgs. 25, 26, 34).

2. PREOPERATIONAL PLANS AND BRIEFINGS.

The witness did not recall MEDINA or anyone else giving a preoperational briefing (pgs. 5, 6). However, he recalled their orders (pg. 6). They were told that this would be a hot LZ and they would encounter the 48th Local Force VC Battalion in My Lai (4) (pgs. 6, 31). The mission was designated as a search and destroy mission (pgs. 6, 10). All of the village's inhabitants and livestock were to be killed (pgs. 6, 35). T'SOUVAS knew that this order was wrong, and he "resisted carrying it out" (pg. 35).

3. ASSAULT ON MY LAI.

After their insertion, the third platoon was fired upon by a sniper. Initially, his squad's attention was focused on

locating the sniper (pg. 7). T'SOUVAS remembered that they fired upon about 50 people moving down the road. Some were hit, but he did not know the number. He recalled that they crossed the road to look for a sniper marked by a helicopter hovering above. They were able to find a weapon there. The witness' group then crossed the road once again near the bodies of the Vietnamese they had previously fired upon (pgs. 8-11). The men of C/1/20 were doing a great deal of firing (pg. 14). As they passed through the village, there were dead all around. He had no idea how many bodies he observed (pg. 13). The only resistance they received was the sniper fire just after their insertion (pg. 14).

4. INQUIRIES CONCERNING THE ASSAULT.

After the extraction of C/1/20, the witness did not recall an American officer talking with them. He did not know the operation was investigated until he read about it in the paper. He never heard from MEDINA or anyone else that there was going to be an investigation. He was never told not to discuss the operation (pgs. 17, 20, 23).

5. EXPLANATION FOR THE FAILURE OF THE MEMBERS OF C/1/20 TO REPORT THE ATROCITIES IN MY LAI.

T'SOUVAS admitted that after reading about the incident recently in the newspapers, he had had an armband made up which said, "Ashamed of the Americal Murders". He did this because his conscience bothered him (pgs. 18, 29). He further explained that he has felt deep shame over what occurred. He tore many of the Americal Division patches from his uniforms (pgs. 18, 19). He felt that the operation order was wrong to begin with, and the manner in which the operation was carried out was wrong. He did not think anyone would listen or pay attention to him, so he never expressed his feelings prior to wearing the arm band. (pgs. 21-23, 30, 38). The witness did not recall any discussions among the members of C/1/20 subsequent to the operation. Everyone probably realized their wrongs there (pgs. 17, 32, 36). He opined that the reason the members of C/1/20 did not complain about what occurred in My Lai was that they knew it was wrong and they wanted to forget their wrongs by keeping quiet about them (pgs. 35, 36).

6. OTHER INFORMATION.

a. T'SOUVAS testified that it was the Vietnamese interrogator that cut of the PW's finger and not the American officer (pg. 16).

b. When the CID first talked with him, he was hospitalized under the influence of a self-ingested narcotic (pg. 20).

c. From the witness' statement, there was evidence that the witness frequently uses marijuana or narcotics. However, he denied that a significant number of soldiers from C/1/20 were under the influence of marijuana on 16 March 1968. He did not know if many members of C/1/20 had been drinking heavily the night before (pgs. 27, 28).

EXHIBITS

EXHIBIT NUMBER	DESCRIPTION	NOTES	PAGES
P-1	Aerial photo of My Lai	Oriented witness.	7
MAP-4	Picto Map #6739-II	Oriented witness.	7
MAP-8	Engineer scale drawing of My Lai (4).	Not recognized as My Lai (4).	11,12

(The hearing reconvened at 1407 hours, 31 January 1970.)

MR WEST: The hearing will come to order.

RCDR: The following persons are present: MR WEST, COL MILLER, MAJ ZYCHOWSKI and MAJ LYNN.

The next witness is Specialist Four Robert W. T'SOUVAS.

(Specialist T'SOUVAS was called as a witness, was sworn, and he testified as follows:)

Will you state your full name, grade, Social Security number, branch of service, organization and station.

A. Robert William T'SOUVAS, Specialist Four, US Army, Headquarters Third U.S. Army, Fort McPherson, Georgia.

MR WEST: Specialist T'SOUVAS, have you read our Exhibit M-57 about the nature and purpose of this inquiry?

A. I have.

Q. Do you have any questions about it?

A. No, I don't.

Q. Before we get into the questions, Colonel MILLER will discuss with you your testimonial rights.

COL MILLER: We have read statements made by you and other witnesses in either this investigation, the inspector general investigation, or the CID investigation into the My Lai matter. On the basis of the information now available to us, we have reason to suspect that you may have committed certain offenses at My Lai on or about 16 March 1968, I therefore want to explain to you fully of your rights with respect to having legal counsel or giving testimony before this hearing. I'll try to cover all this, but if you have any questions when I'm done, please feel free to ask whatever questions you have. I hope you will do that.

I know that at a prior time you gave a statement to the criminal investigators in Korea at which time you were informed that you were suspected of the offenses of murder, violations of the laws of war, and destruction of private property. At one time or another you have made statements in which you stated you killed a number, five or more Vietnamese, including women and girls on or about 16 March 1968. Then there is another person whom we have interrogated, a witness before us who says substantially the same thing. Now these acts may constitute the offense of murder and may be war crimes and violations of the laws of war. Or in the event that these people were not killed you are nevertheless suspect of the offense of aggravated assault or assault with the intent to commit murder.

Inasmuch as you are suspected of these offenses, you have certain rights with respect to testifying and to counsel.

You have the right to remain completely silent, answer no questions concerning these matters. Any statement you do make could be used as evidence against you in a criminal trial.

You have the right, if you wish, to consult with counsel and by counsel I mean a qualified lawyer, and to have that counsel present with you at this hearing. This counsel could be a civilian lawyer of your choice, who would be employed at your expense, or it could be a military lawyer who would be appointed with no expense to you, or you may have both. If you had a particular counsel and he was reasonably available, we would try to make that officer available if you want counsel.

Even if you decide that you want to answer questions at this time without having either military or civilian counsel, or both here, you certainly may go ahead and answer questions. But if you do, you may also stop answering at any time, you may ask for counsel to be appointed and made available at any time.

If you decide to have counsel he may be present with you at the hearing and you have the opportunity to consult with him before we ask you any further questions. Before we proceed any further I have one question, do you understand what I've gone through so far.

28 12

A. Yeah, I understand what you said.

Q. Do you have any questions about what I've said so far?

A. Right, I wasn't advised, they didn't tell me I was being charged for the murder of five or more people.

Q. No, I realize that.

A. Or war crimes.

Q. The number was I think contained in your testimony that you gave to the CID. Now the statement indicates that you were informed that you were suspected of these offenses. In view of your statement, of course, you are still suspected of them. That's why I've advised you today that you are so suspected. This does not mean you have been accused of anything, but anytime when somebody like myself who is subject to the Code suspects that you may have committed these offenses, whether there is proof or not, the suspicion is sufficient, I have an obligation to tell you this and be sure you understand what your rights are. That's what I've just gone through. Do you understand those rights?

A. I do.

Q. You can remain silent, you can testify, you can have a counsel or not have a counsel, military, or civilian, or both. You may, after we've started the questioning decide to stop answering questions, or request the appointment of counsel anytime. Now do you wish to have counsel?

A. Not at the present.

Q. Are you willing to make any statement and answer any questions at this time?

A. Yes, sir.

Q. Now if there are any questions that you don't want to answer or don't feel that you should answer, you can so state.

A. Right.

Q. If you feel the need for counsel as you go along, please let us know.

(The witness nodded in the affirmative.)

MR WEST: We'll have a short recess.

(The hearing recessed at 1416 hours, 31 January 1970.)

(The hearing reconvened at 1420 hours, 31 January 1970.)

MR WEST: The hearing will come to order.

RCDR: All person present when the hearing recessed are again present. Specialist T'SOUVAS, I remind you you're under oath.

MR WEST: Specialist T'SOUVAS, what was your grade, your duty assignment, and your outfit on 16 March 1968?

A. I was specialist four, and my position with the company, I think was machinegunner.

Q. Were you part of a machinegun team?

A. Yes.

Q. What was your company?

A. C/1/20, 11th Brigade.

Q. C/1/20. At that time was C/1/20 a part of Task Force Barker?

A. It was.

Q. Do you remember your squad leaders name?

A. No, I don't. You mean at the time.

Q. At the time, yes.

A. It's been changed so many times.

Q. We've heard that the people got moved around to different squads quite a bit in Charlie Company. I believe you told Mr. FEHER, the CID agent, that WILLIAMS and POLSTON were in your squad. Is this the way you remember it?

A. Yeah, right there in the same squad.

Q. Same squad, okay. Frank WILLIAMS and Larry POLSTON?

A. Right.

Q. Our information is that they were in the second squad of the 3d Platoon and Bill GRIMES was the squad leader. Does that refresh your recollection any. Does that sound right?

A. I can't--we were in a machinegun team together as far as My Lai. I don't remember if it was in this same incident. That's what I remember. We were in the same squad.

Q. Okay. When did you first hear about this planned operation against My Lai (4) Village?

A. I can't really say. I don't know how long it was before it happened.

Q. Okay, do you remember the briefing Captain MEDINA gave the company the afternoon before at Landing Zone Dottie?

A. Well, not really, no.

Q. Do you remember what Captain MEDINA told the company?

A. I can't say for sure. There's been a lot that I've read that's in my mind too, and a lot that I've heard.

Q. Well, if you would just tell us as best you can, what you remember that Captain MEDINA told the company?

A. I can't remember anything, I mean--what I've heard from other people, other information that I've heard, I don't really know if he said it, or it was just what I picked up from other people. But I don't remember if it was him or not. In my mind I remember we were told what we had to do. I can't remember who exactly it was.

Q. What were your orders, what were you told to do?

A. Well, we were told that we were going to a hot landing zone called My Lai. It was supposed to have some Viet Cong regiment or something like that in the area, and it was heavily fortified. It was to be a search and destroy mission. Orders were given to destroy everything, all the inhabitants of the village.

Q. All the inhabitants?

A. Right.

Q. Okay, what else?

A. That's about it.

Q. Anything said about the livestock, or the houses, burning the houses maybe?

A. Well, not burning the houses, but to destroy livestock. In my mind I heard orders given, to kill everything, livestock.

Q. Do you remember how you felt that night after the orders were given, what you thought about it?

A. After the incident?

Q. Well, after you got your orders, the night before you went to My Lai.

A. I don't remember.

Q. Had you ever received orders like that before?

A. No.

Q. Did you at any time after this receive similar orders from anyone?

A. No.

Q. Okay. Let's go to the next day now and let's talk about what happened after you got out of the helicopter the next morning, right at My Lai (4). Do you remember what lift you were in?

A. No, I don't. I can't remember if it was first, second, third, or fourth, I don't remember.

Q. Okay, do you remember who was in the helicopter with you?

A. No.

Q. Do you remember who was in the machinegun team with you?

A. To my knowledge I thought it was POLSTON and--I can't remember names. Names I don't know. I can't remember people's names.

Q. Well let's see, we'll check POLSTON's statement, maybe that will help. Meanwhile we'll go ahead. Can you remember what the first thing the 3d Platoon did after you got out of the helicopter?

A. Well, when we first got out we were fired upon by snipers. And the squad that I was with, we were all concentrating on this one sniper.

Q. Specialist T'SOUVAS, you now have in front of you Exhibit P-1, which is an enlarged aerial photograph, vertical, showing My Lai (4), and the vicinity. The scale is one inch equals about eighty meters. The top of the photo is to the north. On your right is the east, going toward the China Sea. The landing zone for Charlie Company was on the west side of the little hamlet here and this is My Lai (4) here (indicating). You'll notice the main trail leading south from the hamlet down to this highway, which is highway 521. You'll notice on your left there's an Exhibit MAP-4, it's a 1:25,000 scale map which also shows My Lai and the vicinity. Here's My Lai. You'll notice the stream, same as on the photograph. You'll notice the trail leading south to 521. Does this look familiar to you, that area?

A. I don't know. I can't read a map.

Q. Are you accustomed to looking at air photographs?

A. No.

Q. You can imagine looking down on it though. This is the landing zone, the rice paddy where the helicopters let everybody out. Do you remember moving south with the 3d Platoon, down across this stream and drainage ditch and coming to a road. Do you remember that?

A. No, I don't. It's hard to say. There was a lot of roads that we passed and everything--I could be there today and I don't think I'd remember exactly how I went through.

Q. Did you ever know Colonel BARKER's driver, BEARDSLEE?

A. Not personally, no. I know the name.

Q. Do you think you'd recognize his photograph?

A. Well, I'd probably recognize it. I think I seen him today.

Q. Well, we just talked to him and he went with the 3d Platoon, went with Sergeant GRIMES' squad and apparently went with you. Right along in the same squad with you. And he told us what other people have told us, how the platoon almost right after they got out of the helicopter, moved down here. And they crossed down here and crossed the ditch, went on down somewhere around in here and they saw a bunch of people moving down the road here, about 50. So they took them under fire about 50 yards away or 200 yards away. Do you remember anything like that?

A. I do that.

Q. Do you remember seeing any of those people fall on the road?

A. I think they all went for cover.

Q. What I really mean is when the platoon fired on them, did they hit anybody. Do you have any recollection of that?

A. I think they did.

Q. Do you have any idea how many were hit?

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A. No, I don't.

Q. Now later on, at least part of the platoon crossed the road and went off down into here. Some of the men went over and checked these bodies along the road. Does this recall anything to you?

A. Yes.

Q. What did you do now?

A. Well, I was--

Q. (Interposing) Were you carrying an M-60?

A. I can't--that's what I can't remember. I don't remember if I was or if I was carrying a 16. I remember having a .45.

Q. Well could you have had the M-60 and a .45?

A. Right. Well the machinegunner has a .45. Before, when I was first investigated, I swore I had the M-16. But I was a machinegunner then.

Q. Well, let's see. Along about this time in the morning, POLSTON made a statement that you were carrying the M-60, so perhaps you were. Do you remember whether you crossed the road down there.

A. Sure, I remember crossing the road. We were looking for a spot where a helicopter was hovering, where there was supposed to be a hidden sniper, and there was.

Q. Did you find anything?

A. Well, when we was looking through the shrubbery, I didn't find it myself, somebody else found it. We were mostly concerned with finding out where the weapon was.

Q. What happened next?

A. Well to my knowledge they found the weapon, and the company and people moved out.

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Q. What did the platoon do next, can you tell us where the platoon went after this?

A. I cannot. I don't remember what direction we went, but we headed towards, I guess, the village.

Q. The platoon was supposed to have gone back to just about where it started, up in here (indicating). Do you remember moving back up toward My Lai, anything that happened--

A. Toward where we were dropped off?

Q. Yes. Do you remember anything that happened along the way?

A. No, I don't.

Q. See anything?

A. Well, we passed over the people that were shot when we first came off the helicopter. Regrouped and then we pushed up through the village.

Q. Do you remember what orders were given to you at this time before you moved into the village. Whether any orders were given?

A. No, I don't.

Q. What was the mission of the platoon in the village?

A. To search and destroy.

Q. Okay. Well what did the men of the platoon do then as you moved through the village?

A. Search and destroy.

Q. All right. Can you tell us with some detail what you saw there as you moved along?

A. Well, I was, I guess--no, I really can't. It just doesn't come to my mind, what happened.

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MAJ ZYCHOWSKI: Specialist T'SOUVAS, just to clarify something in my mind, perhaps I did not understand you correctly, but when you mentioned you came back across the highway there, you came back to just about where you landed. Did I understand you to say near some bodies that you saw before?

A. Well, like Mr. WEST said, when we first came off, and came toward the village where that sniper was at, well we crossed the road to where the people were running and we first opened up. We came back across the same road where the bodies were, almost the spot where we were dropped off.

Q. Okay, the bodies you're talking about were those on the road there.

A. Right.

Q. Okay, I thought you indicated they were up there near the LZ someplace.

A. No.

MR WEST: All right, Specialist T'SOUVAS, can you remember at all the route you took through the village, through My Lai (4)?

A. Well, in my mind I can picture it, but I mean on this kind of map, I can't.

Q. All right. Can you just tell us what you have in your mind, what you do remember. You know, just in your own words, it doesn't have to be exact, just the impression--

A. (Interposing) Well, it's hard to explain it, I mean, there was a road here, a tree here, it's hard to, you know, point it out specifically.

Q. We understand, now, you might look back off to your right rear there is a sketch (Exhibit MAP-8) made by some members of the engineer corp. Now these men are map-makers, artists, they went in to My Lai (4), went all over the place, took exact measurements, had photographs, worked from it, and this is a reproduction of My Lai (4). You can see indications of the symbols there, building, wells, and other places. The green, of course, is vegetation. Maybe

this will help you remember just about what it was like, because you can see the place is all cut up by little living plots, and cultivated ground, and trees, and shrubbery between. So that you could be in one place there and not be able to see more than perhaps 30, 40, 50 feet in any direction. Does this look at all familiar to you now?

A. No.

Q. No. Well, if you will please, just tell us your recollection, just the impression you had. This could be very important to us. It's like nothing that ever happened to you before, isn't it?

A. Right.

Q. You don't have to tell anything that involves you personally if you don't want to.

A. No, I can't, you know, really put it into words on how we moved.

Q. Well, I understand--

A. (Interposing) It's just blotches in my mind.

Q. I see. Our understanding is that the 3d Platoon as it moved through had the mission of mopping up, you might say. One man told us the 3d Platoon was the drag platoon, they came on behind, searched hootches, and burned them. And if they found any crops or food it was destroyed, shot any livestock still living. And some other witnesses told us they shot any people they found. At least some of the people they found were still alive. That's the general picture we've had up to now. You were there and each witness tells us something a little different from his own point of view. This is what we'd hoped to get from you.

A. Well, what you just said is just like putting words in my mouth in a way.

Q. Yes, I'm trying to recreate the scene for you a little bit.

A. That was the mission of the infantry--was to well, I don't know if we were mop up or if we were out front or not.

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People were there, people were dead in front of us, people were dead behind us.

Q. Actually the 1st and 2d Platoons had gone on in earlier. While you were down south, down along the road, they were working through. So they had already been through ahead of you. Well, lets put it in these terms, what did you see when you got inside the place?

A. A lot of dead bodies, a lot of hootches torn apart.

Q. All right, did you see any large groups of dead bodies anyplace?

A. What do you mean by large groups?

Q. Well, 10 or 12 or 20.

A. No, I didn't.

Q. Because other witnesses have told us of seeing things like that.

A. I think at the most I seen would be about seven. Seven to eight bodies.

Q. Could you see dead bodies all through the places you walked through?

A. Yes.

Q. Do you have any idea how many total?

A. No.

Q. Did you encounter any resistance at all anywhere as you went through the village?

A. What do you mean?

Q. Any enemy fire. Did any of the Vietnamese people have weapons or hand grenades, or try to offer any resistance or fight back?

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A. Well, I don't know if there was. When we first got off we got some resistance that I know of, when we first got there.

Q. When there was a sniper?

A. Right, or whatever it was.

Q. I see. Right at that time.

A. That's all I know.

Q. Yes, okay.

A. You couldn't tell if somebody was shooting at you or what because there's so much--so many weapons that were going off it was pretty hard to say. The only time you could tell you were getting shot at is if you were directly shot at.

Q. So the men of the company were doing a lot of firing all over the place that day.

A. Yes.

Q. Do you remember where it was that you left My Lai (4), when you got out of it?

A. No, I don't.

Q. Did you come out on the east end, for example?

A. I don't--

Q. (Interposing) Do you remember going into any other little hamlet nearby afterwards? After you got through My Lai (4) here, do you remember going through any other little place around there, a group of houses.

A. No everything was just--was in one bunch, to me that was it. Everything was just--I don't--I didn't know, you know, I think it was called Pinkville, that was it. I didn't know it was My Lai (1)--I heard it was a My Lai (1), (2), (3), (4), (5), and (6).

Q. Well, that's right.

A. Then I was advised it was only My Lai (4), (5), and (6).

Q. You'll notice on the map here, Charlie Company started out by hitting what's marked on the map as My Lai (4). Then up here you have another place the map calls My Lai (5), that's right here. The Vietnamese name actually is Binh Dong. These are little grown up areas with a few houses scattered around here and some cultivated plots. Then My Lai (6) is on beyond, you can see it on the map (Exhibit MAP-4), over here (indicating), on the seacoast.

A. We've had--we've had--

Q. (Interposing) Here's My Lai (3) up here across the river to the north. Then you got My Lai (1), which is the real Pinkville. And that's right around the seacoast. And it's always pink on the map, that's why it got the name Pinkville. You remember that perhaps. Do you remember where you spent the night the first night out, the night of the 16th?

A. No, I don't, I thought we went back in after this.

Q. No, the company moved to the east somewhere around My Lai (6), joined up with B/4/3 Infantry and spent the night in the field. I think you must have remembered things a little more clearly when you talked to Mr. FEHER. Let me ask you this now. When you were, late that afternoon, when you were in your night laager position, do you remember seeing some National Police questioning some VC suspects?

A. I don't know if they were National Police or not. I mean I don't even know what you mean by the National Police questioning suspects.

Q. Well, did you see any--

A. (Interposing) What time?

Q. Well, this was about late in the day.

A. It was the same day?

Q. Same day.

A. Right after we got through the village or what?

Q. Yes, same day. Do you remember telling Mr. FEHER about an American officer who was questioning a suspect?

A. I do.

Q. Tell us that incident.

A. Well, I don't know word for word or anything, and I don't know where it was, I remember an officer and a Vietnamese interrogator not a policeman, to my knowledge, questioning prisoners.

Q. Did you see the American officer do anything to the suspect?

A. Not that I--I don't know, I can't really say. I can't answer that. I don't know. I remember an incident where I think it was Vietnamese were--cut fingers off, put it that way. But I can't remember--I can't remember, I don't know, I can't remember.

Q. Okay. I'll read you something out of this statement you gave Mr. FEHER.

"There was an American officer that was interrogating a VC suspect. The next thing I seen that he cut a few fingers off his hand. And he kept talking Vietnamese to the person, and person interrogating didn't believe him so he shot him. It was not the American officer that shot him, but his Vietnamese interpreter."

A. That's written wrong, typed out wrong.

Q. This is not correct then?

A. The Vietnamese person was the one that cut the fingers off. The man was shot afterwards, but it wasn't the officer, the American who cut the fingers off.

Q. Do you remember being flown back to Landing Zone Dottie in a helicopter?

A. I don't know where, I can't remember what LZ we went to after this.

Q. You remember going back to some LZ, don't you?

A. Yes, sir.

Q. When you and the others got out of the helicopter do you remember an officer talking to you?

A. No, I don't.

Q. Were you met there by an officer who talked to the group?

A. No, not to my knowledge.

Q. Do you remember Captain MEDINA getting the company together and talking to them about what had happened in My Lai (4) on the 16th, saying that there was an investigation going on?

A. No.

Q. You don't remember that?

(The witness gave a negative response.)

Did any investigating officer ever come around to talk to you about My Lai (4), in Vietnam?

A. No, I didn't know nothing about an investigation until just recently when I seen it in the paper myself.

Q. Did you and the other men of the company talk about My Lai (4) afterwards?

A. Not that I know of, not to my knowledge.

Q. Did you realize what had gone on there that day?

A. Yes.

Q. As I indicated we have a statement that Mr. FEHER took from you. This is taken in Seoul, Korea on 3 December 1969. I also have a statement taken the next day on 4 December from your first sergeant. Your first sergeant is--looks like his name is LINDSAY, Sergeant LINDSAY, Arthur LINDSAY.

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A. LINDSAY, we don't have a first sergeant LINDSAY.

Q. This is a very faint copy, maybe I'm reading it wrong. Looks like LINDSAY, Arthur LINDSAY.

A. Must be a new first sergeant.

Q. Okay. He says this: "On 30 November 1969 I assumed duty as first sergeant, C/1/38 Infantry, 2d Division, this is in Korea. Specialist Four Robert W. T'SOUVAS was a member of the company before my arrival." Then he talks about seeing you in the mess hall. He sent two soldiers to bring you into the orderly room. Do you remember this?

A. I don't remember them bringing me to the orderly room, but I remember a new first sergeant coming to the company.

Q. I want to ask you about just one particular incident. According to his statement, he sent two soldiers to bring you to the orderly room and when you came in Sergeant LINDSAY observed you were wearing an armband which bore the words, "Ashamed of the Americal murderers." Well, that's all that's pertinent. I wanted to ask you about that armband. It's a rather unusual thing to be wearing.

A. It's not unusual. I guess I was ashamed, ashamed to be in the Americal Division. I was really ashamed to see the papers, what they had in them. That was the reason I put it on.

Q. You were ashamed of the story that was coming out in the papers?

A. Yes, when I first noticed it. That's when I started resisting, I wouldn't do nothing. It disgraced me, I was ashamed to be in the Army, I was ashamed to--

Q. (Interposing) How did the armband get made up? Did you make it?

A. I had some material.

Q. Somebody make it for you?

A. Yes, a Korean tailor made it, cut the material out.

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Q. Well, do I understand this was your way of protesting what happened and making your feelings known. Did you sort of carry this burden with you all this time and your feelings about it.

A. Right, I just never expressed myself.

Q. You kept it to yourself?

A. I hadn't even realized it until the facts started coming out in the paper. That really shamed me, in fact I tore off half my Americal Division patches.

Q. It hadn't really hit you before that time?

A. No, I mean, it was on my mind.

Q. How about the other men in Charlie Company? We've had some witnesses tell us that many men felt bad about it, were ashamed, and some men just thought it was great.

A. That's hard to say. Some men put it down. Some men looked upon it right, some men looked upon it like being wrong. That was the opinion everywhere I went after the thing came out in the paper. I had all kinds of shit hit me.

Q. Well, did anyone give you a hard time because of it, when the word got out, just because you were in the Americal Division?

A. Some did.

Q. When did you get the idea of the armband and making the visible protest about it?

A. I guess when it came out in the papers.

Q. Did you get into any trouble over this wearing the armband?

A. No, the only thing that I know is that it was taken away from me. That's all I know. I was on a--I don't even remember it being taken away from me--when I woke up.

Q. Did you get put on restriction or anything, extra duty?

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A. No, I was sent to the hospital.

Q. How long were you in the hospital?

A. About 5 days. I was there for a drug withdrawal.

Q. I see.

A. When I passed out on some narcotics. And that's when the armband was taken from me. That's when I was investigated, when I was under the influence of narcotics.

Q. Okay. I hope we've explained to you, made clear what we're trying to do here. We're trying to find out, you know, just what happened there. We're trying to find out things about the company. Trying to learn whether after this happened the division and the other units involved made a proper investigation to learn what was going on, what had happened and took appropriate action. Or whether there was a so-called coverup. This is one reason why I asked you a few minutes ago if you had been told there was an investigation or if anybody came around to talk to you, or if you were perhaps told to keep quiet about it, or anything like that. See, we're trying to find out if there was a coverup at the time. I'll ask you again, did you ever hear anything about an investigation while you were in Vietnam?

A. No, I didn't.

Q. Never did? Anything ever happen there that would lead you to think perhaps there was an effort to cover it up, keep it quiet?

A. No, I don't. I mean right after My Lai, I don't know how long after, but that's when we switched company commanders and that's all I know.

Q. That's right, Captain MEDINA went up, I believe, to work in the--

A. (Interposing) Something.

Q. The 3 I think, that's right. But you can't remember anything else happening?

A. No.

MAJ ZYCHOWSKI: Specialist T'SOUVAS, what was your feeling after this operation at My Lai (4), how did you feel about it?

A. Well, I don't know how I felt right after it happened, but I knew it wrong. My feelings--myself I knew it was wrong from the beginning. The order was wrong to begin with, even before we went in there.

Q. So your personal feeling then, right after this happened, was that it was wrong to start with?

A. Even before we went in I knew it was--I was against it. This going and searching and destroying.

Q. You mentioned that you really felt bad about this thing after it came out in the newspapers, is this correct?

A. Yes.

Q. The feeling I get is that you really didn't think too much about it when it first happened, but it only bothered you--

A. (Interposing) I'd think about it, but I had no reason to express my feelings to anybody else about it.

Q. So you did not?

A. No, I didn't express my feelings, no. I guess most people thought I was stupid.

Q. They would have thought you were stupid if you would have tried to express this?

A. Sure. I mean there was nobody I could express it to.

Q. I'm sorry, I--

A. (Interposing) I had no reason to express my opinion. I mean if I would express it, I mean, I guess I would have just been--their backs would have been turned on me.

MR WEST: You mean you felt like there's nobody you could talk to?

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A. Seemed that way.

Q. Do you know BERNHARDT?

A. Yes. I don't know. If I seen him I could probably tell you, but like names, I can't put with faces. I know most people just by looks.

Q. Well, actually BERNHARDT was in the 2d Platoon. He was a man who didn't join in. He didn't shoot anybody. He thought it was wrong. He talked about it even while it was going on. Did you know BUNNING in the first squad of your platoon? Big man--

A. (Interposing) In my platoon?

Q. No, he was in the first squad, he was in HODGES squad.

A. I seem--

Q. (Interposing) No, wait a minute, BUNNING was in the 2d Platoon.

A. A real tall fellow?

Q. He was a big fellow, yes. I don't think he shot anybody. At any rate you thought you didn't have anybody to talk to, is that it?

A. I had no one to--I can't express it. There was nobody to turn to and sort of show my sympathy for it. They wouldn't have paid me any attention. It would have just rolled off like it never happened.

Q. You talking now about the other members of your squad?

A. When I got home I just tried to forget Vietnam completely. I didn't think about it at all.

Q. How about PENDLETON, did you know PENDLETON?

A. I did.

Q. Specialist T'SOUVAS, it seems plain that you thought about this a great deal, you think it was wrong, you feel strongly about it. Do you have any thoughts you could give us about what was wrong, and what should be done to change things? Make them better so maybe this kind of thing won't happen again?

A. I don't know how, you know, it's hard to hit it, what I want to say.

Q. Well, just take your time.

A. Will you repeat that question, again?

Q. Well, we can see that you thought that the things that happened there that day were wrong, wrong from the start, I guess.

A. Right.

Q. Starting off with the order. And I'm sure you thought about this a good bit and do you have any ideas how we could correct things so that this wouldn't happen--

A. (Interposing) You can't change something that's already done.

Q. I know that, but have you got some thoughts as to what we could do maybe in training or other things to keep this sort of thing from ever happening again?

A. Well no, not in training, because all the Army training I had didn't do any good when I got to Vietnam. I mean I didn't learn nothing in training, put it that way. Because they don't teach you nothing in training, not the stuff you have to learn when you get to Vietnam. Basic training, AIT training just 4 months of wasted time.

Q. Are you saying you ran up against situations that just weren't covered in your training?

A. Well, they--you know, I mean I didn't know nothing when I got to Vietnam. I mean they rushed you through map reading and stuff like that. That's why I still can't read a map. I mean I can't say. I'm just a SP4. I don't know what to do and what not to do because I wasn't taught.

Q. Well, we've had some suggestions from some of our witnesses, who suggested some changes in the training they might make, that would help prevent such a thing from happening again.

A. Well, specific orders, that would prevent it right there. I mean specific instructions on exactly how to go through and what to do. I mean, on a person going through his first search and destroy mission, just tell him to go in, just search and destroy, and that's just what it's going to be. I mean what would come to your mind search and destroy? I mean that doesn't explain nothing. It was idiotic for someone to kill animals, cause animals don't kill people. Why kill babies when babies can't even lift weapons?

Q. The company understood that this is what you were supposed to do, is that right?

A. Yes.

Q. Do you remember getting instruction back in basic training that you were not required to obey illegal orders? Do you remember being told that?

A. Not illegal orders.

Q. Do you remember being taught to obey an order?

A. Yes.

Q. Orders of your officers?

A. Orders.

Q. Do you remember anybody telling you that you didn't have to obey illegal orders?

A. No, never.

Q. Okay.

A. I don't remember having any training on it like that, on illegal orders.

Q. Okay. Is there any other statement you'd like to make, Specialist T'SOUVAS, anything you think of that might help us?

A. No.

Q. All right, Colonel MILLER has some questions.

COL MILLER: I'd like to ask one question. Did you ever hear a rumor when you were taking basic training, or any time in your Army career, that if you did not obey an order in combat that your officer could shoot you or about this happening? You ever hear that?

A. Yes, I have. I heard it through--not through class, but through EM, not through a specific hour of instruction.

Q. We've had a lot of people come through here that seem to be aware of that. That seems to have stuck in their mind, whether they heard it in the PX beer garden or somewhere else--of officers shooting men that didn't obey. Whereas for men who did not obey, as far as not obeying illegal or immoral orders, most of the people of C Company were not too familiar with that.

A. No, I wasn't aware. I mean, just from people telling me, yes, that you can be shot in time of war for disobeying a direct order.

Q. Did you ever have a course on what to do if you were captured, if you became a prisoner of war?

A. I did.

Q. Did you ever have a course telling you what to do if you ever captured someone else who was a prisoner of war, if the enemy came into your hands, as VC or North Vietnamese, or enemy soldier of some sort?

A. I can't remember.

Q. You don't remember that? Why not?

A. Because I must not have been given a class on that. I mean I was told what happened if I was captured, but not if we captured.

Q. Then you weren't told that you shouldn't kill civilians or you shouldn't kill the enemy, that you should treat them kindly if you wanted to be treated kindly in the event you were captured? You didn't have any of that?

A. No, it's common sense.

Q. I told you earlier today what you were suspected of when you gave that CID statement and, of course, on the basis of what you had said and other witnesses, what we suspected you of here today and the purpose of this investigation. I've been sitting and listening today and I have a few other questions. I'll tell you what I suspect right now. I think you are withholding information today. You took an oath to tell the truth and I also advised you of your right to counsel.

A. Right.

Q. You didn't want counsel. You had a right not to answer any particular question and in my opinion you are sort of lying somewhere in between. I don't know whether you're trying to cover for somebody or whether you don't actually remember. You remembered a lot more in December, just a little over a month ago, than you did today.

A. Well, I don't know what I said in December. Like I say because--

Q. (Interposing) Just a minute, I want to cover a couple other things. According to the testimony of other witnesses you were under the influence of something, and you just happened to mention here today that you were under the influence of some sort of drug at that time. Now taking a drug is in itself an offense and therefore before I ask you any questions on this, I have to say that I suspect that within the last two years, and more specifically on about the first part of December of last year you had partaken in use of drugs, which is a court-martial offense. I also suspect that you are withholding information and perhaps even lying today. I rather suspect you're under the influence of something today. Maybe you're just tired, I don't know, but it looks like you may be under the influence of some drug, maybe marijuana. There's evidence that you smoked quite a bit of marijuana, that's your own testimony, your statement.

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A. It is? Marijuana?

Q. Yes.

A. I don't see where you got it. I'd like for you to give me proof where I said it, that I smoked marijuana.

Q. All right, I'll just read it to you. I'm not trying to inquire into this, but it's the reason that I suspect this today.

A. I mean you might have read it, but I don't think you have authority to look at a person and say he's on marijuana or looks like he's on marijuana. I don't want to start anything or say anything, because I might sound pretty bad against the military, which I am. The only reason why I held back on what I'm saying today is because I'm not sure, put it that way.

Q. All right, this is GEIS, Sergeant First Class GEIS. Do you know him?

A. Sergeant?

Q. GEIS, G-E-I-S. On 2d December he was told to escort you to the CID office, 2d Infantry Division to the 8th US Army CID office in Seoul, Korea. And you and he departed on about 3 December. Now when I said I suspected you of smoking marijuana, it's based on this and not--what he says, he, meaning you, "Said he had been smoking marijuana for 4 or 5 years and later he had been taking pills. He also had said, "He smoked marijuana in Vietnam." I asked him if he smoked marijuana before, during, or after operations."

A. What's this got to do with this.

Q. "And he said he smoked whenever he felt like it."

A. What's this got to do with this.

Q. Now just a moment, I'll get to that.

A. Well, I mean we're talking about a case, we're not talking about marijuana. I mean just because I brought up proven facts where the Army was wrong--

Q. (Interposing) Just a moment, I'll get to that in a moment. Neither of us said anything further about the massacre. Now one of the additional things we're interested in, and this you may have read in the paper not long ago. One of the senators said, that he had evidence or thought the soldiers who went into My Lai were all under the influence of a particular potent sort of marijuana. And this is one of the additional questions we're asking. According to this man GEIS, and that's all I have to go on, you told him that you smoked marijuana over there, a number of times. So my next question is, to your knowledge or belief, do you think that marijuana was much of a problem in Company C in Vietnam?

A. No.

Q. Do you think that the day that Company C went into My Lai, a significant number of the men were under the influence of marijuana?

A. No.

Q. How about the night before. Had many of them got drunk or at least had been drinking pretty heavy?

A. I don't know.

Q. Now you may not remember everything you told this man GEIS or even the CID, because you yourself volunteered that you'd been on narcotics or something. I don't know what it was and I'm not really concerned with it at this point. Except that in your statement to the CID in December, you had a significantly larger number of items of information than you're telling us today. Since you elected to testify, we're trying to get at whatever happened. And it seems strange to me that you can remember something from March of 1968 to December of 1969, and then between December of 1969 and the other day, you forget.

A. Well, I don't know if I really remembered or not. I'd like to tell you I wasn't under the influence of marijuana in the investigation, I was under the influence of a narcotic. I mean I went so far that it took me out, it knocked me out, put me in a hospital. It was taken before I was talked-- investigated in December.

Q. Do you remember making this arm band that you put on?

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A. I remember making the arm band, yes, or I remember having it on. And I remember having it--I remember having it made too, yes.

Q. Did you make it?

A. No, it was made in a tailor shop.

Q. Did you make this after you read about the My Lai incident in the papers, after it had broken, or did you have this before?

A. I made it after it came out.

Q. I take it when you ordered this made you weren't under the influence of narcotics at that time. It was a conscious, intentional act on your part, to have it made.

A. Yes, it was.

Q. Was this because your conscience was bothering you, not only for yourself but for the company?

A. My conscience was bothering me. I mean I wanted to express my feelings.

Q. Now I'm going to ask you a question I've asked quite a few people and if you don't want to answer it, why, fine. I'd like to have just a straight answer without trying to please me or anything else. This incident occurred with many people knowing at least generally what happened in My Lai. Now no one man can see everything, because he couldn't see very far. But it seems clear that most soldiers who went in there knew that there were many people killed who didn't have to be killed, or probably should not have been killed.

A. Yes.

Q. And almost no one said anything about it. Apparently there wasn't too much discussion, one soldier with another soldier. Question one, do you know why the soldiers didn't discuss it too much or, second, why they didn't report it?

A. I guess because they thought like I did, it would never have gotten anywhere because, you know, I mean, there was always people to stop it. I mean if I was to go to tell somebody higher than me it would stop right there.

Q. That's the way you felt?

A. Well, that's the way these things happened.

Q. You don't know that it would have stopped, but you feel that it would have stopped, is that right?

A. Well, I would have never been able to tell anyone.

Q. Why not?

A. Why not? Well--

Q. (Interposing) Because you couldn't bring yourself to do it or--

A. (Interposing) I didn't know how to go about it.

Q. Did you ever hear of the IG?

A. Yes, but I don't know anything about the IG.

Q. Did any of the men of the company say, well how could we get someone to know about this, how can we report this, or get somebody to come down here and really do something about it?

A. No, I guess most people thought it was right.

Q. Had you ever been on a combat assault before this day?

A. Combat assault I have, yes.

Q. Before 16 March?

A. Yes. But that was the first search and destroy mission.

Q. Well, you'd gone out in the field and a few of you had been in booby traps and mines and been sniped at, but had

you ever gone into a place where you expected to run smack up against an enemy in a fortified position?

A. No.

Q. When you were attacking the village?

A. No.

Q. You had no experience to draw on?

A. No, I've never--I mean by the time we got there, in my mind there was--it was it. We either went in and didn't make it out or we made it out. And in my mind the whole place was covered with some regiment.

Q. Who told you that?

A. Well, an order was given that--I don't know who it was, but I don't know how it got through the company, but by the time we got there--I mean in the company's mind, everybody was expecting to really be hit hard.

Q. Before you went in did you expect that the company would destroy anything and everything it saw, regardless of whether it was little kids, women, old men, soldiers, cows?

A. No.

Q. In your opinion, how do you think this happened once the company got in there. You know or you think you're going to run into a pretty strong enemy, maybe you're going to be outnumbered. As it turns out there is hardly anybody there to shoot at. A few VC maybe.

A. Well, when they first got in, we were told, you know, that there wouldn't be anybody there but this 48th--whichever regiment it was.

Q. 48th VC battalion?

A. Right.

Q. Local force battalion?

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A. Well, we were told that that was all that was going to be there. It was search and destroy, it was a hot LZ, and when we first got there we got snipered, we unloaded, we opened up, and moved right away.

Q. Okay.

A. Assault.

Q. But then what you find are a lot of little kids and some women, unarmed. What would make the men of Company C all of a sudden kill these people.

A. Well, I don't think they killed them on purpose. I mean instinct when they first jumped off. You see a person running and there was, I guess, like me, it was either kill or be killed. That was the first thought, when I think everybody got off.

Q. Okay, but they went through the whole village and kept doing this, not the first few minutes, but it happened for an hour and a half, where people were taken down the road and--

A. (Interposing) Well, some people they just, I guess they just want--I don't know. I don't know what the other people were saying, I mean after when we first landed, but in my mind I felt, I realized right then that there was nobody there. When we first got there I thought there was a lot, that's why I opened up and that's why I think everybody else opened up. But after pushing through I don't know, from then on I don't know what happened.

Q. We realize that by the time the 3d Platoon came through that both the 1st and 2d Platoons had already gone through and the 3d Platoon saw more dead people probably than live people. They were already killed, most of them. The 3d Platoon contributed to some of them too. Was there much talking about this among the soldiers afterward, any of the men in the company.

A. No, I wouldn't say.

Q. Do you think there was sort of a general feeling among the men, that they were ashamed?

A. They finally realized that after it was finally all over, how ignorant it was.

Q. Did Captain MEDINA or anybody else tell you, either you personally or the company as a group that there was going to be some investigation made?

A. No.

Q. Did you ever hear that there was going to be an investigation made?

A. I did not.

Q. Did anybody ever tell you that you should not discuss this with anyone?

A. No, not at the time.

Q. I mean within a week or a few days or before you ever left the field?

A. No.

Q. Before you left or were airlifted back to LZ Dottie, did your platoon sergeant, or your platoon leader, or a squad leader say, don't talk about what happened here?

A. No.

Q. Now in December 1969, you wore your arm band. At that point for some reason you were ready to make, shall I say a public declaration, or statement, or stand up and be counted as to how you felt about My Lai. Apparently you had not done this before?

A. Right.

Q. I wonder if you'd be willing to tell me, you don't have to, but if you'd be willing to tell me what had brought you to this point, where now you felt that you had to say something or speak out.

A. Will you say that again?

Q. From March of 1968 until December of 1969, you didn't make any official report to anybody, or you didn't go to a

chaplain as far as I know. You didn't really discuss with anybody outside Company C what had happened at My Lai. Then suddenly in December 1969, you have an arm band on and you say publically that you were ashamed whereas before you hadn't?

A. I guess it was like a dream back in my mind, it was a dream and it wouldn't come true, that it would never come out in the open. And finally when it did and I realized it, I wanted to show, express my feelings toward it. I wanted to express what I knew. And I knew that it was wrong, but I didn't know really how to come about telling anybody. I was scared, you know, of getting in some kind of trouble.

Q. Weren't you more likely to get in trouble by coming out and doing what you did than by keeping quiet. I'm not criticizing what you did, it took some guts to have an arm band like that made, and put it on, and walk around and to connect yourself with that again. It was easier in one way to just keep quiet and say nothing about it, but you didn't. You finally were ready to stand up and be counted and I just wondered what it was.

A. Well, because I guess I wasn't the only one that finally expressed it. I just didn't want to be the only one. Finally when I realized that somebody had gone to all the trouble and everything, and knew what to do, I just wanted to express my feelings.

Q. Now you said you'd had no training that you can recall with respect to the treatment of captured civilians or enemy soldiers, and yet you said you knew this was wrong. What was it that you knew was wrong? Shoot civilians?

A. No, I knew that was wrong.

Q. How did you know that?

A. Common sense.

Q. Without having to be given any instruction.

A. In a persons mind, I mean, you don't walk out on the street nowadays and just shoot somebody.

Q. Now, we've had many people come through here and

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say that they were ordered to kill everything in the village, so they thought it was right. Do you recall being ordered to kill anything that moved in the village?

A. Yes.

Q. Do you think that was a valid order or--

A. (Interposing) I knew it was wrong and I resisted.

Q. Do you think other men in the company knew it?

A. Yes. Some realized, some take it for granted, it was an order and they just carried it out as an order. Plus I guess they did it for hate and all this that they had built up in them. They figured now that they have a ticket to killing somebody, I guess they took advantage of it.

Q. I think you're probably right on that. Others maybe did it reluctantly.

A. Just for the fact of killing somebody that was-- that they knew--

Q. (Interposing) And then some refused to kill at all.

A. They did.

Q. We got them across the board. All the way from, I think some of them that--this is the greatest day ever, they had a chance to do something they never had a chance to do before, to those whose conscience bothered them very much at the time. But nobody, nobody really ever came forward afterwards, from the company. This is what happened. A whole company of men, some of whom thought this was a terrible thing, and it took somebody from outside the company to gather his information together and this is what amazes me. A hundred and some men keep quiet about it. I thought maybe you could throw a little light on it?

A. Well, I guess nobody ever, you know, after that, I guess they just wanted to forget it. I guess they realized too. I guess they had it in their own mind, in their own body what a damn stupid thing it was that they pulled by shooting people. And I guess they didn't--just didn't want to do

it, because they knew it was wrong too, and they realized what a big mistake it is. And that's why it really didn't come out in little squad discussions and stuff like that. That's why it never came out. I guess because everybody else knew they did something wrong.

Q. Do you think there really wasn't much talk about this afterwards?

A. Not that I can remember. I don't even--there wasn't a discussion. I mean it was dumb, I guess people--

Q. (Interposing) Just wanted to forget about it, push it back, wish it had never happened, that we're trying to forget it.

A. I guess they felt it happened, it's over with and that's it.

Q. Now before we're done, I'd like to give you an opportunity to say anything or add anything at all that you may want to say or you think would contribute to our investigation. Anything I may have missed, anything at all.

A. Well, I can't think of anything that you missed. I can say I'm glad that an investigation is held. I'm glad that it came out. Somebody, somewhere gave a wrong order and I don't-- I really can't--really I can't even--I don't know--

Q. (Interposing) Do you personally feel better inside having had an opportunity to talk about this last December and since then, than you did before, is it a feeling of relief to you?

A. Yes, it's a relief in my body and mind, both.

Q. Now, I mentioned before today, you seemed to remember so little whereas even a month ago you remembered more. Maybe you were a victim of this same thing, trying to forget. Do you remember anymore of the details now that you want to tell me about before we're done, than you did when Mr. WEST went through it with you?

A. What do you mean by details?

Q. Well, you mentioned at one time, that he was putting things in your mind. He was doing this because you couldn't remember anything, and he mentioned, that you would go down here and you'd say, "Oh, yes, I remember that,"--the

next thing, "No, I don't remember that." In other words we were having to tell you, did you do this and then you said, yes or no.

A. Right.

Q. More than you relating to us what happened. I wonder if you can in your words relate--I don't care whether it's in sequence or not, but anything more than we've talked about so far, anything. Can you relate anything more about what happened on that day, in your own words?

A. Well, if you want--what you're trying to say is you want me to tell you in my exact words what I seen from the time we landed and pushed on through?

Q. If you want to. If you don't want to, well, fine. But the last thing we want to do is testify for you, by putting words in your mouth. But that in essence is what we've done today, a lot of the time, not intentionally, but we tried to help you along. Or do you feel that we've covered just about everything?

A. Yeah, I'm thinking and I can't really think of anything that I haven't told you, that I've already said, I mean that--

Q. (Interposing) Did you have in your mind at any time the feeling that the Army was intentionally trying to cover this up, or white wash it.

A. Well, I was wondering why I could never find answers to why it happened, lets put it that way. I could never find a reason why this thing went off like it did.

Q. Did you ever ask anybody?

A. No, I didn't know who to ask, who to turn to.

Q. Did you think that somebody was trying to cover something up?

A. What was that?

Q. Did you think that the Army, maybe brigade, or battalion or division, or Task Force Barker was trying to hide what happened?

A. That's what I didn't know. I thought they thought it was right. In my mind I knew it was wrong.

Q. You might have thought that maybe they didn't know everything that happened.

A. They didn't.

Q. And how could they do anything unless somebody came forward and--

A. (Interposing) Well, it was too late to do anything.

Q. Here it is 20 months afterwards, it's not too late yet, is it?

A. I mean you can't bring dead bodies back.

Q. You can't bring the bodies back, but you can inquire, at least find out what happened and try to keep it from happening again.

A. Well, I mean, it's being investigated now by people with degrees, big degrees in colleges.

Q. But it would have been so much more simple if we could have done it at the time. Right there, somebody on the spot who could have talked to you, or anybody else when it happened. And we've had so many people come in, who said, "Why didn't they investigate." And we say, "What did you do about it? Did you tell somebody, 'well no, I didn't.'"

A. I guess they didn't know, just like me. I didn't know who to turn to.

Q. Do you have anything else you want to say?

A. No. Just that I guess I don't have the smarts, I didn't think I had the smarts to start pulling the strings for an investigation. I knew it was wrong, but that's it. In my mind I knew it was wrong, I just kept it to myself.

Q. Well, you're still a soldier, you're still in the Army, and I can assure you that the Army is and was interested in what happened. I think if one soldier had come forward

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honestly and sincerely and gone to, lets say, the inspector general or somebody, this would have been known. There are places a soldier can go and he can stand up and make his voice heard in something like this. I don't expect that you'll be involved in something like this again.

A. I don't think so.

Q. I hope you know there is a place to go, there is a way to make information known. And you don't have to fear being punished for making a report like that.

A. I know right now, but now it's too late. I wish I could have done something ahead of time.

Q. Well, if you think of anything further you feel might help us, I wish you'd let us know. You can either put it in writing or even a telephone call. And thank you very much for coming. The hearing will be recessed.

(The hearing recessed at 1551 hours, 31 January 1970.)

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SUMMARY OF TESTIMONY

WITNESS: WEST, Charles A.

DATE OF TESTIMONY: 27 January 1970

PLACE OF TESTIMONY: Pentagon

WITNESS SUSPECTED OF: Murder, assault with intent to commit murder, indecent assault, arson, rape, and destruction of property.

COUNSEL: Civilian counsel who was not present at witness' request.

DUTY ASSIGNMENT ON 16 MARCH 1968: Third Squad Leader, Third Platoon, C/1/20.

1. PRIOR TRAINING IN THE RULES OF ENGAGEMENT.

While the witness had been told in basic training that he did not have to obey an illegal order, he was never told what an illegal order was (pg. 29). He was taught in Hawaii that disobedience to an order in combat meant a court-martial (pg. 29). This confused him because he did not understand how one could be liable to court-martial if he obeyed an order and also liable to court-martial if he did not obey it (pg. 29). He opined that had the troops been given examples of what an illegal order was and had been informed of the penalties for infraction, this incident never would have occurred (pg. 24).

2. PREOPERATIONAL PLANS AND BRIEFINGS.

Captain MEDINA's briefing was held between 1700 and 1800 on 15 March at LZ Dottie (pg. 5). MEDINA told the men that they were going into Pinkville, specifically My Lai (4), to fight the 98th NVA Regiment and the 48th VC Battalion (pg. 5). MEDINA told them that the village was heavily fortified and to expect a heavy fight (pgs. 5, 7). He said they would be supported by artillery and gunships and that B/4/3 would be with them (pgs. 5, 6). MEDINA said there would be no boobytraps and that this was a chance to meet the enemy head on (pg. 7). He declared that this would

(WEST)

be an opportunity to get even with the VC for all the men C Company had lost (pg. 7). MEDINA stated that they were to leave nothing walking, crawling, or growing and they were to destroy everything they found in Pinkville (pg.5). The witness did not understand this to mean that they should kill everyone they found in My Lai, but some of the men asked MEDINA about the women and children (pg. 6). MEDINA replied that everyone there would be enemy (pg. 6). The majority of the men interpreted MEDINA's order to mean that they were to "wipe out everything regardless of what they ran into" (pgs. 6, 7). MEDINA never indicated that these orders came from higher up (pg. 6). However, the witness felt that the order must have come from higher authority otherwise MEDINA would not have given a five paragraph field order (pg. 27). Moreover, the witness doubted that they would have had the support elements they had if the order did not come from above (pg. 27).

3. ASSAULT ON MY LAI.

a. Entry into the village.

WEST arrived in the second lift (pg. 7). They landed in a rice paddy west of the village where they remained awaiting orders until after the 1st and 2d platoons moved in (pg. 8). As the 1st and 2d platoons moved 100 feet into the village there was shooting and the witness thought CALLEY reported receiving sniper fire (pg. 9). WEST overheard MEDINA tell CALLEY to ~~proceed cautiously~~ (pg. 9). The witness noticed a number of fires as the first and second platoons moved forward (pg. 9). When the third platoon went into the village it received no fire (pg. 9). They proceeded along a trail in the center of the village (pg. 9). WEST's platoon had the duty of protecting the headquarters element as well as destroying hootches, crops, and livestock (pg. 10).

b. WEST's squad kills a group of Vietnamese.

The first live group of people his squad saw was in the south central part of the hamlet (pg. 10). This group was approximately 80 meters north of the point where the main trail leaves the southern edge of My Lai (pg. 15). Prior to this WEST had seen a lot of dead people (pg. 11). The group he saw was composed of women and children and was lined up along the trail (pg. 11). The photographer, HAEBERLE, was behind WEST's men at this time (pg. 11). One of the men asked what they were going to do with these

people to which WEST replied that he did not know (pg. 11). A soldier pulled loose the blouse of one of the women and HAEBERLE took a picture of this (pg. 11). WEST turned to radio Lieutenant LACROSS thinking that the mission might be called off because they had not run into any opposition (pg. 11). At this point someone opened fire on the women and children, and, as WEST turned back, he saw most of them lying in the path (pg. 11). One of his men asked, "What are we going to do with them now?" (pg. 11). WEST said, "Well, the order's to kill them anyway. Might as well go ahead and kill them now" (pg. 11). Other than himself, NERIA, SMITH, and one other joined in killing of the Vietnamese (pg. 12). WEST did not know if PFC WILLIAMS fired his M-60 at the group (pg. 11). M-16's were used (pg. 11). At the time of this incident the following squad members were present: DUSTIN, WILLIAMS, NERIA, SMITH, MCDONALD, GLIMPSE, and EMERSON (pg. 18). HAEBERLE also observed this (pg. 10).

c. Movement of group of people into PW center.

After this occurrence they came upon a group of 10 to 20 people on a trail close to the outskirts of My Lai near where the main trail leaves the village (pg. 12). When these persons were gathered up DUSTIN said, "What are we going to do? I'm not going to kill the people; I'm not going to shoot 'em like that" (pg. 13). WEST suggested that they take these persons to a PW center where the command group could kill them if it wanted them dead (pg. 13). WEST discovered two GIs, whom he believed to be from the first platoon, guarding other prisoners (pg. 13). The word was passed from man to man not to kill the people, but to bring them instead to the PW center (pg. 13). He did not recall an order to stop the killing (pg. 22). All he heard was this word passed among the men to stop shooting and take prisoners to the PW site (pg. 23).

d. The capture of Vietnamese attempting to escape.

When they left the group of people at the PW center, LACROSS ordered WEST's squad to go back into the village via a certain trail (pg. 13). Prior to reaching this trail they noticed 15 to 20 people running across a field 200 to 500 meters from the squad (pg. 13). The witness informed LACROSS of this fact and told LACROSS that he believed military-age males were included in the group (pg. 13). WEST felt that by shooting at these people he could pin them

down and capture them before they had a chance to reach the subhamlet southeast of My Lai (4) (pg. 14). LACROSS approved this plan, and thus WEST, NERIA, DUSTIN, EMERSON, and MCDONALD moved out in pursuit of this group which they caught (pg. 14). It contained five military-age males (pg. 14). In chasing these groups they did not reach the hootches in the subhamlet (pg. 15). These persons were taken to the PW site (pg. 14).

e. Further events in My Lai (4).

As the squad moved back to the village, LACROSS ordered them to set up security on its southeastern edge (pg. 15). They went to the designated area, set up in a rice paddy, and stayed there the rest of the afternoon awaiting orders (pgs. 15, 18). He did not see a ditch filled with bodies that day. However, at one point he observed Vietnamese standing in a ditch guarded by GI's (pg. 15). When he passed the ditch later he was not close enough to see if it had any bodies in it (pg. 15). During the day he observed that the platoons were all mingled together in the village and the men seemed to be moving about on their own (pg. 26). He saw between 50 to 150 bodies in the village that day (pg. 25).

f. Events at the laager site.

As they moved east toward the graveyard his squad went through a burning hamlet in which there were dead bodies and dead livestock (pg. 18). His squad did no more searching and destroying (pg. 18). At the laager site he observed ARVN personnel interrogating suspects about 25 to 35 meters from his position (pg. 19). He asked Sergeant PHU what was being said and was told that the suspects were being informed that if they did not reveal the whereabouts of the 98th NVA Regiment they would be killed (pg.19). One man was placed in a hole six to eight feet deep and 50 meters long and shot three times (pg. 19). In shooting a second man a round went wild and nearly hit a GI (pg. 19). After 11 to 12 suspects had been killed one of the remaining prisoners stated that they had been there the night before and had moved to the South China Sea (pg. 20). A helicopter was called in to remove the rest of the suspects (pg. 20). The witness heard about a finger being cut off a prisoner, but did not see it (pg. 20).

g. Movements on the 17th and 18th.

The next morning the company moved rapidly to effect a capture before the enemy reached the South China Sea (pg. 20). Between 1300 and 1330 they reached a smoking hamlet in which they picked up three military-age males and two women (pg. 21). The company did not burn any hamlets because the only one they saw was already burning (pg. 22). The witness saw MEDINA interrogate one of the prisoners by firing progressively lower shots over the man's head (pg. 21). MEDINA did this after his efforts to make the man talk by use of playing Russian roulette with his .38 revolver failed (pg. 21). PHU also fired some shots over the man's head (pg. 21). Finally, the man told them that he was an area commander for the 48th VC Battalion (pg. 21). The witness thought MEDINA had a picture taken of himself drinking from a coconut while holding a machete under the throat of a VC suspect (pg. 21). They moved back two clicks to set up for the night and they were picked up on the 18th (pg. 22).

4. INQUIRIES AFTER THE ASSAULT.

They were met at LZ Dottie by Colonel HENDERSON who questioned BERNHARDT and some others (pg. 23). HENDERSON told the men that they should not be proud of what had transpired (pg. 23). Lieutenant Colonel BEERS flew in and spoke to MEDINA at the company CP (pg. 23). Although the witness did not hear what was said, PAUL told WEST that BEERS informed MEDINA he was ashamed that C Company was part of 1/20. BEERS also made accusations about My Lai (pg. 23). WEST did not recall MEDINA saying anything about an investigation (pg. 24). He was never told to keep quiet about the incident, and he never spoke to an investigating officer (pgs. 24, 25). The only person who was told not to talk was BERNHARDT who had threatened to write his congressman (pg. 25). MEDINA told BERNHARDT not to write because there was an investigation going on (pg. 25). MCDONALD also planned to write his congressman because he thought the incident had not been investigated properly (pg. 27). The witness thought the presence of a photographer on the mission made it impossible for higher authorities not to know about the incident (pg. 27). He was surprised to learn that November of 1969 was the first time anyone had heard of it (pg. 26).

5. OTHER INFORMATION.

a. Presence of BARKER.

The witness saw LTC BARKER during the operation in his command and control helicopter over the southeast corner of the village, sometimes no higher than treetop level (pg. 24).

b. WEST's opinion on the reasons for the incident.

The witness opined that MEDINA's order should have spelled out what to do with civilians encountered in the village (pg. 25). Furthermore, there was insufficient leadership once the company moved into My Lai (pg. 25).

c. Miscellaneous.

(1) WEST did not see BEERS in the field during the operation (pg. 23).

(2) He heard something about B/4/3 wiping out a village on the coast on the 18th (pg. 27).

(3) He did not know if the men used marijuana on the mission (pg. 28).

EXHIBITS

EXHIBIT NUMBER	DESCRIPTION	NOTES	PAGES
P-1	Aerial photo of My Lai	Witness orientated on map.	7
P-40	Miscellaneous Scene	Group of people witness had shot.	12

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(The hearing was reconvened at 1210 hours,
27 January 1970.)

MR WEST: The hearing came to order.

RCDR: The following persons are present: MR WEST,
MR WALSH, COL MILLER, COL FRANKLIN, MAJ ZYCHOWSKI, and MAJ COOP.

The next witness is Mr. Charles A. WEST.

(MR WEST was called as a witness, was sworn, and
testified as follows:)

Will you state your full name, your occupation and
address.

A. Charles Anthony WEST; occupation, mechanical
engineer, Sears and Roebuck; home address, 4844 South State
Street, Chicago, Illinois.

MR WEST: Mr. WEST, before we get into any questions,
have you seen the Exhibit M-57 which contains information
about the nature and purpose of our inquiry?

A. Yes, sir, I have.

Q. Do you have any questions about anything?

A. No, sir, I completely understand them.

Q. Have you received an order from the military
judge in the cases of the United States v. Calley or the
United States v. Mitchell?

A. I received an order in the case of the United
States v. Calley.

Q. Before we get into any questions, Colonel MILLER
will advise you further concerning that and also as to your
testimonial rights.

COL MILLER: In Exhibit M-57 you have perhaps read that we have obtained and reviewed statements made by witnesses. Some of those statements were made in other investigations into this My Lai incident. We've also reviewed the statements of the people who have testified before this hearing. I note that on 6 December of this year you made a statement to the CID. We have a copy of that statement and have reviewed it.

I also note that at that time you were advised concerning your testimonial rights, your right to counsel, and you were informed of certain offenses of which you were suspected. Now before we ask you any questions today, I want to again advise you of your testimonial rights and your right to counsel. I'd like to have you listen very carefully, and if you have any questions please feel free to ask them before we proceed.

Based on the information we have read and the statements we have obtained, we have cause to suspect you of the offenses of murder, assault with intent to commit murder, and indecent assault. I note that you were previously advised of other offenses such as arson, rape, and destruction of property.

With respect to these offenses of which you are suspected, you have a number of rights.

First of all, you have the right to remain silent, to make no statement whatsoever. Any statement you do make may be used as evidence against you in a criminal trial. Many of these offenses which I mentioned are violations of the Uniform Code of Military Justice and maybe violations of the laws of war.

You have the right to consult with counsel. By counsel, I mean a qualified lawyer. You can have this counsel present with you at this hearing if you wish. Now this counsel may be civilian counsel that you employ at your own expense, or if you wish, a military counsel would be appointed to advise you. If you wish you could have both a civilian counsel whom you employ and a military counsel who would be provided if you wish to have one.

On the other hand you have the right to proceed without counsel or to not make a statement at all. If you do decide to answer questions today and to proceed without

having any counsel, you may stop answering questions at any time or you may refuse to answer any particular question. You also have the right to request the appointment of military counsel at any time, or the right to stop and seek civilian counsel. All of these rights.

In short, it's up to you whether you wish to make any statement today concerning these offenses of which you are suspected, whether you wish to have counsel here, or whether you wish to not have counsel here. If you proceed without counsel, it's up to you whether you wish to continue answering questions either with or without counsel, or to stop and ask that counsel be made available. Do you understand what I've gone through so far?

A. Yes, sir, I would say.

Q. All right. Now I have one more question. Do you have counsel, civilian counsel, already that you wish to have present today?

A. I have civilian counsel, but I do not wish to have him present.

Q. All right. Do you wish to have military counsel?

A. No, I don't believe that will be necessary.

Q. And my next question: are you willing to answer questions or make a statement today?

A. Yes.

Q. Mr. WEST mentioned previously that you were subject to the order of the military judge in the general court-martial case of United States v. Calley. Your testimony before this inquiry is within the limits of that order. In other words, you are not violating that order by appearing here and testifying. The fact that you do testify here does not change the effect of that order. It will still apply as it did before.

Now we, of course, request that you do not discuss your testimony here except as you are required to do before a competent judicial, legislative, or administra-

tive tribunal or body. A court-martial would be an example of the judicial body. This hearing is an administrative body. The House Armed Services Committee would be an example of a legislative body. Do you have any questions at all about what I have told you so far?

A. No, I think I clearly understand the way you read it and I feel that if there is a question that arises that I cannot answer then I will request legal advice.

Q. You have that right at any time or the right to refuse to answer a question if you wish or to stop the questions.

MR WEST: Mr. WEST, for the record, were you a member of the United States Army on 16 March 1968?

A. Yes, sir.

Q. When were you discharged?

A. I was discharged, I think it was 26 November 1968.

Q. On 16 March 1968, what was your grade, your duty assignment, and your outfit?

A. On 16 March, my grade was SP4; I was with C/1/20 11th Infantry Brigade under the direction of the Americal Division. My position at that time was acting sergeant, squad leader.

Q. What squad and what platoon?

A. I had the third squad, 3d Platoon.

Q. Who was your platoon leader and who was your platoon sergeant?

A. My platoon leader at that time was Lieutenant Jeffrey LACROSS, and my platoon sergeant at that time was Staff Sergeant Manuel LOPEZ.

Q. Do you remember names of any other men of your squad?

A. Yes, I remember most of the members I had in my squad. At that time I had, my team leader, my two team leaders were SP4 EMERSON, SP4 Raymond MCDONALD. Then I had a PFC NERIA and a PFC WILLIAMS. There was a PFC POLSTON, PENDLETON, and those are all I can remember that was in the squad at that time.

Q. How about DUSTIN and GLIMPSE?

A. Yes, both of those were in the squad.

Q. With reference to the assault that took place against My Lai (4) on 16 March 1968. Can you tell us what Captain MEDINA told Charlie Company, the afternoon of the 15th, while you were at Landing Zone Dottie?

A. On the 15 March, at LZ Dottie we had an orientation. This orientation, I believe it was right after we had had chow, between the hours of about 1700 and 1800 in the evening, and Captain MEDINA informed us that we did have paragraph orders. We found that we would be getting a chance to go within Pinkville, due to the fact that earlier we had been in the area of Pinkville and we had been sniped at along the way and we had never received the authority to actually go in Pinkville itself. Now, Pinkville at that time was known to us as the pink area on the map; I think it was referred to as My Lai (4).

He told us that it was supposed to be heavily fortified with enemy troops from the 98th NVA Regiment and elements from the 48th VC Battalion, and this was the people that had sniped on us during the time that we had been around Pinkville. He told us that we would have support elements, both artillery, gunships and other elements from our Task Force Barker. They would be supporting us as we went into Pinkville and he told us that there was supposed to be an air attack, the morning before we went in. He also stressed to us the importance of our ammo being clean, our weapons being clean, and mostly all the gear we were taking in with us would be highly functional.

And then he made the statement, "That when we went in Pinkville we was to leave nothing walking, crawling, nor growing." He said, "We were to destroy everything that we found in Pinkville."

Q. Did he indicate that this information had come from any higher headquarters?

A. No, he never did indicate to us whether it had come from higher or not. He never told us whether it came from higher.

Q. Did he indicate that B/4/3 was participating in the operation with you?

A. Yes, he told us that B/4/3 and possibly D/3/1 would be with us.

Q. Now, when he said, "There was to be nothing left walking, crawling or growing," did you understand that to mean all the people that you found in My Lai (4) would be killed?

A. At the time that he said it, no. I didn't take it that way because I figured we would run into all the enemy troops once we got there anyway. So I didn't figure this needed explaining, but there were some individuals who asked Captain MEDINA, at that time, what about the women and children that will be there. And he said that, he made the statement, "The only thing that will be in Pinkville is enemy troops." He said, "That the only thing will be there is enemy; everything there is enemy."

Q. Now did you take this to mean there wouldn't be any women and children or that the women and children would be enemy?

A. I took it to mean that everything in the village was enemy.

Q. What was your impression as to how the other men in your squad understood this? In your platoon? Is this the generally accepted understanding or was there disagreement about what he meant?

A. There wasn't any disagreement as far as I knew, due to the fact that no one came to me with any disagreement or asked any questions as far as, "Were we to kill everything in there" because from the way that he had stressed this. Maybe this was under strain or under an environment that we had been through prior to the My Lai incident, but

he explained it in a way that we was to wipe out everything there. I think that the majority of the men took it, this meant everything regardless of what we run into.

Q. Were you expecting a pretty good fight in there?

A. Yes, we had been near Pinkville on two previous occasions. Every time we went there they pinned our whole company down and heavy fire came from the village with automatic and semiautomatic weapon. The 4/3 Infantry had been there and they received some mortar fire or something. So we expected when we went there that we would meet the enemy head on once we got to the village.

Q. I'm not sure whether or not you mentioned this. Did he say anything about Charlie Company having a chance to get even with the VC?

A. Yes, I didn't mention that, but he did say that finally we'll get a chance to get even with the VC in that area, due to the fact that this was the only area that we really ever lost any men. And he said, "Now they won't be using bobby traps. We'll be meeting them head on, there won't be bobby traps that will be injuring our people."

Q. Could you tell us, Mr. WEST, just what happened after the company was lifted into the area by helicopter the next morning?

A. Well, when we was air lifted into Pinkville we was more or less one of the last elements going in. The 1st and 2d Platoon had already been lifted in. Our main function during the time we got to Pinkville was that once we got on the ground, that we was assembling more or less close to the mortar platoon and the command element which included Captain MEDINA at that time.

Q. Let me show you something now, Mr. WEST. In front of you is a blown up vertical aerial photograph Exhibit P-1. It's a vertical photograph. It's taken right from directly above. It shows My Lai (4) in the center and the surrounding area. The scale of this photograph is about 1 inch equals 80 meters. The top of it is north and to your right is east over toward the China Sea. On your left is a 1:25,000 scale map entered in evidence as Exhibit MAP-4 which also shows My Lai (4) here. You notice the little hamlet, a streamline, corres-

ponds to this one on the photograph. You notice the trail, main trail, running south from My Lai (4) joins Highway 521. Here's the same thing on the map. Now your landing zone is to the west of My Lai (4) right in there. Does this look familiar to you?

A. Right, the CID, he had a map similar to this and he explained to me, you know, what was all the locations on the map.

Q. Just looking at the photo there, can you tell us what you saw and what you did there that morning?

A. Well, on this map, we landed up in the rice paddies up in here (indicating). This would be to the west end of the village, right?

Q. Fine.

A. We landed up in this area and we sectioned off. The command was more or less coming up to center here. And then we had--

Q. (Interposing) Who was that?

A. This would be the 3d Platoon and the command group.

Q. Command group?

A. Right. And then I forgot which flank, but on one flank we had the 2d Platoon and the 1st Platoon. Once we were settled in the paddy, we sit there for a while. We was waiting orders, further orders, from Captain MEDINA, you know, when to move and when our command group was going to move. Finally after we had sit there for a while, our lieutenant came back. He had been in a conference with Captain MEDINA and told us to get ready, because we would be moving into the village very shortly.

During this time, we was still in a sitting position, the 1st and 2d Platoons got up and moved out. Because they were moving in a more direct line to the part of the village, and to this part of the village here (indicating).

Q. Moving from west to east?

A. Yes, they was moving from west to east; they was covering the northeast and the southeast corner.

Q. Southwest corner?

A. Southwest corner of the village. And as they was moving in, I guess they had moved 100 feet or so, there was some fire. So, I think it was Lieutenant CALLEY reported back to Captain MEDINA that they had received sniper fire from the village. And Captain MEDINA--I could hear him talk on the--on my platoon leader's radio at that time, because we was sitting about as far as from me to the specialist here. Captain MEDINA told him to engage--I mean, take careful measures. So they got up and moved on into the village and--let's say, I don't know if it was sniper fire or not, because we never did see any--at least not in our section.

Q. You never did draw any fire?

A. No, we went straight up the center and once they made contact we went up to support both flanks. We would be supported from the center and we didn't draw any fire, we wasn't firing when we first got to the edge of the village. So, they moved on into the village, and once we got to this sector of the village here (indicating), and most of this sector down in here, I guess they started searching and destroying, because I seen a whole lot of firing. A whole lot of fires were started and there was a whole lot of firing going on. So, we come up the center, there's a trail here--it don't show up too clearly on the map, and we picked up a trail right in the center of the village up in here somewhere.

Q. What direction was the trail running? To the east, or did it angle off?

A. The trail was angling off, it was running more or less west. I say west, toward the southeast.

Q. West to the southeast?

A. Yes. So my squad, we come up and covered this trail in the underground complexes they had in this area, plus there was some hootches that 1st--I think it was 1st Platoon had missed.

Q. Let's stop there just a minute. What mission was your platoon assigned in the hamlet--3d Platoon?

A. Well, 3d Platoon, we had two functions being there at that time. One function was to protect the headquarters element which we did have rear security set up to protect headquarters. Okay, we had four fire teams to the front. The purpose of those four fire teams was; one fire team set up security positions the other fire team searches and destroy. And this was a fire team designator. One would search and destroy, and one would set up a security force.

The function of that search and destroy, they would search everything that looked like it could be a hiding place in that area. And whatever they came up with they would report it back to the lieutenant. He would say whether it was of military use to our government, or whether it was of value to us, or may be of use to the enemy forces.

Q. What about burning hootches. Wasn't that part of your mission? Burning the hootches as you came across them?

A. Yes. Well, I don't know. The way the order was given we was to destroy everything, so we thought that the hootches would be destroyed also.

Q. How about the livestock and the crops? Was all that to go?

A. Yes, sir.

Q. How about the people you ran across?

A. Well, first we didn't run across any people in the first part of the village. The first people we run across--this trail swings out like that (indicating) and the first people we run across was down in this section up in here.

Q. It was in the south central part of the hamlet?

A. Yes, it was the south central. And these were in the first group of people that we ran into.

Q. Could you tell us about that?

A. Well, we came upon these people. I don't know if they were running from the 1st Platoon or not. But they couldn't have been running from our platoon, because we was the first ones to come across that area, after the 1st Platoon. And these was mostly "mama-sans" and "baby-sans." So they was all lined up on the trail, so when we came up, you know, we was all standing up there looking at 'em and the photographer Ron HAEBERLE, well he was right behind us at that time. So these, one of these GIs asks them, "Say ah, what are we gonna do with them", like that. So I told them I said, "Well I don't know."

So for a while we just stood up there and looked at them and another one of the GI's, well he snatched one of the "mama-sans" blouses loose. And Ron HAEBERLE came up and took the picture and the GI backed up. So I just turned, at first I was getting ready to call Lieutenant LACROSS, you know, and see what he wanted to do, because I figured out we had got to the village and we hadn't run into no resistance. I figured well, maybe they'll call the mission off and they won't kill the people though, because I had already seen a lot of people in the village that were dead already.

So I turned to reach for my RTO's radio and I don't know, one of the GIs opened up on the people. I turned back around and most of them was lying in the path, you know, lying down already so I--this guy said, "What are we going to do with them now," I said, "Well the order's to kill them anyway," I said "Might as well go ahead and kill them now."

Q. What weapons were being used? Was anybody using a machinegun or were these M-16's?

A. No, we didn't have a machinegun with us at that-- I'm not sure. We usually had a machinegun assigned with us. I don't know if we left the machinegun in a sitting position or not, I couldn't say. I know that PFC WILLIAMS was assigned to the machinegun, and he was with me at that time. And I don't know if he had the machinegun or not but I know it was M-16's used.

Q. Is this Franklin WILLIAMS?

A. Yes, it's Franklin WILLIAMS.

Q. Who else was there with you?

A. During that time it was PFC DUSTIN, PFC Franklin WILLIAMS, PFC NERIA, PFC Raymond MCDONALD, PFC GLIMPSE, SP4 EMERSON, and I believe that was it, plus Ron HAEBERLE.

Q. Did everybody participate and get on this group of people?

A. Oh, plus PFC Gerald SMITH. I don't think everybody participated. I think it was probably about four individuals. After the original blast then we turned around. I believe the people that participated then was PFC NERIA, PFC Gerald SMITH, myself and I don't know who the other individual was.

Q. The photograph taken by HAEBERLE you mentioned, is this the one that appeared in Life magazine, in the issue of 5 December 1969?

A. I believe so. I didn't see the magazine then.

Q. I'll show you the color photograph taken by Ron HAEBERLE which has been admitted in evidence as Exhibit P-40. I'll ask you if you recognize that?

A. Yes, this is the group.

Q. That's the group which we've talking about?

A. Right, sir.

Q. You mentioned, I believe, to the CID agent who took your statement, that you had come across some bunches of people that were sent off to a holding area. Do you recall that?

A. Yes, this is after we had come on up the trail-- we had come about on in here; this is right before we came out of the village, because we thought our commander was out here somewhere. And after that incident when we came across another large group of people, I'd say there were from 10 to 20.

Q. You indicate that this was somewhere near the point where the main trail leaves the village?

A. Yes, part of the village that comes right here (indicating) in this rice paddy area here. And after we had gathered up these people, one of the GI's, I believe was PFC DUSTIN said--he actually said: "What are we going to do? I'm not going to kill the people; I'm not going to shoot 'em like that." I said, "Well, what we'll do, we'll take it and go out and find a POW center and we'll take it and make it a temporary POW center, set up there. If the command group wants these people killed, let them kill them themself."

We took 'em out and when we got out there we found that some element from one of the other platoons had thought of the same thing. They had brought some people from the field, and there was two GI's standing, guarding them. So we left the individuals we had there and found out that there were, you know, a lot of people coming out to the village, and they were bringing these people out to the temporary POW thing. You know they were passing the word through the village: "Don't kill nobody; we got a POW center; we're going to bring 'em all to one location." So we came and brought those people there.

Q. Do you know who was guarding those people? You said there were two GI's there.

A. No, I don't remember what GI's, but I believe they were from the 1st Platoon.

Q. Actually this was in the 1st Platoon area. They were supposed to sweep the southern half of My Lai, so you were down in the 1st Platoon area. Okay, go ahead.

A. Once we dropped the people off there, why I came back across Lieutenant LACROSS and he told me that since we had swept that area the rest of the company was sweeping up in here (indicating). The rest of the platoon was more or less sweeping up in here, so he told us to go back around up in here. You see the trail coming on up to here. We were to back up in this trail to go back up to the village.

Q. Let the record show that Mr. WEST is indicating the southeast corner of My Lai (4).

A. Before we got back to that trail to go back in the village, I'd say we seen, I say, about 15 to 20 people running across the field. I'd say they were about from anywhere from 200 to 500 meters away from us. And I had my PR-6 and I called Lieutenant LACROSS, and I told him, I say, "I got some military-age males, I believe." You know they were running across the field.

I say, "We could hit them at point blank from where we are." I said, "But still in all we could catch them before they got to this grass area up in here." I say, "I believe we could catch 'em before they got up there, because I know if we shoot at them they're going to get down."

Q. Let the record show that Mr. WEST is indicating the subhamlet that lies southeast of My Lai (4).

A. So I figured if we keep enough--we could keep on shooting up in there. We could keep those people on the ground long enough for us steadily running, where we could get close enough, you know, that they say they wasn't going to get away so they--they would stop. In which we--we did. Lieutenant LACROSS said it was okay, you know, "Go ahead." So I took myself, PFC NERIA, PFC DUSTIN, PFC EMERSON and PFC Raymond MCDONALD and went in pursuit of those people.

They were off maybe another 100 meters or so and we kept shooting up in there, hollering "dung lai," and finally the individuals, they stopped. All of them got out and we brought them back to this POW site. When we brought them back to the POW site, what we did, we separated them. There was two "mama-sans." I'd say there was possibly five military-age males. There was two guys that I estimated they was between the ages of 11 and 15, so I didn't feel that they was military-age males.

After we got back to the POW site, rather than leaving those individuals in the POW site, we took the military males with us and went back up in this area. We separated the old men, and old women, and the "baby-sans", and everything that was in the POW site, and left them sitting there.

Q. Would you indicate here for us about where this POW site was?

A. POW site as far as I can tell on this map would have been right up in this area here, because we had not come back on around the southwest bend in the trail. So it had to be up in this area here (indicating).

Q. What happened after that?

A. After that we went back, took these POW with us and as we started on back in the village, Lieutenant LACROSS called me and told me to take my squad. We were to set up a security block right up in this area here. I was informed also that the rest of our support element was back up in this area. What we was to do was to sit up here and make sure that any other people came out of the village.

Q. Let the record show that Mr. WEST is indicating the southeastern edge of My Lai (4).

A. We moved up in that area and we set up here by the rice paddy, and we stayed there until we moved that afternoon.

Q. Could you locate for us on the photograph there about where the people shown in Exhibit P-40 were, when you came upon them and where they were killed?

A. As far as I can tell on this map, I believe that the trail comes in and around like this and these people was killed right up in this area here (indicating).

Q. Let the record show that Mr. WEST indicated a point about 80 meters north of the point where the main trail leaves the southern edge of My Lai (4). During the morning, did you see a ditch filled with a lot of people, dead people?

A. I never did see the ditch filled with people. I came across that ditch that I think you made reference to earlier. I did see a lot of people standing up there and GI's were standing up, you know, weapons on them standing by the ditch. We came by the ditch later on and I was not close enough to look off in the ditch.

Q. Mr. WEST, when you chased these people out across the rice paddy toward this little subhamlet that's southeast of My Lai (4), did you go into the trees where there were hootches? Did you go that far in or did you stop before you got there?

A. No, we stopped before we got to the hootches.

Q. Now with reference to that little subhamlet there and the hootches, could you tell us where the ditch was where you saw the GI's standing around the people?

A. In reference to this hamlet here. Okay, at first there was some people. There was a ditch up here somewhere. This is after we went up to this area, after we set up our security block. I believe there was a ditch up here, they had some people there. Back in this area they had a ditch, more or less a ditch, running down by the trail. There was some people back up in the area here. I did see them in a ditch, but there was only about six individuals. They used,, they were called, little air raid tunnels.

Q. Like a bunker?

A. Right, well these were not bunkers. This is more or less like a trail like thing they got running down. They got little holes all up and down it, you know, just as soon as you get hit from the air raid, you jump off in those. They had a little ditch-like thing and there was some people off in here, but this was within the village itself.

Q. Mr. WEST let me indicate something to you. There was a ditch along in here (indicating) and there were a lot of people brought to it and they were shot down. Now when you said, you saw a lot of people standing around and GI's standing with them, could that have been what you saw over here?

A. I don't think so.

Q. I think in some other testimony, that there was another ditch along in here too, but not many people in it.

A. I didn't see the ditch here, because I don't never remember during the whole time we were there, that we ever went in this section.

Q. Note that he is referring to the subhamlet southeast of My Lai (4).

A. Right. And I don't even remember going into this area. I know that the 1st Platoon was supposed to have gone up here, but we didn't go in there.

MAJ ZYCHOWSKI: I wonder if you could describe this ditch for us, Mr. WEST, length, width, depth? This one on the eastern edge of the village.

A. This will be the one here (indicating)?

Q. Right.

A. Well, this is more or less, I guess, what they call a rice paddy drain. This is to keep the water in the rice paddy from coming into the village. This ditch, I would say, it was about, at the most, I would say was about 6 feet long, at least 6 feet in width. And the ditch ran all the way from the trail here, back up in this area up here. This is where our last element was set up.

Q. 200 meters long?

A. Right, I estimate about 200 meters long.

Q. Did you estimate how deep it was.

A. The ditch couldn't have been no more than about 4 feet deep, at the most.

Q. Was it filled with water or was it dry?

A. No, it wasn't filled with water. It might have had some water in it, but it wasn't that much water.

MR WEST: Did you see any bodies in this ditch?

A. Yes, there were some bodies in the ditch, because we set up there. We had set up our security force there after Lieutenant LACROSS told us-- well, we wasn't going back into the village. We set up here, and we set up right out from the ditch. We set up more or less in the rice paddies. I guess this would be considered the southern--east part of the village.

Q. About how many bodies were in the ditch?

A. I'd say about 10 bodies down the whole slope of the ditch.

Q. Would you tell us what your platoon did the rest of the afternoon, the rest of the day?

A. The rest of the afternoon we was, I wouldn't say the whole platoon but my squad, was more or less a sitting position, because we sat there the whole afternoon waiting for further orders, to move.

Q. What happened after you moved?

A. After we moved, I don't know by this map, because actually I don't know which way we went but we went to a graveyard and we set up in that graveyard.

Q. You moved to the east and you met up with B Company?

A. Right, we moved and we met up with B Company. When we moved we was right out from the graveyard, when we met up with them.

Q. Well, on the way, did you go through any more little villages or hamlets? Did you do any more search and destroy operations?

A. We went--I don't know exactly which village it was on the map, but we did go through another hamlet though, because I remember we came to it and the place was burning. So evidently though some of our elements has already been through there. And we did come through that area, we moved through that hamlet before we got to the graveyard. But we didn't do anymore search or destroying ourselves that day.

Q. Did you see any more people killed or see anymore dead bodies?

A. Yes, there was some more dead bodies. There was dead bodies in that hamlet, everything was burning. I checked and all the livestock was dead.

Q. Anything you remember in particular happened that night where you laagered in for the night with B Company?

A. Yes, after we met up with B Company I understand the rest of our support element was, you know,

moving back to the rear or something. So they had us and B Company to assemble in this graveyard and this was to be our bivouac area for the night.

Once we got to that bivouac area or right before we got to the bivouac area they sent in, I guess you would call them, ARVN intelligence. However, I didn't know from which source they came, but I know they were supposed to be an interrogating unit. So they sent these individuals in. Well, during this time we still had--right before we got to the graveyard, we still had our military POW's with us, and we was informed when we got to this site that we turn all POW's over to this interrogation unit. During that time we also had our interpreter with us, a Boy Scout interpreter by the name of Sergeant PHU. More or less he stuck with our platoon unless he was with the command group.

Once we got into the graveyard we sectioned off and started digging in for the night and setting up. We set up what they call a chow area for the night, a place where the helicopter would be landing and dropping off chow. After the chow had come in, then these interrogators, they started interrogating these military POW's. They was talking to them nice. SGT PHU, I say--I can understand some of what they're saying, but I don't understand cause they talk real fast--"Tell me, what are they saying to them?" And he was telling me that these interrogators was telling these Vietnamese suspects that we had, that they knew that they was VC, they had documents saying that they was VC. They wanted to know where the NVA and 98th opposition had gone, and which way did they go, and how long ago did they left. If they didn't give them the information, they were going to kill them.

We were sitting no more than about 25 meters, maybe 35 meters away from the interrogators. They had a large hole, this was I'd say about 50 meters long and maybe 6 to 8 feet deep. They were standing by it. The first guy, he didn't talk so they threw him off in the hole and they shot him. The interrogator shot him, I think, about three times. The next time with the next guy he didn't talk and they almost shot a GI, because the guy aimed too high and one of the bullets didn't hit in the hole. It hit in the area over where we were sitting. I told PHU, you know, to tell those dumb interrogators to you know, to watch where they were shooting. So he hollered up to them and, you know, the interrogator

said, you know, okay he'd take care of that. So they went on interrogating these people. Evidently the first group of people wasn't going to talk, because they must have killed eight or ten of them. And finally about I think the 11th or 12th one, well, he talked and said: "They had been there and that they left the night before. They had moved out toward the South China Sea." And I think for the remaining individuals, they called the helicopter and sent them back to the rear on the helicopter.

Q. Okay. Did you see anybody cut a finger off one of the prisoners?

A. No, I didn't see this. A GI told me later that one of the interrogators supposedly had cut this prisoner's finger off.

Q. You didn't see it?

A. No.

Q. Mr. WEST, do you remember what the company did the next 2 days, the 17th and 18th?

A. Yes, sir. On the 17th we all thought we would have been going in that morning, because we figured okay, they were going to have us to sit up there that night, and then from what we was told, we would be evac'd out the next morning. Sometime during the night, well Captain MEDINA was in contact with the rear or something. They told him well the enemy was on the move toward the South China Sea and that the other element we had would be returning to the rear. That C Company would follow, pursue the enemy toward the South China Sea.

The next morning when we got up we had an orientation, it was an officers orientation. The officers came back and they set down and told us what had happened, you know, that we wasn't goin' back in. That we were going to follow the enemy and try and catch up with them before they got to the South China Sea, which we did. We walked real hard that day, because we must have covered anywhere from 12 to 15 clicks because that was about that far, out to the sea. And I'd say about, I guess it was around about 1300, 1330 that afternoon, we finally run into what

seemed like it had been a hamlet before. I don't know who had destroyed it, but the place was, you know, it was smoking too. Somebody had set fire to it. We did find three military-aged males there and two military-aged females, with this. Right off, everybody said, okay, this are VC and these are NVA or VC nurses. So we took them with us and on the way on out the China Sea we picked up another individual. When we got right on the China Sea, we was told that we was to relax and set up a security block. I was assuming we was still protection for the command group, because we was right there with the command group.

Once we got there, first the interpreter we had, well he started questioning, you know, these individuals, and they was beating on the individuals. The individuals wasn't giving enough information then and I think one of the younger guys, he said, that this older guy that we had captured that he was some officer for the 48th VC Regiment. They started mainly--we tied up the other three, plus the nurses, and they started, you know, working on this guy, you know, trying to get him to talk.

At first, you know, he wasn't saying anything so Captain MEDINA took it--he had a .38 that he carried around with him. He took his .38 and took five shells out of it and left one shell in it. He more or less was playin' Russian roulette with the guy, you know, but I don't guess this scared the guy too much, because he still didn't say anything. So they posted him up against a tree. And an interpreter, Sergeant PHU, and Captain MEDINA were more or less betting who would get the closest to hitting him without hitting him. Sergeant PHU fired some shots and then Captain MEDINA fired some shots. Finally the guy did talk and say he was an area commander for the 48th VC battalion.

If I'm not mistaken, I think that Captain MEDINA took one of the prisoners and, you know, somebody took a picture of Captain MEDINA with a coconut in his hand, drinking coconut juice, and he had this machette under one of the VC suspects throats, and they took the picture and then we stayed there. We didn't stay there that night, because Captain MEDINA figured it would be a dangerous position in case the enemy decided to attack.

Because we didn't have nowhere that we could take up no protective position I mean. They said we move back about 2 clicks and set up there for the night. So that evening we moved back 2 clicks to our graveyard and we set up there and we stayed there that night. And the next morning--

Q. (Interposing) Do you remember who took the photograph of Captain MEDINA?

A. I believe it was one of Captain MEDINA's RTO's. I know it wasn't HAEBERLE, because HAEBERLE and them had left that evening, gone back that afternoon.

Q. Could it have been WIDMER?

A. I'm not sure. It could have been WIDMER. It was either WIDMER or MURRAY.

Q. Do you know John PAUL?

A. Yes. I don't think PAUL took the pictures.

Q. Go ahead.

A. So that next morning, I don't remember too much. All I know is that we walked back out across the same field we had come to and Captain MEDINA had told us that we were going to be evac'd that day. We walked back, we just walked back awhile and after that we set up our position and finally he told us to get into our flight pattern, that we were being picked up.

Q. Now during these 2 days, the 17th and 18th, did the company burn any hamlets as you moved along?

A. No, we didn't burn any hamlets, due to the fact that the only hamlet that we really came across that was of any size was the hamlet in which we got the VC suspects and the hamlet was already burning.

Q. Going back a little bit, back to My Lai (4), on the first day. Do you remember hearing any orders to stop shooting, stop killing or something like that?

A. No. I don't remember hearing any such orders.

About as far as I know of any orders, as far as anybody saying to stop shooting, there was the own individual men. They was saying, you know, take, we ain't shooting no more, you know, take the peoples out to the POW's site.

Q. Okay. When you were lifted back out, you went to Landing Zone Dottie, I believe?

A. Yes.

Q. Were you met by anybody there, when your group got off the helicopter? Were you met by an officer?

A. Yes, once we got back there to LZ Dottie, everybody was kind of exhausted so we all, you know, just sit there on the landing zone. So right after we got there, well, first, Colonel HENDERSON he flew in and he was asking questions of some of the GI's. I believe he questioned PFC BERNHARDT at the time, and some more individuals. He said, "That there would be an investigation," and that he had told the men, you know, "He didn't feel they should be proud of what they did, because there wasn't nothing to be proud of," you know. After that he got in his chopper and flew back out a little later on.

Q. It was Colonel HENDERSON?

A. Yes, Colonel HENDERSON. A little later on Colonel HENDERSON had left I think it was Colonel BEERS, he flew in, and I didn't hear too much of what he was saying. I know he went up to the company CP and he was pointing this thing at Captain MEDINA a whole lot, you know. I had to ask some of the guys later, you know, that was up here, what did he say. I think it was PAUL who told me that Colonel BEERS had told Captain MEDINA that he was ashamed, you know, that Charlie Company was part of the 1/20 Infantry, you know, and a whole lot of accusations about My Lai.

Q. Had you seen Colonel BEERS out in the field?

A. No, I had seen during the incident at My Lai-- I had seen a whole lot of command helicopters flying around but I couldn't identify whose chopper, you know, it was.

Only helicopter I could identify at that time was Colonel BARKER. But I know there was more command ships there, other than his ship.

Q. Where were you in the village when you saw Colonel BARKER's helicopter?

A. Well, first time we seen Colonel BARKER's helicopter we was up in this area here (indicating), and he was flying over.

Q. Generally the west central section of the hamlet?

A. Right, sir. Another time when we seen him, we was out in this area, this was after we had set up a temporary protective force out here.

Q. Along the southeast corner of the hamlet. How high up was he?

A. I couldn't say, I say, well, they was elevating.

Q. Was it at treetop?

A. Well, at some time they was no more than treetop, it seemed like at times they was coming down. I'm sure at the height they were they could see within the village itself.

Q. How did you know this was Colonel BARKER's helicopter?

A. Well, first of all I could see Colonel BARKER sitting in the helicopter and second of all, I knew his command ship. I knew the number at that time that was on the command ship.

Q. Do you remember Captain MEDINA calling the company together and telling them that there was going to be an investigation of what happened at My Lai (4)?

A. I don't remember that orientation--that he was telling us there would be an investigation. The only thing I knew about an investigation is I heard Colonel HENDERSON when we was on the line up there, state there would be an investigation.

Q. Do you remember being told to keep quiet about it, or not talk about it, and things of that nature?

A. No, only person I heard of being told this was PFC BERNHARDT. He had come back and told us that he was going to file a complaint. He was going to write his congressman and he went up to Captain MEDINA to tell Captain MEDINA he wanted to write a complaint to higher. What he told me is that someone up there told him, you know, to shut up, because there was an investigation going on already and he wasn't going to say anything until after this investigation was over.

Q. Did any investigating officer ever come talk to you?

A. No.

Q. Do you know whether any investigating officer ever talked to anybody?

A. The only investigating officers I remember even being--that ever talked to us the entire time we was in Vietnam wasn't even concerning My Lai. It was concerning incidents a week or so before where a woman was killed on the trail. It was so said that she had a valuable bracelet on or something on that was stolen by the GI's. It was the same day that Sergeant George COX was killed.

Q. Do you have any idea how many Vietnamese people were killed in My Lai (4) that morning?

A. I couldn't estimate how many was killed. I can only estimate about what I seen in the area that I did see and the people that I did see. In that area I would estimate anywhere from 150 to 250 people that I had seen myself.

Q. Why do you think that happened? You know that's something very unusual.

A. Yes, it is unusual. Well, I can say, okay, my thinking on what had happened, I would say, okay, first of all, the GI's would not--the orientation was not given right, because they should have been given with the clause, you know, what to expect, and if you didn't run in to something, you know, how would we deal with the people. This was only

our--second of all, I don't believe the orientation should have been stressed as hard as it was against the people. And third of all, I felt that once we hit the village we had insufficient leadership as far as control.

Q. Is this based on--about the lack of leadership and control. Was this based on what happened in your platoon?

A. No, I wouldn't only say my platoon, because I seen a lot of cases, you know, a platoon was scattered out everywhere. I know during the time we was in that village a lot of time we'd be going along the trail and we had part of the 1st Platoon with us, and these guys didn't have any officers or any senior NCO's with them. Most of what they had was just PFC's and privates, you know, all mingled together.

Q. Were they moving around on their own?

A. Yes.

Q. You're aware, I know, that this incident was not known back here in the United States until just a few weeks ago.

A. Yes, well I couldn't understand this also, but due to the fact I thought it was known even before I came back to the States, or much before I came back to the States, due to the fact that Colonel HENDERSON did say there was an investigation. I thought, under this type of investigation, well, you know, automatically the Pentagon would be notified on it. Also I had talked to Ron HAEBERLE when I was in Chu Lai and he had said he had taken pictures. I had talked to Ronald RIDENHOUR during the time I was in Chu Lai. He said he was submitting information toward an investigation. I had talked to BERNHARDT. He had said he was writing his congressman or submitting information toward an investigation. It surprised me greatly when I found out in November that this was the first that had been publicized about the Pinkville incident.

Q. Did anybody in your platoon talk about making a report on it, or going to the IG, or anybody else about it?

A. Yes, there was a whole lot of individuals, for

instance Ray MCDONALD. He had said that he was going to write our congressmen back in Chicago and this was after BERNHARDT had said, you know, he was going to write his. Ray said that he felt that this type of operation was not investigated properly and that they call operations like this without sufficient evidence. He felt that after we didn't meet the resistance there we thought we would meet, that automatically the higher command should have called this operation off. We thought that the operation came from division level.

Q. Why did you think that? Can you recall any specific reason?

A. Well, first of all, at least the way I was taught in the military, like a field paragraph order which Captain MEDINA told us that we had, I thought this would have to come from someone. I believe it had to come higher than our echelon at that time which would only have been at that time, a task force itself. I figured in order to get the support elements that we had--in order to get photographers, and things like this, it would have to go higher than brigade. I figured there wasn't no way that higher couldn't have known about it, due ot the fact that we did have photographers there with us, and we did have all of our support elements.

Q. We talked about all these civilian Vietnamese people that were killed in My Lai (4) on the 16th. Did you hear about something similar happening in the B Company area over near the coast, the China Sea?

A. I had heard some of the guys out of B Company mention it. They didn't say the same exact thing happened. They did say that, you know, that they had went through a village and just about wiped the village out. I kind of think back now, you know, I'm not for sure, but it seemed like the area that we went through on the 17th, was the area that could have been covered by Bravo before, because I know that area was toward the South China Sea. We didn't go through that area prior to the time that we went through at that time. All the villages up in the area had been burned down and there wasn't any people up there, except for the one village that was smoking once we got there.

Q. You may remember reading back in November, there was some speculation that some of the men of C Company may have been smoking marijuana in My Lai (4) on the morning of the 16th. Do you know anything about such a thing?

A. No, I couldn't say whether any of the men was smoking marijuana on that morning, but I'm sure that we did have a lot of pot smokers in our outfit.

Q. Do you know whether any of the men made a habit of going into combat high on marijuana?

A. Well, we did have men in our outfit who were kind of smoking it. I wouldn't say that it would have been hard for them to go into combat, you know, smoking some pot. I couldn't say whether they were going to combat like that due to the fact that this was the first combat--actual combat mission that we were supposed to engage in.

Q. Actually this was the first time that you expected to get into close contact with the VC?

A. Yes, sir.

Q. Mr. WEST we appreciate your coming here and talking to us. You have been very helpful. If you can think of anything else that you believe might help us, we'd appreciate hearing from you.

A. Yes, sir.

Q. If you'd like to make any statement, we would be glad to hear anything you might want to say.

A. Well, I don't have any other statements as far as My Lai is concerned. Just that, you know, the things that I think now after My Lai, you know, because, you know, I read so much about this My Lai incident. I tend to think well like the men that were on that operation during the time that they went through training, during the time they first entered the Army. If they had of been orientated on the consequences of such a thing, such as My Lai, they'd have been orientated on the consequences of all infractions or penalties of these infractions, you know, during the military--I don't think this mission, you know, something like this could ever occurred. Especially with an outfit such as

ours. I think that if we had known this during the time that we went into the village, the consequences behind something like this, that an order given such as this, that you didn't have to obey it, I don't think that this would have happened.

Q. Let me ask about the training that you went through. I know that you had instruction that you have to obey your orders.

A. Right.

Q. An order is an order and it is necessary in the military that orders be obeyed. I imagine that you were also told that you didn't have to obey an illegal order. Do you remember being taught that in basic training?

A. Well, yes I was taught in basic training that I didn't have to obey an illegal order, but they never did stress what, you know, exactly what an illegal order was. Now, also I was taught during my TO&E training when we was in Hawaii that we could, you know, if you disobeyed a order in combat--well you was liable to court-martial at that time anyway. This kind of puzzled me. Now, how can you be liable to a court-martial if you obey a order and then still be liable to a court-martial if you obey a order and a order?

Q. Well as I understand it, you weren't given examples of illegal orders that you wouldn't have to obey. Is that right?

A. No.

Q. Do you think it would help if the troops were given such examples?

A. I think that this would help greatly, because I feel that if troops was given examples of such orders, this would never happen again, as far as the American Army was concerned. Plus if the troops was given orders of what he could be penalized for, I think would be a better discipline problem also.

Q. All right thank you very much.

Can you think of anything else Mr. WEST?

A. No, sir.

MR WEST: We appreciate you coming. We know it was a great deal of trouble to you. You have helped us a great deal.

The hearing will be recessed.

(The hearing recessed at 1631 hours, 27 January 1970.)

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SUMMARY OF TESTIMONY

WITNESS: WILLIAMS, Franklin D. SP4

DATE OF TESTIMONY: 26 January 1970

PLACE OF TESTIMONY: Pentagon

WITNESS SUSPECTED OF: Murder, attempted murder, aggravated assault, or assault with intent to commit murder.

COUNSEL: Lyman L. JONES, Jr., CPT, JAGC, Office of the Judge Advocate General, Washington, D.C.

DUTY ASSIGNMENT ON 16 MARCH 1968: Rifleman, Second Squad, Third Platoon, C/1/20.

1. PRIOR TRAINING IN THE RULES OF LAND WARFARE.

The witness recalled being trained in Hawaii in how to combat assault into an area and how to load and unload helicopters (pg. 30). He was also informed that they should take civilians who were in their custody, gather them up into an area, and wait for the commander to come down and question them (pg. 30).

2. PREOPERATIONAL PLANS AND BRIEFINGS.

The witness recalled being briefed by Captain MEDINA on 15 March 1968 (pg. 5). He stated that MEDINA called them together and told them they were to attack My Lai (4) at dawn the next day (pg. 6). He told them there were no civilians left in the area because they had been warned to move out and the only people that they would find would be VC and VC sympathizers (pg. 6). They were told to go and destroy the village, destroy the livestock, and burn the hootches down (pg. 6). MEDINA told them the orders came from higher up (pg. 6). Nothing was said about the strength of the enemy in the area (pg. 6). This was the

(WILLIAMS)

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first search and destroy mission that the company had gone on (pg. 6). MEDINA had told them that the operation would last three days (pg. 7). They were told to kill "everything that moved" (pg. 27). Their platoon sergeant told them to load up with ammunition and to be ready to move out first thing in the morning (pg. 7). The witness thought he was in the third squad of the third platoon but could not recall who his squad leader was. He stated that Charles WEST was in the squad at the time but he did not think that WEST was the squad leader (pg. 8).

3. ASSAULT ON MY LAI.

a. Landing and initial movement.

The witness stated that his platoon was the last to combat assault into the area (pg. 9). While they waited in the rice paddies for further orders, MEDINA got a call from a helicopter indicating that some VC were spotted to the south of the village (pg. 9). The platoon got on line and began to sweep toward the trench where the VC were spotted. He stated that as they closed in they saw a woman in a trench, about 50 meters ahead of them, and everyone began to fire in that direction (pg. 9). The woman rose up from the trench and fell back again. The witness stated that he did not know if she was dead or not (pg. 9). An AK-47 was found 50 meters from the woman's body (pg. 10). The platoon then regrouped and returned to My Lai (4), entering through the south end of the village (pg. 10). They burned a few hootches as they moved (pgs. 10, 11), but the witness stated that the village was on fire when they arrived in it (pg. 11). As they went through the village, they shot two water buffalo, burned down one hootch, and the witness and T'SOUVAS entered a hootch on the east side of the village (pg. 12).

b. Names of personnel in his squad.

The witness could not recall if Sergeant GRIMES was in charge of his squad (pgs. 11, 12), but he said that he did know Gerald SMITH, PENDLETON, MCDONALD, DELPOME, FREDERICK, and DOHERTY (pg. 12). He did not recall OLIVER (pg. 12).

c. Treatment of civilians in the area.

Although they encountered no resistance, the witness stated that there were numerous people running around the village (pg. 13). These people were not within their shooting range. As they moved up the trail that ran into the village, they saw a number of dead people approximately five to ten meters outside the southern edge of the village (pgs. 13, 14). He stated that they were women, children, and a few men (pg. 14). The platoon had swept a trail which led out of the south of the village, had reconned the area, and then had gotten back on the trail where it entered the village again (pg. 14). The witness stated that he saw T'SOUVAS shoot a child (pg. 16). He did not see a number of bodies in a ditch, but he felt that "bodies were all over the village" (pgs. 16, 17). He stated that he saw only three people actually being shot, including the child shot by T'SOUVAS (pg. 23). He saw between 40 and 50 dead Vietnamese, most of whom were already dead when the platoon came upon them (pg. 24). The witness did not recall anything unusual happening before they broke for lunch (pg. 17).

d. CARTER's evacuation.

The witness stated that he knew that CARTER had been shot in the foot but he was not around when it happened (pg. 14). He did see the dustoff helicopter because the platoon had moved back into the village and set up security waiting for the medevac to come in (pg. 15). The security was set up along the southern edge of My Lai (4) (pg. 15).

e. Later activities in the village.

The witness stated that they broke for chow on the eastern edge of My Lai (4). He recalled receiving an order to cease fire as they got to the eastern edge but could not place a time other than it was just before they broke for chow (pg. 17).

f. Activities at the laager position.

The witness recalled that they set up their night laager position in a graveyard (pg. 15). He recalled seeing

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National Police in the laager area although he did not see them during the movement through My Lai (4) in the morning (pgs. 17, 18). He stated that they were in a group at the CP with Captain MEDINA. He did not know any other officers who were with them (pg. 18). Because he was busy digging a foxhole for the night, he did not know what the National Police were doing (pg. 18). He did not see the National Police shoot anyone, but he did hear a rumor that one VC was tied to a tree where they cut off his finger (pgs. 18, 19). He stated that he did not see it because his platoon was on perimeter "right by the lake" (pg. 19).

g. Activities on 17 and 18 March.

The witness stated that when they left the graveyard, they headed four "clicks" south to the river where they ran across another village which was deserted (pg. 19). They picked up a number of suspects at that point, who turned out to be VC, according to the National Police who did the interrogation (pg. 19). He did not see the prisoners being mistreated (pg. 19). The witness stated that on 18 March, they went back to LZ Dottie (pg.19).

4. INVESTIGATIONS CONCERNING THE ASSAULT.

When they returned to LZ Dottie on 18 March, the witness did not recall the group being met by an officer (pg. 19). He did not think that they talked to anybody when they returned (pg. 19). He recalled MEDINA calling the company together and telling them that "My Lai (4) is under investigation" (pgs. 19, 20). MEDINA did not tell them he would back them up, nor did he tell them not to talk to anyone (pg. 20). The witness thought that MEDINA said if the investigators came around to question them they were to cooperate with them (pg. 20). He was never questioned by any investigating officer, nor did he know if anyone in the company was (pg. 21). He did not recall anyone ever telling them to keep quiet about the incident (pg. 21) The witness thought that My Lai (4) was under investigation because there were reported civilians killed in the area. He did not know if MEDINA told them this or not (pg. 21). The witness stated that he thought an investigating officer never came around to see him because

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they talked to the company commander (pg. 28). The witness did not talk to the chaplain or anyone outside of the company about the incident (pg. 28). He did write and tell his mother and brother that they had hit a VC stronghold called My Lai (4) and had been awarded a citation for it (pgs. 28, 29). The witness felt that they had earned the citation because of the area being a VC stronghold (pg. 29).

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EXHIBITS

EXHIBIT NUMBER	DESCRIPTION	NOTES	PAGES
P-1	Aerial photo of the My Lai (4) area	Used to orient the witness.	8
P-40	Color photo	Witness did not recall seeing that group of women and children.	26
P-41	Color photo	Wit saw this group of bodies on the trail that leads south from the village.	.26,27
MAP-4	Map 6739 II	Used to orient the witness.	8

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(The hearing reconvened at 1030 hours, 26 January 1970.)

MR WEST: The hearing will come to order.

RCDR: The following persons are present: MR WEST, COL MILLER and MAJ COOP.

The next witness is Specialist Four Franklin D. WILLIAMS.

(SP4 WILLIAMS, was called as a witness, was sworn, and testified as follows:)

RCDR: State your full name, grade, Social Security number, branch of service, organization and station?

A. Specialist Four Franklin D. WILLIAMS. My Social Security number is I am stationed at A Company, 2d Battalion, 41st Infantry, 2d Armored Division, Fort Hood, Texas.

Q. United States Army?

A. Right.

MR WEST: Specialist WILLIAMS, for the record, have you read Exhibit M-57 concerning the nature and purpose of this inquiry? The paper that was handed to you by the recorder?

A. Right.

Q. Do you have any questions about it?

(Witness indicates in the negative.)

Q. Before we proceed with any questions, Colonel MILLER will advise you concerning your testimonial rights.

COL MILLER: You read in exhibit M-57 that we had seen and reviewed statements by other witnesses who made statements concerning this My Lai (4) incident. These include IG statements, CID statements and testimony that has been given before this hearing. On a review of those statements there is some evidence which raises a suspicion that you may have committed the offense of murder or attempted murder or aggravated assault or assault with intent to commit murder at My Lai (4) on or about 16 March 1968.

The essence of the information that I have is a statement by one other member of your company indicating that you may have killed a man and women dressed in civilian clothes who may have been innocent civilians. On the other hand they may have been VC. We don't know, but without having a determination on it this suspicion is raised and therefore I want to be sure that you understand what your rights are with respect to counsel and to giving testimony before this inquiry.

Before I start that, I remind you of the two main purposes of this inquiry which you read in M-57. You understand that exhibit, do you?

A. I'm not sure, sir.

Q. What questions might you have that you would like answered?

A. That first one I read. I'm not too sure about that.

Q. Could you tell me which part? (COL MILLER hands M-57 to the witness.)

A. The second one.

(There is a brief pause during which time the witness again reads Exhibit M-57.)

I understand it, sir.

Q. You do understand it?

A. Yes.

COL MILLER: You have the right to remain silent to make no statement at all concerning the offense of which you are suspected. Any statement you do make could be used as evidence against you in a criminal trial.

You have also the right to consult with counsel and to have counsel present with you at this interrogation. By counsel I mean a qualified lawyer. This counsel can be a civilian counsel whom you may employ at your own expense. This counsel could be a military lawyer whom we would appoint for you if you decide that you want one. If you have

a particular counsel of choice who is reasonably available, we would try to make him available. Otherwise, we would appoint another one if you have no choice.

If you wish, you could have both a civilian counsel in your employ and a military counsel present here. If you decide that you want counsel, you would of course have the right to consult with him at any time and he or they could consult with you at any time during the hearing or you could request a recess. If you decide that you are willing to answer questions without having counsel present, you may nevertheless stop answering questions at any time. You may request the appointment of counsel at any time. If you do request counsel after we have started, of course you would be given plenty of opportunity to talk to him before we continue with the questioning.

Now, do you understand what I have said so far?

A. Right.

Q. I understand that you were recently advised by your company commander that you were suspected of having committed an offense at My Lai. That was within the last 2 weeks?

A. Right.

Q. Do you understand what I have said so far satisfactorily? Would you like any further explanation of it?

A. No.

Q. Understanding that, I have two more questions I'd like to ask you. First of all, do you want counsel?

A. Right.

Q. I suggest we recess.

MR WEST: The hearing will be recessed.

(The hearing recessed at 1037 hours, 26 January 1970.)

(The hearing reconvened at 1207 hours, 26 January 1970.)

MR WEST: The hearing will come to order.

RCDR: The following persons are present: MR WEST, COL MILLER, and MAJ COOP.

The hearing recalls Specialist Four Franklin D. WILLIAMS.

(SP4 WILLIAMS was recalled as a witness, was reminded that he remained under oath and testified as follows:)

RCDR: Are you accompanied by counsel?

WIT: Right.

RCDR: Will counsel please state his name and address for the record?

IC: Sir, my name is Captain Lyman L. JONES Jr. My present address is 824 S. Wey Street, Alexandria, Virginia.

COL MILLER: Captain JONES, this is Mr. WEST who is from the Office of the General Counsel. During the recess, Captain JONES was made available to Specialist WILLIAMS as counsel at Specialist WILLIAMS' request. Have you had an opportunity to discuss this with Specialist WILLIAMS?

IC: Yes, sir. I have.

COL MILLER: Are you satisfied to have Captain JONES as your counsel at this time, Specialist WILLIAMS?

A. Right, sir.

COL MILLER: Do you have any questions in your mind that you would like to ask before we proceed?

IC: No, sir.

COL MILLER: In the event that you decide to testify or make a statement today, WILLIAMS, I want to repeat what I told you before, and I summarized out of the hearing to you, Captain JONES.

You have a right to discuss and consult with WILLIAMS at any time and you can talk to your counsel at any time. If it is necessary to take a recess you may do so. As you recall, you have the right to answer no questions or to refuse to answer any particular question. If you intend to limit your testimony we would like to ask whether there are certain areas or certain matters concerning which you would be willing to testify. As I understand it, you are satisfied with your counsel at this time. Are you willing to answer questions?

A. Right, sir.

COL MILLER: Do you have any limitations at this time which you wish to propose Captain JONES?

IC: No, sir. That's correct is it not (to witness)?

(Witness indicates in the affirmative.)

COL MILLER: If you do, feel free to consult.

MR WEST: Specialist WILLIAMS, when did you first hear of the planned combat assault upon My Lai (4)?

A. When I first heard about it?

Q. Yes.

A. It was when I was home on leave. Christmas leave.

Q. Well, let me take you back to March of 1968. This combat assault upon My Lai (4) took place on 16 March 1968. Back at that time, when did you first learn of the plan to assault My Lai (4)?

A. The night before.

Q. Was this at the briefing that Captain MEDINA gave the company?

A. Right.

Q. Could you tell us what Captain MEDINA told the company, as best you can remember?

A. He called us together--to come together and told us that we're to attack My Lai (4) right at dawn the next day and that there were no civilians in there because they were warned to move out. The only ones that were in the area were VC and VC sympathizers. He gave us orders to go in there and to destroy the village.

Q. Did he say anything about livestock, or food, or crops?

A. Destroy livestock and crops because they were VC supplies.

Q. Did he say anything about burning?

A. Burn the hootches down.

Q. Did Captain MEDINA give any indication about the source of these orders? Whether they had come down from higher headquarters? Did he mention anything about that?

A. He said the orders came from higher up to go in and destroy.

Q. Was anything said about the strength of the enemy in there?

A. No, he didn't.

Q. Well then, after he finished, what was your understanding of the orders and what you were supposed to do there the next day? You and the other members of your squad?

A. Just what he said, to go in there and destroy--search and destroy mission.

Q. Was this a little unusual for Charlie Company? Had you ever gotten orders like this before, up till this time?

A. No, that was the first search and destroy mission.

Q. The first one you had?

A. Right, I think it was. It wasn't unusual because we knew that it was a VC stronghold and we had been beaten inside there twice and this was the third time.

Q. Right. Now, did the orders concern only this one little place in My Lai (4) or did it apply to the other hamlets, subhamlets in the area, which is generally referred to as Pinkville. How did you understand this?

A. Just that one area, My Lai, just the one.

Q. You thought it was just that one place?

A. Right.

Q. All right. Did he tell you how long this operation would last?

A. I think he said 3 days.

Q. What did the other men in your squad think about the orders?

A. I don't know; we never talked about it.

Q. You didn't talk about it much?

A. We just did as we was told, to get ready for the CA the next morning.

Q. Did you get a briefing from your platoon leader or platoon sergeant?

A. Right. That was to load up with ammo, grenades and what have you.

Q. Was anything else said?

A. No, just be ready to move out the first thing in the morning.

Q. Which squad were you in? I understand you were in the 3d Platoon?

A. Right, 3d Platoon.

Q. Which squad was it?

A. Third squad.

Q. Who was your squad leader?

A. I can't remember.

Q. SMAIL or GRIMES or LACROIX?

A. I can't remember. It's too far back.

Q. Can you give us the names of some of the other members of the squad?

A. Sergeant SMAIL, GRIMES--

Q. (Interposing) Are you sure SMAIL was in your squad?

A. Oh, in the squad?

Q. I was just thinking about the men in the squad. Well, what was your duty? Were you a rifleman?

A. I was a grenadier except for that one day; they switched me over to rifleman.

Q. I see. Usually you carried an M-79?

(Witness indicates in the affirmative.)

Q. Did you have a machinegun team in your squad at that time?

A. I can't remember that.

Q. Was Charles WEST in your squad at that time?

A. Right.

Q. Was he the squad leader?

A. I don't think so.

Q. Specialist WILLIAMS, you have in front of you a large vertical aerial photograph of My Lai (4) and the vicinity and on your right is the map, the scale is 1:25,000 which has been admitted into evidence as Exhibit MAP-4.

The photograph that has been identified has been entered as Exhibit P-1. The scale on the photograph is 1 inch equals about 80 meters. It's oriented so at the top of the photograph is to the north.

(MR WEST oriented the witness on the exhibits, MAP-4 and P-1.)

Would you tell us please what you remember and what happened that morning, the 16th, when you were taken in by helicopter? What your squad did and what your platoon did?

A. As I recall, our platoon was the last to CA into the area. We were in the rice paddies waiting for further orders. Then I think Captain MEDINA got a call from one of these bubble choppers that were circling to the south of the village of My Lai (4) and then Captain MEDINA informed my platoon leader that they spotted VC's just to the south of the village, in a ditch.

Q. A drainage ditch south, a little bit west, of My Lia (4)?

A. Right, VC in the area carrying weapons. At that time our platoon got on line and started sweeping south toward the trench. As we got there, they were--I think we spotted a women in a trench, the same place where that chopper spotted the Vietnamese with weapons and everybody started firing in that direction and I think we was about 50 meters from there. She raised up from the trench and she fell again and when we got there, I don't know if she was dead or what. Anyway, our platoon leader sent another squad further up, south of the trench, searching the area to see if there was any more people up in that area, which there wasn't, and we came back down the trench and--

Q. (Interposing) Do you remember whose squad that was?

A. I can't remember whose squad that was.

Q. GRIMES? Sergeant GRIMES?

A. I don't know.

Q. Okay.

A. Anyway the squad came back down to the trench searching the area. We found that weapon. I think it was an AK-47, I'm pretty sure, about 50 meters from where the woman, Vietnamese laid.

Q. When you saw this woman there, where was Captain MEDINA at this time?

A. He was still in the village.

Q. Did your squad go all the way down to the highway there, Highway 521?

A. As far as we went was this trench, right here, where we found the woman and the web gear.

Q. You mentioned another squad going off somewhere else. Did they search any houses in the area?

A. There wasn't any houses in this area here.

Q. I mean some distance off. Did they go out nearby and search any houses?

A. No.

Q. What happened after that?

A. Well, the platoon got back together and we went back up this trail.

Q. Back to My Lai (4)?

A. Yeah. We entered the south end of the village traveling north.

Q. Do you remember what the mission of the platoon was now when you entered My Lai (4)? What you were supposed to do?

A. I think we were rear security.

Q. Didn't you have any other mission in there?

A. Just follow up platoon.

Q. Well, we have had other testimony that you were the drag platoon and your mission was to burn the hootches. Do you remember this?

A. I think we burned a couple of hootches.

Q. Well, other members of the platoon said your mission was to follow along and mop up after the 1st Platoon and 2d Platoon. Search the houses, burn them and so forth?

A. The village was already on fire when we got there.

Q. Now, did your whole platoon go down south around the ditch down there?

A. Right. The whole platoon was there.

Q. Do you remember part of the platoon going all the way down to Highway 521? This is quite early after you landed.

A. I don't recall any platoon going that far.

Q. Do you remember a squad going around south of My Lai (4) to cut off any VC from going out, escaping south, or evading south of the village. Do you remember that?

(Witness indicates in the negative.)

Q. When you went back into My Lai (4), in the southwest corner, did you see Captain MEDINA at this time?

A. Let's see. I can't remember. The only thing I saw when we entered the south end of the village was the mortar platoon. I can't recall if I saw Captain MEDINA in that area or not.

Q. You did see members of the mortar platoon. Do you remember Sergeant MARONEY?

A. No. Not personally.

Q. Thinking back now, could it have been that Sergeant GRIMES was in charge of your squad?

A. It's too far back, I couldn't say.

Q. Do you know Gerald SMITH?

A. Gerald SMITH.

Q. Ken PENDLETON?

A. I recall PENDLETON.

Q. MCDONALD?

A. Right.

Q. DELPOME?

A. Right.

Q. FREDERICK?

A. Who?

Q. FREDERICK. F-R-E-D-E-R-I-C-K.

A. Right.

Q. OLIVER?

A. No.

Q. DOHERTY? SP4 DOHERTY?

A. Right.

Q. Tell us what you and your platoon did, now, once you got back into My Lai (4)?

A. We shot up the remaining livestock. I think we shot two water buffalo and we burned down one hootch and me and T'SOUVAS entered a hootch that was to the east of the village. I think it was the last village on that side.

Q. Could you tell us what happened in between there?

A. Well, we were just waiting, killing livestock and burning the remaining hootches.

Q. Did you run into any fire, any resistance at all?

A. People were running--well, whenever our platoon got there, there were people running all over the place.

Q. You're talking about Vietnamese people?

A. Right.

Q. What was being done about them?

A. They were too far out of our shooting range. They were, I think, up in here, to the east of the village going south.

Q. You're talking about people streaming out of the area, like refugees?

A. They were scattered. I don't know what they were, Vietnamese running.

Q. How about in the middle of the village there in the trees? What did you see inside the village as you moved along?

A. We saw a bunch of dead people on the trail.

Q. On the trail?

A. Right.

Q. Where was this trail? Was it outside the village?

A. Right. It was south.

Q. You're talking about that main trail that runs south of the center of My Lai (4)?

A. Right, this could be it right here.

Q. How far outside the village were the bodies you saw?

A. As you was leaving the village?

Q. 10 meters, 15, 50?

A. I would estimate about 5 or 10 meters.

Q. Could you give us any description of this group? What they looked like or men, women, children, ages and sexes?

A. There were women and kids and a few men. I'd say the ages of the kids were young.

Q. How did you get down there so you could see them?

A. So we could see them?

Q. Yes.

A. We were moving back into the village.

Q. I thought you said you entered the southwest corner of the village?

A. We swept to here on the trail leading out to the south of the village. As we reconned this area here, we got back on the trail where it comes out on the south end of the village and entered the village, and that's where we started back.

Q. I see. Sergeant GRIMES testified just about to the same effect. I think you must have been in Sergeant GRIMES' squad. He must have been in charge that day.

A. I don't recall.

Q. Do you remember GRIMES at all?

A. I remember--

Q. (Interposing) Did you hear anything about a man named CARTER?

A. Right. That's the one that got shot in the foot.

Q. Were you around when this happened?

A. No, I wasn't.

Q. Did you see the dustoff helicopter?

A. Right.

Q. You did?

A. Right.

Q. How did you see it? How did you happen to see it?

A. That was right after, I think, our platoon moved back into the village and they were along this trail here. I think the whole company was lined up here. I'm not sure. We set up security around here waiting for the medevac to come in.

Q. You set up security inside the village or out in the rice paddy?

A. We set up security along this village here.

Q. All the way around the southern edge of My Lai (4)?

A. Right, somewhere around in here.

Q. What happened after that?

A. Our company, I think swept--it's been too far back. I think afterwards our company started sweeping east of the village and we set up in a graveyard.

Q. You're talking about your night laager position?

A. Right. I can't remember what happened after the medevac.

Q. Where did you break for chow?

A. Right up in here someplace, east of the village.

Q. About the eastern edge of My Lai (4)?

A. Right.

Q. What did you see in the village before you

got to that point? You must have seen something. Do you remember anything at all? Do you remember following a path that took you across a ditch, whether there were some bodies in the ditch?

A. I think there were some bodies along the trail, laying along the trail.

Q. Do you remember seeing anybody shot along about this time?

(Witness indicates in the negative.)

Q. Did you see anybody shot in the village? Any Vietnamese civilians shot?

A. I think I saw T'SOUVAS shoot a kid with a machinegun.

Q. This is supposed to be a combat situation. There is supposed to be enemy in there. It's supposed to be a hard fight. What were the members of your platoon doing as they moved through the village as they came upon the Vietnamese there? Were they shooting them? Were they taking them into custody? Were they ignoring them? What were they doing?

A. When people were fleeing out of the village, we just started opening up.

Q. Is this what you understood your orders to be?

A. Right, because the way I understood it there was no civilians in the area because they were warned to move out, and Captain MEDINA said they were VC sympathizers and VC's in the area. We were to go in there and destroy anything that moved.

Q. Do you remember seeing some bodies in a ditch there, inside the village perhaps, in the southeast corner somewhere?

A. They were--about up in here?

Q. Yes. Let the record indicate that he is pointing to the southeast corner of the hamlet.

A. There were bodies all over. I can't say. Bodies were all over the village.

Q. You'll notice this sketch on the wall. This is an artist's sketch of My Lai (4) considerably enlarged. It shows some paths and buildings. These are all verified locations taken from aerial photographs. There has been testimony that the ditch along the extreme eastern edge of My Lai (4) had bodies in it. We have heard testimony that there is a ditch inside My Lai (4) about 200 meters north of the southern edge of My Lai (4) the same distance from the north-south trail, south of the center point. Do you recall seeing a ditch at any of these locations with bodies or people in them?

(Witness indicates in the negative.)

Q. Now, as you were going through the village to the point where you broke for chow, do you remember anything unusual happening? Anything that stuck in your memory?

A. No.

Q. Do you remember hearing an order to stop the shooting?

A. Right, cease fire, as we got to the eastern end of the village. I think that's when we broke for chow.

Q. Could you place the time of this? Do you have any idea?

A. No, I can't.

Q. Was it toward noon?

A. I think it was because we usually broke for chow around noon. We broke for chow then.

Q. Moving ahead a little bit, Specialist WILLIAMS, when you were at this place in the graveyard where you laagered in for the night, did you see any National Police?

A. Right, they were attached to us, I think, as I recall.

Q. Did you see them during the movement through My Lai (4) that morning?

A. No, I didn't.

Q. Did you see them there at the laager area?

A. Right, that's where I first saw them.

Q. What were they doing?

A. Well, they were in a group. I think they were attached to--they were with the CP, I think, with Captain MEDINA.

Q. You saw Captain MEDINA with them?

A. Right.

Q. Did you see any other officers with them that you knew?

(Witness nods in the negative.)

Q. Do you know what they were doing?

A. No, because I was too busy digging a foxhole. Getting ready for the night.

Q. Did you see the National Police shoot anyone?

A. No.

Q. Did you see anyone cut the finger off a VC suspect who was being questioned?

A. I did not see anyone but I heard that he--what do they call the Vietnamese special forces? What was it? International Police?

Q. Well, National Police is what they are usually referred to as.

A. I heard that they tied one VC to a tree where

they cut his finger off. That's what I heard. I didn't actually see it because they had our platoon where the company set up a perimeter right by the lake.

Q. Do you remember the events of the next 2 days, the 17th and 18th? What the company did?

A. Well, after we left the graveyard we headed 4 clicks south, that was to the river, where we ran across another village, a deserted village and we picked up, I forgot how many suspects there were, but they turned out to be VC. That's the report we got from the National Police. They did all the interrogating.

Q. How were these prisoners treated? Were they mistreated in any way? Any violence used against them?

A. I didn't see them.

Q. Do you remember going back to Landing Zone Dottie on the 18th?

A. I don't remember if it was that day but I think--the third day you're talking about right? Right, we "CA'd" back into Dottie.

Q. Was your group met by an officer as you got out of your helicopter to talk to you? Do you remember that?

A. No. I don't think anybody talked to us when we got back there.

Q. What was that?

A. I don't think anybody talked to us when we got back there. Not me anyway.

Q. Do you remember Captain MEDINA calling the company together soon after this and saying that there was an investigation going on of what happened at My Lai (4) on the 16th? Do you remember that?

A. Right.

Q. What did he tell the company at that time?

A. I can't remember. All I remember is that he said My Lai (4) is under investigation. That's the only thing I remember.

Q. Did he give the company some instructions in connection with that?

A. Yes, he did. I can't remember.

Q. He was here. He told us he did. There has been some dispute as to just what he said. I was hoping you could remember something about what he said.

A. He did call the company together. I remember that. I remember that he told us My Lai (4) is under investigation. That's all I remember.

Q. Did he say he would back you up?

(Witness indicates in the negative.)

Q. Did he tell you not to talk to anybody?

A. No.

Q. Did he tell you to cooperate with investigating officers?

(Witness gives no response.)

Q. Did he tell you you didn't have to worry about anything, that you did just what you were supposed to do?

(Witness gives no response.)

Q. Was it any of these things?

A. I think he said if the investigators came around asking questions just to cooperate with them.

Q. Is that what you remember, or are you just picking out something I said?

A. No, it's coming back now.

Q. Did any investigating officer ever come to

talk to you about what happened in My Lai (4)?

A. No, he didn't.

Q. Do you know if any man in Charlie Company was questioned by an investigating officer about anything they did?

A. No, I don't.

Q. Did anybody ever tell you to keep quiet about it?

A. Not that I can recall.

COL MILLER: Do you have any idea why My Lai might be under investigation at all?

A. Well, I guess because there was reported civilians killed in the area.

Q. Is this what you were told by somebody else, or is this something that you just thought of on your own?

A. I guess that's what I thought.

Q. Is this what Captain MEDINA told you too?

A. He might have. I don't know.

Q. You said it was coming back to you, a few minutes ago, a little bit about what Captain MEDINA may have told you. When I say "you" I refer to the whole company. Do you recall if he was talking to the whole company?

A. About what the investigation was about?

Q. Right.

A. All I can recall is that My Lai was under investigation.

Q. Do you recall if this was, say, a company

formation or a briefing of some sort?

A. Right, he called the company together.

Q. Did he say anything about who might take the blame if any?

A. I can't remember.

Q. Did he tell you to keep quiet about this until the investigators came around?

A. Well, I didn't hear him.

Q. Does this particular briefing stick in your mind at all?

A. Not really. I wouldn't say it did.

Q. Did you talk about the My Lai operation with your fellow soldiers after you returned?

A. No, I didn't.

Q. Was there any special reason for that?

A. The way I figured it, we just did our job the way we was told to do. They said My Lai (4) was under investigation but I don't think anybody talked too much about it.

Q. Who is the "they" besides Captain MEDINA?

A. Just the guys around.

Q. Scuttlebutt? Your best estimate, how many people did you actually see being killed, not already dead, but being killed in My Lai (4)?

A. How many I saw killed?

Q. Right.

A. Three.

Q. Are these VC or civilians or what?

A. Vietnamese as far as I know.

Q. Women or children or men?

A. One kid, one woman, and one man.

Q. This kid is the one T'SOUVAS shot?

A. Yes.

MR WEST: How many dead people did you see? Dead Vietnamese?

A. I guess estimated between 40 and 50 people.

Q. Were there any friendly casualties that morning that you know of?

A. CARTER shot himself in the foot. That's all I remember.

Q. The reports of the number of Vietnamese killed in the village vary a great deal. To strike an average, about 300. Were you aware that such a thing was going on at the time?

A. There wasn't that many people killed.

Q. How do you know this?

A. Because when our platoon went back through the village there wasn't that many people in there.

Q. When was it that your platoon went back through the village?

A. It was right after we made a sweep down to this trench. I guess we was there about 30 minutes and went back up to the village. I guess there was about 15 people on that trail down there.

Q. Where were the other dead people that you saw?

A. There were some on the trail. I think there was a trail running right by the trench here. I can't recall. I think there was about three or four dead bodies in there.

Q. Were these people killed by your platoon?

A. No, they weren't. As I saw it, they were already laying there when we came.

Q. When you came upon them?

A. Right, they were already laying there.

Q. Any idea how they got killed?

A. No, I don't.

Q. Just how much of My Lai (4) did you go through?

A. Well, we entered here. I think we cut right straight across here (indicating).

Q. How much of it would you say you covered then?

A. The village itself?

Q. Yes, what did you do, walk along a path from the south center of the village to the northeast of the village?

A. Right.

Q. You walked along a path? Is that what you did?

A. Yes.

Q. How far could you see on either side?

A. Not very far, because it was a dense area.

Q. When you were walking along that path did you come across a ditch with some bodies in it?

A. I can't recall seeing a ditch.

Q. You didn't see in the rest of the village? Just that area you walked through?

A. Just that area where I walked through, right.

Q. In your opinion, Specialist WILLIAMS, what hap-

pened at My Lai (4) on the morning of 16 March 1968?

A. Early that morning we "CA'd" in, went into the village. Our platoon was the last one in, and as far as I could see the village was already set on fire. There was a lot of firing going on, and the mortar platoon was already set up. I think Captain MEDINA was with them within the village. Like I said, the chopper spotted a woman on the south end of the village in a trench and a Vietnamese carrying a weapon, and we got a call from Captain MEDINA to sweep the area and--

Q. (Interposing) Well, now you're just coming back to the story aren't you? That's not what I want. I would like to have you give me, us, your opinion as to what happened there that morning. How do you account for the fact that so many Vietnamese people were killed? Was this just a simple military operation or did something unusual happen there?

A. Well, it was unusual, I guess, because we were in a VC area and there were reported VC and VC sympathizers in the area.

COL MILLER: Was T'SOUVAS in your platoon?

A. Right, he was in my platoon.

Q. Was he in your squad?

A. I can't remember.

Q. How about TERRY? Did you know TERRY?

A. Right, I knew him.

Q. Was he in the 3d Platoon?

A. I can't remember. Yes, he was in our platoon.

Q. You don't know if he was in your squad?

A. I don't remember anybody in my squad.

Q. Do you recall if you were on the same squad on this date that you were normally in?

A. No. I think I probably was.

Q. Do you remember how many squads there were in the platoon for the day?

A. Three.

Q. You're sure of that? I just want your recollection on it now.

A. Three.

Q. Do you remember who the three squad leaders were?

A. My squad leader during that time that I recall-- I can't recall.

Q. We have some indication that at least one, and perhaps more, of the platoons were down to two squads because of casualties they had suffered before this day. Perhaps there was some shifting around within the platoons.

A. There was some shifting around come to think of it because I was grenadier the whole time I was there and that particular day they switched me over to a rifleman.

Q. You don't recall T'SOUVAS or TERRY being in the same squad you were?

(Witness indicates in the negative.)

MR WEST: Specialist WILLIAMS, I have a photograph which has been admitted into evidence as Exhibit P-40. I would like to ask you, while you were in the village, did you notice that group of women and children?

A. I can't remember.

Q. All right, turn it over and what you have there is another colored photograph admitted into evidence as Exhibit P-41. You'll notice that scene of bodies lying on a trail in My Lai (4).

A. Right, I remember this.

Q. Where did you see these people?

A. On the trail that leads out south of the village.

Q. That's the group you indicated, a little distance south of the trail. I think this photograph is almost entirely women and little children. I think this illustrates why this matter is being looked into, why, as I said a little while ago, it was an unusual event. It's this sort of thing that I wonder if you could give an explanation for us? How did it happen that Charlie Company could go into this hamlet and kill a lot of women and children?

A. I don't know. I don't know why it was done.

Q. Was it your understanding that these were their orders? They were ordered to do this?

A. Right, they were ordered to do this. Captain MEDINA told us that the civilians were given the word to move out of the village and that the remaining people in the village were sympathizing with the VC's.

Q. Do you think this extended to women, who were unarmed, and little children, who could hardly have been expected to be a threat to anybody?

A. Well, maybe not then but they could have been later on. Just because they're not carrying a weapon that day, they could very well be VC still.

Q. I'm not really too much concerned with what you thought but with what the men in the company understood and acted on as a group. Was this a general feeling, you think, in your platoon, to go in and kill everybody you found in the place.

A. That was the orders. To kill everything that moved.

Q. Did you see any other scenes like this? Any other groups?

A. Not like that. That was the only one that I saw.

Q. I think you're aware that the events of My Lai (4)

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that morning were not known back in the United States for a long time. Except for a limited number of people there was no knowledge of this incident until November of 1969, when the newspapers and TV--there was a great deal of publicity at that time. The fact is that this incident was not reported in the usual way. Do you have any idea why that was so?

A. No, I don't.

Q. As far as we can tell no man in Charlie Company made any real effort to report this, to let anyone know that something like this had happened. Of course, this is what we're trying to find out, if there was a concerted effort to keep it quiet. Do you know about any such thing?

A. I guess the reason the people in my company never said anything about it was, especially people I hang around with, was because whenever Captain MEDINA got the company together he informed us that My Lai (4) was under investigation.

Q. Are you telling me that the members of the company were waiting for an investigating officer to come around?

A. Yes.

Q. An officer who never came?

A. I never saw one myself personally.

COL MILLER: Did you ever wonder why an investigating officer didn't come around?

A. Well, my opinion I just figured they wanted to talk to the company commander.

Q. Did you ever talk to a chaplain or somebody outside of the company about this?

(Witness indicates in the negative.)

Q. Did you ever write about it when you wrote back home?

A. Right, I wrote and told mom and my brother that

we hit a VC stronghold called My Lai (4) and we were awarded a citation for it. I guess that was our first citation.

Q. When were you told about the citation?

A. I can't remember.

Q. Was it a few days after you got back?

A. Right, the word was around that we got a citation.

Q. Do you think the company had earned the citation that day?

A. Well, I think we did. I think we did something because of the VC stronghold.

MR WEST: Did you run across any military-aged males in My Lai (4) that morning?

A. Right, dead ones.

Q. Did you see a VC with a weapon there?

A. The only weapon--well, I think we captured two weapons. I saw one where we captured it in a trench with the dead women about 50 meters from where--

Q. (Interposing) They were all outside the village weren't they? I'm talking about in the village, now.

A. No, I didn't see any in the village.

Q. Specialist WILLIAMS, can you think of anything else that might help us in our investigation, in trying to piece this thing together that we didn't touch on that you would like to tell us?

A. No, I can't think of anything to add to that.

Q. Some witnesses have made statements to us about the things that they had on their mind. If you would like to make a statement to us at this time we'd be glad to hear it. We've had some witnesses tell us that the men shouldn't be punished for what they had done. Others made other observations. Do you have anything you would like to tell us in regard to anything?

A. I don't think a man should be punished because we were warned that there wasn't any civilians in the village and there were only sympathizers and VC in that area. We just went in there and did our job.

Q. Anything else?

A. No.

COL MILLER: How long have you been in the Army now?

A. 33 months.

Q. Before you went to Vietnam or shortly after you got there, did you get any training on the treatment of prisoners of war or the Geneva Convention? What to do with civilians?

A. No, I think we had all that training in Hawaii. The only training I remember getting was "CA'ing" into an area and "CA'ing" out. How to load choppers and unload choppers.

Q. Were you, and by you I mean the men in the company, in training told anything about treatment you should give to unarmed people, civilians, women and children who may come into your custody or control?

A. Right, take them--gather them up into an area and wait for the commander to come down and have him question them.

Q. It appears that this was not done on this particular date. Do you have any opinion as to why?

A. I don't know why. Whenever our platoon was there they done started hitting about half-way through the village.

MR WEST: We thank you for coming, Specialist WILLIAMS.

The hearing is recessed.

(The hearing recessed at 1306 hours, 26 January 1970.)

SUMMARY OF TESTIMONY

WITNESS: WRIGHT, Floyd D.

DATE OF TESTIMONY: 19 January 1970

PLACE OF TESTIMONY: Pentagon

WITNESS SUSPECTED OF: Rape (pg. 37).

COUNSEL: None

DUTY ASSIGNMENT ON 16 MARCH 1968: Machinegunner, 2d Platoon, C/1/20.

1. PRIOR TRAINING IN RULES OF LAND WARFARE.

The witness stated that on other operations if they saw someone running they tried to get them to stop, and if they did not stop they would fire a few times over their heads and if they still did not stop they would shoot them (pg. 24). He stated it was different on this operation (pg. 24).

2. PREOPERATIONAL PLANS AND BRIEFINGS.

The witness was the assistant gunner to HUTSON (pg. 5). He first heard about the planned assault on My Lai (4) the evening before it took place when Captain MEDINA gave a small briefing (pg. 6). He could not say what time the briefing took place but did recall that they were to go on a search and destroy operation (pg. 6). MEDINA told them there was a plane circling the village telling the villagers to leave (pg. 6). The witness did not recall the name of the VC outfit that was supposed to be there but felt it was a "pretty good enemy stronghold" (pg. 6). He stated they expected a "big force" of enemy (pg. 8). They were supposed to destroy the livestock and the food in the village and were to burn houses if anything was found in them (pg. 8). The witness stated he did not anticipate running into any villagers as they were supposed to have left and that anyone they did encounter would be VC or VC sympathizers (pg. 8). The witness did not know if MEDINA said anything

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about leveling the village or getting even with the VC and he did not remember how long the operation was supposed to last (pg. 8). The witness stated that because it was a search and destroy mission they were to destroy the enemy and all his supplies, but he did not feel that it meant to destroy anything and everything in the village (pg. 10). He felt that the enemy included anyone who was shooting at them and anyone who was supporting these people (pg. 10). He stated that their orders being to destroy anything in the village meant that when they found the people they were to destroy them (pg. 23). He stated that this order did not extend to children (pg. 34). He recalled the memorial service being held a short time before the briefing (pg. 6). The witness stated that he expected to encounter a big stronghold of VC and felt that the other members of the unit expected the same (pg. 9). He felt that they were nervous because of the large force they were to encounter and stated that possibly they were looking forward to the encounter (pg. 10). He stated he did not want to meet up with the enemy but he did not know how the others felt (pg. 11). He felt that possibly some of the men enjoyed the killing because their friends had been killed and it was a chance to get even (pg. 38). The witness did not recall if MEDINA had a meeting of platoon leaders and platoon sergeants after the briefing (pg. 8), and he did not remember Lieutenant BROOKS giving any orders after the company briefing (pg. 9). Their squad leader told them what was to be done and what positions they would take (pg. 9).

3. ASSAULT ON MY LAI.

a. Landing and initial movement.

The witness as an assistant machinegunner carried a .45 and in his operations with HUTSON he would sometimes carry the machinegun (pgs. 31, 32). He was oriented to Exhibit P-1, aerial photograph of the My Lai (4) area (pg. 11). He was shown where the helicopters let him off and he stated after landing they went with the squad to which they were attached and joined the second platoon (pg. 11). The first platoon would be to the left, they would be in the center and the third platoon would be on the right normally, but he did not remember the way it was set up that morning (pgs. 11, 12). As they moved towards the village there was some firing in an attempt to flush out any enemy that might have been present (pg. 12). They fired at shrubs as they moved forward on line (pg. 12). Then he stated, they went through the

village destroying the animals and the food supply (pg. 13). The witness stated that although they were supposed to be on line sweeping through the village they could not do it and they moved through in single file trying not to shoot each other (pg. 32).

b. Treatment of civilians in the village.

The witness stated that they came across people and did not know what to do with them (pg. 13). He stated he saw the men and women getting killed but did not see any children actually being shot (pg. 13). He felt that the ones who were killed were trying to get away (pg. 13). The first Vietnamese that he saw were the ones that the gunships killed and they took the weapons from them (pg. 14). He was refreshed by SIMPSON's statement describing ROSCHEVITZ killing a group of detainees, but the witness did not remember the incident (pg. 14). He did not recall an incident when SIMPSON shot a woman and her baby (pg. 15). He stated he did not carry any grenades in rebuttal to SIMPSON's statement that he had thrown a grenade into a shelter (pgs. 15, 16). He denied that the platoon methodically killed every Vietnamese person they came across (pg. 16). He stated he did not remember who shot individuals and felt that he "wouldn't tell the names because if people don't stick together in a war like this, man, they're no good, telling on each other, no good in my book" (pg. 17). He pointed out that he did see people killed and hootches burned and pigs, chickens, and cows being killed (pg. 17). He did not remember any large quantities of rice being captured (pg. 17). He stated that the platoon received no hostile fire as they moved into the village and aside from CARTER shooting himself in the foot no one else was hurt (pg. 18). He estimated that he saw 25 bodies throughout the village (pg. 19). The people whom he saw killed he thought were VC suspects or sympathizers, although they had no weapons (pg. 23). He did not recall the platoon capturing any people and stated that the people they encountered they destroyed because they were in battle and he felt that they had to destroy them (pg. 23). He did not see a ditch with a number of bodies in it nor did he hear about it until it was over (pgs. 24, 25). He stated he did not see groups of people being killed although two or three people running away together would be shot (pg. 33). He did not see anyone shoot a group of people with a grenade launcher and he stated that he was with HUTSON and if HUTSON shot someone he would have seen it (pg. 33). He felt that HUTTO was not

with them and was off with another squad (pg. 34).

c. Subsequent activity.

The witness stated that after a certain period of time in the village they received orders to go and collect the weapons from two VC who had been killed by gunshot (pg. 19). He did not recall where he was located in the village when he headed out into the paddy (pg. 19). He felt that they had picked up the weapons before they entered the village (pg. 19). He did not recall moving to the subhamlet of Binh Tay and stated he did recall MEDINA telling them, after they had moved through My Lai (4), to cease fire (pg. 20). He was told that this was a side trip but he did not know that they were in another village (pg. 21). He felt that everything had happened in My Lai (4) (pgs. 22, 36).

d. Night laager position.

The witness did not recall if they laagered for the night at a graveyard but stated that he remembered spending an evening in a graveyard when the unit was hit (pg. 26). He did recall seeing National Police who were questioning the villagers but he did not see or know of any officers being with them (pg. 27). He did not know Captain KOTOUC and he did not see anyone cut off a suspect's finger (pg. 27). He heard that the National Police shot one of the suspects but he did not see it (pg. 27). He recalled that the company was lifted out on the afternoon of 18 March and they returned to LZ Dottie by helicopter (pg. 28).

4. INQUIRIES CONCERNING THE ASSAULT.

The witness did not recall seeing any officers visit the unit during the operation (pg. 25). He did not remember being met by an officer on their return to LZ Dottie and stated that he did not know Colonel HENDERSON (pg. 28). He felt that he was not around after the landing (pgs. 28, 29). He did not remember Captain MEDINA calling the unit together and informing them that there was an investigation going on and that they were not to talk about it (pg. 29). He was never questioned about the incident and he does not recall others being questioned (pg. 29). He was never told by anyone to keep quiet and he did not feel there was a coverup of the operation (pg. 30). He felt that if the unit were questioned some of the people would have talked about the incident and

he stated that he felt that they had just done their job and they had not done anything wrong (pg. 38). He felt that if it was investigated at the time the people would have remembered everything and he stated that he did recall hearing that there was a small investigation while he was over there but he did not know what it was about and he never heard much about it (pg. 39).

5. OTHER INFORMATION.

a. The witness was informed that there was evidence indicating that men from the second platoon had intercourse with women in the village and raped them. He stated that he did not rape anyone (pg. 31). He was told that it was alleged that he had raped a woman and he said that he did not (pg. 37). He stated that he had been told on his CID interrogation that he was suspected of rape but this was the first he knew about it (pg. 38).

b. The witness stated that he thought there was a marijuana problem in the company because he believed that there was an investigator checking on it at one time (pg. 36). He did not know of men smoking marijuana and going into combat and stated he would be afraid to do such a thing (pg. 36). He did not know of anyone smoking pot the night before the operation, although he felt that there was some drinking (pg. 36). He stated that if there was beer around they drank it but there was no whiskey around unless it had been sent from home (pg. 37).

EXHIBITS

EXHIBIT NUMBER	DESCRIPTION	NOTES	PAGES
P-1	Aerial photo of My Lai (4)	Used to orient the witness.	11
MAP-4	Map 6739 II	Used to orient the witness.	11

(WRIGHT)

(The hearing reconvened at 1340 hours, 19 January 1970.)

MR WEST: The hearing will come to order.

RCDR: The following persons are present: MR WEST, COL MILLER, and MAJ COOP.

The next witness is Mr. Floyd D. WRIGHT.

(MR WRIGHT was called as a witness, was sworn, and testified as follows:)

Would you state your full name, occupation, and address.

WIT: Floyd D. WRIGHT, Route 6, Greenville, Tennessee. I'm employed at the American Enka. That's in Morristown, Tennessee.

MR WEST: Mr. WRIGHT, before we get into any questions, Colonel MILLER will provide you with some information about the nature and purpose of this inquiry and also about your testimonial rights.

COL MILLER: I am going to go over several things, Mr. WRIGHT. If you have questions on any of it, please feel free to ask any questions you may have, and I'll try to explain it and make it clear.

This investigation was directed jointly by the Secretary of the Army and the Chief of Staff of the Army for the purpose of determining facts and making findings and recommendations with respect to two major subjects:

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

(2) the possible suppression or withholding of information by any person who may have had a duty to report and to furnish information concerning this My Lai incident.

(WRIGHT)

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We are not conducting the investigation to inquire into all the facts of exactly what happened at My Lai (4), but we do in fact get into many of the things that actually happened there in the course of our investigation.

We have had made available to us and we have reviewed prior official statements that were obtained in other official investigations into this matter. These include, for example, the Inspector General and the Criminal Investigation Division inquiries.

Your testimony today will be taken under oath. There will be a verbatim record. That's what the reporter is for. In addition, we are making a tape recording of what is going on.

The general classification of our report will be confidential. However there is at least a possibility that some or all of the testimony may at some later time become a matter of public knowledge.

I don't believe you have been called as a witness in the general court-martial case of the United States v. Calley, have you?

WIT: No, I have not.

COL MILLER: Or United States v. Mitchell?

A. No.

COL MILLER: At this time, then, you are not subject to the orders of the military judge in that case. However, we do request that you not discuss the testimony which you give in this investigation with others, including other witnesses who may have been or may be called before the investigation except as you may be required to do before a competent legislative, or judicial, or administrative body. This is an example of an administrative hearing. A court-martial would be a judicial body. Obviously you can't know before we do who may be witnesses in this case. In essence, we ask that you do not discuss with others what your testimony is here today, except before these bodies I have just mentioned.

Now, have you got any questions so far?

WIT: Well, I already give it once, to a guy. He came out of Asheville, North Carolina. I believe, an investigator.

COL MILLER: When was that?

WIT: Well, that same day you guys called me, Thursday. This investigator came to the house.

COL MILLER: That probably was a criminal investigator.

WIT: His name was--

MR WEST: (Interposing) GRAHAM?

WIT: I believe it was.

COL MILLER: However, our inquiry is for a different purpose, and we will go over just about the same things that you went over then, perhaps, with some additional things that are of particular interest in this inquiry.

Now, we have read statements by other witnesses, and at this time I want to advise you concerning your testimonial rights. You may have been similarly advised at the last interrogation. I don't know, but I assume you probably were. Testimony by other witnesses raises the suspicion that you may have committed one or more of several offenses including generally the offenses of murder, in violation of the Uniform Code of Military Justice and the law of war, aggravated assault by shooting into hootches while people were inside, and possibly rape. Now since there are witnesses who have made statements to this effect, you are, of course, suspected of these offenses, and, therefore, I want to be sure that you understand exactly what your testimonial rights are before us today.

First, you have the right to remain silent, to answer no questions whatsoever. Any statement you may make could be used against you as evidence in a criminal trial. You have the right to consult with counsel. By counsel I mean a qualified lawyer. You have the right to have that

counsel present with you at this interrogation if you wish. The counsel may be civilian counsel whom you retain at your own expense. Alternatively, if you wish, we will appoint a military counsel to advise you and assist you. If you wish to have both, you are entitled to that also. Even if you decide that you want to answer questions today without having any counsel present, you may stop answering questions. There may be certain questions you don't want to answer. You may refuse to answer any particular questions or series of questions. You may terminate the interrogation if that's what you desire, or you may decide that you would like to have time to obtain civilian counsel, or request that military counsel be appointed, or both. You have those rights also. If you do decide that you wish to have counsel, the counsel may be here. You may consult with him; he may consult with you. Do you understand what I've gone through so far, Mr. WRIGHT?

A. I believe so.

COL MILLER: Do you have any questions about it in your own mind?

A. No.

COL MILLER: Would you like to have me explain them any further?

A. No.

COL MILLER: I have two more questions then. Do you wish to either employ counsel at your own expense or to have military counsel made available to you?

A. No, I don't need anybody.

COL MILLER: I didn't understand you.

A. I don't think I need him.

COL MILLER: Well, you know more whether you need him or not. You have the right if you wish. If you don't, you understand that you may request counsel if you wish. You may stop answering questions at any time. All right. Are you willing then, at this time, even without counsel, to answer our questions?

A. I'll answer them to the best of my ability.

COL MILLER: Before we start, do you have any questions you want to ask us?

A. No, not at the present.

MR WEST: For the record, Mr. WRIGHT, were you a member of the Army on 16 March 1968?

A. Yes, I was.

Q. What was your grade and your duty assignment?

A. Spec 4. And what I was doing?

Q. Yes.

A. I was machinegunner in the 2d Platoon.

Q. 2d Platoon, C/1/20?

A. Right.

Q. Who was the squad leader?

A. I can't recall that.

Q. Sergeant LACROIX?

A. It might be. I swear I don't remember.

Q. Do you know Varnado SIMPSON? Do you remember SIMPSON?

A. Yes.

Q. We have a statement from SIMPSON in which he said that his squad leader was Sergeant LACROIX, and the members of this squad were LAMARTINA, ROTGER, DELGADO, HUTTO, HUTSON, WRIGHT, and MOWER. You were the machinegunner. Who were the other members of your team?

A. Well, HUTSON was the gunner. I was the assistant gunner.

Q. HUTSON was the gunner. You were assistant gunner and HUTTO ammunition bearer?

A. Yes.

Q. Mr. WRIGHT, when did you first hear about the plan to make a combat assault on My Lai (4).

A. I guess it was the evening, the night before. Captain MEDINA gave us a little talk about what was going on.

Q. Do you remember a memorial ceremony just about this time, a little before the briefing?

A. What for?

Q. Well, we were told this ceremony was held for some men of the company who'd been killed just a short time before. One of them was Sergeant COX, I think.

A. Yes, I remember that.

Q. Could you fix a time with relation to the briefing by Captain MEDINA?

A. No, I don't remember.

Q. Could you tell us what Captain MEDINA told you in the briefing about the operations coming up? What were his orders?

A. Well, the way I got it, we was on a search and destroy mission, My Lai (4). He told us that there was supposed to have been a plane circling the village, and told all the villagers to leave. It was a troop unit moving through, and they had orders to destroy it, I guess. Well, that was a pretty good enemy stronghold in that area, supplies and stuff.

Q. Do you remember the name of the VC outfit that was supposed to be in there?

A. No, I don't remember that offhand.

Q. We've had other testimony indicating that Charlie Company had been up against this outfit before, and you'd suffered quite a few casualties at the hands of this particular VC organization. Could you tell us about that?

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(NOT USED)

(WRIGHT)

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A. Well, he just told us what to expect. We really expected a big force of enemy.

Q. Did he say anything about livestock and food you might run across in the village?

A. Yes, we was supposed to destroy it.

Q. How about burning the houses?

A. If we found anything in them, yes, we was supposed to.

Q. How about any people you ran into?

A. Well, we didn't know we was supposed to run into any villagers. The way I got it, the airplane was supposed to cover all that. The villagers was supposed to leave.

Q. You figured anybody you ran into would be VC or VC sympathizers?

A. Supposed to be.

Q. Did Captain MEDINA say anything about leveling the village or getting even with the VC, things of that nature?

A. Not that I know of.

Q. Did he indicate how long the operation was supposed to last?

A. I don't remember.

Q. Do you remember whether there was a meeting of platoon leaders and platoon sergeants held after the briefing?

A. No, I don't.

Q. What was the mood of the men of Charlie Company after the briefing?

A. The mood of them?

Q. Yes. What did they think of the upcoming operation? How did they feel about it?

A. Well, if they all felt like I did, I guess they felt we was going to get it--a big stronghold of the VC, and we expected to run into them.

Q. You expected a tough fight?

A. Yes, I'd say we did.

Q. Your platoon leader was Lieutenant BROOKS?

A. Right.

Q. Did he give you any orders after the company briefing?

A. None that I know of.

Q. How about your squad leader?

A. He just told us what was to be done, what our position would be and everything. That's the way they always do before every operation.

COL MILLER: Did Captain MEDINA normally get the company together, the whole company, and brief them before an operation?

A. Yes, if it was a very big operation, he did.

Q. After Captain MEDINA was done with his whole briefing, looking back now 20 months or so, could you tell me what your recollection is of what he expected the company to do the next day?

A. Well, I guess, like always he expected us to do our job and carry out what we were supposed to be doing. Search and destroy mission. I guess you know what that is.

Q. Had you been on any search and destroy missions before?

A. Yes.

- Q. What other kind of missions might you have?
- A. Well, we've been on blocking forces, and just little old maneuvers, trying to make contact with the enemy.
- Q. What does search and destroy mean?
- A. Well, if you found the enemy, I guess, destroy him and all his supplies.
- Q. Does it mean to destroy anything and everything that might be in there?
- A. No, I don't guess it meant that.
- Q. You're talking about the enemy, then, the VC, the North Vietnamese? Whoever's shooting at you?
- A. Anything that's shooting at you, I guess.
- Q. Anything that supports them?
- A. Yes.
- Q. You said you expected to get into a pretty good fight the next day. After the briefing and during the evening, did the soldiers talk about this very much, worry about it any more than some of the other operations?
- A. I guess we was on account of there being a lot of talk of such a big force down in there.
- Q. Just a little bit more nervous in the service maybe?
- A. I guess.
- Q. While they were worried about it, do you feel they were in a sense looking forward to this as a chance to finally actually close with and meet this enemy?
- A. I guess.

Q. Let me go on a little bit more--any more than say when you were going out on these other missions and you were never able to close with them? Did this seem better or worse that you might actually meet up with them that day?

A. Well, opinion, I didn't really want to meet up with them. I don't know how the rest of them felt.

MR WEST: Let me show you an aerial photograph (Exhibit P-1) that's been blown up pretty large of My Lai (4) and the vicinity. It's oriented so this is north up here and that's east out toward the China Sea. The scale of this photograph is 1 inch equals about 80 meters. If you'll notice the map over here, this is a 1:25,000 scale map. It's been admitted into evidence as Exhibit MAP-4. Here's My Lai on the map. Here's the stream line coming up here, same thing on the photograph, bigger, of course. Notice the little road, trail leading south from My Lai (4) to Highway 521.

A. That's right here.

Q. Now the landing zone was just to the west of the hamlet in here. And that's where the helicopters came in and let you off. Now does this look at all familiar to you? Are you accustomed to looking at aerial photographs? This is so-called vertical, you're just looking right down on it. These are cleared fields, rice paddies here. Then you have all these little places surrounded with trees, and shrubs, and hedgerows with their houses in here. Well, can you tell us now what you and your squad did after you got out of the helicopters there that morning, 16 March, at My Lai (4)?

A. Well, you mean the weapons squad or machinegun squad? We always went with the squad we was attached to, and after we got out of the helicopter, I guess we joined the platoon, the 2d Platoon.

Q. Do you remember what part of My Lai (4) that the 2d Platoon was supposed to go through?

A. Well, the way we always moved, the 1st Platoon would be on the left, and we'd be in the center, and the 3d Platoon would be on the right.

Q. You don't remember the orders that morning, the way it was laid out?

A. No, I don't.

Q. All right. We have evidence that the 1st Platoon took the right or the southern half, the 2d Platoon the left or the northern part, the 3d Platoon came in later and they were the drag platoon. They came through later and mopped up so to speak. Could you tell us now what your platoon did that morning that you remember?

A. Well, after we got out of the helicopter they moved into the village.

Q. Could you tell us what you saw, what your squad did, and what you saw, things that you remember happened?

A. I guess there was a few killed. I don't know, we just moved on through the village, I guess, looking for ammunition, searching the hootches out, destroying.

Q. Let's go back now. As the platoon moved into My Lai (4), what was it doing? Were they firing?

A. Well, some.

Q. Were they firing weapons?

A. As they moved out, in case there would be any enemy, try to flush them out, you might say.

Q. We've had testimony this morning from a man who was there. He said that MEDINA urged the men of Charlie Company to move in aggressively, firing, keep pushing, not to lose contact with the enemy, not to get pinned down, keep fire superiority. Now, can you tell us just how the platoon moved and how they used their weapons?

A. You mean how we moved? We usually moved on sort of a line. Everybody tried to stay to one side of you, a man on the left and right.

Q. Oh, you were firing as you moved. A reconnaissance by fire?

A. Just when we felt we should, like a bunch of shrubs or something.

Q. When you had something to shoot at?

A. Well, what we couldn't see.

Q. Maybe when you came to a hedgerow, you'd fire into it because you couldn't see who was hidden there, that kind of thing. What else do you remember?

A. We just run through the village destroying the animals and stuff, the food supplies.

Q. What about the people you came across?

A. Well, in our platoon, there wasn't that many destroyed. I don't know how many they was. They weren't all that many. See, after we found them we didn't know what to do with them. We was told they was the enemy, VC and VC sympathizers, so we didn't know what to do with them.

Q. You're talking about what? Men, women, children, people you came across?

A. I didn't see no children get killed.

Q. All right. Just tell us what you saw, please.

A. Well, I saw men and women get killed, but I didn't see no children get killed.

Q. All right. Can you describe these incidents?

A. You mean where they happened at?

Q. You're being pretty general. You came across somebody in a field, or in a house, or in a bunker, or down a path. If you would just tell us what you saw, what happened?

A. I guess when I saw them get killed they was trying to run, trying to get away.

Q. Well, okay, tell us about the first Vietnamese person you remember seeing.

A. I guess the ones we captured, gunships killed, we captured two weapons off of them, searched the bodies and got the weapons.

Q. I'm familiar with that but that happened quite a time after. This happened after you went through as much of My Lai (4) as you did go through, some time later. Let me read you some of Varnado SIMPSON's statement. You remember, SIMPSON said he was in the same squad with you.

A. That other guy asked me the same question. I don't remember that at all.

Q. Well, okay.

A. He said that I was there with him when he shot a woman and a little girl, something like that. That's what that other guy told me.

Q. That's right. Let me read this part. This is from the statement of Varnado SIMPSON:

"Just after we got into the village, I came upon WOODS and STANLEY with four or five Vietnamese detainees. STANLEY said they were going to take them to the platoon collection area. They were asking these people some questions in Vietnamese. Then ROSCHEVITZ who come up with me said to kill all the people and told me to kill them."

Remember, this is Varnado SIMPSON speaking.

"I hadn't killed anyone yet so I said that I would not. ROSCHEVITZ grabbed my M-16 away from me, put it on automatic fire, and killed all of the Vietnamese who had been standing there. These people were not armed, were not trying to escape."

That's the end of the quotation. Do you remember this incident?

A. No, I do not.

Q. You knew ROSCHEVITZ, did you?

A. Yes.

Q. Do you remember how he was armed?

A. I guess he had an M-79, that rocket launcher.

Q. That's right, he was a grenadier. Varnado SIMPSON was asked, "What happened then?" And he answered:

"I continued on into the village and found a place where a boy had been shot by a well near a hut. A woman came, and a baby came out of the hut crying and carrying on. ROSCHEVITZ, LAMARTINA, and LACROIX were there. WRIGHT, HUTTO, and HUTSON were there also. I think BROOKS may have been around. BROOKS told me to kill the woman, and acting on his orders I shot her and the baby."

And a little later on he goes on to say:

"I remember shooting the baby in the face."

End of quote. Do you remember this incident?

A. No, I don't. That's not what I was talking about. I don't remember that.

Q. Well, what do you remember happening when you first went into the village?

A. Well, I didn't even see SIMPSON shoot any.

Q. Did you see anybody else shoot anybody?

A. No.

Q. Well, SIMPSON goes on then. This woman and a baby he talked about, when he said he shot the baby, had come out of a hut. Then he was asked a question, "What happened then?" SIMPSON answered:

"There were four or five people, mostly children, still in the huts. HUTTO, WRIGHT, and HUTSON went into the hut, and HUTSON fired the machinegun into the children. I had gone into the hut that time, saw that the bodies were all torn up. I had no doubt they were all killed. There was a little old hole in the hut where people took shelter from attack. WRIGHT dropped a grenade into the hole in case someone was hiding there."

Do you remember that?

A. I didn't even carry no grenades.

Q. Well, this is SIMPSON's statement. What I'm really trying to do, Mr. WRIGHT, is try to stir your memory a little bit.

A. I know. I didn't carry no grenades.

Q. Well, would you try to describe what happened there when you first started in through the village, you know, much as SIMPSON. He remembers things. He told us what went on. You must have some recollection of what you and your gun team did, the rest of the squad, platoon.

A. Well, I guess we killed a few. I guess we thought we had to. But there weren't all that many killed by machine-gun.

Q. Well, the evidence we received thus far, Mr. WRIGHT, indicates that the 2d Platoon moved into the left side or the north part of the village, moving west to east, and methodically killed every Vietnamese person they came across.

A. No, that's not true.

Q. It's been related to us that these were the orders, and that's what the platoon did.

A. Well, we had orders to destroy everything. But the people, we didn't know what to do with them. But there wasn't everybody killed, not from my platoon, because I personally saw a lot that was left alone, wasn't bothered.

Q. I wish you'd describe what you saw and what the platoon did?

A. What do you want? I've done told you.

Q. My problem, Mr. WRIGHT, is your statements have just been very general. You don't relate it to any place or time. You don't give numbers. You don't tell us what kind of people. You don't tell who did what.

A. I'm not going to tell who shot who because I don't remember. If I did, I wouldn't tell the names because if people don't stick together in a war like this, man, they're no good, telling on each other, no good in my book.

Q. Well, really I'm not very concerned with who shot who. We are very interested with the events, the things that happened. Now could you tell us what happened without naming people?

A. Well, as we moved through the village, they was people killed--I can't deny that because they was--and hootches burnt, animals killed.

Q. Was it your understanding that these were the orders, this is what you were supposed to do?

A. Yes. Finally, we felt that's what we had to do because we didn't know what else to do with them. Well, they either had to be VC or help them, because the VC, they come in there a lot. I gathered there was a headquarters for them, sort of a supply point, I guess. And there was a lot of food in the village, lot of pigs, chickens, and stuff.

Q. Cows?

A. Yes.

Q. Did you find much rice?

A. Well, I don't remember if there was very much rice or not.

Q. How about any growing crops, amount to anything?

A. I don't remember. Of course, they had rice. Everybody knows that over there.

Q. You didn't run into any big quantities?

A. No.

Q. The Vietnamese people you saw there that morning in My Lai (4), what was the porportion of women and children?

A. I really don't know. I didn't see all that many killed. I couldn't say.

Q. Did you see any draft-age males?

A. There might have been a few. I wouldn't say.

Q. Can you account for any resistance at all as you moved into the village? Did you take any fire at all?

A. Repeat that again.

Q. Did the squad or platoon receive any hostile fire at all?

A. No, they didn't.

Q. Suffer any casualties? Anybody get hurt?

A. Yes. There was one colored guy got shot in the foot. He shot his ownself.

Q. That was CARTER over in the 1st Platoon?

A. Yes.

Q. Nobody in your platoon got hurt?

A. Not that I remember.

Q. Well, during the time, now, that you were in My Lai (4) moving from west to east, how many dead people did you see, whether you saw them killed or just saw them lying dead?

A. Well, I didn't see all that many. I didn't stop and count them.

Q. Well, we're just trying to get an idea.

A. Yes. Well, I wouldn't say because--

Q. (Interposing) Would it be 50 or 25?

A. It wouldn't be 50. I'd say I saw 25.

Q. Do you remember how far the platoon went through My Lai (4) before it started out in the rice field to pick up the web equipment?

A. Well, I thought we done that before we went into the village.

Q. It was after. After you had gotten so far along, a call came in by radio that a gunship killed two VC out in the rice paddies, just about 400--

A. (Interposing) Right in here somewheres, I believe (indicating).

Q. No, they were out farther than that, about 400 meters out there.

A. Out from the village?

Q. Yes. The platoon got orders to go out and pick up the weapons. Lieutenant BROOKS--BUNNING was on the point. Lieutenant BROOKS was right behind him. Do you remember about where you were in My Lai (4) there when you headed out into the rice paddy.

A. No, I don't.

Q. You do remember going out for the weapons though. Could you just describe what happened?

A. Well, I thought we got them before we went into the village. I don't know now. I guess we sort of set up security with the machinegun.

Q. Well, do you remember seeing the weapons?

A. Yes. It was an M-1 carbine, I believe it was.

Q. Would you tell us what the platoon did next?

A. Well, I guess the ones out here moved back to the main platoon, I guess.

Q. Well, let me refresh your memory now. Northwest where you were out in here there's another little hamlet, the subhamlet of Binh Tay. Your platoon got orders to move in here and work this hamlet over, and that's what happened next.

A. You mean we went over here and killed some more people?

Q. That's right.

A. No.

Q. What do you recall about that?

A. Well, after this here, there wasn't any more of that, to the best of my knowledge. I may be wrong. Who gave you that statement?

Q. Oh, half a dozen men.

A. Well, I don't remember that. This right here was the only one I recall. We moved over here in this other village and destroyed all those people there too?

Q. Well, the platoon moved into Binh Tay, and they operated just as they had in My Lai (4), according to our evidence.

A. After we got through this village right here, Captain MEDINA told us to cease fire.

Q. Who?

A. Captain MEDINA. He told us to cease fire.

Q. Let me tell you what the evidence is from other witnesses. After the pickup of two VC weapons, the platoon moved into Binh Tay, and they started through it just as they had through their sector of My Lai (4), finishing off people as they found them. They rounded up a group which could be anywhere from 15 to 20 people.

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A. Is that where CALLEY was supposed to kill all those people?

Q. CALLEY wasn't anywhere near here. BROOKS was here. BROOKS, BUCHANON, a number of other people, ROSCHEVITZ. They had this group of 15 to 20. There was some arguing about what to do with them. ROSCHEVITZ got off a ways. He wanted to use his grenade launcher. He fired three or four rounds in among this group, killed some of them, wounded others. They were finished off with M-16's. Do you remember that incident?

A. No, I don't.

Q. I don't recall that anybody said you had anything to do with it. We're trying to check on it, just what happened?

A. I know what you're trying to do, but I don't remember us going into this other village. I'm pretty sure that Captain MEDINA told us when we got to this village here, to stop and cease fire.

COL MILLER: When you went up to this little village to the north of My Lai, the village of Binh Tay, you were still on your movement through the main village of My Lai. This is a little side trip, to go up and come back. It wasn't until some time after that you had actually cleared My Lai.

A. You mean this was the first we hit?

Q. After you hit the LZ, you came up to Binh Tay and then the platoon went on back to the village, along the north edge of the village of My Lai. In other words, when you were in Binh Tay, you were not yet through the village of My Lai. You came back to it. So it's just a little side trip.

A. I didn't know we was in the other village.

MR WEST: That's right. You moved through a certain part of My Lai, went up, picked up the weapons, came up here, and then went down again, probably went back that way (indicating).

A. Well, I didn't know we was in the other village.

Q. Let me tell you about the cease fire orders. Several witnesses say the cease fire order came while the 2d Platoon was in Binh Tay. Lieutenant BROOKS got the order. From that point on no Vietnamese were killed any more. That was the order: stop the killing. You went on through rounded up 50, 60 Vietnamese, turned off down this direction (indicating) toward Highway 1, back down to My Lai (4). So I take it you don't recall anything what happened at Binh Tay?

A. I didn't know we was in it. I swear I didn't. I thought it all happened in My Lai (4).

Q. Okay. Can you recall anything significant that happened in My Lai (4) now that you haven't told us about?

A. No, I can't.

COL MILLER: Did you spend any of your time in the morning with Captain MEDINA and the command group rather than with your platoon?

A. Did I do what?

Q. Spend time with Captain MEDINA and his command group, his RTO. Some of the mortar platoon was in there and a photographer. There was a group of people with Captain MEDINA. Were you back with that group rather than with your platoon?

A. No.

Q. You said a little earlier that you had people that morning and you didn't know what to do with them. I take it that the platoon or some members of the platoon had rounded up some people, and they're standing there, and they say--

A. (Interposing) We saw people and didn't know what to do with them.

Q. You saw people? What did they do with them then?

A. They killed them.

Q. Were these VC, or women, or children, or what?

A. We figured they was VC. They didn't have no weapons, so I guess we figured they was--what did you call them? VC sympathizers, suspects, something like that.

Q. Was this what you understood your orders were: kill anything that was in there?

A. Yes, it was.

Q. Do you remember the platoon capturing any people that morning?

A. No, I don't.

Q. Because our testimony indicates that they did get quite a few, and they sent them on their way after a while.

A. I don't know.

Q. I think you said you had these people and you didn't know what to do with them, that you saw them. Who decided finally what you should do? Who gave the order that you should shoot instead of not shoot?

A. We had the orders before we left. When we moved in the village, if there was anything there, destroy it. So when we found them, that's what we did with them.

Q. What did you mean by saying you didn't know what to do with them if you had an order already? I'm just trying to get at what's going through your mind and the minds of the men.

A. Well, we was in battle, so I guess we had to destroy them. We felt we was supposed to destroy them, you know.

Q. For example--and I'm not trying to put any words in your mouth--you see some people running out there, and you don't know if they have guns or not. Somebody says, "Should we shoot?" Did someone say, "No, no, we shouldn't"? Or did somebody say, "Let's kill them"? I mean was there any question in the minds of any men in the platoon? Did this come up as a question and somebody make the decision?

A. No.

Q. Did they just shoot?

A. They just shot, I guess. No, we just didn't up and shoot anybody. The ones that was running, we always before--I mean after this, if we saw anybody running we always tried to get them to stop. If they didn't stop, we shot a couple times over their heads. If they didn't stop then--

Q. (Interposing) You mean in other operations or on this day?

A. On other operations. We just didn't kill like we was supposed to do here. We just didn't kill everybody. Those that run, we'd try to get them to stop. If they didn't stop, we shot them.

MR WEST: I take it this operation wasn't like any of the others?

A. No.

Q. Mr. WRIGHT, do you remember what the platoon did now? After you came all the way through to the east end of My Lai (4), what happened?

A. No, I don't. I guess it was the end of our mission.

Q. Well, did you, anywhere in the vicinity of the east end of My Lai (4), see a ditch with a lot of bodies in it?

A. No, I didn't.

Q. Did you hear about it?

A. I can't recall if I did. I don't remember.

Q. Some of the men in your squad did go over and take a look at it. It was a place where the 1st Platoon had been.

A. I don't remember.

Q. Some of the men of 2d Platoon went over and took a look. SIMPSON was among them. You don't remember seeing anything like that?

A. No.

Q. Did you hear about it?

A. Well, after it was all over, I guess I heard about it. Not right at the time I didn't.

Q. Did you see any visiting officers that morning? Anybody from Task Force Barker, or brigade, or division come in by helicopter?

A. You mean after the operation?

Q. During the operation.

A. I don't recall if there was. They may come to Captain MEDINA, but I didn't see them.

Q. When the order came down from Captain MEDINA, what did you hear? How was the order expressed?

A. You mean before we moved out on that operation?

Q. No, you mentioned it yourself. I advised you that our evidence was that an order had come down from MEDINA while the platoon was in Binh Tay. What did you hear? What was the order?

A. Well, stop, cease, stop shooting, stop killing the people.

Q. This is the way you remember it?

A. Yes.

Q. Were you around Lieutenant BROOKS much that morning?

A. No.

Q. Could you tell us what you saw of Lieutenant BROOKS? Was he directing the platoon on its operations?

A. Yes, he was directing but I guess he had a radio man, you know. And I guess the platoon sergeant and the medic sort of stuck with them pretty much, something like that. MORRISON, I guess, the platoon sergeant, was supposed to stay behind.

Q. Did you see much of Sergeant BUCHANON?

A. No.

Q. Mr. WRIGHT, do you remember the company moving out, moving on east, a little north, and joining up with B/4/3 late in the afternoon?

A. That same day?

Q. Yes. You laagered for the night at a graveyard.

A. I don't remember if we did or not.

Q. This is what the evidence is.

A. We held up in a graveyard?

Q. Yes, spent the night in or near a graveyard.

A. Well, one night we spent the night in a graveyard, and we got hit. That's all I remember.

Q. Did you see any National Police?

A. Yes, I remember that.

Q. What were they doing?

A. They was questioning the villagers that we took. They questioned them, I guess, about what happened to the enemy, if there was any weapons around.

Q. Now, there were some officers there with them, Army officers. Did you see them, know who they were?

A. No.

Q. Did you know the S2 of the task force, Captain KOTOUC?

A. Did I know him?

Q. Yes.

A. No, I didn't.

Q. Did you see any American officers there during the interrogation participate in it?

A. No.

Q. Did you see anybody cut off some fingers from one of the suspects?

A. No, I didn't.

Q. Did you see the National Police shoot any of these suspects?

A. No, but I heard they shot one. I didn't see it though.

Q. We have evidence that during the interrogation one of them had from one to three fingers cut off his hand, trying to make him talk.

A. You mean the Vietnamese interrogation done that?
I didn't know that.

Q. The evidence is that one of the officers did it.

A. Mac HUTSON, was he up here?

Q. HUTSON, he's been here. So has HUTTO.

A. HUTTO been up here, too?

Q. Yes.

A. What did HUTSON have to say about it?

Q. Well, I don't recall.

A. That other guy that talked to me talked to him,
too.

Q. The CID agent?

A. What did you say his last name was?

Q. GRAHAM. Our evidence is that Charlie Company was
lifted out on the afternoon of the 18th, about 2 days later.
Do you remember being taken back to Landing Zone Dottie by
helicopter?

A. I believe that's right.

Q. Do you remember being met by an officer who asked
you questions right after you got back?

A. No, I don't. I wasn't there.

Q. Did you know Colonel HENDERSON, the brigade com-
mander?

A. No, I didn't.

Q. He told us, and a number of other people have con-
firmed it, that he met several loads of men coming back. He
asked them some questions about what had gone on in My Lai (4)
the morning of the 16th. You don't remember anything like that?

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A. No, I wasn't around.

Q. Do you remember Captain MEDINA calling the company together and saying that there was an investigation going on of what had happened at My Lai (4) on the morning of 16 March?

A. . You mean he got us all together and told us not to--you say he got us all together and told us there was an investigation going on?

Q. Yes.

A. No, I don't believe he did. That other guy told me that there was, but I don't remember it.

Q. We've had Captain MEDINA in, and he said he did get the company together.

A. He did get the company together?

Q. Yes.

A. If he said it, I'd say he did then.

Q. He advised you not to talk about it, not to gossip with other people while an investigation was going on. We've had different versions of what he said. I was going to ask you.

A. I don't remember it.

Q. Has anybody ever talked to you about what had happened that day at My Lai (4)? Did an investigating officer come around?

A. No, there was not.

Q. Did you ever hear of anybody else in the company being questioned about it?

A. No, not that I remember.

Q. No one ever told you to keep quiet about what had happened at My Lai (4)?

A. No.

Q. Do you know of anything that made you think there had been a coverup?

A. I didn't think there was nothing. I figured that we done what had to be done, I guess. I felt like we was told to do it. We done it.

Q. How did the men in the company feel about it afterwards?

A. What?

Q. How did the men in Charlie Company feel about this operation after all these people were killed?

A. Well, I guess some of them felt bad because I guess they felt they did wrong after they done it. At the time, I guess they felt like I did: that was the job and they had to do it.

Q. I'm sure you know that very little was known about this incident until the last few weeks, couple months, when it hit the papers, and radio, and TV.

A. Well, I figured there would just be nothing said about it.

Q. Well, did you ever think about why it wasn't reported in the usual way and all, up through channels, so word spread around about it.

A. I never did wonder, I guess. I figured it was reported, but I didn't see nothing about it. It wasn't my business anyhow.

Q. But you weren't aware of any efforts to cover it up?

A. No.

Q. We've had considerable evidence that quite a number of men in the 2d Platoon had a practice of going into a Vietnamese village and grabbing women and having intercourse with them, even if it meant they had to rape them. We've had quite a few people named as being involved in this practice. We're primarily interested in not what an individual did, but whether this was a practice. Could you tell us about this?

A. Well, I didn't rape no one. It's in there--says that I have.

Q. I understand. I'm not asking you about that. I'm trying to get at whether this was a thing that was carried on in the platoon, different times, different operations?

A. Well, if it was going on, I didn't see it. Not in my squad anyhow there wasn't.

Q. What about the other squads?

A. We really didn't see them because we had a specific job to do, our squad. We didn't run around the other squads.

Q. You never heard of any men of the platoon having any woman on operations?

A. I've heard of it, but I didn't--never did say they raped them though.

COL MILLER: You were an assistant machinegunner?

A. Right.

Q. Did you carry a rifle?

A. No, carried a .45.

Q. Who carried the machinegun?

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A. HUTTO. I helped him carry it.

Q. You traded off?

A. Yes.

Q. Were you with HUTSON and HUTTO most of the day as a team or did you separate from time to time?

A. Well, I was with HUTSON but I don't remember whether I was with HUTTO all the time or not. He was the ammo bearer, and he had a rifle. He could have been with another squad or something.

Q. Would you normally, as a team, stay very close together?

A. Normally, yes.

Q. I don't mean side by side, but within 25 or 50 yards so you can come back.

A. If we was on a normal operation, we'd stay pretty close because he was supposed to carry most of the ammo.

Q. As you went to the village, do you recall if you were going single file down trails or if you were going in a spread formation?

A. We was supposed to be on line sweeping through our portion of the village.

Q. Could you do that in this village?

A. No, you can't do that in no village.

Q. What do you do, go single file then for the most part?

A. Well, I guess that's about the best way, sort of watch where the rest of the people are, not try to shoot our own people I guess.

Q. We're aware, for example, that there were little ditches, trees, walls, houses, so that you couldn't just go through the village spread out like you would through an open field. This we do know. Also that things could be going on at 50 yards or less away from you and you'd never even know it because there are things between you and what was going on. We've had other witnesses who were in approximately the same place who have told us what they saw, some of them in somewhat more detail. It may be that your memory isn't serving you as well as theirs is them. I don't know. We're trying to piece together exactly what happened as best we can. Whether you name names or not is not too important. You did say there was some killing going on. Did you see any people killed?

A. Yes, I saw people killed, but no groups or nothing.

Q. No groups at all?

A. No.

Q. Did you see running people killed in groups of three, or four, that is groups running away together?

A. Well, I'd say two or three, something like that.

Q. You didn't see anybody just stand up and shot?

A. No.

Q. Did you see anybody shoot into a group of people with a grenade launcher?

A. No.

Q. Did you see either HUTSON or HUTTO shoot anybody?

A. Well, now, if I was with HUTSON I guess I'd have seen him.

Q. One or both of them told us they did shoot people. I'm just wondering what you saw.

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A. Well, I didn't see HUTTO shoot nobody because I don't remember if he was with us. He was our ammo bearer. He still could have been with another squad, off with them or something.

Q. We're aware that if you go into a combat operation, you go in with the idea that if you see some enemy there you're going to shoot them. It would seem awfully strange to go on an operation and the orders are don't ever shoot anybody. What we're concerned with is what were you shooting at and for what reason. For example, you had the feeling that there were going to be VC and VC sympathizers and that's it. Yet that morning there were many women, children, little children. Some of them were killed. Now did you receive any order after you had landed that had to do with the killing of civilians?

A. You mean did they give us another order after we landed?

Q. After you landed, that you would kill whatever you saw in the village?

A. No. That was pretty well made clear to us before we left.

Q. That you would?

A. That we destroy what was in the village. We didn't think there was supposed to be any people in the village unless it would be an enemy or somebody.

Q. Did you think that that order extended to the killing of children? I don't mean you personally, but the platoon?

A. No, that order didn't go for killing children. I'll have to say that.

Q. Did you see any children who were killed?

A. I saw them after they was killed. But I couldn't say who done it because I didn't see anybody.

Q. Here's a statement made by another soldier in your platoon who says: "As we got on the outskirts of the village, an order came down from the company to destroy all the food, kill all the animals, and kill all the people." Do you remember--

A. (Interposing) You mean after we landed that order came down?

Q. As you got to the outskirts of the village.

A. I don't remember if we did.

Q. You don't remember that?

A. No.

Q. Did you at any time receive orders to stop firing, and if so, when and from whom?

A. Like you asked me a while ago, Captain MEDINA, after we got off. Practically all the way through the village, he told us to stop firing.

Q. How do you know it was Captain MEDINA?

A. I saw him.

Q. You saw him do it?

A. I saw him tell us because he was--he moved through our platoon again.

Q. Was this after you were all the way through the village and had taken a break or were you still going through the village?

A. I believe we was still--we was moving out of the village, I'm pretty sure, moving out of the village.

Q. Did you hear any order before this to stop the killing?

A. No, I didn't.

Q. How about the burning?

A. No.

Q. You don't remember seeing any people being killed up in the village to the north of My Lai?

A. No, like I said, I didn't even know we was in that village. I thought this all happened in My Lai.

MR WEST: Mr. WRIGHT, did you happen to read in the newspapers along in November reports that some of the men in Charlie Company had been smoking marijuana, were under the influence of it during the assault on My Lai (4)?

A. Well, I don't believe there was. I couldn't say. I know my squad wasn't, or the squad I was attached to. As far as I know they wasn't.

Q. Was there a marijuana problem in the company that you know of?

A. I believe there was because I believe they had an investigator one time sort of checking around.

Q. I wasn't concerned with some men smoking marijuana, but whether there was any practice of men being under the influence of pot while they were in combat, getting high and going into battle?

A. Not that I know of.

Q. Do you know of such a thing?

A. I guess I'd be afraid to.

Q. How about the night before the assault on My Lai? Was anybody smoking pot the night before?

A. Not that I know of.

Q. How about drinking?

A. There might have been some drinking I guess.

- Q. Well, we've had evidence that there was.
- A. If there was beer around we drunk it.
- Q. Sergeant BUCHANON said he got some beer.
- A. If there was beer around we drunk it.
- Q. How about if there was any liquor around?
- A. Not that I know of.
- Q. Whiskey?
- A. There wasn't any whiskey around worth drinking unless you sent home for some.
- COL MILLER: Do you remember a man by the name of MACNICKI?
- A. MACNICKI. He was our what do you call it.
- Q. Have you ever talked to him about this incident?
- A. No, I haven't.
- Q. Did you ever tell him you killed quite a few people there, not necessarily civilians, but maybe VC. Did you ever tell him that you'd done that?
- A. He was our supply sergeant.
- Q. You don't remember that you ever said anything of that sort?
- A. No.
- Q. Do you know that you allegedly raped a woman?
- A. That I raped a woman?
- Q. Yes.
- A. I say I didn't do that.
- Q. Do you know who said you did?

A. No, I don't.

Q. Were you told at your last interrogation you were suspected of rape?

A. Yes, I was.

Q. Is that the first you knew it?

A. Yes.

MR WEST: Mr. WRIGHT, can you think of anything that comes to mind that might help us in our investigation that we haven't asked questions about?

A. None that I know of. I guess I've just been trying to forget all this junk, trying to get it from my mind.

Q. Tell me this, if there had been a formal investigation right after My Lai (4), if men had come, say, from the division, taken written statements from everybody, do you think this story would have come out at that time, what happened there?

A. I don't know. Some of the guys, I guess they enjoyed doing it. I guess all their buddies getting killed and everything. I guess that was just a way of trying to get even with them, you know. If they had an investigator at the time, they couldn't have got no information, I don't believe. Just like SIMPSON and them guys there, they'd give it anytime, I guess. They didn't seem to take part in anything, always trying to find a way to get out.

Q. So would you say that some would talk and some wouldn't?

A. Probably. I didn't feel we had done anything wrong at the time. I thought that was their job and our unit tried to do our job the best we can.

Q. I assume if there had been a thorough investigation at the time, at least the people would have remembered better what happened?

A. They probably would have remembered everything. That right there I don't see, you know. If you are going to do anything, you ought to have done it right after it was over with, the investigation and everything. If they got what they was looking for, I don't know.

Q. Well, of course, one thing we're trying to do is find out how much of an investigation was made. I gather from what you said, you weren't aware of anything?

A. That's the truth. I heard there was a small investigation over there, but I didn't hear what it was about. It was a question of what went on and everything.

Q. Did you ever hear any more of it besides then?

A. No, after I heard that, it seemed like it died down.

Q. Never heard anything else?

A. No, they just told us what they wanted us to know and that was it. They told the platoon leaders, and the platoon leaders told the platoon sergeants. So they filled us in on what was going on.

MR WEST: Mr. WRIGHT, we appreciate your coming in here. I know it was a lot of trouble to you. You've given us a good bit of information. We thank you very much. The hearing will be recessed.

(The hearing recessed at 1505 hours, 19 January 1970.)

SUMMARY OF TESTIMONY

WITNESS: ARCOREN, Dale M.

DATE OF TESTIMONY: 6 January 1970

PLACE OF TESTIMONY: Pentagon

WITNESS SUSPECTED OF: Murder or assault with intent to commit murder.

COUNSEL: Richard H. KOSINSKI, CPT, JAGC, Office of the Judge Advocate General, Washington, D.C.

1. ASSOCIATION WITH THE UNIT.

The witness was assigned to Company C from September 1966 until June 1968. He was in it while it trained in Hawaii, moved with it from Hawaii to Vietnam, and stayed with it all of the time he was in Vietnam. He was a PFC in the squad called the mortar platoon and worked for Sergeant WATSON who was under Sergeant MARONEY (pg. 7).

2. PRIOR TRAINING IN THE RULES OF LAND WARFARE.

The witness generally declined to answer questions concerning any instructions he may have received regarding the Rules of Land Warfare and the treatment of prisoners of war (pgs. 30, 34, 35). He stated that he did not recall seeing Exhibit M-2, "Nine Rules" or Exhibit M-3, "The Enemy in Your Hands" (pg. 34). He did recall receiving some training after arrival in Vietnam which consisted of weapons fire, boobytraps, mines, and activities in a mock village (pg. 35).

3. PREOPERATIONAL PLANS AND BRIEFINGS.

Because the mortar platoon flew in later in the afternoon of 15 March, the witness stated that he did not know if there was a memorial service or not (pg. 7). He was present at the briefing (pg. 7), which was given by Captain MEDINA (pg. 8). MEDINA went over the course that they would take through the village and told them that there would be no

civilians in it (pg. 8). They were to kill the animals, destroy the food supplies, and burn the village (pgs. 8, 10). They were told that there would be no civilians in it because the people had been warned to leave the area by a "plane flying over there" (pg. 8). They expected to encounter the 48th VC Battalion (pg. 8). The witness stated that he had been watching from LZ Uptight and had seen companies or platoons being beaten back. The witness stated that the attitude of the troops was one of a feeling of anticipation and fear (pg. 9). Because he had never operated with the company before, he could not state their attitude towards the Vietnamese (pg. 28), but he stated that the men in the mortar platoon did not have any particular feeling one way or the other (pg. 28).

4. ASSAULT ON MY LAI.

a. Arrival at the LZ and initial position.

The witness arrived on the last lift (pgs. 10, 40), landing approximately 50 meters from the edge of the village (pg. 40). When he arrived, there was firing going on ahead (pg. 10). He did not know if it was enemy fire because he could not see (pg. 10). They set up their weapon on the landing zone (pgs. 10, 40, 41), and remained there for approximately one half hour (pgs. 11, 42). They heard much firing during this period (pg. 11). MEDINA and the CP group were located in bushes ahead of them (pg. 11), and when he moved out they followed (pgs. 11, 42). He did not know where the third platoon was at this period (pg. 32).

b. Movement through the village.

He stated that they zigzagged through the village (pgs. 12, 42) and the next major incident he recalled was encountering CARTER, who was wounded (pgs. 12, 43). MEDINA told them to set up a perimeter for an LZ for the medevac (pg. 43). He had seen, up to this point, no Viet Cong, Americans or civilians who were dead (pg. 12). Point #2 on Exhibit P-144, is the spot where CARTER was evacuated. He stated that after the evacuation he remained where they were for awhile and then cut back into the village (pg. 45), in a northerly direction (pg. 45), and came upon "quite a few" dead bodies (pg. 13). There were about 15 including some children. All were dead and looked as though they had been shot by rifles (pg. 13). He was still following the command group (pg. 45). MEDINA was ahead of him and he thought that MEDINA passed the dead bodies that he mentioned

above (pg. 13). He heard MEDINA say something about "CALLEY" and "killing" on the radio but did not remember exactly what, nor did he remember which RTO had the radio at the time (pg. 14). He heard no messages come into MEDINA and he recalled no order being given to the troops around him to stop the killings (pg. 15). He stated that towards the center of the village, they again saw dead people and burning hootches. MEDINA was still ahead of them (pg. 16). The only officers that he saw during this period were Captain MEDINA and Lieutenant ALAUX, the artillery FO (pg. 18).

c. Questioned civilians and prisoners.

As they went through the village, two small girls and a man were brought to MEDINA. The girls left with the man and the witness stated that he never saw them again (pgs. 17, 18). After moving through the village, they had lunch (pgs. 18, 19) and pushed on until they hit a graveyard where they laagered for the evening (pg. 19). While in the laager position, he saw three prisoners, one of whom wore a purple suit (pgs. 19, 20). Two of them were shot and thrown into a ditch and the remaining one was tortured and his finger was cut off. The same man led them through a minefield the next day (pg. 20) and was then released (pg. 25). The killings were done by the National Police who had flown in (pg. 20). He stated if they had gone through the village, they went through ahead of him because he did not see them before (pg. 20). The witness stated that he did not know if MEDINA or any other officers were present during the killing of the prisoners (pg. 21). He stated that he went over to see what was going on at the time (pg. 21).

d. Subsequent activities to My Lai (4).

The next day they walked in a southeasterly direction through some villages, cut through an open field and went down a road, down to the beach where they captured three more prisoners (pg. 22). He stated that the captured prisoners were taken out by a helicopter (pg. 24). The nurse that was captured was missing the top of her pajamas (pg. 24). He did not see anyone abusing her in anyway but later heard that she might have been raped (pg. 25). He used MAP-1 to indicate that the trail they followed was south of objective #2 to the area of My Khe (2), north of the Song Tra Khuc River (pg. 23). They possibly stayed over night near the Song Tra Khuc River and on the 18th went into the village of My Khe (1), firing upon some Vietnamese in the

area who were running towards Hill 85 (pg. 23). They used the causeway to cross the Song Diem Diem River and were evacuated shortly thereafter (pg. 23). The witness stated that during this period he did not see any villages on fire, nor any smoke which would indicate that they were on fire (pgs. 23, 24). He did not recall any substantial amounts of firing nor any resistance (pg. 24).

5. INQUIRIES CONCERNING THE ASSAULT.

When the witness returned to LZ Dottie, he went to his sleeping quarters and dropped off his gear (pg. 25). He thought he remembered a rumor of an officer asking questions but he was never approached by anyone in his chain of command on this matter nor was he told directly by anyone not to discuss it (pg. 26). He stated that they were usually separated from the rest of the company and that the incident was not discussed (pgs. 26, 27). Prior to his discharge, which was on or about 9 June, he read an article in The Stars and Stripes indicating that they had killed 128. This was the first he had heard of the operation since it had happened (pg. 27).

6. OTHER INFORMATION.

a. The witness felt that MEDINA knew what he was doing at all times, and although he was a little rough on them, they had to "take it with all good commanders" (pg. 10). He did not know if MEDINA had control over the rest of the company during the operation, because he could not see them (pg. 19).

b. The witness, in response to questioning as to his assessment of what happened at My Lai (4), stated that he did not form any opinion (pg. 29), and stated that if it was in The Stars and Stripes he thought that it had been made public (pg. 30).

c. The witness stated that there was no problem with marijuana in the unit (pg. 30), but declined to answer any questions as to the scale of its use in the company (pg. 30). He did not think that marijuana was used in significant amounts that day because they just woke up, had breakfast, and went on the operation (pg. 31).

d. After the incident, the company stayed in the field quite a bit. They went on assault missions, he believed. After that period, he did not go out very much, and remained in the base camp or on the ridge (pg. 31).

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EXHIBITS

EXHIBIT NUMBER	DESCRIPTION	NOTES	PAGES
M-2	MACV Card "Nine Rules"	Wit did not recall	34
M-3	MACV Card "Enemy in Your Hands"	Wit did not recall	34
P-7 thru P-10	Miscellaneous Scenes	Photos of the location where CARTER was wounded were not recognized by the witness.	47
P-13	Miscellaneous Scene	Wit identified place of CARTER's evacuation and identified FAGAN with plotting board.	36, 48
P-16	Miscellaneous Scene	Wit recognized it as being in the village.	37, 48
P-17	Miscellaneous Scene	Wit identified MARONEY and the location as being near the CARTER evacuation.	38, 48
P-22	Miscellaneous Scene	Wit identified PHU and "Doc"	48, 49
P-31	Miscellaneous Scene	Wit thought it may have been taken as they left the village.	38
P-33, 34	Miscellaneous Scenes	He saw the bodies and the house burning.	39, 48, 49

EXHIBITS

EXHIBIT NUMBER	DESCRIPTION	NOTES	PAGES
P-41	Miscellaneous Scene	Wit saw the bodies near the north-south road on the southern side of the village.	39, 49
P-144	Annotated aerial photo.	Used for reference to trace the movement of the mortar platoon through the village and marked by Colonel WILSON.	40-50
MAP-4	Map 6739 II	Used to orient the witness to aerial photograph.	34

(The hearing reconvened at 1322 hours, 6 January 1970.)

MR WEST: The hearing will come to order.

RCDR: The following named persons are present:
MR WEST, COL MILLER, MAJ ZYCHOWSKI, and MAJ COOP.

The next witness is Mr. Dale M. ARCOREN.

(MR ARCOREN was called as a witness, was sworn, and testified as follows:)

Mr. ARCOREN, will you state your full name, occupation, and residence?

A. Dale M. ARCOREN, Yankton, South Dakota, I am a welder.

MR WEST: Mr. ARCOREN, before we get into any questions, Colonel MILLER will advise you concerning the nature and purpose of our inquiry here and also advise you of your testimonial rights.

COL MILLER: Mr. ARCOREN, I am going to go over several things, and if you have any questions feel free to ask them.

This investigation has been directed jointly by the Chief of Staff, United States Army and the Secretary of the Army for the purpose of investigating and making findings and recommendations in two major areas:

(1) the adequacy of prior investigations and inquiries into and subsequent reports and reviews within the chain of command of what we commonly call the My Lai incident of March 1968. In other words, what investigations and reviews and reports were made into this immediately after the middle of March 1968, and

(2) possible suppression or withholding of information by any person who might have had a duty to report information concerning the incident at My Lai.

It is not our purpose to inquire into everything that happened and what was done by everybody at My Lai. Although we do get into that to some extent, this is only incidental to those main purposes.

We have had made available to us and we have read many statements made by witnesses at prior investigations such as the IG inquiry and the CID investigation into My Lai.

Today, your testimony will be taken under oath. We have a reporter and a verbatim transcript will be made. In addition to that, we do have a tape recorder.

The general classification of our report is confidential. However, it is certainly possible that some or all of the testimony may later become a matter of public record.

I do request that you not discuss your testimony that you may give here today with others, including other witnesses for this inquiry, except as you may be required to do so before a competent legislative, judicial, or administrative body. For example, the general court-martial would be a judicial body. This is an example of an administrative body.

According to my records, you have not been placed under the order of the military judge in the case of United States v. Calley. Could you tell me whether you have received a letter from the trial counsel in that case telling you that you should not discuss your testimony?

A. No. I had no record of it, and I decline to be sure.

Q. I told you the general purpose of our inquiry a few moments ago. I also told you that we have reviewed statements of many witnesses. As a result of that review I have certain additional information that I wish to give to you in advance. I want you to listen to this very carefully, if you will, please. We have some information which leads us to suspect that you may have committed the offense of murder, or assault with intent to commit murder, in the village or near the village of My Lai, on or about 16 March 1968. This was a violation of the Uniform Code of Military Justice, and it is also possibly a violation of the laws of war and you may be subject to trial and punishment. Now, this being the case, you certainly have some certain testimonial rights and rights to counsel, which I want to move into next.

First of all, you need make no statement whatsoever concerning anything about which you are suspected, or if you feel that it will incriminate you in any way.

You have the right to remain silent, and anything that you do say could be used against you in a criminal prosecution.

You have a right, if you wish, to be represented today by civilian counsel of your choice, or, if you wish, military counsel who would be appointed to advise and counsel you. This military counsel would be appointed at no expense to you. When I say counsel, I mean a qualified lawyer, of course. If you have a military counsel of choice who is reasonably available, we will attempt to obtain him if you wish to have counsel.

You may decide that you will go ahead and testify without counsel. If you do decide to do that, to answer questions today without having any counsel present, you may stop answering at any time, or you may request counsel at any time. If you request counsel, you have a right to have him here and consult with him at any time. Do you understand the things that I have gone over so far?

A. Yes.

Q. I would like to have you consider this for a few moments before you give an answer. At that time I will have two additional questions which I shall ask you. One is whether you want counsel, and the second is whether you're willing to answer questions. But, before I get your answer, we will take a few minutes just to give you a chance to think about it.

MR WEST: The hearing will be recessed.

(The hearing recessed at 1330 hours, 6 January 1970.)

(The hearing reconvened at 1335 hours, 6 January 1970.)

MR WEST: The hearing will come to order.

RCDR: All persons who were present when the hearing recessed are again present.

(The witness was reminded that he was still under oath, and he testified as follows:)

COL MILLER: Mr. ARCOREN, I just advised you of your testimonial rights and your right to counsel and said that I would have two questions to ask you. Have you had an opportunity to think enough on this now?

A. Yes.

Q. Number one, do you want counsel?

A. I'd like somebody to give me advice--

Q. (Interposing) Would you like to have that counsel now before we start questioning?

A. Military counsel.

MR WEST: The hearing will be recessed.

(The hearing recessed at 1336 hours, 6 January 1970.)

(The hearing reconvened at 1604 hours, 6 January 1970.)

MR WEST: The hearing will come to order.

RCDR: The following persons are present: MR WEST, COL MILLER and MAJ COOP.

The hearing recalls Mr. ARCOREN.

(MR ARCOREN was recalled as a witness, was reminded that he was still under oath, and testified as follows:)

Mr. ARCOREN, are you represented by counsel?

A. Yes, sir.

RCDR: Will counsel please state your name, Social Security number, and organization?

IC: Captain Richard H. KOSINSKI, Procurement Law Division, Office of The Judge Advocate General, Washington, D.C.

COL MILLER: You are a lawyer admitted to practice law, is that correct?

A. That's correct, sir.

Q. Are you a member of the Judge Advocate General's Corps?

A. That's correct.

Q. (To witness) Before the recess, I explained to you your testimonial rights and your rights to counsel. You requested that a judge advocate officer or a military lawyer be made available as your counsel.

After the recess, I made arrangements with the Office of the Judge Advocate General, and the captain was made available. Are you satisfied to have him advise you and be with you today as your counsel?

A. Yes, sir.

Q. Before we proceed, do you have any questions Mr. ARCOREN, or you, Captain KOSINSKI?

IC: Not at this time.

Q. For the record, I would like to state that during the recess I did make available to Mr. ARCOREN and his counsel a copy of the statement by a CID agent of a prior interrogation of Mr. ARCOREN and the substance of the allegation against Mr. ARCOREN. I also briefed the counsel concerning the general situation as it appeared to have been in My Lai and the general nature of the matters in which this inquiry has some interest. I think you understand the general nature of the subject in which we are interested, is that correct?

IC: That is correct.

Q. You of course may consult with counsel at any time. Counsel may advise you at any time. If you find it necessary to take a recess please feel free to do so. Are you willing to answer any questions today, Mr. ARCOREN?

A. Yes, I am.

Q. If there are areas which you feel that you cannot answer please so state if you will. I intend to ask some questions, and if it comes to a point where there is a substantial area in which you may not wish to answer questions, if you will so indicate, it will perhaps save us a little time.

(Witness gives negative response.)

MR WEST: Please state your unit of assignment and your duty on 16 March 1968?

A. C/1/20 Infantry, 11th Infantry Brigade, Americal Division. I was in the weapons platoon.

Q. What was your grade at that time?

A. PFC, E-3.

Q. How long had you been with Company C?

A. I was assigned to Company C towards the last of September 1966. I was with the company until I was discharged from the Army, June 1968.

Q. You were with it all the time it was training in Hawaii, moved with it from Hawaii to Vietnam, and stayed with it all the time until you left Vietnam?

A. Yes, sir.

Q. Could you state your chain of command from yourself to the company on the 16th of March?

A. The mortar platoon was made up of one squad. My immediate commander was--I mean my immediate sergeant was Sergeant WATSON, and he was under Sergeant MARONEY and Captain MEDINA.

Q. Were you a member of the mortar platoon which accompanied Captain MEDINA into the village of My Lai (4) on the 16th of March 1968?

A. Yes, sir.

Q. I would like to go back to the 15th of March, the day before this operation. Do you recall if, sometime in the afternoon, there was a memorial service for a member of C Company?

A. The mortar platoon flew in later in the afternoon. I don't know if there was one or not, but we were there for the briefing.

Q. Where were you stationed?

A. LZ Uptight.

Q. As I understand it, only a part of your platoon came from LZ Uptight to LZ Dottie to participate in the My Lai (4) assault. Is that correct?

A. Yes, sir.

Q. Could you tell us what you recall of this briefing and who gave it?

A. Well, it was given by Captain MEDINA. And we were told that there would be--he went over the course that we would take going through that village. We were told that there would be no civilians in it, and we were to kill the animals, destroy the food supplies and stuff, and burn the village. We were told there would be no women there because the plane was flying over there 2 days before. Up and until that time, they were telling people in the village there would be an assault, and they were to move out.

Q. Who gave this briefing?

A. Captain MEDINA.

Q. Do you recall any of the other things he might have told you that day?

A. No, I don't.

Q. Did he say anything about the size of the force that you might expect to encounter?

A. We were expected to encounter the 48th VC Battalion. I don't know as far as the size of it.

Q. How many assault operations had Company C been in before this time?

A. I can't tell you exactly, but this is the first time the mortar platoon was to ever go in.

Q. When did you first know that you would participate in the My Lai (4) assault?

A. March 14th.

Q. Had you been in the field with Company C on some of its previous operations?

A. No, I hadn't.

Q. This is the first time, then, since you arrived in Vietnam that you actually went out in a field operation?

A. Yes, sir.

Q. Did you stay at LZ Dottie overnight?

A. Yes, sir.

Q. Did you have an opportunity to talk about this operation with other members of the company, either in or out of the mortar platoon?

A. I think we did discuss it. But most of it was sort of taking a break, getting ready for the assault at My Lai (4).

Q. Do you recall what the sense or the feeling of the company was with respect to this operation? Was it one of anticipation, fear, worry? Do you have any feel for the attitude of the troops?

A. I think it was a feeling of anticipation and fear. I know that I was scared.

Q. You were expecting a fairly large operation the next day, I take it?

A. Yes, sir.

Q. Had you been told that you would have any opposition to speak of?

A. We had been watching from LZ Uptight almost every day. Either a company or a platoon would go, try to go, make penetration through there. And they would get beaten back. I figured there would be quite a big deal going on out there.

COL MILLER: Was anything said at this briefing about burning or not burning the village?

A. I think yes. We were told to burn their hootches.

Q. I am going to ask you an opinion now. I realize it is only that. Could you give me your opinion of Captain MEDINA as a commander, as a leader?

A. He knew what he was doing at all times. And he like--even though he was a little rough on us at times, he--you know, you have to take it with all good commanders.

Q. The next morning, the 16th of March, you made your assault landing. Which lift were you on?

A. The very last one, sir.

Q. After the company had formed and began the assault on My Lai (4), I would like to have you tell me where you stayed, where you went, and what you saw as best as you can recall, if you are willing to do this?

A. When we got there, there was already firing going on up ahead. We set up our mortar and waited probably until they were almost all the way through. Then we started going through and shooting chickens and what was left; burning hootches and stuff. We sort of zigzagged all the way through.

Q. When you landed, did you hear any enemy fire?

A. I couldn't tell. There was a lot firing going up in front. I couldn't see it. Maybe it was enemy fire.

Q. Where did you take up your position while you were waiting to move to the village?

A. Just close to where we landed. In fact, that's where we made our combat assault; right at the end of the village.

Q. Do you recall where Captain MEDINA was at this time?

A. They were up in the bushes ahead of us.

Q. Nearby?

A. Yes, sir.

Q. Is that where you stayed for some time?

A. Until he was ready to move through it.

Q. About how long did you stay back in this position before you moved through the village?

A. I couldn't say. Maybe one-half hour.

Q. Did you hear much firing during this time?

A. Yes, to the front.

Q. Could you tell whether any of this was enemy fire?

A. No, I couldn't.

Q. When you moved out to go through the village, did you go in front of or behind Captain MEDINA?

A. I was behind Captain MEDINA.

Q. Do you know where Captain MEDINA went as compared to the 3d Platoon?

A. No, I don't.

Q. Whether it was to the front or the back?

A. We were in back of the 3d Platoon.

Q. You were almost the last one to go through the village, I take it?

A. Right, sir.

Q. Will you go on, then, with what you saw and what you heard as you went through the village?

A. We zigzagged through, as far as I know. I can't tell exactly which way we went. At one point along the trail, somebody was wounded in the foot. And he was med-evac'd out. We formed a perimeter around him.

Q. Were you there when he was wounded?

A. No, I wasn't.

Q. You came up later?

A. Yes, sir.

Q. Was Captain MEDINA there?

A. When we came up there he was.

Q. About how long was this after you had started going through the village?

A. About one-half hour to 45 minutes.

Q. Between the time that you started through the village and time you came to this soldier whom you saw wounded, had you seen anything that made you think this was a different kind of assault, or there was anything unusual about the assault?

A. There weren't any people in back when we first started through. There weren't any until we reached that soldier, at all.

Q. You had seen no Viet Cong, American, or civilian dead up to this point?

A. No.

Q. After you left the wounded soldier, or after he was evacuated, then what happened?

A. We went on farther down the trail and came upon quite a few dead bodies.

Q. At this time, were you going through the south, central, or northern portion of the village?

A. We were going on what seemed to be a second or separate trail which was met by another trail coming from directly south.

Q. Could you describe this scene where you saw some bodies?

A. There were some dead bodies lying around.

Q. About how many?

A. Fifteen.

Q. Were they mostly women, children, or do you recall?

A. There were a few children. I couldn't recall seeing women--

Q. - (Interposing) They were all dead?

A. They were all dead.

Q. Do you know how they had been killed, or do you have any idea how they may have been killed?

A. It looked to me like rifles, because if they were hit by artillery there wouldn't have been anything left of them.

Q. Was MEDINA in ahead of you at this time?

A. Yes, he was.

Q. Did he pass this same scene that you saw?

A. I imagine that he did, but I really couldn't say if he saw them.

Q. Did you stay fairly close to Captain MEDINA all the way through the village?

A. We stayed behind him almost....

(Witness was requested to speak louder.)

Q. During the morning, after you had started through the village, did you hear any communications to Captain MEDINA, or from Captain MEDINA?

A. It seems I did hear him say something about Lieutenant CALLEY. I can't exactly remember, if he used his name or what, but I did hear him say something about the killing of somebody.

Q. Was he on the radio at this time?

A. Yes, he was.

Q. Do you remember which radio he was on?

A. No, I don't.

Q. Which RTO had the radio?

A. I don't know.

Q. Presumably, if he was talking to CALLEY, it would have been on the company net rather than the battalion net. Were you close to him when he said this?

A. No, but the radio was on pretty loud where you could hear it.

Q. Were you where you could see him?

A. I don't remember.

Q. Do you know why, at the time, he made this transmission?

A. I think it was when we ran across some dead bodies over--

Q. (Interposing) Was this about the time that you came to the bodies you just described a few moments ago?

A. Right.

Q. Had you heard any incoming messages coming to him saying something about dead civilians or to stop the killings?

A. No, I didn't.

Q. All you heard was Captain MEDINA and his message to who you thought was Lieutenant CALLEY?

A. Yes.

Q. Did you hear him use CALLEY's name?

A. I can't say for sure.

Q. What I was getting at was whether you knew it was CALLEY to whom he was transmitting or just something you may have heard?

A. It is just something that stuck in my mind.

Q. Was there any reply, a roger, or anything of that sort?

A. There was some reply, but I can't remember what.

Q. Was word passed back from MEDINA to the people in his party, and other troops around him, to stop the killings?

A. I can't remember.

Q. At the time you heard this order given, could you give me an estimate of the number of dead you had seen?

A. Just that one group we saw.

Q. We will pick up where you saw this first group of bodies and Captain MEDINA had made a radio transmission to stop the killings. Were these bodies that you saw at this time on the trail, or could you tell us where they were?

A. You mean the first group?

Q. Right.

A. They were by a trail.

Q. Then what happened?

A. Then we went on a little farther down the trail and cut back into what seem to me to be the center. And we--there was quite a few--I mean, that's where I saw some dead people, blood, quite a bit of blood, and a couple of hootches were burning.

Q. Was Captain MEDINA there?

A. He was ahead of us. He must have been there.

Q. Did you hear any more transmissions from Captain MEDINA, or to Captain MEDINA, about civilians, noncombatants, being killed?

A. With our group there were about five radios, and you can't really tell who is calling whom on what radio.

Q. Well, did you hear any transmission of any sort about this?

A. There were a lot of transmissions, but I can't pick any out.

Q. Do you recall that they were on that particular subject without knowing to whom or from whom they came?

A. I don't think so.

Q. I would like for you to think about that carefully, and if you can recall, fine. If not, I certainly understand. Five radios were going in a combat mission, and you might not have been listening. There may be something that sticks in your mind. But you know that you heard one transmission earlier.

A. I think I did--I--

Q. (Interposing) You don't know? If you do happen to think of that later, either today or some other time, I would appreciate it if you would let us know. Would you proceed, then, on to what you saw?

A. We went on, and as we went on, there were some prisoners. I--two little girls--and there was a man, and we took him. And when we went past the village and on through, I don't know if I saw that particular bunch of dead people, but I remember seeing a couple of dead Vietnamese as we went out of the village.

Q. On the edge of the village?

A. Yes. We kept on going, and we went through an open field. I think we stopped at the next village, and we ate dinner. We just laid around after that.

Q. Do you recall, after you came out of the village of My Lai (4), seeing a ditch where there were many bodies?

A. I think I did, but I don't know. It could be. I don't know. I have never seen people piled up dead before.

Q. Do you recall seeing a ditch where there were quite a few bodies?

A. Unless it was the same one that I could have seen, I doubt it.

Q. Were there any soldiers other than those in your group with you as you came out?

A. No.

Q. You mentioned two little girls. Were these two young girls who were captured by some of Charlie Company troops?

A. Yes, they were real small girls.

Q. To whom were they brought?

A. They--most of the time they didn't tell us to catch prisoners. I mean, not most of--I mean, during that time when we were going through, the prisoners was brought to us. We more or less watched them while the other ones spread out and covered more area.

Q. About how many prisoners were brought into Captain MEDINA, into the command post, from the time you left your jump-off point until you got through the village?

A. I remember seeing three: two girls and a man.

Q. What happened to them after you cleared the village?

A. I think they were--the girls were left with the men, and I never saw them anymore.

Q. That's all the prisoners who were brought to Captain MEDINA?

A. There was an artillery FO.

Q. Lieutenant ALAUX?

A. Yes.

Q. How about Lieutenant CALLEY?

A. No, not until we stopped for the night.

Q. After you cleared the village, did you see a helicopter land in a cleared area?

A. No, I--

Q. (Interposing) Approximately what time did you clear the village?

A. It was before noon, I'm pretty sure, because we ate in the next village.

Q. Do you recall whether any senior officer, I should say visiting officer, from either the task force or from the brigade, landed and talked to Captain MEDINA some-time during the morning before you had completely left My Lai (4) on your next mission?

A. Unless he got off the medevac which took CARTER, or whatever his name, out of there.

Q. You don't recall seeing any?

A. No, I don't.

Q. Did any land during the noon hour?

A. I was asleep then.

Q. In your opinion, did Captain MEDINA have control of his company in this move through My Lai (4)?

A. It's not for me to say, because I never had control of a company. I don't know what the feeling--

Q. (Interposing) I'm asking you, as I did before with respect to your opinion of Captain MEDINA, strictly for that, an opinion, of the feelings on your part.

A. He had control over us. I couldn't see the rest of the platoon.

Q. After you had lunch, to where did you move? Where did you go?

A. We kept on pushing until we hit the graveyard. That's where we set our night perimeter; dug in.

Q. Did you join any other company there?

A. No, I didn't at the time.

Q. After you had reached your night laager position, did you see any prisoners?

A. Three of them.

Q. Can you describe them?

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A. One I really remember. He had a purple suit on, with a sort of a part of a flattop. It looked like he was some kind of something.

Q. Were any of these three prisoners women?

A. No.

Q. Can you tell me what happened to those prisoners?

A. Two of them were killed, and one was tortured and his finger cut off. But two of them were shot and thrown in a ditch. The other one talked and led us through a mine-field the next day.

Q. This one who talked. Did he talk after the other two had been killed?

A. Yes, he did.

Q. Who killed them?

A. The National Police.

Q. Do you know from where the National Police had come?

A. I think they were flown in unless they walked. I don't know, but they were there in the group. They ate supper with us.

Q. Had they gone through the village of My Lai (4) with you?

A. If they did, they went ahead of us because I never saw them going through.

Q. Did you see them come in in the morning on the lift?

A. No, I didn't.

Q. Do you know who any those ARVN police were?

A. No.

Q. You said they had tortured one man. Was that one of the men who was killed?

A. Yes, he was the first one whom they tortured.

Q. How did they kill him, and where did they kill him with respect to where you and other American soldiers were?

A. It was close to our mortar position, off to the south. They had a little hootch there, and it was right around there, I think. They took him out in this little field and shot him and killed him and threw him in the ditch.

Q. Was Captain MEDINA there?

A. I really don't know if he was or not.

Q. Were any of the other officers there, do you know?

A. Not to my knowledge.

Q. Did the ARVN police make any effort to hide what they were doing? Did they keep it from any of the American soldiers?

A. No, they didn't. That is why I was curious and walked over there to see what was going on.

Q. In your prior statement you said you believed that HOLLAND and PERRUCHON were present--

A. (Interposing) I did.

Q. Who were they?

A. They were members of my mortar platoon.

Q. On this date, did you see any American officer present at any time when these Vietnamese were being questioned by the ARVN police?

A. No, I didn't.

Q. Do you know where this third prisoner was kept overnight?

A. The ARVN's kept him. I don't know if they tied him up or if he just stayed there willingly.

Q. Was he the only prisoner who was left in the area then?

A. Yes, he was.

Q. Do you know where this minefield was, through which he led you the next morning?

A. No, I don't. We just walked through some villages. Then we cut through an open field and went down a road down to the beach.

Q. On this next morning, which would be the 17th of March, could you tell me where the company went?

A. We went kind of southeast until we hit an open field. We zigzagged through a village, and then we went to the beach. That's where we captured those other three.

Q. I would like to have you come to this map. I am referring to MAP-1, which is a general representation of this area.

(The witness did as requested, and he was oriented by COL MILLER.)

You say that you had laagered in a graveyard on the night of the 16th. Is this the area which is marked objective 2?

A. We were right close to that river, the Song Diem Diem.

Q. Will you tell me where you went the next day, the morning of the 17th?

A. We went into one of these villages (indicating). They were leading us through with the prisoner, and we went down. Then we stayed in another place either that night or the next night. And then we went all the way down to the other river and started out to the graveyard.

Q. Let the record reflect that the witness indicated a trail, generally directly south of objective 2 to the area of My Khe (2) which is just north of the Song Tra Khuc River. Do I understand that you stayed somewhere near the Song Tra Khuc River on the second night?

A. I remember we came through an open field, and then we cut back. It was either this village or this village, but that night some Vietnamese, they must have been North Vietnamese, ran across through the field, and we fired at them.

Q. The witness indicated the village of My Khe (1), and the Vietnamese were running from the southeast to the east towards Hill 85. On the third day then, the 18th, you indicated that you were going back up north. Where did you go then?

A. We went up to the river again, and we crossed.

Q. He is indicating the causeway which is across the Song Diem Diem at coordinates 74 and 81. After you crossed this causeway, what happened?

A. We ate dinner and then just laid around until they evacuated us out.

Q. Where did you go from there?

A. Back to LZ Dottie.

Q. LZ Dottie?

A. Yes.

Q. About what time in the afternoon was that?

A. I would say about 3 or 4 o'clock.

Q. Now, as you were going from the graveyard south to the Song Tra Khuc River on the 17th, and then back north on the 18th, did you see any nearby villages on fire?

A. No, I didn't.

Q. Did you see any smoke that might indicate that some of the villages were on fire?

A. I don't remember at all seeing it.

Q. Do you recall any substantial amount of firing on the 17th or the 18th?

A. No.

Q. Did Company C meet any resistance on the 17th or the 18th?

A. We captured two men and a nurse--what they said was a nurse.

Q. Is that in the vicinity of My Khe (2)?

A. That's when we were all the way down to the river, down near the beach.

Q. What happened to those people?

A. The command ship or something came in and took them back to be interrogated.

Q. Do you recall Captain MEDINA shooting above the heads of any of those people?

A. We were around there before we got to the LZ, maybe.

Q. This was on the 17th?

A. Right.

Q. Was this nurse fully clothed?

A. Not when I first saw her.

Q. What was she missing?

A. She was missing her blouse off her pajama top.

Q. Did you see any of the other soldiers in the other company abusing her in any way?

A. No, I didn't.

Q. Did you ever hear that she may have been raped?

A. I heard something about it later. Somebody must have tried or something.

Q. Is this the same woman whom you mentioned before?

A. Yes.

Q. That she had sores around her private parts?

A. Yes.

Q. This is what you were told, not what you saw, as I understand it?

A. Yes, that's right. I said that's what they said.

Q. Do you know of your own personal knowledge that these three prisoners were flown from the area?

A. We secured an LZ for the chopper to come in on. They did come in, and they took them out.

Q. What happened to this other man who had been captured before, who led you through the minefield?

A. I think they let him go. I don't remember seeing him after that.

Q. Do you recall how many helicopters were in the flight that lifted you back to LZ Dottie?

A. Four.

Q. At one time?

A. Yes.

Q. Were there any senior officers at the helipad when you were disembarked?

A. I think it was just about time for chow. I just jumped off and ran for the barracks. I mean I ran for where we were sleeping and threw my gear down.

Q. Was there any officer who asked you any questions about what had happened at My Lai (4)?

A. I think there was some kind of rumor going. I remember hearing something to that effect. I don't remember the words.

Q. Did anybody in your chain of command come to you and tell you that this is an official matter?

A. No.

Q. Were you ever told not to discuss anything about what happened at My Lai (4)?

A. Just from rumors I heard, but I don't remember anyone saying--sitting down and telling me anything.

Q. These are the soldiers who are sitting around just talking among themselves. Is that it?

A. That's about it.

Q. Did you ever have any impression or form an opinion that you were not supposed to discuss the My Lai (4) operation?

A. I didn't even think about it after that.

Q. Did you ever have the feeling that someone was making an investigation?

A. No, I didn't.

Q. Was the operation discussed among the soldiers after you returned to LZ Dottie?

A. We were usually separated from the rest of the company, except for when they came in for a little rest. Most of the time we were on grid security or base security or something.

Q. How about the men in the mortar platoon who had gone through with you? Did you discuss it with them, or did you hear them discussing it among themselves?

A. No.

Q. So, as far as you know, there was no investigation conducted into the My Lai (4) assault. Is that correct?

A. As low in the chain of command as I am, nothing ever goes through me.

Q. I mean, knowing that nothing ever goes through you, I am talking again about the scuttlebutt. You know, how rumors go in the Army. They can go pretty fast.

A. It might have been a rumor, but I didn't hear about it.

Q. You were not told to discuss or not to discuss whatever you had seen. Is that correct?

A. That's correct.

Q. No one ever told you to keep quiet about this?

A. No.

Q. Did you hear, at any time, that there may have been some burning of villages and some killings of innocent civilians in the area of My Khe (4), Co Lay (1), Co Lay (2), or Co Lay (3), all of which are along the seacoast in this area of operation?

A. Just before I was discharged, I read an article in The Stars and Stripes that said that we had killed 128. And some lieutenant from some other company--

Q. (Interposing) When was this?

A. I was discharged June 9th, so it was before June 9th. It was maybe the beginning of June or something.

Q. Now, the areas to which I just referred were not areas, as far as I know, where Company C went on this operation.

A. This is the first I heard about the operation, you know, since it happened.

Q. Mr. ARCOREN, the next question I am going to ask you is somewhat a matter of opinion, too. If you feel like you want to discuss this with your counsel before you answer, I certainly want you to feel free to do so. Could you tell me what the attitude of the members of Charlie Company, generally, towards the Vietnamese was at about the time of this operation. And, if you can, why you think that they had this attitude?

A. I had never been with the company out in the field before that time, so I can't really say how they felt towards them.

Q. Well, how about the men in the mortar platoon? Did they have any particular feelings, one way or the other?

A. Not really.

Q. My next question would be to differentiate between what I would call the South Vietnamese, who were friendly, and the VC, in general. Was there any particular feelings against the VC?

A. I think everybody really had their own opinion, but my opinion is I didn't care for the VC. It was either them or us.

(COL WILSON entered the hearing.)

Q. Who did they consider to be the VC? Would you consider just everybody in this My Lai (4) area as potential VC?

A. I don't want to answer that question.

MR WEST: We will take a recess at this time.

(The hearing recessed at 1654 hours,
6 January 1970.)

(The hearing reconvened at 1656 hours, 6 January 1970.)

MR WEST: The hearing will come to order.

RCDR: All persons who were present when the hearing recessed are again present.

(The witness was reminded that he was still under oath, and testified as follows:)

COL MILLER: I have a few questions that I would like to ask before we finish for the day, Mr. ARCOREN. It appeared that this action at My Lai (4) was not an ordinary action, and things turned out somewhat different than the commanders had expected. There were significant numbers of civilians who were killed. I wonder if you could and would be willing to explain in your own words your assessment of just exactly what did happen at My Lai (4) that day?

A. Would you explain that further?

Q. Normally, if you don't receive a lot of opposition, you are not going to fire very much. You testified earlier that you heard a lot of firing going on in front of you as the other troops went through the village. As you went through, you saw a significant number of dead bodies, many of whom were civilians, women and children, old men, and noncombatants. You saw individual bodies in one place and then another. It's not normal that these people would be killed as combatants. Do you feel that there was a lack of command and control; that the troops suddenly lost their own control? I am not trying to put words in your mouth. If you have formed any opinion of your own, that's what I'm asking you for.

A. No, I didn't form any opinions. I never really thought about this until I started reading about it in the papers.

Q. My next question is closely related to this. Why do you think there were so many civilians killed in My Lai (4)?

A. I really don't know.

Q. Have you ever wondered why this was not more fully reported or made public at the time or shortly after the time?

A. Well, when I read about it in The Stars and Stripes I thought that was it.

Q. You were with the 11th Brigade during the entire time they were processing in Hawaii training and getting ready to come overseas. Do you recall whether the brigade conducted instructions in rules of land warfare and the treatment of prisoners of war?

A. I don't think I can answer that question.

Q. You may have read in the papers not long ago that someone thought marijuana contributed to the reaction of the soldiers in My Lai (4). To your knowledge, or on the basis of rumors or any information as it may have come to you, do you know of any problems that had arisen in Company C with respect to the use of marijuana?

A. It was no problem. No.

Q. Have you heard that there was any large scale use of marijuana by any of the men of Company C?

A. I had read that there were over 90 percent in Vietnam using it.

Q. You read this in the papers the other day, I think. I am asking you to recall what your knowledge or your understanding was at the time you were in Vietnam, not what you may have read in the papers?

A. I don't think I--I'm not going to answer that question.

Q. Do you think there was a significant amount of marijuana used by the troops on the day they went into My Lai (4)?

A. I don't think there was any use at all. We just woke up, had breakfast, and went.

Q. After the My Lai (4) incident, what was the nature of the missions to which Company C was assigned?

A. They stayed in the field quite a bit.

Q. Did they go on assault missions?

A. Assault, yes.

Q. Do you recall whether they went on what we call a rice or food denial mission at any time; where they went out to protect the rice crops?

A. Most of the time after that, I was either in base camp or I was on the ridge. I didn't hardly go out after that.

Q. We have covered a fairly wide range of subjects today. I think you know the general nature of the information we are trying to obtain. Can you think of anything else that you could tell us that might be of help to us?

A. The company was in the field for quite some time before I left.

Q. I was thinking not only of my last question, but anything that we have covered today or anything that I might have missed.

A. At one time--I don't know if it happened a couple of times or not. This one time they brought clothes, food, and medicine to us out in the field. We changed right there, cleaned up in the river that was running there, and we sent our dirty clothes and stuff in.

Q. When you came down to LZ Dottie to participate in this My Lai (4) incident, were you told how long you should expect to be in the field. How long this operation would be?

A. No, not that I can remember.

Q. That you might be out there a week, 10 days, or a 30-day operation?

A. That's usually about as long as you are expected to stay anyway, or a week, or 10 days, or something like that.

Q. Were you surprised when you came back in on the third day?

A. Not really, no.

Q. Isn't that shorter than most of your missions?

A. Like I said, that was the first one that I had ever been on.

Q. Do you have anything else you might be able to add? If you want to discuss it with your counsel, go right ahead.

A. There is nothing that I have, sir.

COL MILLER: Mr. ARCOREN, I request that you not directly, or through others, discuss your testimony with any person who may have connected with this incident, who has been or may be a witness for this investigation.

I realize that this can't be a prohibition forever, but at least for the time being. One of our reasons for asking this is that we are trying to get testimony from each witness as best we can the way he remembers it, without being or having his memory refreshed by what might be false facts to him. I'm sure your testimony has been colored in part by some of the things you read in the papers, things you may have forgotten about. It is almost impossible to separate what you remember from what you have read.

What I have said does not apply in the event you are called or ordered to testify before an administrative, legislative, or judicial tribunal. Certainly, at any time, you may discuss this with either your current counsel or any other counsel you may have. Do you have any questions before we recess?

A. Like you said, there are some things that I might have read or something, but there are certain things that I do remember. I don't know; I can't really sort them.

Q. Well, if at any future time you can think of something that you feel may be of importance to us, or you come across notes, letters, or anything else which could contribute to our investigation, I would appreciate it if you would either let me know or if you would mail it to us. Under the circumstances, I feel sure you would want to do this only upon advice of counsel, and the captain will be available for that purpose. I would sincerely request that if you can think of anything, or find anything, you will continue to cooperate. Colonel WILSON would like to go over some photographs with you separately. I think you have done this before. I'm not sure whether they are the same photographs or other photographs. I thank you very much for coming and letting us take up your time, realizing it was very difficult. We do thank you for your contribution.

Q. Do you have anything else, Captain?

IC: Not for the record.

MR WEST: This hearing will recess.

(The hearing recessed at 1747 hours, 6 January 1970.)

(The hearing reconvened at 1755 hours, 6 January 1970.)

COL WILSON: The hearing will come to order. COL WILSON is present.

(The witness was reminded that he was still under oath and testified as follows:)

COL WILSON: For the record, the witness has been oriented on the aerial photograph (Exhibit P-1) and the 1:25,000 map sheet (Exhibit MAP-4). I want to ask you a couple of training questions before we get started. You were with the brigade prior to leaving Hawaii?

A. Yes, sir.

Q. Were you given any special training in the handling of prisoners of war and noncombatants?

A. I don't want to answer--no answer.

Q. No answer? I would like to show you Exhibits M-3 and M-2, facsimiles of two pocket-size cards. M-4 is also on the sheet, but I'm interested in M-2 and M-3. M-2 is entitled, "Nine Rules," and M-3 is entitled, "The Enemy In Your Hands." Have you ever seen either of those cards (handing the exhibits to the witness)?

IC: We're interested in M-2 and M-3?

Q. M-2 and M-3 only.

A. I don't recall seeing these.

Q. You don't recall seeing these cards at all? Both of these cards have the MACV insignia on them, and this would have been red. You still don't recall seeing them?

A. No, I don't.

Q. When you arrived in Vietnam, did you receive any training in the handling of prisoners of war and noncombatants?

A. Would you repeat the question?

Q. When you arrived in Vietnam from Hawaii, I'm assuming here that you came over with C/1/20, did you receive any training on the methods of handling prisoners of war or noncombatants?

A. No, I didn't.

Q. Do you recall receiving 5 days or 1 week of training when you arrived?

A. There was sort of a little training there, and all we did was went out and fired a little bit.

Q. Fired your weapon?

A. Yes.

Q. Booby traps?

A. Oh, yes. I remember that.

Q. Mines?

A. Mines; booby traps. And we went through a mock village.

Q. Mock village?

A. Yes.

Q. In the village, did they play the procedures for handling prisoners of war?

A. I won't answer that question.

Q. We have a series of photographs, and I'll ask you to look through these photographs. They are all numbered by exhibit number. And where you can identify the photograph, I'll ask you to write the number down if you can identify either the place or the person. I will ask you some questions on them.

A. Was this anytime during my stay in Vietnam?

Q. Yes. As far as we have been able to determine, in most cases, it indicates that all of these photographs were taken in the vicinity of My Lai (4) or at fire base Dottie. If you can't recognize any of them just pass them over.

(The witness and his counsel proceeded to look through the photographs given to them by COL WILSON.)

Q. P-3, do you know where this location is?

A. No, I don't.

Q. You were in the mortar platoon, is that correct?

A. That is correct.

Q. Was MAURO in the mortar platoon?

A. No, he wasn't.

Q. P-13, do you recognize that area? Do you know where you stopped when you were in this position?

A. We had just come out and that's where they medevac'd CARTER.

Q. So you just came out of the village on the south side?

A. Right.

Q. The helicopter landed somewhere to the left of the photograph?

A. Right.

Q. Do you find your location in this column?

A. I was back here (indicating). It was somewhere towards the back.

Q. I believe this is FAGAN here with the plotting board?

A. Yes.

Q. You were behind FAGAN?

A. I might have been right behind him or in front of him.

Q. Actually, you were in the column, then?

A. Yes.

Q. Who is the individual in the front, the first man in the column? Do you know?

A. He was one of the FO's, but I don't remember his name.

Q. Does the name ALAUX mean anything?

A. It could be.

Q. P-16, what do you recall about that photograph?

A. This and those two other ones, they look the same to me.

Q. How far was this location from where CARTER was evacuated?

A. It was up, and in towards the middle.

Q. It was back into the village, is that right?

A. Right.

Q. Did you see this after or before CARTER was evacuated?

A. After.

Q. When CARTER was evacuated, you went back into the village?

A. We went up the path away, and then back. It seems like we were cutting towards the river.

Q. How far back into the village did you go?

A. I couldn't say, because I didn't know how far the other side was.

Q. P-17, what do you remember about that?

A. That's the same photo as the other one. We were just getting out, and ready to move on again.

Q. So this photo was taken in the vicinity of where CARTER was evacuated?

A. Yes, sir. There's Sergeant MARONEY and the lieutenant. And the other picture was taken from a different angle.

Q. From where was CARTER evacuated?

A. Somewhere right about here (indicating on Exhibit P-1).

Q. P-31, what do you remember about P-31?

A. It seems to me like that picture was taken when we were headed out of the village into another place.

Q. You're telling me that you had already swept the village and were going out, is that right?

A. It looks like that picture.

Q. You can't say for sure?

A. No.

Q. Do you remember seeing these bodies?

A. It does look like the picture when we were leaving.

Q. When you were leaving the village? You notice some live cattle back there. Is that unusual?

A. Yes, because if we were coming up this way they would have been dead.

Q. P-33?

A. That is the same photograph as the previous village, one of the houses burning.

Q. What about these bodies burning when you saw this house burning? Did you see the bodies burning?

A. Right.

Q. How did they get burning material over them?

A. I don't know. That was going when we started to go through.

Q. P-34 is the same location as P-33?

A. Yes.

Q. P-41, what do you know about that?

A. That's where we came upon--here's where we were sitting, right back here.

Q. You're pointing to the aerial photograph again. You're pointing to the north-south road leaving My Lai (4). How do you remember that so clearly?

A. Because we stayed along this edge here for a long way until we cut this way.

Q. And you remember these bodies as being along this north-south road, on the southern side of the village?

A. I'm pretty sure we didn't go much farther than that.

Q. Was this near the area where CARTER was evacuated?

A. Yes, to the east of it.

Q. How far to the east?

A. I don't know.

Q. Now, let's take the aerial photograph and see if we can recall what happened. Our evidence indicates that the landing zone was on the west side of the village. Do you agree with this?

(COL WILSON subsequently marks Exhibit P-1 to indicate MR ARCOREN's route through My Lai (4), and the location of events and photographs which he identifies. The annotated photo is later admitted as Exhibit P-144.)

A. Yes.

Q. Do you remember which lift you came in on?

A. I believe it was the last one. We were the last one.

Q. The last ones in. How far from the helicopter was the edge of the village?

A. About 50 meters.

Q. Fifty meters? When you got out of the helicopter, as you faced the forward end, did you get out of the right or left door?

A. The right.

Q. So, you were facing the village when you got out?

A. No. We came in from this way. We got out this way, and we set up the perimeter. And I ran around this way (indicating).

Q. You had to go around the helicopter. Did you have the gun, or were you carrying ammo?

A. I was carrying the base plate.

Q. You were carrying the base plate. Did you set the weapon up on the landing zone?

A. Right.

Q. Did you put the gun in action in a hole, a depression, or was it on level ground?

A. It was just on the rice paddy on level ground.

Q. Do you remember this north-south tree line here?

A. No, I don't.

Q. Do you remember out on the landing zone?

A. No, I don't.

Q. Do you recall an embankment on the side of the village where the platoons were forming?

A. What platoons?

Q. First and second. They were in the village by the time you got there. You say you established a perimeter?

A. Around the gun.

Q. You don't remember this tree line? Do you remember how far from the village the gun was?

A. No.

Q. But you say your helicopter landed about 50 meters away?

A. Approximately where we set up the gun, somewhere around in there. I couldn't say exactly.

Q. Can you recall the edge of the village as to whether you landed towards the center of the village, or on the north side, or on the south?

A. We went to this little tree line and we crossed this field (indicating). I don't know which field.

Q. You were about 50 meters out from this (indicating)?

A. Right.

Q. At the helicopter where you set the gun up, how long did the gun stay assembled before you moved into the village?

A. It was quite a while. About one-half hour to 45 minutes.

Q. Now, when you went into the village, did you follow any particular unit, or did you move with the CP group, or what?

A. We were with the CP group.

Q. Did the mortar platoon stay together the whole time?

A. Yes.

Q. Where was the 3d Platoon?

A. I don't know. I didn't even see them at all. They were in front of us somewhere.

Q. When you moved into the village, do you recall whether you moved to the center of the village, or moved south?

A. It seems to me we zigzagged.

Q. I see. But you came out somewhere where CARTER was wounded.

A. Right.

Q. Did you come out before that? Did you hit the edge of the village before that, or about the edge of that location?

A. I think we hit the edge before he was wounded. When we came here, CARTER was lying back, and he was wounded.

Q. So you came in. Did you head directly south, or did you kind of angle off?

A. We were sort of going back and forth. I don't know.

Q. So you moved south when you came to the edge of the village. Would you say you came to the edge of the village considering this north-south road here back in this area somewhere?

A. There were some trees and they were off to the-- as you came to the edge of the village, they were off to the left front.

Q. Well, this trail along here (indicating), there were trees all the way along it. When you reached the edge of the village, could you look off and see this Hill 85?

A. I don't remember looking for it.

Q. Do you remember where these bodies were when you pointed out to that road?

A. It seem like they were there (indicating).

Q. Did you come out about that location?

A. No.

Q. So you would have come out somewhere, generally, along in here? Now, when you hit the edge of the village, generally along the south, about how far did you go before you reached the location where CARTER was wounded?

A. It seems to me we came (indicating)--

Q. (Interposing) Farther back?

A. Yes, and we came to the edge. Captain MEDINA told us to set up a perimeter for a landing zone for the helicopter.

Q. You came more directly like this, is that correct?

A. Right.

Q. Down this way (indicating) and then hit the edge of the road?

A. Right.

Q. You think CARTER was wounded about how far up the area after you hit the edge?

A. I couldn't say, but they were carrying him towards this way when we got there.

Q. And you moved along the edge of the village a ways, is that correct?

(Witness nods his head in the affirmative.)

So you think he was wounded in this area (indicating) about that intersecting north-south road?

A. The medevac came in somewhere right about here (indicating).

Q. So CARTER had to be wounded about here (indicating) and according to CARTER, to kind of fix--although he was wounded and probably hurting, and I'm not sure his memory was altogether correct, he said that it was only a few meters from where he was wounded to where he got on the medevac, which puts him pretty close to the edge of the village on the south. And you think it was generally right in here (indicating) somewhere?

A. Yes, because this is where, when he was wounded, they called in the medevac. We all just sat down alongside of the trail there.

Q. Point 1 is the general location where CARTER was wounded (marking Exhibit P-144).

A. We were all sitting alongside the little trail taking a little break.

Q. From where do you think he was evacuated? Back over here?

A. I don't know. We set up the perimeter right around where he was evacuated.

Q. The approximate area, point 2, is where CARTER was evacuated (marking Exhibit P-144).

The Task Force BARKER log records CARTER's wound as taking place at 1020 and his evacuation at 1030. Does this seem like the right timing?

A. Yes, that could be it.

Q. About 10 minutes from the time he was wounded until he was evacuated.

A. Then, we just sat alongside the hill after that.

Q. After he was evacuated, did you move out immediately?

A. No.

Q. When you moved off, did you stay along the edge of the village, or did you go back into the village?

A. We stayed along there for a while, and then we cut back in.

Q. How far back in did you go?

A. I don't know. I think we must have gone somewhere straight up that way (indicating).

Q. Now, when you hit the edge of the village, did you hit it on the south side?

A. More to the north.

Q. More to the north than this (indicating)?

A. Yes, somewhere along in here (indicating).

Q. Did you come that far out?

A. It seems like to me we did.

Q. Was this the mortar platoon, or were you still with the command group?

A. We were in the command group. We have to be with the command group.

Q. You think it was up here (indicating)?

A. Yes.

Q. When you reached the edge of the village, did anything happen?

A. No.

Q. Did you continue to move?

A. We just kept on going.

Q. You moved across the paddies and left the village?

A. Yes. I think we went to another village, and then we ate dinner.

Q. You went to another village?

A. Either that or I was in that village.

Q. You don't recall?

A. No.

Q. Did you see anything unusual out in this area on the other side of the village?

A. No.

Q. Did you see anything unusual that could be pointed out along the route of march which we have indicated, aside from CARTER's wound and his evacuation?

A. No.

Q. And you don't recall what happened when you reached the end of the village, or where you went after that?

A. No.

Q. All of these photographs here, which are P-7, P-8, P-9, and P-10, were the location where CARTER was wounded. These are photos of Sergeant CARTER's location, where he was wounded. Do you remember, in photo P-9, do you remember this building behind CARTER?

A. Not really, no.

Q. You know this photo and if you look at this photo it will show CARTER being carried away to the helicopter. It looks like an intersecting trail here, or it could be a tunnel, but it looks like an intersecting trail. What I am trying to really determine is whether this is the same trail that those bodies were on?

A. Which do you mean, that road going north and south?

Q. Yes.

A. I doubt it.

Q. You don't think so. P-11 and P-12 show CARTER being evacuated. Now, P-13, again we have a structure back here, and a trail. The trail appears to be on the side of the village, and if photographs were taken close together, the column is looking out over open fields or rice paddies. There is no road here, except the road that runs by the village. There is no north-south road. This appears to be a small dike, and, as you recall, CARTER was evacuated from very close to this photo, is that correct?

(The witness nods his head in the affirmative.)

How far do you think that helicopter landed from where you were sitting in this photo, either P-13 or P-17?

A. I don't know. I couldn't say.

Q. Was it reasonably close?

A. You are going to have quite a bit of room in there.

Q. I am talking about 50, 75, or 100 meters?

A. Probably about 50. We had to form an LZ around it.

Q. We're talking somewhere about 50 or 75 meters from where the helicopter landed. And we know that that photograph was taken along the side of the village, by a large house as a matter of fact, which is somewhere down in here (indicating).

(The witness nods his head in the affirmative).

So, for a general location, P-13 and P-17 would probably be about right in here (indicating), would you say?

A. Yes.

Q. This burning house, P-16. Do you recall that being after CARTER was wounded or before he was wounded?

A. After.

Q. This would be along your line of march somewhere?

A. When we were getting ready to leave.

Q. When you were getting ready to leave?

A. It was in here more.

Q. It was further up, 150 or 100 meters or about how far? Do you have any idea?

A. I don't have any idea.

Q. There was a fairly large house, I take it?

A. Yes.

Q. One that you would remember, one of the larger houses?

(The witness nods his head in the affirmative.)

Let's see, those are P-16, P-33, and P-34. What about right in here, somewhere in this area, or is that too far away?

A. That would be about right.

Q. P-22, do you remember this old Vietnamese man?

A. No.

Q. What do you remember about the Vietnamese soldier and the American soldier?

A. Well, one is Sergeant PHU and the other one they call "Doc."

Q. Could this man have been one of the MI detachment individuals?

A. It could be, but it looks like the one they used to call "Doc."

Q. P-41, shows the bodies on the trail. How far was this from where CARTER was wounded?

A. I don't know. I thought it was that trail right there (indicating), but it doesn't seem to be.

Q. Well, I'm not so sure you're not right. There's a fence. Do you remember a fence being along that trail on one side?

A. No. I think the only reason I recognize that is probably because I saw it in the magazine or something.

Q. Yes, but you couldn't have seen it in Life magazine. Life magazine didn't say where it was located in the village. You think it's right in here?

A. That's my idea.

Q. Have you been questioned on these photographs before?

A. I think so.

Q. The route of march which is shown on here. That was the route of march of the mortar platoon, right?

A. What it seems like to me.

Q. Well, I mean as close as you can remember. But what I'm trying to determine, was this also the route of march for the company command group, or did you ever leave them?

A. We were usually behind them; and maybe if they got ahead a little, maybe they did go off the trail. I don't know.

Q. I am going to put down the route of march of the mortar platoon. I appreciate your providing this information. I will put a legend down here which keys the event to the testimony: the route of march of the mortar platoon, which is indicated on here, and the photo exhibit number which will be in green and here, "Prepared from memory at Washington, D.C., on the 6th of January, 1970." I would like to have the witness sign it so it can be introduced as an exhibit in the investigation.

(The witness annotated the exhibit as requested.)

This aerial photograph annotated by Mr. ARCOREN, is introduced as Exhibit P-144. Mr. ARCOREN, do you have any further testimony to offer at this time? Any further statements to make?

A. No.

Q. I ask you, when you return home, if you find anything that might assist us in the investigation, such as documents, notebooks, photographs, and anything of that nature, we would appreciate hearing from you. I believe you were advised by Colonel MILLER about discussing the investigation, is that correct?

A. Yes.

Q. You are requested that you do not, directly or indirectly, or through others, discuss the My Lai (4) incidents, including subsequent investigations and reports, with any person who may have been connected with the incident in any way, and who is to be or has been a witness in this investigation. This request does not apply, of course, if you are required to discuss the case in other administrative, legislative, or quasi-judicial hearings.

A. Yes, sir.

COL WILSON: Unless you have something further, that terminates the interview. Thank you very much for coming. We appreciate it.

The hearing will be recessed.

(The hearing recessed at 1955 hours, 6 January 1970.)

SUMMARY OF TESTIMONY

WITNESS: CORNWELL, Smith W.

DATE OF TESTIMONY: 10 January 1970

PLACE OF TESTIMONY: Pentagon

WITNESS SUSPECTED OF: N/A

COUNSEL: Mr. Walter SIBEN, 90th East Main Street, Bay Shore, Long Island, New York.

DUTY ASSIGNMENT ON 16 MARCH 1968: PFC, Mortar Platoon, C/1/20

1. PREOPERATIONAL PLANS AND BRIEFINGS.

In his briefing the night before the operation, Captain MEDINA said there was to be a combat assault on My Lai followed by a search and destroy operation (pgs. 4, 5). My Lai was a VC stronghold and it was not known if there were any friendly persons in the area (pg. 5). The men were to burn hootches and destroy livestock (pg. 5). Although he did not recall MEDINA mentioning this as an opportunity to "get even," the men were bitter about those who had been killed by sniper fire, boobytraps, and the minefield (pgs. 5, 6). He personally felt that the life of a Vietnamese was not worth that of an American (pg. 6).

2. ASSAULT ON MY LAI.

a. Movement through the village.

The mortar platoon set up its mortar, but displaced it forty minutes later and moved through the village (pg. 7). The platoon's mission was to burn hootches and destroy livestock, and he participated in this as he moved through the village (pgs. 7, 8). He pulled security for CARTER's dust-off which took place 150-200 meters to the west of the trail (pgs. 8, 9). He saw no one killed and saw only one body all day (pgs. 9, 10). This was the body of a man shot by ARCOREN whom ARCOREN described as a VC (pg. 10). After the dustoff he continued to burn hootches and shoot livestock

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b. He was Sergeant MARONEY's RTO and was tuned to the company net (pg. 4).

c. Two or three engineers accompanied the mortar platoon and blew up a bunker and a dud M-79 round with C4 during the course of the operation (pgs. 17, 18). He did not remember their setting any fires (pg. 18).

d. CORNWELL heard rumors about rapes which occurred at various places during the course of the operation, but did not know who was involved (pg. 18).

EXHIBITS

EXHIBIT NUMBER	DESCRIPTION	NOTES	PAGES
P-1	Aerial photo of My Lai	Wit asked to orient himself.	7

(The hearing reconvened at 0944 hours, 10 January 1970.)

MR WEST: The hearing will come to order.

RCDR: The following named persons are present: MR WEST, COL MILLER, MAJ ZYCHOWSKI, and MAJ COOP.

The next witness is Mr. Smith W. CORNWELL.

(MR CORNWELL was called as a witness, was sworn, and testified as follows:)

IC: Mr. WEST, at this time I request a copy of the statement by Mr. CORNWELL to the --

MR WEST: (Interposing) Mr. SIBEN, we are not authorized to release such statements. I understand you have seen it?

IC: I have seen it, correct.

MR WEST: We have no authority to give you a statement at this time. You may see it if you wish.

IC: Note my objection to the fact that I have been denied my request for a copy of the statement.

RCDR: Mr. CORNWELL, are you represented by counsel?

A. Yes, I am.

RCDR: Will counsel please state his name and address for the record?

IC: Walter SIBEN, 90 East Main Street, Bay Shore, Long Island.

RCDR: Mr. CORNWELL, will you state your full name, occupation, and residence?

A. My full name is Smith William CORNWELL. I work for American Telephone and Telegraph. My address is 6 Bailey Drive, Amityville, New York.

(CORNWELL)

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MR WEST: Mr. CORNWELL, before we get into any questions, Colonel MILLER will advise you of the nature and purpose of this hearing.

COL MILLER: I have already gone over some of this with you informally. I will cover the same materials again.

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

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

(2) the possible suppression or withholding of information by any person who had a duty to report this information concerning the My Lai incident.

While it is not our primary purpose to inquire into anything and everything that happened at My Lai, we do get into many of the details. Our purposes are as I just stated.

We have had made available to us and we have reviewed many statements made by witnesses in other investigations into the My Lai incident. Among these are the IG investigation and statements made to the CID. Among others we have, of course, seen your statement. You've seen a copy of it this morning.

Your testimony today will be under oath. A verbatim record will be prepared, and we do have a tape recording being made.

The general classification of our report is confidential. However, there is certainly the possibility that some or all of the testimony before this hearing may at some time become a matter of public knowledge, public record.

I understand that you have received a letter from the trial counsel in the general court-martial case of United

States v. Calley with respect to testimony and not divulging your testimony to certain people. Do you recall the letter to which I refer?

A. Yes, I do.

IC: At this time, Colonel MILLER, I would like to make a statement as to whether this witness is being considered as a possible defendant in this proceeding.

COL MILLER: I am not done yet. You will get an opportunity, Mr. SIBEN.

IC: I'm sorry.

COL MILLER: We do request that you not discuss testimony which you give before us today in this investigation with others, including other witnesses to the investigation, except as you may be required to do so before an appropriate administrative, legislative, or judicial forum. This is an example of an administrative body. A court-martial would be an example of a judicial forum, and certainly this request does not extend to your discussing it with your counsel. With respect to the order in the Calley case, the military judge in that case has determined that your testimony here is clearly within the limits of the orders. You are not violating his request or instructions by giving testimony before this hearing.

You are not a suspect on the basis of any information that we have had made available to us, and we don't consider you a suspect at this time. Nevertheless, you are certainly entitled to have counsel with you and to consult with him at any time, or he with you. If at any time you find it necessary to consult in private I hope either one of you will feel free to call a recess, and we will provide you that opportunity. Despite the fact that you are not a suspect now you also have, of course, your right against self incrimination, the right to refuse to answer any of our questions on that basis. Does this cover the things that you are interested in now--

IC: (Interposing) Yes, I am. Yes, it does.

Q. Do you have any questions, either of you, concerning what I have covered so far?

(Negative response.)

The fact that you appear before this hearing does not in any way affect the applicability of the order of the military judge in the Calley case. That continues as it did.

MR WEST: For the record, Mr. CORNWELL, were you a member of the United States Army on 16 March 1968?

A. Yes, I was.

Q. What was your grade and your assignment?

A. I was a PFC with the mortar platoon, C/1/20.

Q. At that time was Charlie Company a part of Task Force Barker?

A. Yes, it was.

Q. Do you remember your platoon sergeant's name?

A. Sergeant MARONEY.

Q. What was your particular duty?

A. I was the radiotelephone operator for the mortar platoon.

Q. You were the RTO?

A. Yes.

Q. What net were you in?

A. I was on the company net.

Q. Mr. CORNWELL, when did you first hear of the planned combat assault on the hamlet of My Lai (4)?

A. At the briefing with Captain MEDINA.

Q. And this took place when?

A. The night before the operation at LZ Dottie.

Q. Do you know whether there was, either before or after this company briefing, a meeting of the platoon sergeants and the platoon leaders with Captain MEDINA?

A. I don't recall that.

Q. Can you tell us just what Captain MEDINA told the company at this time?

A. He got the company together; and he advised us that we were going on an operation into the Pinkville area, as we referred to it, and that it would be a combat assault; that we didn't know of any friendlies in the area; and that we were--it was a search and destroy mission; that we were to destroy all livestock and burn all villages.

Q. Did he say anything about the people in the village, what to expect, what their attitude would be?

A. It was stated that it was a VC stronghold.

Q. Were there any plans for evacuation of the residents of My Lai (4)?

A. Not to my knowledge.

Q. I understand that prior to this, C Company had suffered quite a few casualties from snipers, booby traps, and minefields, but it had not actually had any heavy contact with the VC. Is that correct?

A. Yes, that is correct.

Q. Did Captain MEDINA say anything about the company having a chance to get even with the VC in this assault on the 16th?

A. I don't recall anything to that effect.

Q. What was the attitude, the mood, of the men of the company after the briefing?

A. They were--the company itself seemed to be somewhat bitter because of the men we had lost.

Q. In general, what do you think the attitude of the men of C Company was towards the Vietnamese people? Did they like them or dislike them? Did they get along with them? What was the feeling?

A. I don't really know. This was the mortar platoon's first operation with the company. We spent most of our time up on LZ Uptight.

Q. Well, from your experience up to that time, in Vietnam with men that you knew in the company and in Task Force Barker, did you discern any feeling that perhaps the life of the Vietnamese wasn't worth as much as the life of an American?

A. From the company or from myself?

Q. Well, both.

IC: These are leading questions, Mr. WEST. I don't think you can ask him to give the attitude of the company. He can only speak for himself.

MR WEST: Just whatever is in his knowledge is all I'm asking for.

A. I personally felt that they were not worth as much as an American.

Q. Did Captain MEDINA indicate how long this particular operation was to last?

A. I don't remember him referring to how long the operation would last.

Q. Moving now to the next day of the 16th, Mr. CORNWELL. May we have the photographs (to recorder)?

(The recorder hands the photographs to MR WEST.)

We will show you here --

IC: (Interposing) Before you get there, Mr. WEST, may I interject that my client told me this was a search and destroy mission. He was told by the captain that it was an unfriendly area, that they were to destroy everything and not leave anything of any value to the enemy. That was the main purpose of this operation.

Q. Thank you. Do you have anything further?

(Negative response.)

You have in front of you, Mr. CORNWELL, a large photograph which shows the village of My Lai (4) and the vicinity.

(MR WEST oriented the witness to Exhibits P-1 and MAP-4.)

Q. Does this look familiar to you now?

A. Yes, it does.

Q. Would you tell us now what you did and saw after you landed there in the LZ and got out of the helicopter?

A. The mortar platoon's first responsibility was to set up security and to set up the 81 millimeter mortar in case the company needed close support with mortar fire. I, myself, was looking to the south on perimeter security for the mortar platoon. We stayed there about 40 minutes and then moved into the village. Our platoon went through the village and we destroyed livestock and burnt the village after the 1st and 2d Platoons went through.

Q. Was this an assigned mission, assigned to members of the platoon to do these things?

A. Yes, it was.

Q. Do you know if the 3d Platoon had the same mission?

A. I believe they did. They were going through with us, but I don't know if they were given the order.

Q. Do you remember the other members of the mortar platoon that were with you that day? You have already mentioned Sergeant MARONEY?

A. There was a Sergeant David HEIN, and PFC ARCOREN.

Q. Is that ARCOREN perhaps?

A. Right, we referred to him as "Chief."

Q. We have had Mr. ARCOREN as a witness. Mr. JOLLY? Do you remember JOLLY?

A. Yes, sir, Mr. JOLLY.

Q. FAGAN?

A. FAGAN was with us.

Q. You mention HEIN. Is this H-E-I-N?

A. Right, David D.. A PFC HOWARD, I believe HOWARD was on the operation, and I don't recall any of the other fellows.

Q. Please continue.

A. We went through the village, and when we first entered the village there was an old man and a little boy. I don't recall what happened to them. Our platoon went by them. I went through the village burning houses and shooting at livestock I saw. Partway through the village, there was a dustoff for one of the individuals; I believe it was on the southern edge of the rice paddy there, but I don't really recall. I do remember there was a rice paddy and that the chopper came in. I pulled security for that. Sergeant MARONEY told me to go out and pull security. They dusted that individual off, and we went back through the village--

Q. (Interposing) Before we leave that Mr. CORNWELL, when you set up dustoff security, did you and others set up a perimeter? Was that the way it was done?

A. Yes. We went out to the rice paddy and pulled security around the rice paddy like that so when the chopper came in, if he received incoming fire, we could return it.

Q. It would help us if you could locate approximately where the dustoff helicopter came in. We understand it was just to the south of My Lai (4) in a rice paddy. Our particular question is whether it was to the east or west of the trail that leads south from the center of the village.

A. I believe it was to the west of the trail. After the dustoff we went back into the village--

Q. (Interposing) Before we leave that, was it very far from the trail? Could you estimate the distance?

A. It was probably that second rice paddy, down 150 or 200 meters.

Q. Did you by any chance observe a group of bodies on the trail when you were engaged in this mission of dust-off security?

A. No, I didn't.

Q. What did you do next, after this?

A. After the dustoff, I went back up to that tree line there (indicating), and we went into the village there, and we continued to burn the village and destroy the livestock. When we went through the village, we broke for lunch on the eastern side. There was an old house there. Captain MEDINA came and told us that we were breaking for lunch, and David HEIN and I went out to a little rice paddy at the end of one of these tree lines and sat there and had lunch.

Q. As you moved through the hamlet, Mr. CORNWELL, did you see any Vietnamese residents killed?

A. No, I didn't.

Q. Did you see any bodies of Vietnamese residents, or wounded?

A. Yes, sir, I saw one. I did see one body.

Q. Would you describe this incident?

A. Well, Dale ARCOREN came up to me--or up to the platoon, not me specifically, and said he had shot a VC. He had thought the man had a weapon, and that was the body I saw.

Q. Did the members of the mortar platoon take any prisoners that morning or detain any civilians?

A. No, not that I recall.

Q. And during the morning and all the way through the hamlet you saw only one dead body?

A. Yes.

Q. Did you hear, or were you told by members of the company who were there, that there had been a number of Vietnamese residents of the village killed that morning?

A. Yes, there was a rumor to that effect.

Q. What was this?

A. That the company had shot 400 or so civilians or personnel in the village.

Q. Were you visited at My Lai (4) that morning by any officers from Task Force Barker or the brigade or division, to your knowledge?

A. I don't recall any.

Q. During the morning did you hear an order to stop the killing and burning, or words to that effect?

A. I believe that there was an order given to lay off the firing, but I can't specifically recall it.

Q. Could you fix the time approximately? For example, was it after the dustoff for the wounded man?

A. It would be after the dustoff.

Q. The log of Task Force Barker indicates that the dustoff occurred approximately 1020 hours in the morning which gives us some idea of the time. One of the collateral matters we've been looking into is just what happened there that morning. We are trying to find out why a number of Vietnamese residents of the village were killed. It's been suggested by some witnesses that the company got, to some extent, out of control that morning. Did you observe anything that would lead you to conclude that this was the case?

A. No, I didn't. Sergeant MARONEY, our particular platoon sergeant, had our mortar platoon in control. I didn't see the rest of the company through the operation.

Q. Did you, for example, notice any indiscriminate shooting by the men of the company in the mortar platoon as well as the others?

A. No. I didn't see any.

Q. Do you recall what the company did the rest of that day?

A. After we broke for lunch we moved into My Lai (5). I think it was My Lai (5), the next village. When we entered that village there was a bunch of civilians in the village. We policed them up, gathered them together, and, as I recall, most of them were let go. There were a couple held prisoner, and we searched My Lai (5) and burned My Lai (5). Then we moved out to a graveyard, and that's where we spent the night at the end of that day. We stayed there that night.

Q. Do you remember joining up with B/4/3?

A. Yes, they were at the graveyard with us. The two companies were together.

Q. During the late afternoon, did you see any National Police?

A. Yes, I did.

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A. Yes, there was an engineer unit.

Q. Do you recall the numbers, approximately, or the names or who they were?

A. No, I don't.

MR WEST: On that point, we had one witness tell us that the engineers were attached. One was a Negro soldier, and one was white. The Negro soldier was known as "Hot-Shot." Does this recall anything to your mind?

A. No, it don't.

Q. Going to the 17th, Mr. CORNWELL, can you just describe briefly the actions of the company on the second day of the operation?

A. We moved out of the graveyard and went down toward the Song My Khe River towards My Khe (3), My Khe (1) and My Khe (2)--

Q. (Interposing) To the south?

A. To the south. And we were still on search and clear at the present time. We were no longer on search and destroy. We went through search and clearing. We came out, I believe it was at My Khe (3), and there was an old man in the village that was taken prisoner. We moved down towards My Khe (2), and in My Khe (2) we had one civilian woman and one, let's see, three males I believe it was. One of them was younger. He was about 17, I think. I don't know his age. And at My Khe (2) we had tried to RON there for the night, and it is my understanding that we were out of the range of the 105's. In case we had an assault that night, they wouldn't be able to support us. So we moved back up by My Khe (3), and there was a rice paddy, and that's where we remained for the night.

Q. Did you encounter any VC resistance on this day?

A. No, we were not shot at, but when we did RON, there were--just as we set up our perimeter, two VC with weapons took off across the rice paddy, and they were fired at.

Q. Mr. CORNWELL, were these villages that you passed through that day burned the same way that My Lai (4) had been burned? Do you recall that?

A. I recall one of the villages was on fire, but I don't remember which one.

Q. On the next day, the 18th, would you just describe what action the company took that day?

A. We moved out of our remain overnight, and we went up towards My Lai (3). We were walking across the causeway there, and the company had met resistance there before, and we were sweeping towards My Lai (3). While walking, I don't recall the name, but there was a "Bouncing Betty" mine, and there were some casualties taken in this area. They were hit by the mine. And we crossed the causeway into My Lai (3); and from there we were evacuated, taken back to LZ Dottie. We were lifted out.

Q. When you arrived at LZ Dottie, do you remember being met by a field grade officer?

A. No, I don't.

Q. You may not have been there, but Colonel HENDERSON, the brigade commander, told us that he met some of the men on their return, talked to them and indicated that--well, he discussed something about My Lai (4), what happened there on the morning of the 16th. Do you recall anything like that, or did you hear anything about it?

A. No, I was not questioned about the operation.

Q. Did you ever hear about this time that there was an investigation started into what occurred on the morning of the 16th of March in My Lai (4)?

A. No, I don't recall that.

Q. For example, do you remember Captain MEDINA calling the company together and saying that there was an investigation underway as to what happened in My Lai (4) and cautioned the men of the company not to talk to anybody about it unless someone came to talk to them in an official capacity in the course of the investigation?

A. No, I don't recall it.

Q. Did anyone ever tell you to keep quiet about it?

A. Not that I remember.

Q. You are aware, I think, Mr. CORNWELL, that a substantial number of civilians of My Lai (4) were killed that morning--

IC: (Interposing) I object to that question, Mr. WEST. My man testified that he didn't see any killings, or he heard rumors which is--

MR WEST: (Interposing) Let me rephrase it, Mr. SIBEN. From talking to other members of the company, you indicated that you heard perhaps 400 people were killed in the village that morning. Was there later any discussion in the company as to what had happened there that morning, why it had happened?

A. No, I don't recall it.

Q. You perhaps realize that this incident was not widely known until a few weeks ago, and the fact is that it was not reported to Department of the Army until April 1969. It was not reported in the usual way that the events on the battlefield are. I am calling for an opinion now. Do you have any idea why this was not reported at the time, up through channels in the usual way?

A. I don't really know why it did happen, or why it wasn't reported.

Q. Did anybody ever talk about the company being in trouble and that people were trying to keep things quiet? Was there anything of that nature?

A. I understand there was a rumor that Captain MEDINA was going to be investigated. That was just a rumor, and I never heard anything about it.

Q. Do you know if any other members of the company were questioned about what happened at My Lai (4)?

A. No, I don't recall any of them being questioned.

Q. Again, I would like to ask your opinion on something. From what you know of the company and the men in the company and the events of that day, do you think that if there had been a thorough investigation and statements taken from members of the company that day, that the men would have told the story of what happened in My Lai (4), would have told what they knew?

A. Yes. I believe they would have told what they knew.

MR WEST: Colonel MILLER?

COL MILLER: Do you recall some engineer troops coming in with you at the LZ?

A. We did have an engineer element with us.

Q. Do you recall how many men?

A. I believe it was two or three men. One was a demo man.

Q. Were they assigned to Company C, if you recall?

A. Yes, they were attached to our company for this operation.

Q. Do you remember who any of them were, by name?

A. No, I don't.

Q. Did they stay pretty close to the mortar platoon or to Captain MEDINA for this operation?

A. I believe they went through with the mortar platoon. I recall them giving warning a few times that dynamite was going to go off in our platoon area, and our platoon had to go down low and stay low so you wouldn't get hit with anything that blew up.

Q. In your prior testimony you stated that you had seen them doing some demolition work. What were they mostly using for the purpose of demolition?

A. C4.

Q. Do you recall approximately how many buildings the engineer troops may have destroyed?

A. No, I don't. I recall them blowing up one bunker they had found, and when we had broke for lunch there was a dud M-79 round, and they blew it in place.

Q. Were they also setting fires to the buildings in addition to demolitions?

A. I don't recall if the engineers were setting fires or not.

Q. Did they accompany you on the second and third days?

A. Yes, I believe they stayed with us for the operation.

Q. Do you recall if they did any demolition work in some of the other villages that you went through on the 17th and 18th?

A. No, I don't recall any demolitions.

Q. After this operation was over, or during the operation, did you at any time hear that some of the soldiers may have raped some of the Vietnamese women?

A. Yes. There were rumors to that effect.

Q. Do you recall to whom these rumors may have pertained?

A. No, I don't.

Q. Do you recall whether this referred only to the village of My Lai, or to some of the other operations on the succeeding days?

A. Some of the other operations on the succeeding days.

MR WEST: Mr. CORNWELL, at this time if you could think of anything that we haven't mentioned that might help us in our

(CORNWELL)

investigation and you would like to tell us, we would appreciate it. We are endeavoring to reconstruct this incident, and also trying to determine just what investigation was conducted at the time, and whether there was any coverup. Any information, anything you may know bearing on this, we would appreciate knowing very much.

A. No, I don't recall anything.

MR WEST: All right, Mr. CORNWELL, this will conclude our interrogation. We very much appreciate your coming here. We realize it's been a lot of trouble to you, and you have helped us, and we are very grateful to you. Thank you very much.

The hearing will be recessed.

(The hearing recessed at 1031 hours, 10 January 1970.)

SUMMARY OF TESTIMONY

WITNESS: FAGAN, Martin E. SSG

DATE OF TESTIMONY: 6 January 1970

PLACE OF TESTIMONY: Pentagon

WITNESS SUSPECTED OF: N/A

COUNSEL: None

DUTY ASSIGNMENT ON 16 MARCH: Fire Direction Computer,
Mortar Platoon, C/1/20

1. PRIOR TRAINING IN RULES OF LAND WARFARE.

C/1/20 received instruction in Hawaii on the proper techniques for handling PW's (pg. 40). Staff Sergeant FAGAN could not remember if C/1/20 went through the division five day in-country training program (pg. 40). The witness had never seen Exhibits M-2 and M-3 (pg. 41).

2. PREOPERATIONAL PLANS AND BRIEFINGS.

a. Platoon leader and NCO briefing.

The witness attended a platoon leader-NCO briefing at LZ Dottie on 15 March. This briefing was conducted prior to Captain MEDINA's briefing to the assembled company (pgs. 7, 8).

MEDINA's briefing to the platoon leaders and NCO's was held in the command bunker (pg. 10). FAGAN could not recall if the squad leaders were present (pg. 9). The briefing was oral. MEDINA used a map and a grease pencil to illustrate the concept of the operation (pg. 10). This briefing was slightly more detailed than the company briefing. MEDINA explained that search and destroy meant to kill and destroy everything (pg. 11). This included women and children (pg. 11).

b. MEDINA's briefing to the assembled company.

MEDINA told the assembled company that it was to be a search and destroy mission (pgs. 4, 8). The village was to be leveled, e.g., hootches were to be burned and livestock killed. Two enemy battalions were thought to be in the area. FAGAN was led to believe that only VC or NVA occupied the village (pg. 4).

c. Attitude of C/1/20 prior to the assault.

They had heard rumors that the area was heavily fortified and boobytrapped with 500 pound bombs (pg. 6). FAGAN heard talk of the operation prior to MEDINA's briefing. Word was passed around that leaflets had been dropped on the village warning the populace to leave (pg. 2). The witness testified to being keyed up and frightened by the prospect of confronting the NVA in a heavily boobytrapped area (pg. 12). Revenge was in their minds (pg. 12).

d. Memorial service.

FAGAN failed to recall a memorial service on 15 March. The witness was not with C/1/20 all day though (pg. 6).

3. ASSAULT ON MY LAI.

a. Initial assault.

FAGAN was on the first lift. The doorgunners were firing as they went in (pg. 15). The mortar platoon carried only one tube since this was an offensive operation. They set up the mortar. The infantry began their sweep (pg. 16). The rifle platoons went in firing (pgs. 18, 35). The mortar platoon was notified that mortar support was not needed (pg. 16). The mortar was then packed up and the platoon moved into My Lai (4) behind the command group (pg. 17). The mortar platoon was given the mission of burning hootches and killing livestock. MEDINA assigned them the task as they began to move into the village. The mortar platoon was the last platoon through the village (pg. 27).

b. Observations in My Lai (4).

As FAGAN began to move through the village he saw that everything had been killed (pg. 18). He saw many bodies

but none were military-age males. The witness saw 60-70 bodies of which 35 to 40 were children under 10 years of age (pg. 21). The only helicopter FAGAN saw land was the one that evacuated CARTER (pg. 25).

c. MEDINA's actions.

About mid-way through the village and after observing nothing but dead children, women and old men, MEDINA called higher headquarters requesting that the mission be changed from search and destroy to search and clear (pg. 19). This call was made prior to CARTER wounding himself (pg. 19).

The first request was denied. A second request 10-15 minutes later was granted. MEDINA told headquarters that the enemy had left and only women and children remained in the village (pg. 23). On receiving authority to change the mission, MEDINA radioed the platoon leaders and advised them. They were told to take prisoners and send them back for interrogation (pg. 24). The shooting stopped and C/1/20 began taking prisoners (pg. 26).

FAGAN observed a Vietnamese interpreter with an MI soldier. They were interrogating people. MEDINA was informed that the VC had been there during the night and had moved south. FAGAN witnesses the interpreter shoot an old Vietnamese man whom he was interrogating (pgs. 48, 49). This occurred after MEDINA requested a change of mission (pg. 23).

4. TREATMENT OF NVA CAPTIVES.

After 16 March, C/1/20 moved south in a continuation of its search and clear mission. They captured an enemy colonel, a NVA soldier and a NVA nurse (pg. 28). No one molested the nurse. The medic advised them that she was syphilitic (pg. 29).

MEDINA attempted to elicit information from the senior officer by first employing a Russian roulette interrogation procedure (pg. 29). Being unsuccessful, MEDINA then put the prisoner against a tree and began firing rounds over his head each one lower than the last. The prisoner then began to talk (pg. 30). The prisoners were eventually evacuated (pg. 30).

5. INQUIRIES CONCERNING THE ASSAULT.

The witness never heard that an investigation was being conducted regarding the My Lai (4) operation. MEDINA was never heard to say anything about an investigation (pg. 32). FAGAN did not recall Lieutenant Colonel BARKER or Colonel HENDERSON speaking with C/1/20 at the pick-up point or at LZ Dottie (pg. 31). No one ever told the witness to keep quiet about the operation (pg. 33).

6. OTHER INFORMATION.

a. MEDINA was good at maintaining control of the unit (pg. 27).

b. The witness did not see any National Police during the My Lai operation (pgs. 28, 29).

c. After moving south to the vicinity of the Song Tra Khuc River, C/1/20 moved north again (pg. 31).

d. The witness never heard of any unnecessary killing in Co Lay (pg. 32).

e. The incident was subsequently discussed. Some men had become physically sick over the dead children (pg. 38). FAGAN thought that the men regretted killing the women and children (pgs. 37, 53). However, it was rationalized by the fact that the next time people would leave when told (pg. 37).

f. FAGAN saw a number of people use marijuana in Vietnam, but he knew of no one smoking it during the My Lai (4) operation (pg. 38).

g. FAGAN opined that the expectation of a large enemy unit was the motivating factor in C/1/20 acting so aggressively (pg. 53).

EXHIBITS

EXHIBIT NUMBER	DESCRIPTION	NOTES	PAGES
M-2	MACV Card "Nine Rules"	Had never seen.	41
M-3	MACV Card "Enemy in Your Hands"	Had never seen.	41
P-3	Miscellaneous Scene	Identified PHU. Believed location was center of My Lai (4).	41
P-4	Miscellaneous Scene	Identified PHU.	41
P-6	Miscellaneous Scene	CARTER was shot here.	42
P-9	Miscellaneous Scene	Identified hootch as one in P-6.	42
P-13	Miscellaneous Scene	Identified himself, JENSEN, MARONEY, and PHU.	43,44
P-16	Miscellaneous Scene	Identified as hootch the mortar platoon set on fire.	45
P-17	Miscellaneous Scene	Identified JENSEN and MARONEY. Location same as P-13.	46
P-19	Miscellaneous Scene	Identified MEDINA and MI interpreter.	48
P-20	Miscellaneous Scene	Identified LAVERNE	48
P-22	Miscellaneous Scene	Identified Vietnamese as one that shot the old Vietnamese man.	48,49
P-26	Miscellaneous Scene	Identified as LZ Dottie where C/1/20 was picked up for CA into My Lai (4).	49

EXHIBITS

EXHIBIT NUMBER	DESCRIPTION	NOTES	PAGES
P-31	Miscellaneous Scene	Identified as trail adjacent to My Lai.	50
P-33	Miscellaneous Scene	Bodies burning next to structure set on fire by mortar platoon.	50
P-34	Miscellaneous Scene	Adjacent to P-33.	50
P-40	Miscellaneous Scene	Vietnamese rounded for interrogation.	51
P-41	Miscellaneous Scene	Large number of bodies seen by witness. MEDINA called platoon leaders after observing bodies.	52
P-66	Photo of My Lai operation	Identified PHU and Vietnamese interpreter, and MURPHY.	52
P-126	Color prints of SMAIL's slides.	Taken near river.	52
P-139	Aerial photo of My Lai	Wit used blue ink to mark his route through My Lai (4). Green ink identifies locations of pictures.	52, 53

(The hearing reconvened at 0920 hours, 6 January 1970.)

COL WILSON: The hearing will come to order.

RCDR: The following named persons are present: COL WILSON AND MAJ ZYCHOWSKI.

The next witness is Martin E. FAGAN.

(SSG FAGAN was called as a witness, was sworn, and testified as follows:)

Would you state your full name, grade, Social Security number, service, organization, and station?

A. Staff Sergeant Martin Edward FAGAN, Headquarters Company, 4/46th, 1st Armored Division, Fort Hood, Texas, U.S. Army.

COL WILSON: Sergeant FAGAN, before we proceed with any questions I want 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 purpose of determining facts and making findings and recommendations concerning two matters:

(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) the 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. It is directed to those specific purposes which I have just stated.

I have had made available to me, and to the board, and have reviewed prior official statements obtained in other official investigations of the My Lai incident to include your statement to the CID.

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

Although the general classification of the report will be confidential, it's possible that all the testimony or parts of it may become matters of public knowledge at some future date.

I continue with some additional instructions. Sergeant FAGAN, you are ordered not to discuss your testimony with others, including other witnesses of this investigation, except in performance of official duty, or as you may be required to do so before a competent judicial, legislative, or administrative body. This is an administrative group. A judicial body would be a court-martial and a legislative group would be a congressional investigation. There is such a group in existence, The House Armed Services Committee. You may be called upon by those people to testify, in which case it is perfectly legitimate.

You are subject to the restraining order of the military judge, as I understand. This has no effect on this investigation. You are not restrained by that order to not participate in this investigation, nor a judicial or legislative investigation.

Q. What was your assignment in March 1968?

A. I was the fire direction computer for the mortar platoon, C Company.

Q. Of Task Force Barker?

A. Right, 1/20, Task Force Barker.

Q. Where did you normally perform your duties, with the platoon or with company command group?

A. In the platoon itself. Most of the time we traveled behind the headquarters section, company commander, RTO's and medics.

Q. When did you first hear the planned assault on My Lai (4)?

A. Of the actual mission I think it was the day before, but we had been hearing rumors about it for some time previously. We heard they had been dropping leaflets informing the people to leave the village, get out of the area and go to refugee camps or something, because there was

going to be an operation there. We didn't get the actual briefing I think, until the morning before, the day before.

Q. Who told you they had been dropping leaflets there?

A. We had heard rumors about it and we asked the CO and he said that they had been dropping leaflets.

I don't know their names.

Q. Did you hear him answer?

A. No, I didn't, not directly.

Q. Then you are passing hearsay information?

A. Well a lot of things over there were hearsay but everybody in the company knew this was the way we assimilated most of our information, through rumors.

Q. By the CO, you are talking about Captain MEDINA?

A. Right.

Q. And he supposedly told somebody that they were dropping leaflets?

A. Right, that they had been dropping leaflets.

Q. What were these leaflets supposed to have said?

A. It was supposed to be a combination good conduct passes, allowing them to come in and--

Q. (Interposing) Chieu Hoi?

A. Right. And information that they had better move out of the area because there was going to be an operation. You see this is why they originally formed Task Force Barker, so we could clear out this area. They told us that no government troops, with U.S. or Vietnamese had been in there for about 20 years or so. Task Force Barker was formed to clear this area out. They told us that we were going to have a lot of operations there and this was the purpose we had formed the task force.

Q. Now when you heard about this assault, you said the day before the operation, did you receive a briefing at Dottie, or where was this that you heard about the CA?

A. At LZ Dottie.

Q. And who gave you the briefing?

A. Captain MEDINA.

Q. Did he give it to the NCO's or did he give it to the entire unit?

A. I'm not sure but I believe first he gave it to the platoon sergeants and assistants, plus the platoon leaders and then later on a general briefing for the whole company, gathered in a group.

Q. Well, what did he say to the group, on the group briefing?

A. Well about the mission, that it was a search and destroy mission. We expected heavy casualties, you know, we take extra ammo, extra first aid packets, make sure communications equipment was up, mortar proofed and everything. As far as we were concerned make sure we had enough mortar ammunition plus regular ammunition, ball ammunition for rifles, make sure we had enough grenades, and things like this. And that it was to be a search and destroy mission, all the hootches had to be burned down, killed livestock, cut down bannana trees, things like this. The idea was to level the place so it wouldn't be a comfort to the enemy. Because it was a stronghold, we expected two battalions I think it was.

Q. And this was the day before the operation?

A. Yes, sir.

Q. And you attended this briefing?

A. Yes, sir.

Q. Have you ever heard anything stated at all concerning civilian, noncombatant, or woman and children moving to the market sometime around 7 o'clock in the morning?

A. From the actual experience there, no. But I had heard later in the papers, a statement by Captain MEDINA saying that 7 o'clock was supposed to be the move out period but from what I understood at the time there, there were supposed to be no civilians there at all. This was irregardless of market day or market time or whatever it's supposed to be. The only persons that were supposed to be there were Viet Cong or NVA.

Q. Well, how did you get this understanding?

A. Well, in the briefing.

Q. From the briefing?

A. Yes, sir.

Q. Did you know this area was out of your normal area of operations? This was not within the area of Task Force Barker operations.

A. Not to my knowledge, as far as I knew this was our AO.

Q. I mention that because in accordance with the records and the testimony that we have, you had not been in this area before. This was the first time into My Lai (4). You had been on the river up to the north in blocking positions. Did you have any knowledge of other units in the task force conducting operations into My Lai (4)?

A. Actually into the village?

Q. Yes.

A. No, sir.

Q. Did you have any knowledge of casualties that had been received, in that area?

A. From other units?

Q. Yes.

A. Again, no.

Q. But you were under the impression, as I understand, your testimony, that you were going into an area which had a sizeable enemy force?

A. Yes, sir, definitely.

Q. A fortified area?

A. It was supposed to be. We had heard rumors that they were using 500-pound bombs and booby traps. That the area had been heavily booby trapped because nothing besides the enemy had been in there. They had strong field fortifications and bunker systems. I believe there was supposed to be an NVA Battalion and they were good fighters. We would have to be on our toes.

Q. Was this covered in the briefing?

A. Yes, sir.

Q. In other words this enemy picture was given to you by Captain MEDINA?

A. Yes, sir, enemy situation.

Q. Do you recall any particular ceremony taking place that day? A memorial service on the 15th of March?

A. No, sir, the only memorial service I ever went to, I can't even remember who it was for, was up at, we call it, Gilligan's Island. It was no where near Duc Pho. As far as I remember there was no memorial service.

Q. Where was Gilligan's Island?

A. It was, I think the name of it really was Sa Huynh.

Q. Sa Huynh.

A. It's not an island. It's really a peninsula, and they had a memorial service up there and that's the only one I ever attended.

Q. That's the only one you ever attended?

A. Yes, sir.

Q. Were you at Dottie all day on the 15th prior to this operation.

A. I was with the company all the time in Vietnam, the whole year.

Q. And you don't remember a memorial service at Dottie, on the 15th prior to the operation?

A. No, sir.

Q. Do you recall a number of men being killed in a minefield?

A. Yes, sir. A lot of them were wounded and killed.

Q. We will recess.

(The hearing recessed at 0935 hours, 6 January 1970.)

(The hearing reconvened at 0941 hours, 6 January 1970 with COL WILSON and MAJ ZYCHOWSKI present.)

COL WILSON: The hearing will come to order. I remind you that you are still under oath.

Sergeant I want to pursue one thing but go ahead and make your statement, what did you say?

A. I wasn't actually with the company that day, we were supporting LZ Uptight.

Q. Well, the reason I asked you about that is there were some fatalities in that minefield. I wanted to be sure whether or not you recall if you attended a ceremony for these people that were killed in the minefield? You don't recall that?

A. I think there was about 17 or 18 of them. I didn't know how many of them were killed or wounded but I don't remember attending any memorial service at all.

Q. All right. Now I want to go back a moment to this briefing specifically I want you to try to recall everything that you can concerning a platoon leader's or an NCO briefing. Did you go to this briefing?

A. Yes, sir.

Q. You went to the NCO briefing?

A. Even though I was the chief computer, actually, I was also an assistant platoon sergeant. You see they cancelled out, they changed the TO&E when we left Hawaii so there was no more section sergeant. I was still acting in his capacity, coordinating between our squads and the platoon sergeant. As the computer I always had to know where the mission was, what we were expected to support and things like this because I had to compute where the mortar had to fire.

So any time Sergeant MARONEY went to a meeting, he was platoon sergeant then, I always went with my maps and took down notes and things like this.

Q. What I want to do is fix the time and location of this NCO briefing?

A. Location would be in the command bunker and time I think was after supper.

Q. It was in the evening then?

A. Yes, I believe so.

Q. Well, from what you tell me, the NCO briefing followed the company briefing? Or did it precede the company briefing. Which was first?

A. Oh, the NCO meeting would be first.

Q. The NCO meeting was first. Now was this a meeting which covered other activities or was it strictly designed or held for the purpose of operation the next day?

A. It was a long time ago. Primarily I would think it would be for the mission.

Q. For the operation the coming day. Now if it was after chow, was it dark?

A. I can't remember the exact time.

Q. Because some of the statements we have had, from some of the personnel, regarding the company briefing were to the effect that Captain MEDINA stood before the entire company. He gave the concept of operation and what was going to happen. He also used a stick to draw on the ground.

A. For the main company briefing I remember we were sitting around the bunkers in a sort of a half circle, a horse-shoe shape. He stood in the middle and he gave the company briefing. For the actual NCO briefing I can't remember the exact time, that's been a long time ago. It must have been early though because we always had the NCO meetings, platoon sergeant meetings, before the company meeting and maybe afterwards we might have a, not actually a meeting but a period of questioning the CO.

This would be just the platoon sergeants, just to clarify any final details and make sure everything was understood that was going to happen. Come to think of it I think the meeting was after the company briefing.

Q. Now, I'm not trying to put ideas in your head, I'm just trying to fix this because we haven't really gotten an indication that there was a separate meeting. We'd like to pursue this to the maximum as to what you can recall about that meeting. What was the purpose of the meeting if the company was briefed on the operation?

A. The company just got a general type of briefing, well, it covered almost everything. But during a regular company briefing you can't fix up your maps and things like this. You know what the objective was, which way was your approach, where other companys were going to be so you wouldn't fire in that direction, who was supposed to be supporting you, from where and time elements.

Q. Well, it's obvious that the supporting weapons, the mortars, would have to know more detailed information than the company, but this was not just for the mortar platoon, this was for all the NCO's in the unit.

A. Yes, sir, well not all the NCO's, the platoon sergeants or section sergeants.

Q. How about squad leaders? Do you recall if any of the squad leaders were there?

A. No, sir.

Q. You mean they were not or you don't recall?

A. I don't recall, probably not, though.

Q. Now I'm talking about the mortar squad leaders, I'm talking about the rifle platoon squad leaders.

A. Right.

Q. You can't fix it whether it was before or after the company meeting?

A. No, I can't sir.

Q. But there was an NCO briefing?

- A. Yes, sir.
- Q. Which included the platoon leaders?
- A. Yes, sir.
- Q. And this briefing primarily concerned the details of the operation as opposed to the general concept which Captain MEDINA gave the company?
- A. Right sir.
- Q. Now this NCO briefing was given by Captain MEDINA?
- A. Yes, sir.
- Q. And then there was a question and answer period, I suppose, after that?
- A. Right sir.
- Q. And this was held in the command bunker?
- A. Yes, sir.
- Q. I don't know the size of the command bunker. How many people can get in the command bunker?
- A. I guess the size of it was about 25 by 35 feet. They had sort of like a bunk bed set up, but you could get 20 to 30 people in there easy.
- Q. Is this where Captain MEDINA slept?
- A. Yes, sir.
- Q. Were there any briefing aids used? Did he have a map up or was it mostly an oral discussion?
- A. Oral.
- Q. There were no maps used, photographs, or anything like that?
- A. No photographs. He had to use his map to tell us where the other people were going to be and we transferred this on to our map. You know with a grease pencil.
- Q. This was all handled orally, nothing in writing?

A. No, sir. The only writing was what we did. You know writing in our notebooks.

Q. Yes. You don't have your notebook do you?

A. No, sir. If I knew all this was going to happen I'd have kept it though.

MAJ ZYCHOWSKI: Sergeant FAGAN, do you recall what was actually said at the NCO briefing in comparison to what was said at the company briefing? Was it the same or was it different or what?

A. From what I recall everything was pretty much identical except a little more detail in the NCO meeting. They gave the general concept of operation to the company, what was expected, what was going to be accomplished, or what was hoped to be accomplished, again generally where the other people were, what kind of security we had around, the support and things like this. But generally I'd say it was basically the same, a little less detailed.

Q. Were there any questions asked by the men about the search and destroy mission compared to the search and clear mission?

A. Matter of fact that was the only search and destroy mission we had ever been on, and the question arose what was a search and destroy mission. Because every mission we had ever been on was search and clear. Just searching out the area, and that was basically about it. We were told that search and destroy was to go in and anybody there would be killed, the houses would be put afire, butt down the trees, kill the livestock, in other words, just completely desolate the area. Don't leave anything there.

Q. Would this include woman and children, too?

A. Anything that was there, if it was there, too bad about it.

Q. Did you expect to find women and children in the village?

A. No. All we expected was a lot of heavy resistance and I guess NVA regulars or VC's.

Q. At this briefing you attended, do you recall if there were any members of an engineer unit assigned to Task Force Barker?

A. I think there was a demo team there, to blow up tunnels and disarm booby traps. EOD team or demolating I'm not sure.

Q. Do you recall the names of any of these people?

A. No, I don't.

COL WILSON: What exactly was your feeling when you conducted this operation? Did you feel keyed up, were you more frightened than on other operations, did there appear to be an element of danger to this operation which you hadn't encountered before? How did you feel about this?

A. Well, personally I was scared all the time I was over there. I was always afraid of booby traps. I think that's where we took most of our casualties, and we understood that it was heavily booby trapped. I'm more afraid of booby traps than I was of NVA or VC. I don't mind people shooting at me, but you can't see a booby trap, you don't know where it's at. I guess I was more frightened on this mission, especially since we thought there would be a couple battalions of NVA, and I understand they are real good fighters. I just worried about my job if they needed mortar support to make sure I could get it there. That was my main concern. Definitely keyed up.

Q. Would you say that the other members of the company were in this same mental attitude?

A. I'd say probably. Like I said, we had quite a few casualties previous to the mission and this was going to be the chance to get even, so to speak.

Q. So the thought of revenge was in the minds of C Company?

A. Yes, I would say definitely.

Q. Was the mortar platoon entirely located at Dottie on the 15th of March? Did the mortar platoon ever split between Dottie and Uptight?

A. We did, but not on that occasion. I believe we were all together then. I'm almost positive we were together at that time. We rarely separated, not too often, I think only about three times, because when you take a mortar platoon in the field, one whole platoon is needed to carry one gun. You have one squad carrying the gun and two squads carrying the ammunition, plus those two squads have to act as flank security, one whole platoon to carry one gun.

Q. How many tubes did you have on the 15th of March?

A. Three.

Q. Three?

A. At the LZ?

Q. No, how many tubes did you have on the 15th of March?

A. One on the operation. Just one, that's all we could carry.

Q. Just one tube, and two tubes remained back at either Dottie or Uptight?

A. Yes.

Q. But the entire platoon was committed with that one tube?

A. Yes, sir. Like I say you have to have one platoon to carry just the one gun.

Q. That's for an assault type operation you are talking about?

A. That's for any type operation.

Q. Any type operation where you move as opposed to a defensive position?

A. Right, sir.

Q. So two tubes remained at Dottie without personnel?

A. Well they weren't with us in the field. I don't know whether they were at Dottie or Uptight.

Q. But what I'm trying to get at is--

A. (Interposing) No personnel were back there with them. I think they were turned over to another company to use for perimeter defense.

Q. But they were in a position prepared to fire if they were needed?

A. From LZ Dottie?

Q. Yes.

A. No, we couldn't cover that far.

Q. No, I mean they weren't dismantled and in the bunker somewhere. They were actually in the position set up and ready to fire, aiming stakes out and so forth?

A. Yes, sir.

(The hearing recessed at 0956 hours, 6 January 1970.)

(The hearing reconvened at 1000 hours, 6 January 1970 with COL WILSON and MAJ ZYCHOWSKI present.)

COL WILSON: The hearing will come to order. You are reminded that you are still under oath.

As far as the mortar platoon was concerned the personnel of the mortar platoon went on the combat assault operation?

A. Yes, sir.

Q. Prior to your departure, I want you to look over our witness chart and give us any information you can, unless you happen to have a roster of the mortar platoon.

A. Do I have a roster?

Q. Yes.

A. No, I don't. I saw one at CID.

Q. Yes, we have that but it doesn't break out the platoons.

A. I know the people in the platoon.

Q. We are interested in the ones that were in My Lai (4).

A. I can probably tell which ones. Sergeant MARONEY was infused to another unit, and I had that platoon.

Q. This was after the 16th of March?

A. Yes.

Q. Which lift were you on?

A. I'm not sure exactly but I think it was the third ship.

Q. The third ship of which lift?

A. I think it was the first lift, we got in there pretty quickly. Normally we had three lifts, we went in there on the second or third.

Q. Our information is, there were two lifts, nine slicks on each lift.

A. That sounds about right. I think we were on the first one. We set up the mortar right away.

Q. Were the doorgunners firing when you went in?

A. Yes, they were.

Q. Do you remember which doorgunner?

A. All of them.

Q. If you go in a formation of vees it's not likely they would be shooting out both sides is it?

A. No, I was sitting by the left-hand gunner as I face the front.

Q. That would be the port side?

A. I know definitely he was. It scared the hell out of me.

Q. When you left the aircraft did you leave from that door?

A. Definitely, I left out of there in a hurry.

Q. Which way did you go to get to the village?

A. I didn't. When we landed, I made it for a rice paddy. We landed on the west side of the village.

Q. Well, did you observe the performance or the operation of the unit as they moved up to the village? Were they firing?

A. Yes, sir. We set up and right away the platoon started sweeping through. We were right behind--we were near the headquarters group and the platoon started sweeping through the village. They called us and said we wouldn't need any mortar fire, pack it up and start moving through.

Q. Do you recall what time that was?

A. No, it was in the morning, though.

Q. Had the command group moved into the village when you received this call?

A. We were right behind the command group.

Q. But the gun was still in position back on the landing zone?

A. When the platoon started sweeping?

Q. Yes.

A. Right.

Q. And you were with the command group?

A. No, sir, I was with the mortar platoon.

Q. Okay. Now, what I'm trying to determine is that you were called and told mortar fire would not be required and to move the gun forward.

A. Right, sir.

Q. So you were separated from the gun?

A. No, sir, I was with the gun.

Q. Okay. The command group and the gun stayed in one place?

A. Initially, maybe for a couple of minutes.

Q. So when you state that you were called, you would be almost within direct contact with whoever told you to move the gun?

A. Right, it was on the radio because of the loud fire and the noise. You see, we just set up and I think it was just a couple of minutes, maybe 5 minutes. They started sweeping through with a lot of fire and everything, and they said we wouldn't need mortar fire. We packed the gun up and split it up between the crew and then we started moving behind headquarters group, burning the village. This was sort of our secondary function. We would be a policing-up team.

Q. But you stayed with the command group?

A. Well with the mortar platoon.

Q. All right. The mortar platoon stayed with the command group?

A. Right, behind it.

Q. Behind the command group?

A. Yes, sir.

Q. At the time the command group moved into the village was there a lot of small arms fire?

A. Yes, sir.

Q. Did you see when the two lead platoons jumped

off and moved into the village? Did you see them as they began their sweep?

A. Well I saw them moving out but I didn't accompany them.

Q. No, but were they firing then?

A. Yes, sir, they went in firing and I'd say came out firing.

Q. When you moved through the village did you see many dead individuals, I won't say civilians or non-civilians, but did you see many dead people?

A. I'd say yes, sir, there were quite a few of them. I didn't see any live ones, I didn't see any live livestock even. Everything was shot, shot up and killed, until we got into the village and after awhile they started taking prisoners.

Q. What do you mean after awhile?

A. Well, we started going through the village and I guess they made a situation report. You know, the CO asked the platoon leaders what's going on. You know a lot of firing, taking a lot of casualties, what's the situation up there and finally when we started coming through the village we could see all the bodies, you know, women and children, old men, but we didn't see many military-age males. Matter of fact, I don't even know if we saw any. They called up and said are you taking alot of VC or NVA, or killing them. I don't know what he got back on it but it was apparent that the only thing in there was woman and children and old men. So he called back after a while, I don't know how long, and asked to change the mission.

Q. Are you talking about Captain MEDINA?

A. Yes, sir.

Q. Called back where?

A. To higher headquarters, I guess battalion or Task Force Barker.

Q. What did he ask?

A. To change the mission from search and destroy to search and clear, because the bodies indicated the NVA had moved out of the area.

Q. Did you hear this request?

A. Yes, sir, we were right behind the headquarters group.

Q. And Captain MEDINA talked to either Task Force Barker or some other element and requested that the mission be changed from search and destroy to search and clear.

A. Yes, sir.

Q. You heard this?

A. Yes, sir.

Q. Now, I want to go back over this a minute. You said first that he called down and asked for a situation report or spot report on the number of casualties that they were taken and the VC and NVA they were getting?

A. Yes, sir.

Q. Then you said you saw a large number of bodies around which were women and children and old men, and at this time Captain MEDINA made this request for a change of mission assignment, is that correct?

A. No, we had been in the village for a while, I don't know how long exactly, but we were going through and we saw there was nothing but women, children, and old men. When he found out that this was the case, he wanted to change the mission from search and destroy to a search and clear.

Q. All right now, do you remember what time this was?

A. No, sir.

Q. Do you remember when CARTER was shot?

A. When CARTER was shot, he wasn't shot--

Q. Well I mean when he was wounded. How long before that did this take place or after that did this take place? This request of Captain MEDINA's?

A. A little before it, I believe.

Q. It was before CARTER was shot.

A. I believe so, because I remember we were taking a break and CARTER went in to check a--you see headquarters and mortar platoon sat around the hootches there and took a break and he went in to check this tunnel out. He come back out and he shot himself in the foot on the way out. You know, when you go in a tunnel you always keep your gun on full cock in case something is in the tunnel. When he backed out he shot his foot by mistake.

Q. But this request that Captain MEDINA made was before CARTER shot himself?

A. I believe so, I couldn't say exactly.

Q. How far had you gone in the village when this request was made?

A. I'd say we were about in the middle of it.

Q. You think you were in about the middle of the village when Captain MEDINA requested this?

A. Yes, sir.

Q. Now, what proportion of the people that were there, that you saw, do you think were children? And I'm talking about under 10 years old?

A. Of overall bodies?

Q. Yes.

A. I'd say 50 percent.

Q. Fifty percent were children under 10 years old. Now let me ask you a question which I should have asked before that. How many bodies do you think you saw?

- A. Overall I'd say there were about 250 to 300 bodies there.
- Q. That you saw?
- A. Not personally, I mean I saw a bunch of them. I didn't count them.
- Q. No, how many you see approximately?
- A. I'd say I saw about 60 or 70 bodies myself.
- Q. And that would make about 30 bodies children?
- A. Thirty-five to forty, I'd say about 50 to 60 percent of them.
- Q. How about women, what percent were women?
- A. Just about the rest of them.
- Q. How about the old men you referred to?
- A. Not too many at all.
- Q. Now you mention the figure of 250, where did you get this from?
- A. When we finished up the operation there, we heard numbers and 300 was about an average figure. Some guesses went about as high as 500.
- Q. This was the scuttlebutt back at Dottie, or was this before you got back to Dottie?
- A. We had heard about as high as 500 and conservatively maybe 250.
- Q. Was this after you got back to Dottie or was this when you went in to--
- A. This wasn't after we got back to Dottie this was prior.
- Q. In other words you are talking about the casualties on the 16th of March now, not for the 3-day period that you

were out on this operation?

A. Correct.

Q. You are talking about the casualties on the 16th of March?

A. Just in My Lai (4).

Q. And you are talking about casualties in My Lai (4), not the B Company casualties?

A. B Company casualties, I don't know anything about them.

Q. You're just talking about My Lai (4)?

A. Yes, sir.

Q. Well, then after Captain MEDINA made this request on the radio to another headquarters to change the mission, did he receive permission to do this?

A. Not the first time. At first they told him no that he couldn't have permission and then he called back later on.

Q. How did you know this?

A. That's the way it came back down on the radio.

Q. Could you hear the radio?

A. No, but we were right near the headquarters section listening for everything that goes on and sort of keep up with what's happening. He called up for permission and then it was turned down. We were sitting next to the RTO's and things like this and the CO was talking back and forth and we'd hear what's going on.

Q. Yes. And he called back again?

A. Yes, sir.

Q. What was the period of time between the calls?

A. It wasn't very long, 10 to 15 minutes maybe.

Q. And the second time what happened?

A. Then they gave him permission. You know he gave them the picture, he said the NVA's apparently got out of the area. Remaining were mostly women and children and it seemed senseless, it wasn't doing the purpose of the operation, you know, to get these NVA's, and to change it to a search and clear mission.

Q. Did you, that morning, hear any information passed on to Captain MEDINA that a platoon of VC had been in the village and had left the village about a half an hour or hour before the combat assault?

A. No, sir, the way we understood it, there was supposed to be one or two battalions in there, not no platoon.

Q. But you didn't hear this from an interpreter?

A. Oh, you mean after that mission.

Q. No, during that morning?

A. Probably earlier, because when we stopped in the village the interpreter was there. I know there was a Vietnamese there, and I guess some American MI man. They were questioning people. We understood from the interpreters that the VC had been there the night before and they had moved out to the south.

Q. You did hear this?

A. Yes, sir, but this was in sort of like a lull in the mission there.

Q. Was this before or after the request that Captain MEDINA made?

A. I guess it was after.

Q. It was after the request. He didn't have this information before?

A. No, sir.

Q. We will take a recess.

(The hearing recessed at 1019 hours, 6 January 1970.)

(The hearing reconvened at 1122 hours, 6 January 1970.)

COL WILSON: The hearing will come to order. You are reminded that you are still under oath. Major ZYCHOWSKI is absent from the hearing.

When Captain MEDINA received the permission to change the mission of the unit from search and destroy to search and clear what were his actions?

A. He called on the radio and notified the platoon leaders to cease search and destroy and to commence search and clear.

Q. How did he tell, what words did he use?

A. I couldn't say the exact words, all I could do is make a guess.

Q. You don't remember whether he said stop the shooting or stop the killing or anything like that?

A. No, the only thing he said was that the mission had been changed from search and destroy to search and clear mission, starting taking prisoners, bring them to the headquarters area for interrogation by the interpreters and the MI man.

Q. I think we fixed this as being in the center of the village, is that--

A. (Interposing) We were in the center of the village. I don't know where--

Q. (Interposing) I mean the command group.

A. Right, in the center of the village.

Q. Do you recall if anyone from task force, or brigade or division came into the vicinity of My Lai (4) on 16 March, to see Captain MEDINA.

A. On the ground?

Q. Yes.

A. No, not directly, I know a ship came in to police up the wounded man we had. The man that was in the tunnel.

Q. CARTER?

A. I think that was his name, CARTER.

Q. Did you see this ship come in?

A. Right.

Q. That's the only one you saw come in, you didn't see any other helicopter land?

A. There might have but I wasn't paying any attention to it.

Q. What kind of a commander was Captain MEDINA?

A. Captain MEDINA, in the field he was the best officer I ever served under. As far as garrison duty, like when we were in Hawaii, he was a rather hard man. He didn't let too many things slide, he was very capable. He knew what he was doing. As far as the field I know he always had the interest of his men first. His men were always his first concern, I'd imagine after accomplishing the mission.

Q. Do you think he had control of the company during My Lai (4)?

A. Of course.

Q. The large number of people that were killed, he didn't know about this, is this a true statement?

A. No, I'd rephrase it a little bit. I'd say initially when the platoon started through he didn't go through with them. In other words, they started their sweep and I'd say they probably killed the majority of the people there within a short period of time. In other words they were sweeping through real fast, rapidly, trying to get as many casualties as they could before anybody had a chance to react to it.

When we came up, headquarters group and the mortar platoon and stopped on the way into the village, we could see the dead people there. But when he saw the extent of the, I guess you could say civilians, I don't like to use civilians, they could have been VC for all I know, but the extent of people killed and the type of people, women and children, then I know something said in his mind: "This is no VC Battalion or NVA Battalion. What the hell is going on?" So calling up the situation report I guess the people told him, you know, that they weren't seeing any NVA or anything like this and telling him what happened, you know, civilians, women and children, things like this, and I forgot what the question was again.

Q. Control of the unit, we are just trying to determine what it was really like. From the way you explain it, there was no problem stopping the unnecessary, if it was unnecessary, killing, once he found out that these people were not necessarily VC or NVA?

A. No. The company commander had about three or four RTO's and a couple of them were on company net. One I guess was on Battalion and one I guess on brigade, or task force, whichever it was, and all he had to do was call on the radio and tell them okay.

Q. And his instructions were complied with?

A. Right, after he got the permission to change to search and clear everybody stopped shooting and we started gathering up prisoners, although one other guy I know, was shot afterwards.

Q. Who was that?

A. I saw the picture at CID, it was an old man.

Q. Who shot him?

A. A Vietnamese guy, he was, I don't know what his name was, he was an interpreter I guess.

Q. A Vietnamese interpreter shot him. Well, I'll show you these photographs later and we'll go back over that.

A. There is one thing, getting back to your control question. Captain MEDINA was always right on that, because when we first got in country, I don't know if Captain MEDINA was ever in combat before but he knew what he was doing and we had some, I guess you could say real green lieutenants and he used to ride them constantly. On the radio he used to always be asking what are you doing, how's it going and if he thought they were messing up he'd jump on them in a minute and tell them do it this way, and what they were doing wrong. He always controlled his men, very closely.

Q. Where was the 3d Platoon, was it behind you?

A. 3d platoon?

Q. Yes.

A. I couldn't say where any one of the platoons were. As far as I remember we were the last platoon through because the company was coming through and we were given a secondary objective after supplying mortar support. When we came through the village, matter of fact I'm almost positive of it now, we were the last platoon. As we came through we were to burn the hootches, kill any livestock that was left alive, and cut down trees, things like this.

Q. This was the mortar platoon mission?

A. Yes, sir.

Q. Who assigned the platoon this mission?

A. CO.

Q. At the meeting?

A. No, I think it was after, when we started coming through.

Q. Was this after the search and destroy part had been cancelled?

A. No, this was prior to that time.

Q. Do you think that all of the village was burned?

A. No, all of it wasn't, a good part of it was though.

Q. Did you see any National Police on this operation?

A. No, not on that operation.

Q. You didn't see any?

A. No.

Q. What happened the afternoon of the 16th? After you swept the village?

A. After we went through My Lai (4), let's see, I know there's a couple of days in there but I can't remember the sequence. We went on a sweep further. We continued to search and clear.

Q. Yes.

A. I remember we got down south as far as, I think it was the Quang Ngai River. We policed up one individual that was equivalent to a colonel, was trained in Hanoi in intelligence. He was supposed to be the area commander. Picked him up, and NVA nurse, and an NVA. He had a photograph on him, the young man. He was about 20 I guess. When they get between 16 and 40 you can't tell how old they are, but I'd say he was about 20 years old. He had a picture of himself with a black NVA uniform with a cowboy hat and his carbine, with his buddies around him. We collected quite a few people. What we did afterwards--

Q. (Interposing) Did you go on--did you have anything to do with Hill 85?

A. I was with the unit during the whole mission.

Q. I mean the 1st Platoon, I understand, went up on Hill 85.

A. Probably, but I don't remember myself going.

Q. When you laagered in the night of the 16th, do you recall joining another unit that night?

A. No, I don't.

Q. You see any National Police at that location?

A. No.

Q. Okay. Then the next morning you moved south to the river?

A. I believe it was the next morning, sir, it was within that same frame of time, but I don't remember exact times.

Q. These prisoners that you got down there, did you see these prisoners?

A. Yes, sir.

Q. What was their disposition, what happened to them?

A. Well, they weren't the only ones that we had, we had several other people. We were using them as minesweepers.

Q. Yes.

A. They'd walk ahead of us and if any booby traps were there, they'd either move out of the way, or let us know, or get themselves blown up.

Q. Right.

A. And we caught these individuals in a bunker, these three. The NVA nurse, the NVA, and the colonel, whatever he was and they pulled them out and interrogated them. They were trying to get some information out of them as to where their weapons were stored, where the NVA had fled to, you know the general situation. They wouldn't talk. They were tied up with a banana stick or something, you know, a stick with the hands in a cross shape and some guys were joking about raping the woman there, but they didn't. The medic said that she was syphilis infested. You know she had a bunch of scars and everything on her and they were using her, the NVA unit that was there, were using her as a prostitute. Well nobody messed with the woman anyway. The NVA guy, they fooled around with him a little bit, smashing him around, trying to get him to talk. The old man there, he wasn't old either, I guess he was about 50, they were also trying to get him to talk. The interpreter couldn't get anything out of him so Captain MEDINA told him you better talk or I'm going to kill you. So we all knew, around us, that he was fooling around anyway. He had a .38. It was an incident I didn't recall until I read in the paper then I remembered it.

He took all the bullets out of it, through the interpreter told the man that he had one bullet left in there, and he clicked the gun around, the cylinder, and told him okay where is it at. We wouldn't tell him so he pulled the trigger, and the man still didn't talk so he spun it again. He did it about three or four times I guess and still the man didn't say nothing so he put the bullets pack in his gun and put it in his holster and told him okay, go by the tree. Then he fired a shot at him over the top of his head, aiming for the top of his head. The man wouldn't talk, so he told him, "Okay, I'm going to shoot a little closer," and he shot again a little over his head. He still wouldn't talk, so he told him, "This time I'm going to shoot you between the eyes if you don't tell me." So he started aiming, and you know the guy could see where he was pointing at, and he was about 20 feet away, and the man finally said, "Okay, I'll tell." Captain MEDINA was an expert shot and if he wanted to he could probably shot both his ears off. But the man finally did give some information.

Q. This was the colonel you were talking about, the senior one of the group?

A. Yes. The one we found out later was the area commander.

Q. Was it CAPEZZA that said this woman had syphilis?

A. CAPEZZA?

Q. The medic you said?

A. I don't remember what his name was, he was one of the company medics. We had several of them. He checked it out, you know. We saw a bunch of scabs on her, and we wanted to find out what was wrong with her. So he checked her out and said, "That broad's got syphilis." Nobody wanted to get near her very much.

Q. Well, I believe you said these people were sent back, right?

A. Yes, they were evacuated.

Q. Evacuated. Were they evacuated by helicopter? Do you remember how they were taken out?

A. I would say they were evacuated by helicopter.

Q. Now, when you left that area you moved back north, is that correct?

A. Right. We were on, this was almost on the edge of the river, cause we were in a coconut grove. We took a break there and everybody chopped down a bunch of green coconuts and we drank the milk out of it. And we called a helicopter and got rid of them. We kept the ones that we had, the platoons, for the minesweepers and then we started sweeping back north again.

Q. Our information is that you stayed overnight before leaving that area, the night of the 17th and probably left the area on the 18th. Do you remember the pick-up zone where you left to go back to Dottie?

A. Not exactly, somewhere north of the river though.

Q. Yes. Do you remember if there were any officers from brigade or Task Force Barker at the pick-up zone when you left?

A. No, I don't. I don't remember because of the time involved.

Q. Yes.

A. Because the different missions get confused in my mind.

Q. Do you remember leaving the area? Do you remember arriving back at Landing Zone Dottie?

A. I think I can remember it. We used Dottie several times and the different instances get mixed up in my mind.

Q. Do you recall when you got back there if Colonel HENDERSON or Colonel BARKER, or any of the senior officers were at fire base Dottie or at the pick up zone when you came out of the field?

A. No, sir, they might have been but I don't remember.

Q. Did you ever hear anything about unnecessary killing at Co Lay (2), over on the coast of the South China Sea? This was directly east of where you operated.

A. East of My Lai (4)?

- Q. Yes, on the coastal village, Co Lay (1), (2), (3).
- A. That's on a little sandstrip isn't it?
- Q. Yes, this would have been at the same time.
- A. I know there was an operation there, but I can't remember if it was the same day.
- Q. Did you hear of any unnecessary killing over there?
- A. No, not for a fact.
- Q. Did you ever hear of an investigation being conducted on My Lai (4)?
- A. Never. All the time I was there, I stayed in Vietnam until November 28 and nobody ever approached me. As far as I know there was never a person in the company asked any questions or said anything to the effect that there even was an incident. As far as we knew, it was a search and destroy mission, changed, and that was the end of it.
- Q. Captain MEDINA never said anything about an investigation being conducted?
- A. No, sir.
- Q. Did you stay at Dottie after the operation or did you go over to Uptight?
- A. After the operation I'm not sure it was that time or another time. I know I went to Uptight and then I went to Sa Huynh after the operation.
- Q. Why Sa Huynh? I thought it was a recoup area.
- A. It wasn't really a recoup area. We were to provide mortar support for the personnel at Gilligan's Island. We called it that, but it was an outfit that had locks and things like this. They brought in shipping and I guess they moved it out by convoy on U.S. 1, or Highway 1, whatever they called it.
- Q. How long after the operation was it that you left Dottie?

A. I can't remember precisely.

Q. But you did leave either for Uptight or Sa Huynh?

A. I'm almost positive it was Sa Huynh though.

Q. I noticed in some communication diagrams that I've seen that at times they list Charlie, Alpha, or Bravo 81 being located at Uptight. Was it normal to keep some of the task force 81's at Uptight?

A. We were split at a time, for Uptight. We took Uptight from the ROK. Our company established a base camp there, built it up and everything.

Q. C Company?

A. I believe it was after Uptight we went to Dottie. Whether we had a platoon, rather a gun squad up on Uptight I don't remember. I think we had a gun on Uptight and a gun at Sa Huynh. No, we had the guns at Dottie because at Sa Huynh I think they had D Company's mortar. What they do is try to switch us around. They leave their guns there, and we leave ours either at Dottie or Uptight. We'd replace their personnel at Sa Huynh and take a sort of a break. We'd use their guns. They'd relieve us at either Uptight or Dottie, and they'd use our guns. This way we didn't have to move our whole gear around when we moved.

Q. Did anyone ever tell you to keep quiet about this operation?

A. No, sir. Are you talking about recently or back then?

Q. No. At anytime after the 16th up until it hit the press, and the judge had given instructions and so forth?

A. No, sir.

Q. What was the attitude of the men of C Company towards the Vietnamese people?

A. I'd say on the whole we liked them very much. Anytime we could, we went to the village at Duc Pho or Sa Huynh. They had a village there. Most of the time they were hospitable towards us. We bought beer there.

Some of the men went in there and saw the women. The kids were always grabby and everything, you know, they wanted candy and cookies and things like this, but they were pretty good kids. They'd bring us beer or cokes or something like this. It usually was a good attitude, everybody liked them mostly, but when we are out in the field it's a little different though.

Q. This is really what I mean, on your normal operation search and clear what was the attitude?

A. Well, if it was a little kid or woman normally just let them be. Now sometimes we'd get a guy. If it was a pretty rough area, suspected of booby traps, what we'd do is police up several of them and have them walk ahead of us as mine detectors, but as far as abusing them or mistreating them I don't know of any instances. I heard one time that a woman got raped when a company went through a village, but I didn't see it. I didn't know of it except through hearsay.

Q. Was there anything done about it.

A. Not to my knowledge.

Q. Is this the only time you heard of this?

A. Probably about the only time.

Q. Did you hear of other rapes going on?

A. In the field, no not in the field. I heard somebody say about another company, I think it was B Company or D Company, that when we all had bridge duty, this is guarding the bridges at Highway 1, that they had gotten two women from Saigon or somewhere and they kept them there at the bridge, all night and wouldn't let them out until the next morning.

Q. Was that C Company?

A. No, I think it was D Company.

Q. On C Company's operations had you heard of any rapes taking place?

A. Just that one incident there.

Q. And that was up in your normal area of operations?

A. I think it was around, I think that was when we were up in the Tam Ky area.

Q. What do you think, in your opinion, happened at My Lai (4)? What do you think caused all this? It may have been unnecessary killing or indiscriminate killing?

A. You mean the actual killing of the people there?

Q. Yes.

A. Well, as far as I know it was a search and destroy mission. People were given that job, they went and did it as best they could.

Q. Do you know the term reconnaissance by fire?

A. Right, yes, sir.

Q. Do you believe that these platoons went in there in that mode, reconnaissance by fire?

A. Definitely.

Q. Do you feel that they knew what they were shooting at?

A. I'd say that in some cases they would almost have to because, you know, if you fire at somebody real close it'll leave a good size hole in them. If you fire at a distance you'll just have a small wound. I saw several instances where brains were blown completely out of their head which had to be done almost at point blank range. The majority of them I'd say would be recon by fire. They would be coming in the village shooting at anything, in the hootches, whether they could see people or not. They would see people running out of the other end of the village and you can't see that well, you just see people running, most of the time with black pajamas, whether they are women and children or whatever. They don't even see the children because they're little and they're underneath the grass so to speak. When you see them run you just set up a machinegun or start firing and knock down everything that you see run. And when they come up on them, then of course, they can see if they are women and children. We had a lot of instances though where women are just as bad as NVA. A lot of them would just as soon shoot you as look at you.

Q. Yes. Do you think any of these people were deliberately lined up and killed? In groups?

A. Well, as far as I know, as far as I think, I have a suspicion one group was. They showed me the picture at CID. It was a group of people next to a fence on a little path there, and I don't know maybe about 20 to 25 people. They looked like were just lined up and machinegunned down. I didn't see any instances of this, but in my mind the suspicion is that is what happened at that spot.

Q. That's one group?

A. One group.

Q. The rest of them were killed, as far as you are concerned, because of the heat of battle, because of tactical requirements, or misunderstandings, but not deliberately shot?

A. Well they were deliberately shot but--

Q. (Interposing) Indiscriminately.

A. Not like, okay, I don't like you so I'm going to shoot you. They were told all these people were supposed to be killed. There was not supposed to be anybody there but VC or NVA, and if they were there as far as the men were concerned, I know it doesn't seem legal with little kids, but they just did it, I don't know. They had some cold-blooded people in that company.

Q. What proportion of the company do you think was cold blooded?

A. Oh, not very many, maybe three of four people. Everybody had the same attitude though. They came here, they gotta be here for a year, I'm getting out of here whether I have to do something I like or not. You see all these people here were VC sympathizers and NVA sympathizers. Like I say, nobody had been in there for about 20 years and these people been helping dig tunnels, build fortifications, set up booby traps, things like this. They knew where they were at. They were out to hurt us. So the way everybody felt was okay, let's get rid of these people. We don't have to worry about the

NVA anymore. Because they won't come back, because they know we mean business. There are some instances I know of not willful killing, but after a person was dead I saw a couple of bodies with an ace of spades carved into their chest, or a big C Company carved into their chest. They have a superstition about the ace of spades, the Vietnamese, for some reason. I guess they did this as more of a warning to any NVA coming--

Q. (Interposing) Was this at My Lai (4)?

A. Yes, sir.

Q. Do you feel that the unit regretted what happened at My Lai (4)?

A. To an extent, that the women and children were hurt, yes. To the extent of blowing up the tunnels, burning up houses, killing all the livestock, no. Some people felt, well: "Tough shit. War is hell, and they shouldn't have been there." The way we were told is that they were warned by leaflets and by L-19's with microphone set ups, by PA systems to get out of the area. There is going to be an operation here, and if you're here, you're VC. Whatever you get you better expect it, and people said, well, they had enough warning. They didn't believe it. Next time people get a warning they ought to believe it, go to a refugee camp or go into a government camp, or something like this.

Q. What if I told you that the entire concept of this operation was based on surprise and there was no warning given?

A. All I can say sir, is what we were told.

Q. I'm still trying to find out who told you this?

A. It must have been given at the company briefing, that's the only thing I can think of.

Q. Of course, if they had warned these people that you were coming in there, you may very well have gone up against a battalion.

A. This is what we expected all along. 'Cause they had those intelligence reports that one or two possibly were in there, definitely were in there and we better expect some heavy casualties from our side.

Q. Well, after the operation was over and it indicated there was a large number of noncombatant casualties, why do you think it was not reported?

A. I have no idea, sir.

Q. Do you think any men in the unit wanted to report it?

A. I don't see why they'd want to report it at all. There was no feedback on it as far as the people in the company were--nobody ever said well, you all went in there and butchered up a bunch of people, or you all went in there and destroyed their village.

Q. There was no discussion about this later?

A. Just between the people in the company, no outsider, outside the company.

Q. Was it discussed among the members of the unit?

A. Yes, a lot of people got physically sick. Well you know, looking at these little kids all shot up. You don't think anybody felt glad about it. If they did it was a couple crazy people then.

Q. Do you know if there was any problem of marijuana in C Company?

A. I know myself of some instances where people did smoke marijuana. It was easily accessible, they grew it, the people had it, they were equal to about ten sticks for a dollar. I saw a lot of people smoke it. When I saw them smoke it it didn't have any effect as I was led to believe it would have. You know, people getting high and everything.

Q. Do you think there was a marijuana problem in My Lai (4)?

A. I doubt it, very seriously. I didn't see anybody smoke it.

Q. What did C Company do after the My Lai (4) operation? I gathered that maybe you weren't with C Company for a period of time after the operation was over because your weapons were placed somewhere else?

A. I'm sorry, I don't understand.

Q. What happened to C Company after this operation? Did they continue to conduct their normal operations or did they do anything different from what they had done in the past?

A. I really can't remember. It just seems like one big mission to me, the whole tour in Vietnam. I'm not sure if that's the time I went to Sa Huynh and left the company or maybe went to Uptight. I really can't say for sure. I remember, actually I didn't remember anything about My Lai until the CID asked me some questions. Then with the press coverage and everything, some details coming out started turning my memory over. Little by little I'm remembering the details.

Q. I want to show you an aerial photograph (Exhibit P-1).

(COL WILSON orients SSG FAGAN on the aerial photo which, after subsequent annotation, is admitted into evidence as Exhibit P-139.)

Q. What I want to do first is for you to go through this group of photographs, and I want you to write down the number of the photograph which you remember for either the standpoint of location or people in the photograph. I'm not interested in the others, I'm not interested in what you have seen in Life magazine. I'm talking about if you know the people in there or the place.

A. If I saw the people in there?

Q. If you saw the people or the place then I want to talk to you about that photograph. The others don't bother to make a number of. There may be a couple that we have enough information on that I'll skip over, but go ahead and look through here and just write down the number of the photograph. Then I will discuss them with you when you get through.

(The hearing recessed at 1203 hours, 6 January 1970.)

(The hearing reconvened at 1232 hours, 6 January 1970.)

COL WILSON: The hearing will come to order.

I remind you that you are still under oath. I have here a few questions I'd like to ask you before we begin on the photographs. Where did you take your Vietnam training?

A. Hawaii.

Q. Do you recall anything specific in this training regarding prisoners of war?

A. Well, we had regular intelligence sessions. Five S's, how to interrogate a prisoner, how you should treat them, how to tag them and send them back to the rear, along this line.

Q. Do you ever recall tagging a prisoner?

A. Myself, no sir, I didn't.

Q. And you were given the five S's?

A. Yes, sir.

Q. Do you recall any instruction concerning the handling of noncombatants?

A. As specific instruction, no, sir, just in a general way not to harass them, just more or less leave them be, just group them in an area and make sure they don't, you know, spread out anywhere. Maybe one is an NVA or VC. Just keep them isolated in one area and don't let them move around.

Q. Did you receive this type of instruction again after you arrived in Vietnam?

A. They had an orientation set up at Chu Lai for the Americal Division. There was an in-country jungle training center for 5 days. I can't remember whether or not I went through it. I'm almost positive I did. I came over on the advanced party with the rest of the company. I'm almost positive we went through it.

Q. Didn't the whole company go through?

A. I believe so.

Q. Was this type training covered during that period?

A. Yes, sir.

Q. Noncombatants and POW's?

A. Yes, sir.

Q. I've got copies, or facsimilies of two cards that I'd like for you to look at and see if you have ever seen them before. One is Exhibit M-2 and the other is Exhibit M-3. Now the front of the card is on this page and the back of the card is on this page. Have you ever seen these two cards?

A. No, sir.

Q. Never saw them?

A. No, sir.

Q. This would have been red, the MACV insignia on here.

A. Right sir.

Q. You don't remember seeing them?

A. Neither one of them.

Q. Let's identify each of the photographs you recall before going to the aerial photograph. Number 3 (Exhibit P-3)?

(Note: Subsequent photo numbers correspond to P-series exhibits of the same numbers.)

A. The interpreter, his name is PHU.

Q. Do you recognize the Vietnamese?

A. His face looks familiar but not as to name, I don't know.

Q. Do you know where this was?

A. I believe it was in the center of the village, just by a big stone, or had stone pillars on front of the house. There are some other pictures back here.

Q. Number 4.

A. It's the same man, by the same house there. I remember we had taken a break in the house.

Q. I want you to identify this location as we go through the aerial photograph.

- Q. How about number 5?
- A. No, sir.
- Q. And 6?
- A. Six, this is when CARTER got shot.
- Q. Yes.
- A. They're patching him up.
- Q. My question on this photograph is do you know where this location is?
- A. Yes, sir. I can show you clearly on the picture, but I can't show you on the map (Exhibit P-1).
- Q. You can't show me on the photograph?
- A. In another photograph I can, sir.
- Q. All right. I'm going to jump to 7, and 8 because it's CARTER again. On photo number 9, which shows CARTER being carried away and you say this house, are you talking about the house that is number 3 and 4? Is that the same house?
- A. No, sir.
- Q. But this is the house where CARTER is laying up against in photo number 6, is that what you mean?
- A. Yes, sir.
- Q. Was this a house, or was it a shrine or a temple or something?
- A. Hard to say, they were all hootches to me, sir. I think it was a house though, one of them old ranch houses.
- Q. Was this on the southern edge of the village? I mean by that, if you leave this house in the direction that they're carrying CARTER, were they walking away from the village?

A. I believe this was going north. You see the helicopter came down on the right and the right was the east side.

Q. No, the right was on the south.

A. No, I'm talking about being like this.

Q. Oh, I see you think CARTER was wounded right back here?

A. He was being carried, I'd say this was. You see there is a rice paddy over here, if I remember correctly. And a rice paddy over this way, to the right of the photo and they were carrying him on the road along the rice paddy.

Q. This is photo number 10. It is the same location; is that correct?

A. Yes, sir.

Q. Where is that building here, he's not far from the building is he?

A. No, sir, I can't say exactly where the building is, this is where they're waiting for the helicopter to come in.

Q. I see. Do you remember seeing the helicopter set down?

A. Yes, sir.

Q. Well, I want to talk to you about that, if we can identify the location on the photograph. Now, this is number 13.

A. Yes, sir. This here in the upper left-hand corner is the house, the same as number 9 or 10. That's myself sitting there.

Q. You are back in the extreme center rear?

A. Yes, sir. This is Lieutenant JENSEN, Sergeant MARONEY, interpreter, and some more people.

Q. Is this Sergeant PHU, the interpreter?

A. Yes, sir.

Q. Okay, now. The way you named them off is the first man, the second man, and the third man is the interpreter?

A. Yes, sir.

Q. Now, who is the fourth one, can you tell?

A. He's an RTO, but I don't remember his name.

Q. Where is the mortar?

A. The mortar?

Q. Yes.

A. The people are carrying it.

Q. Where are they?

A. They're back down here in this group.

Q. So the mortar is with this group?

A. Yes, sir. You can see this man here to the center of the group, with just his head, you can see the ammo sticking out of his pack on his back.

Q. Yes.

A. This is where the chopper landed, over to the left of the picture. We're sitting here waiting for the chopper to come in. The chopper is going to land over here. You see this is the house. They carried him over down this way, and brought him here 'cause there's a rice paddy and they're waiting for the chopper and the chopper is going to come here to the left of the picture.

Q. All right now. This indicates that there weren't many people from the mortar platoon on the operation.

A. I don't know where the rest of the people are.

Q. This looks like five or six people. If you're back here could there be anymore behind you?

A. There could have been. There could have been some on the other side of the hedgerow, here. Usually we don't sit this close when we are taking a break, we're all together, they're not dispersed at all, there.

Q. But you are sure that this is the location where the helicopter came in to pick up CARTER?

A. Yes, sir.

Q. My question is because you are sitting there.

A. Well the chopper's not going to come here, it's going to come over here.

Q. No, I realize that, but the chopper came by here; this is the house that CARTER was laying up against?

A. Right, sir.

Q. And the chopper came by here to pick him up and was this photograph taken before or after the chopper came in?

A. I'd say before, sir.

Q. You think it was taken before CARTER was wounded?

A. Yes, sir.

Q. Then CARTER would have been--had to be behind--

A. (Interposing) Oh, before he was wounded, no, sir. After he was wounded but before the helicopter came in.

Q. Okay. I wonder where CARTER is then?

A. He might be over here to the right of the picture.

Q. Number 16?

A. This is a house in the village somewhere that we had burned down. There's two or three dead people here. This was another old house.

Q. What do you mean, we had burned down?

A. Oh, the mortar platoon moving through, headquarters section.

Q. How did these people catch on fire?

A. They were just laying there. It looks like somebody put something up against that one and burned it. I don't know for sure.

Q. Well did you see this scene?

A. I remember the place but I don't remember these people here.

Q. You remember this building but you don't remember the people burning?

A. No, sir. I remember the building but I don't remember the people burning.

Q. Do you know the location of this building?

A. I know it's in My Lai (4) for sure, I don't know the exact location. This is the same scene referred to in Picture 13, I believe.

Q. 13?

A. Right, Lieutenant JENSEN, Sergeant MARONEY, this must be where they had him in previous pictures.

Q. Now the photo is number 17. The first man on the right you keep saying Lieutenant JENSEN, are you sure that's not Lieutenant ALAUX?

A. Definitely that's Lieutenant JENSEN.

Q. Who was Lieutenant JENSEN?

A. He was, for a time, the mortar platoon leader. I can't remember on that occasion what his job was at the time. He was, I believe, the XO for a while and he was a platoon leader for a while. Because he's sitting next to Sergeant MARONEY there I imagine his capacity was mortar platoon leader, but I couldn't be sure.

Q. And this is the same location as photo number 13?

A. Yes, sir.

- Q. Taken at a different angle?
- A. Yes, sir. Cause when the choppers come in the grass is real wavy.
- Q. And this is the building up against which CARTER was laying?
- A. No, sir, that should have been over here.
- Q. Where CARTER was laying?
- A. This building here.
- Q. That's the same one isn't it?
- A. No, sir this is off to the left which would be off to the left of 17.
- Q. So you moved up the road a little bit.
- A. Yes, sir.
- Q. Is that correct?
- A. Yes, sir.
- Q. Looks to me like it was taken about the same time because MARONEY's got his helmet off. The position of the people --
- A. (Interposing) If you notice there is a man standing back here, and there's nobody here by the trees.
- Q. Okay.
- A. Probably taken just minutes after. I guess they came in and carried him out and everybody's started to pick up and they're ready to move off now it seems. There's Captain MEDINA.
- Q. Oh yes, Captain MEDINA is standing in the center of the road. Number 19?

A. This is the person I recognize, the left-hand man, the Vietnamese. He wasn't our company interpreter, he was with the MI man, military intelligence man. He was the Vietnamese intelligence man I guess. He did the interrogating of the people of the village.

Q. Do you recognize this scene?

A. No, sir.

Q. Number 20?

A. Number 20, I think I just recognize this one man here. I think he a man in our platoon by the name of LAVERNE.

Q. The man standing up with the bar in his hand?

A. Right, sir.

Q. Is LAVERNE?

A. Right, sir, and the man with no helmet on in the center of the picture was the artillery FO. No, wait a minute, this was the military intelligence man.

Q. In the rear without the helmet?

A. Right sir.

Q. And the man standing with the bar is LAVERNE?

A. I believe he is, he was in the mortar platoon, L-A-V-E-R-N-E.

Q. Did you see this location?

A. No, sir, I don't know what they're doing there. Looks like they're probing for a booby trap.

Q. It looks like they're probing for something. 21?

A. This is the Vietnamese intelligence man and the American intelligence man. This is the man that shot and killed the Vietnamese.

Q. Number 22?

A. Yes, sir.

Q. The old Vietnamese was shot by whom?

A. The man on the left of the photo, the Vietnamese intelligence man or interpreter whatever he was.

Q. Does the name Sergeant MINH mean anything to you?

A. No, sir.

Q. Did you see him shoot that old man?

A. Yes, sir.

Q. Do you know where this location is?

A. I saw a picture, there was a gate in front of a house, and he was just inside the gate and then he was shot. If I saw the picture of the house I could remember it.

Q. How long after this picture was taken do you think he was shot?

A. I don't know, sir.

Q. Was this about in the same location or can you recognize it?

A. I don't know sir. The trail ran right in front of the gate and there looks like a trail in the picture so it might be very close to that location. That is the man that was shot though.

Q. Definitely?

A. Yes, sir.

Q. What about 26?

A. 26 is at LZ Dottie. They're bringing in this group of slicks to load us on. See the men there with their rifles up.

Q. 31?

A. This is part of a trail going through the village, I believe after the search and destroy mission was cancelled. What I place my belief on is that the cows are still living up here and if it was search and destroy they would have been shot and killed.

Q. This trail doesn't appear to be going through the village?

A. No, it's running alongside the village.

Q. Would you say this was the southern side or the northern side or where? Do you recognize the area?

A. Just the scene, not the location.

Q. Do you know where this was?

A. No, sir.

Q. Did you see these bodies?

A. Yes, sir.

Q. You saw these bodies?

A. I believe so.

Q. This is the same scene we saw before, photo 33. Is the house burning with the bodies burning in there?

A. Yes, sir.

Q. 34?

A. This is a close-up of the area in 33 where the bodies are burning next to the building.

Q. It shows a woman and child? Or it shows somebody in black pajamas and a child?

A. Yes, sir.

Q. You don't know where this location was?

A. Not in relation to the village.

Q. Number 40?

A. This is a group of prisoners that were rounded up, not prisoners, a group of people that were rounded up after the mission became a search and clear mission, for interrogation. I recognize this old woman here and some of the other people's faces are familiar.

Q. So what happened to them?

A. As far as I know they were interrogated and left alone.

Q. Did you see them leave the area?

A. No, I didn't, sir.

Q. Did you see somebody rip this girl's blouse off?

A. No, sir.

Q. Why are these people so afraid here?

A. I don't know sir, it looks like somebody's threatening them in some way.

Q. But you saw this group?

A. Yes, sir.

Q. You don't remember where?

A. Not other than in the village.

Q. 41?

A. This was the big group of bodies I was speaking about before. I said it look as though they were rounded up together and mowed down with machineguns.

Q. Did you pass by this group?

A. Yes, sir.

Q. Did Captain MEDINA pass by this group?

A. Yes, sir. This was the first large group of bodies we saw and I believe caused Captain MEDINA to inquire of the platoon leaders what was going on, and how things like that were happening.

Q. We'll try to locate this on the photo in a minute. 66, Sergeant PHU on the left. Who is the one in the center, do you know?

A. This is Sergeant PHU, do you mean this man here?

Q. Yes.

A. I think this is the military intelligence man, the Vietnamese. The man on the right with the radio is MURPHY, the CO's RTO.

Q. The two colored men in the back?

A. They're familiar, but I can't recall their names.

Q. Do you know these Vietnamese in the picture? Have you ever seen them?

A. No, sir, I can't remember them.

Q. 126?

A. I know these two men. I can't remember his name. He was a squad leader.

Q. Second man from the left?

A. Yes, sir.

Q. Do you know the area?

A. I believe this is down near the river.

COL WILSON: Now, I would like to start at the west side of the village and see what you can recall about this area. You can use the map or photos or whatever you like.

(COL WILSON and SSG FAGAN marked the aerial photograph, later admitted as Exhibit P-139, using blue pen to identify the witness' route through My Lai (4)

and events keyed to his testimony and green pen to identify approximate locations at which the various photographs were taken.)

Point number 1 is approximate area of landing zone.

Photos number 6, 7, 8, and 9 show approximate area where CARTER was wounded.

Photos number 11, and 12 indicate approximate area of CARTER's evacuation.

Photos number 13 and 17 are command group just after the helicopter left (CARTER's evacuation).

Photo number 31 indicates bodies on a trail.

Photo number 40 indicates a number of villagers, not shot after CARTER was wounded.

Photo number 41 indicates group of bodies on a trail to the south of the village.

Point number 2 is where Captain MEDINA requested permission to change the mission to search and clear.

Sergeant, is there anything further that you might advise on the matters we have been investigating, anything that we have overlooked, any further testimony or statement?

A. Not basically sir. I think mostly though, when we started in initially we were expecting a lot of enemy fire and a lot of casualties on our side. This maybe is why the people were so aggressive. I don't think anybody essentially wanted to kill women and children. I guess they figured if they did what they had to do that next time it wouldn't be so bad. Actually I think if it was a search and clear mission in the first place this could have been avoided. Nobody was glad to have it happen. Everybody regretted it, even though there was nobody looking at them saying that they had done wrong. Inside they had felt they had done wrong because you know we always relate back to our own circumstances here. You know, if we were at war here and some people came in and killed the women and kids, terrible thing. I know everybody I talked to, I believe, they really wished that it hadn't happened, but at the same time they couldn't say I don't approve of it so I'm not going to do it, just sit down and do nothing. It was just a bad job and I guess they just wanted to get it done with as fast as they could and hope things would improve. Like I say, this was the first and only search and destroy mission we ever had, after that it always was search and clear. This relieved everybody's conscience as far as ever having to do something like that again. That's about it, sir.

Q. Sergeant we appreciate your coming, you've been a big help, and if you should find any documents, notebooks, photographs, tape recordings, or anything that might fix time or place or anything that might have to do with this operation, if you would call us we'd appreciate it.

A. Yes, sir.

Q. I'd like to remind you that you are ordered not to discuss the My Lai incident, including subsequent investigations and reports, with any person who may have been connected with the incident in any way. This does not apply of course if you are required to discuss the case in another administrative, legislative, or judicial proceeding or as you may be required to do in the performance of official duties. In other words, don't discuss this with anybody except as you are required to do so.

A. Right, sir.

Q. You are now released. This hearing is recessed.

(The aerial photograph as annotated by SSG FAGAN was received and admitted into evidence as Exhibit P-139.)

(The hearing recessed at 1341 hours, 6 January 1970.)

SUMMARY OF TESTIMONY

WITNESS: FLYNN, James H.

DATE OF TESTIMONY: 11 February 1970

PLACE OF TESTIMONY: Pentagon

WITNESS SUSPECTED OF: N/A

COUNSEL: None

DUTY ASSIGNMENT ON 16 MARCH 1968: Mortar Forward Observer,
Attached to C/1/20.

1. PRIOR TRAINING IN THE RULES OF LAND WARFARE.

The witness joined the 11th Brigade in August of 1966 (pg. 55). He came from Hawaii with the unit and arrived in Vietnam on 4 December (pgs. 4, 55). On 15 March 1968 he was attached to C/1/20 (pg. 4). He did not recall receiving any training on the handling of noncombatants (pg. 55). He never saw the MACV cards, "Nine Rules" and "The Enemy in Your Hands" (pg. 55). He stated that at Duc Pho he did not receive any training on the handling of noncombatants (pg. 56).

2. PREOPERATIONAL PLANS AND BRIEFINGS.

The witness stated that Captain MEDINA briefed them the night before the operation (pg. 2). They were told to "get anything that moved out there, cows, chickens, or anything" (pg. 2). The witness understood this to mean that they were to kill women, children, and the animals (pg.2). The witness recalled that MEDINA was asked if they were to "get young kids" to which MEDINA replied "yes" (pgs. 3, 38). The witness received no other briefings (pg. 4). He stated that he thought that the men were "sort of happy to be able to get something" (pg. 5). He thought that they were going out for revenge (pg. 5).

(FLYNN)

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SUM APP T-355

3. ASSAULT ON MY LAI.

a. Landing and initial movement.

The witness was on the second to the last lift with MEDINA and three other RTO's (pgs. 5, 6). When they landed in a rice paddy inside the woodline, there was firing going on (pg. 6). When the lift was complete they started to move towards the village (pg. 6). Initially, they moved on the trail that goes along the southern part of the village of My Lai (4) (pg. 7). He recalled a helicopter notifying them of the presence of someone with weapons (pg. 7). He did not recall the route that they took then but he stated that he was with Captain MEDINA all the time (pg. 7). They looked to the south of the village of My Lai (4) for the weapon but the witness stated that they never found it (pg. 8).

b. Movement into the village.

The witness stated that they went up the north-south trail which is in the center of the village of My Lai (4) (pg. 8). He saw a large pile of bodies along the trail (pg. 8). He recalled encountering a girl lying along the trail and "playing like she was dead" (pg. 11). MEDINA kicked over the basket that she had and the witness stated that he thought it contained medical supplies (pg. 11). He stated that she was "not hurt at all" and that he then saw Captain MEDINA shoot her (pg. 11). He located the body as being along a rice paddy dike in the southwestern part of the village (pgs. 11, 12). The bodies that he saw as they walked along the trail were mostly of women and children (pg. 12). There were between 15 and 20 bodies (pg. 12). He did not know who shot the group and stated that the people were dead when they got there (pg. 12). The witness stated that he was the second man behind MEDINA and that MEDINA saw the bodies (pg. 12). MEDINA did not make any comment about them nor did he question anybody as to how they were shot (pgs. 12, 13).

c. CARTER's medevac.

As they moved up the trail they encountered CARTER (pg. 13). MEDINA used the witness' radio to call for the medevac (pg. 9). The witness did not think that the

helicopter which landed was a medevac chopper (pg. 9). He stated that there was an officer in the helicopter but he did not know if the officer got out (pg. 10). The witness stated that he knew that Lieutenant Colonel BARKER was flying around the area of My Lai (4) that day (pg. 10). He knew this because MEDINA had talked with BARKER on the radio (pg. 10). The witness stated that "it could have been" BARKER who landed for the medevac (pg. 10). He also thought that BARKER made low passes over the village but was not sure (pg. 39).

d. Activity in the village.

As they continued up the trail the witness stated that he saw four Vietnamese walking (pg. 13). Someone shot at them but did not hit them (pg. 13). The Vietnamese ran away from the village (pg. 14). MEDINA saw them being shot at and told the men to stop shooting (pg. 14). They moved through the village in a northeasterly direction checking hootches (pg. 14). He recalled encountering an old man who was questioned (pg. 14). Further on they encountered two girls, between five and eight years old (pg. 14). The witness stated that they took the girls with them until they arrived at a different village where they left them with some other Vietnamese people (pg. 14). The witness recalled seeing a number of dead bodies in the center of the village around the hootches (pg. 15). He recalled one family consisting of a mother, a father, and three children lying out in front of a hootch (pg. 15). He also recalled seeing another bunch of dead bodies but did not remember where (pg. 15). He stated that he saw bodies in a gully which was on the outside of the village (pg. 16). He approximated the location as being to their right as they walked in a easterly direction (pg. 16). While in the village MEDINA called all of the platoon leaders and told them to stop the killing (pg. 17). The witness stated that this happened when they reached the eastern part of the village and stopped for lunch (pg. 17). MEDINA called them on the radio (pg. 18). He did not recall any transmissions about stopping the burning (pg. 20). The witness stated that he saw quite a few of the huts in the village being burned (pg. 20).

e. Reported body count.

The witness stated that he believed he heard a transmission which came to MEDINA from the Task Force Barker TOC (pg. 18). The witness stated that MEDINA gave a body count of 307 (pg. 18). The witness did not know if MEDINA got the body count from the platoons, and did not know where MEDINA got the figures (pg. 19). The radio of the witness was on the air-to-ground frequency and he remembered a helicopter pilot calling Captain MEDINA (pg. 19). The witness stated that something was said about what was going on and MEDINA replied that he did not know (pg. 19). The witness did not know who made the call and he stated that either the Task Force Barker frequency or the gunship frequency was being used (pgs. 19, 20). He did not recall any further transmissions (pg. 20).

f. The presence of a photographer.

The witness stated that he recalled Jay ROBERTS being present on the operation (pg. 21). The witness stated that he spoke with ROBERTS as they walked through the village (pg. 22). He stated that ROBERTS asked him if they always "did that when they went through the villages" (pg. 22). The witness told ROBERTS that he did not know because he had just gotten there the day before (pg. 22). He stated that ROBERTS left about noon (pg. 22). The witness identified numerous photographs (See Exhibit List, infra). The witness stated that ROBERTS moved on his own and did not remain with MEDINA's command group throughout the entire trip (pg. 22). The witness could not recall anyone else having a camera (pg. 22).

g. Further movement and the night laager.

The witness stated that they ate lunch in the eastern part of the village (pg. 22). They then swept through a rice paddy area (pg. 23). He remembered entering a village in which a lady was holding her young son and "jabbering about something" (pg. 23). MEDINA told the interpreter to tell the woman to move down the highway (pg. 23). They laagered right inside a cemetery that night but the witness did not recall laagering with Bravo Company (pg. 23). During the evening he remembered that

some Vietnamese were seen 500 meters away and were fired upon but were not hit (pgs. 23, 24). The witness recalled seeing National Police present (pg. 24). He stated that he saw the police interrogating the prisoners and he felt that "they treated them pretty rough" (pg. 24). There was an American officer with them at this time but he did not know who it was nor could he describe him (pg. 24). He recalled an American interrogating a Vietnamese and he stated that "they cut one guy's ear or cut his neck or something" (pg. 25). He stated that he also remembered seeing them chop one of the man's fingers off (pg. 25). This was done by an American not by the National Police (pg. 25). The witness was standing five to ten feet away from the incident (pg. 25). The witness stated that the National Police then took the prisoners behind some trees and shot all but one of them (pg. 26). He estimated that ten prisoners were there in the beginning (pg. 26). The witness stated that the prisoners were picked up about mid-afternoon when they met with B Company (pg. 27).

h. Visiting officers.

The witness stated that he recalled a lieutenant colonel landing in a helicopter (pg. 28). He did not know who it was and could not remember if the person spoke with MEDINA (pg. 28). The helicopter waited for the officer (pg. 28). The witness could not say if only one officer got off (pg. 29). He did not know if the National Police came on the same helicopter or not (pg. 29).

4. INQUIRIES CONCERNING THE ASSAULT.

The witness stated that neither MEDINA nor anyone else spoke with him about what happened at My Lai (4) (pgs. 29, 30). He did recall MEDINA informing them that they were having a brigade investigation (pg. 30). MEDINA told them "not to say anything about what happened" and also told them that only he would talk about it (pg. 30). The witness had the impression that they were not to say anything to any investigating officers (pg. 30). He did not recall whether he was told this before or after the extraction (pgs. 30, 31). The witness did not recall the helicopter being met by an officer at LZ Dottie (pg. 31). The witness did not recall any discussions among the men

after the incident (pg. 23). The witness was not questioned by anyone and the only thing he heard about an investigation was what MEDINA had told them (pgs. 33, 34).

5. OTHER INFORMATION.

a. The witness described MEDINA as a strict officer who "knew his job real well" (pg. 32). He felt that MEDINA had control of the company during My Lai (4) (pg. 32). He felt that the reason so many people were killed was because the men had been told the night before to "shoot them all" (pg. 32).

b. The witness heard nothing about any killings which may have taken place in Co Lay (2) (pgs. 32,33).

c. The witness described the attitude of the men in the company towards the Vietnamese as being "shrewd" (pg. 34). He stated that the men did not like the Vietnamese and were "rough on them" (pgs. 34, 35). He stated that he knew there was a lot of raping going on in the village (pg. 35). The witness stated that when they captured the two Vietnamese and the nurse he saw people putting cigarette butts in the elastic of the prisoner's pants while the Vietnamese had their hands tied (pg. 35). The witness stated that he did not see any rapes and did not hear of any occurring at My Lai (4) (pg. 35). He could not recall who was talking about rapes (pg. 36).

d. The witness stated that the biggest percentage of the unit did not smoke marijuana (pg. 39). He did not observe anyone under the influence of marijuana that day and he did not think that anyone was (pg. 39).

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EXHIBITS

EXHIBIT NUMBER	DESCRIPTION	NOTES	PAGES
M-2	MACV Card "Nine Rules"	Wit had never seen before.	55
M-3	MACV Card "The Enemy in Your Hands"	Wit had not seen before.	55
P-1	Aerial photo of My Lai (4)	Used to orient the witness.	6
P-2 to P-4	Miscellaneous Scene	Wit identified location of an old man.	48
P-6 & P-7	Miscellaneous Scene	Wit identified CARTER.	49
P-8	Miscellaneous Scene	Wit identified CARTER and MARTIN on MEDINA's right.	50
P-9	Miscellaneous Scene	Wit identified as the area of the CARTER medevac.	50
P-10	Miscellaneous Scene	Wit identified BERNHARDT on the right.	50
P-11	Miscellaneous Scene	Wit identified CARTER being carried to the helicopter. SGTS MARONEY and PHU, and himself with his steel pot off.	51
P-16	Miscellaneous Scene	Wit recognized a house from My Lai (4).	52

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EXHIBITS

EXHIBIT NUMBER	DESCRIPTION	NOTES	PAGES
P-17	Miscellaneous Scene	Wit identified LT ALAUX, SGT Maroney, SGT PHU, CPT MEDINA CAPEZZA with an M-16, an engineer as the second from left, MARTIN as the fourth person from the left, and himself with his hands behind his head.	52,53
P-18	Miscellaneous Scene	Wit identified captured suspects.	53
P-35	Miscellaneous Scene	Wit saw the items being burned, but did not know the soldier.	54
P-36	Miscellaneous Scene	Wit recognized CARTER.	54
P-41	Miscellaneous Scene	Wit located as point 4 on P-226.	54
P-226	Annotated aerial photo	Wit marked:	
		1-LZ, the dead girl and bodies.	41-43
		2-The location of CARTER.	44
		3-The location of the medevac.	44
		4-The location of 15-20 bodies.	44
		5-His location when MEDINA ordered a cease fire.	46
MAP-4	Map 6739 II	Oriented the witness.	6

(The hearing reconvened at 1335 hours, 11 February 1970.)

MAJ ZYCHOWSKI: The hearing will come to order.

RCDR: The following persons are present: Major ZYCHOWSKI and MAJ COOP.

The next witness is Mr. James H. FLYNN

(MR FLYNN was called as a witness, and sworn, and testified as follows:)

Will you state your full name, occupation and address?

A. James H. FLYNN, I am a sprinkler installer, Route 1, Plain View, Minnesota.

MAJ ZYCHOWSKI: Mr. FLYNN, have you read our Exhibit M-57?

A. Yes, sir.

Q. Do you have any questions on that exhibit?

A. No, sir.

Q. Mr. FLYNN, have you received a letter from the military judge in the court martial case of United States v. Calley or United States v. Mitchell?

A. No, I haven't.

Q. Mr. FLYNN, for the record, were you a member of the Army on 16 March 1968?

A. Yes, I was.

Q. What was your duty assignment on that day?

A. I was a forward observer for a 4.2 mortar.

Q. What unit were you with?

A. I was with C/1/20.

Q. And that was C/1/20 Infantry?

A. I was attached to them.

Q. And at this time, they were a part of Task Force Barker?

A. Yes, sir.

Q. Mr. FLYNN, when did you first hear of a planned assault on My Lai (4)?

A. The night before we went there.

Q. The night before?

A. Yes, sir.

Q. Would you tell us, the best that you can recall, the briefing that you received?

A. Well, the night before it got dark, Captain MEDINA got us in a big group outside and he told us that we are going to go in that My Lai area, My Lai (4), and we were supposed to get anything that moved out there, cows, chickens, or anything.

Q. You were supposed to do what?

A. We were supposed to get everything that moved.

Q. By "get everything," what are you referring to there?

A. Women, children, cows, and pigs and anything that was out there.

Q. What I'm trying to get at is what do you mean by the word "get" cows, pigs, women, children, everything.

A. We were supposed to kill them.

Q. Your understanding, then, was that you were to kill women, children, cows, pigs, animals, et cetera? Is that correct?

A. Yes, sir.

Q. I assume this briefing took place, then, at LZ Dottie?

A. Yes, sir.

Q. Do you recall anything else about this briefing that you received from Captain MEDINA?

A. No, sir.

Q. Were there any questions that came up from the members of the company with reference to this briefing?

A. Well, there was a couple of guys that ask if we were supposed to get young kids or anything like that.

Q. They asked this of Captain MEDINA?

A. Yes, sir.

Q. What was the reply?

A. He said, "yes," we were supposed to get everything.

Q. Get everything?

A. Yes.

Q. Approximately how long did this briefing last?

A. I would say about 10 or 15 minutes, along in there.

Q. Do you know if there was a meeting of the platoon leaders and platoon sergeants with Captain MEDINA prior to the briefing that Captain MEDINA had with the company or after?

A. I wouldn't know.

Q. Did you receive any further briefing by your platoon leader or your platoon sergeant?

A. No, I was on my own out there.

Q. You were on your own then?

A. Yes, sir.

Q. In other words, after the briefing by Captain MEDINA, you had no other briefing?

A. No, sir.

Q. Do you recall if there was a memorial service that was held sometime prior to this briefing on 15 March 1968?

A. I'm not too sure if there was one. See, I had just come to LZ Dottie the day before that.

Q. You had just arrived the day before?

A. Yes.

Q. When did you arrive in country, then?

A. December 4th, the same time the unit got there.

Q. But you did not actually become attached to C Company, then, until the 14th of March?

A. The day before we went to My Lai (4).

Q. The day before, or 2 days before?

A. The day before.

Q. The date you actually had the briefing then, the 15th?

A. Yes.

Q. You actually joined C Company the 15th of March, the day of briefing and the day prior to the operation on My Lai (4)?

A. Yes.

Q. What would you say was the mood of the men on the day of the 15th?

A. Well, they were -- I thought they were sort of happy to be able to get something that -- well, they had been losing a lot of men out there, I guess. We lost a real good sergeant out there, so I think they were ready to sort of pay revenge for that.

Q. Was this brought out during Captain MEDINA's briefing?

A. He said now they had a chance to get revenge.

Q. He did say this is a chance for them to get revenge?

A. Yes, he did.

Q. In other words, then your feeling was that this was the opportunity for the company to get back at the VC for what they had done to the men of the company?

A. Yes, sir.

Q. Can you recall anything else which may have transpired on the day of the 15th?

A. No, sir.

Q. Let's now go to the day of the 16th, the day on which the assault took place. Do you recall what the mood was of the men during the lift?

A. Well, everybody was quiet as I suppose any ordinary lift would be.

Q. Do you recall what lift you were on?

A. I was on the last lift, well, second to the last lift?

Q. Do you recall who was with you on this lift in the chopper?

A. Yes. Captain MEDINA and his RTO's were on there with him and me.

Q. Just the three of you, then?

A. No, there were four. I believe there were about three other RTO's with radios with him.

Q. Okay. When you landed in My Lai (4), would you explain what took place then?

A. Well, we jumped off the helicopter. We got down right away. We didn't know if anybody was shooting at us or not, then we heard all kinds of shooting going on inside the wood line. We landed in a rice paddy. Inside the wood line, there was all kind of firing going on. We didn't know if anybody was shooting at us so we got down and waited until everybody else got in. Then when everybody else got in, we started moving in towards the village.

Q. After this time you were with Captain MEDINA the entire time?

A. Yes, I was with Captain MEDINA all day long.

Q. What was your job? I realize you were the forward observer. What was your association in this case with Captain MEDINA?

A. As I said, I was the "four-deuce" forward observer, but I was out of range. We couldn't use the "four-deuce" at all, because we were out of their range. So I had my radio on air to ground frequency, from the helicopter to the ground, and I was acting as one of his RTO's.

Q. So, you had a radio with you?

A. Yes, sir.

Q. Mr. FLYNN, I show you an aerial photograph of My Lai (4) and the immediate area. This is entered in the record as Exhibit P-1, and I also show you a map here which has a scale of 1:25,000, and it is entered in the record as Exhibit MAP-4.

(MAJ ZYCHOWSKI oriented the witness on the map.)

Mr. FLYNN, would you indicate on the map, approximately where the LZ was?

A. Well, if I have my directions correct it was right, I believe right around in there.

Q. You mentioned that you got out of the chopper and you took cover, that you did not know if you were being shot at or not but you did hear firing in the village. Is that correct?

A. Yes, sir.

Q. Okay. Would you continue from there?

A. Well, as we were going along here we got up when the last lift come in, I believe on this trail right in here.

Q. The trail that goes along the southern part of the village of My Lai (4)?

A. I think we thought we saw somebody with weapons some place. I can't remember if it was up here or right here. I believe a helicopter called in and said somebody was over there with weapons and they had got them. So we came over in here some place trying to find the weapon.

Q. Here is the highway down here. Do you recall going somewhere, perhaps down in this general direction?

A. I can't remember. I stayed with Captain MEDINA all the time.

Q. In other words, you don't recall the route you took then from the time you landed at the LZ, as to where you went at that time? Is that correct?

A. I don't think Captain MEDINA went down that highway.

Q. Well, where do you think you did go from the LZ?

A. We started going up, just checking over and he was seeing what was going on.

Q. Do you recall though that the pilot radioed in about some weapons some place?

A. Yes, sir.

Q. But you don't recall where it was?

A. It was on the right over here some place, because we went over here looking to see if we could find it but we never found one.

Q. You never found the weapon then?

A. No.

Q. You are indicating on the map, then, that this is south of the village of My Lai (4). Is that correct?

A. Yes.

Q. Okay. Would you continue from there.

A. As we got up on this, I believe it was this trail right here, if it's a pretty wide trail --

Q. (Interposing) You're now indicating the north-south trail which is in the center of the village of My Lai (4)?

A. Yes. There was a big pile of bodies right in here some place, I believe. And well, after we had done gone through somebody got shot up here. He shot himself whatever the deal was.

Q. Do you recall his name?

A. No, I didn't know his name.

Q. This was a man by the name of CARTER. Did you see him ---

A. (Interposing) Yes, I used my radio to call in for a chopper.

Q. You used your radio?

A. I used my radio to call for a medevac and we --- and I can't remember exactly what the ordeal was.

Q. Do you recall who you called to for this medevac?

A. No, I don't.

Q. Were you still on the same frequency that you were on or did you change frequencies?

A. We changed frequencies.

Q. Did you change the medevac frequency?

A. Yes, I did.

Q. Did you make contact with the medevac?

A. I can't remember. See, Captain MEDINA was talking on the radio.

Q. He was talking on the radio too, then?

A. Yes.

Q. Do you recall what he was talking about? Was he calling the medevac too, or calling for choppers to come in?

A. Well, he was calling for a medevac off my radio.

Q. Oh, off your radio. I thought you said you called for the medevac?

A. No, he used my radio.

Q. So Captain MEDINA actually used your radio to call for the medevac?

A. Yes.

Q. Do you recall seeing this chopper come in and pick up CARTER?

A. Yes, sir.

Q. Was it a medevac chopper?

A. I don't think it was.

Q. Do you recall who was in the chopper, whose chopper it was?

- A. No. I think it was a major or something.
- Q. A major?
- A. Some officer, I think.
- Q. There was an officer in the chopper?
- A. I believe so, if I remember correctly.
- Q. Did he get out of the chopper?
- A. I can't remember.
- Q. Did you know Lieutenant Colonel BARKER?
- A. Yes, sir.
- Q. Do you know if he was flying around the area of My Lai (4)?
- A. Yes, he was.
- Q. How do you know?
- A. Well, Captain MEDINA had been talking to him on the radio.
- Q. Well, how do you know he was right over My Lai (4) at the time.
- A. He was flying around it.
- Q. He was flying around it, in this case communicating with Captain MEDINA?
- A. Yes, sir.
- Q. Could it by any chance be his chopper that came down and picked up CARTER?
- A. It could have been.
- Q. But you are not sure of that?

A. No.

Q. Later on, I'll have you try and trace your route as best you can recall on this map. I'll also show you some photographs and ask if you can recognize anything about these photographs, as far as personnel, terrain features, and so forth, and see possibly, if we can plot those on the map.

Okay, I would like to go back to the north and south trail where you indicated you saw a group of bodies located. Could you explain this in a little more detail?

A. Well, as we were coming down, I just seen a group of dead bodies. I think it was back here some place where we went to look for those "gooks" with weapons. We were walking along the trail and I remember there was a girl there laying along the trail. She wasn't dead or anything she was playing like she was dead. Captain MEDINA kicked her basket over, and I believe she had some medical supplies in there. I think that was the same body. She wasn't hurt at all.

Q. Did anything happen to her?

A. Yes, she was shot.

Q. By whom?

A. I think it was Captain MEDINA that shot her.

Q. Did you see him actually shoot her?

A. Yes.

Q. Were you actually facing him and facing the girl when the shooting took place?

A. I can't remember.

Q. Where was the location of this girl in comparison to that of the bodies that you had observed?

A. Well, it was back in here along the rice paddy dike some place.

Q. Are you pointing to the southwestern part of the village? Is that correct?

A. Yes, sir.

Q. Then from there you walked over to the north-south trail and this is where you observed the bodies?

A. Yes, sir.

Q. Approximately how many bodies were there?

A. I'd say there was at least 20, between 15 and 20.

Q. 15 and 20?

A. Yes, sir.

Q. Do you recall their ages and sexes, by chance?

A. There was mostly women and kids.

Q. Women and kids?

A. Yes, sir.

Q. Do you know who shot this group?

A. No, sir. They were dead when we got there.

Q. How close were you to Captain MEDINA up to this time?

A. Well, I was usually about the second man behind him, I believe.

Q. So you were close to him, then, when you saw these bodies? Is that correct?

A. I believe I was, sir.

Q. Do you know if he saw these bodies?

A. Yes, he did.

Q. Did he make any comment about them or say anything about them?

A. No, sir.

Q. Did he question anybody as to how they got shot?

A. No, sir.

Q. Okay. From the time you left the bodies there, is this where you went then to see CARTER, who had shot himself?

A. Well, it was about the same time.

Q. About the same time.

A. Yes, sir.

Q. How long was it after you had called for the chopper that it came in?

A. I can't recall.

Q. Do you recall the approximate area where the chopper landed?

A. Well, it wasn't too far outside the tree line in the rice paddy.

Q. Again, this is off the north-south trail then, there?

A. Yes, sir.

Q. All right would you continue?

A. Well, I think this is the trail or something going right in here or probably a rice paddy dike or something. I remember there were about four people walking as we were going up there. I don't know who it was, but somebody started shooting at them.

Q. Do you know if they hit them?

A. No, they didn't.

Q. In this case, they were southeast?

- A. They were running away from the village.
- Q. Village of My Lai (4). Let me ask you this, did Captain MEDINA see them shooting at them?
- A. He had to.
- Q. Did he say anything at them?
- A. Yes, they were told to stop shooting.
- Q. He told the men to stop shooting?
- A. Yes, sir, at that particular group.
- Q. Okay. After CARTER was evac'd do you recall the route you took?
- A. Yes, we started going in the village a little bit.
- Q. You are now moving in a northeasterly direction?
- A. We went through the village up in here, and checking out hootches and stuff like that. In one of the places they found an old man in there. He was alive and everything and they were trying to ask him where the VC were.
- Q. Who was asking this?
- A. Different people. He was real old and all crippled up and they couldn't get nothing out of him, so they just let him sit there. Further on up I can remember getting two little girls. They were about, I would say, both of them were between 5 and about 8 or 9 years old. I remember we took them with us. Some place else we got to a different village and we left them off with some other Vietnamese people. And I remember after we got up to here, they didn't shoot any people up in here at all.
- Q. You are referring now to the eastern part of the village of My Lai (4)?
- A. Yes, sir.
- Q. I would like to go back a little bit. Other than

the group of bodies you saw on the north-south trail, did you see any other bodies or any other shootings or killings that took place in the village?

A. In the inner part of the village around the hootches and places like that, I can remember seeing a lot of dead bodies in there, like families. I can recall one family. There must have been a mother and father and three kids lying out in front of the hootch. I can remember one place but I can't remember where it was. There was a bunch of dead bodies in there.

Q. From the time you started traveling from the north-south trail in a northeasterly direction, you did see a number of bodies scattered throughout the area?

A. Yes, sir.

Q. Could you estimate the number you observed along this route?

A. No, sir. I can remember going some place sort of a brush hill. I can't recall where it was. I was looking for it but I can't recall where it was. There was a lot of dead bodies. You look down there and there are all kinds of dead bodies lying in there.

Q. Now, this is outside of the village?

A. Well, I believe it was. We were going up some -- it was right up in here somewhere, I think.

Q. Now, we can come back to that in just a minute. As you came to the eastern part of the village did you take a break there at all?

A. Yes, we broke for dinner.

Q. Broke for dinner?

A. Yes, sir.

Q. I'm trying to associate this group of bodies you saw in the ditch. Was this after dinner or before dinner?

A. It was before dinner.

Q. Before dinner?

A. Yes, sir.

Q. The best you can recall, then, it was inside the village here?

A. That we took the break?

Q. No, where you saw this ditch with the bodies in it.

A. Yes, well, it was just off--running out of the village some place.

Q. You saw this ditch as you were walking through the village then?

A. On the outskirts. It wasn't inside the village, the gully wasn't with the dead bodies in it. But I can't recall where it was or anything on the map.

Q. Okay, it was outside the village, then?

A. Yes.

Q. Can you recall an approximate direction that it was located as you were traveling through the village?

A. I believe it was off to the right someplace.

Q. As you were walking through, it was off to your right someplace?

A. I think it was.

Q. Perhaps later on we will try to place this on a map, if we can, as we go through it. At that time you were with Captain MEDINA, did you hear any transmissions about orders given by him to stop the killing or stop the shooting, other than this one incident where you mentioned you saw the three people running down here?

A. Not until we got into the village, because I can remember after that, he was talking on the radio to, I believe, it was Lieutenant CALLEY and he had told him to stop all the shooting, and he called all the platoon leaders and told them--

all of the platoons--and told them to stop shooting.

Q. You think he talked to Lieutenant CALLEY?

A. All of the platoons. He called everybody and told them to stop shooting.

Q. He told this to them on the radio, to stop the killing or stop the shooting. Do you know which of the two it was? Was it stop the killing or was it stop the shooting?

A. It was stop the killing.

Q. This was just when you had reached the eastern part of the village of My Lai (4)?

A. That's right, before we stopped for our lunch break.

Q. About what time would this be?

A. I couldn't say for sure. We usually broke for lunch right around noon.

Q. After he had made this transmission to all of the platoon leaders. Is that correct?

A. Yes, sir.

Q. From that time, what was the time lapse before he had all the platoon leaders gather around and where he mentioned the same thing?

A. I can't remember if he talked to them during lunch break or not, but that was about the only time he would have talked to them.

Q. Do you recall all the officers that were called?

A. No, sir.

Q. Do you recall their names?

A. No, sir.

Q. Do you know Lieutenant CALLEY?

A. Yes, I do.

Q. Did you recognize him there?

A. No.

Q. How do you know they were the platoon leaders?

A. What do you mean?

Q. This meeting where Captain MEDINA told them to stop the killing?

A. He called them on the radio.

Q. After he called them on the radio, did you say he also called them to a meeting later on?

A. No.

Q. I misunderstood you. I had the impression that he had called them on the radio, and then later on, he called all of the platoon leaders together?

A. No, sir.

Q. In other words, he just called them by radio, then?

A. Yes, sir.

Q. While you were with Captain MEDINA did you hear any transmissions that came to him from the TOC at Dottie, Task Force Barker's TOC, in reference to a body count?

A. Yes, I believe I did.

Q. Do you recall what was said?

A. All I heard was a body estimate. He said--well, before we stopped for lunch break, I remember he said there was 300; I believe it was 307, or something like that.

Q. 307?

A. Yes.

Q. Would you say that this was an approximate number?

A. Yes, sir.

Q. Do you recall if Captain MEDINA got a body count from the platoons?

A. I can't recall.

Q. How did Captain MEDINA come up with this figure then?

A. I don't know. That is what I wondered then.

Q. Do you recall any other transmissions that may have come over the radio?

A. Well, I can remember once--my radio was on the air to ground frequency and I can remember, once, a helicopter pilot called him up and I didn't know what he had asked him. I believe it was about what was going on or something like that.

Q. A helicopter pilot was calling Captain MEDINA?

A. I believe.

Q. You don't recall what he said?

A. It was something about what was going on or something like that, and Captain MEDINA said he didn't know.

Q. You don't recall who this may have been?

A. No, sir. Well, it was a helicopter, I know.

Q. Could it have been Colonel BARKER?

A. I don't know.

Q. Could you have recognized Colonel BARKER's voice over the radio?

A. The only way I would have recognized that was which radio it came off of. All the RTO's were together.

Q. At this time, you did change your frequency?

A. To that medevac. I changed it when Captain MEDINA called in the medevac and then changed it back to the old frequency.

Q. This frequency, then was from the chopper pilot to Captain MEDINA, then?

A. Yes, sir.

Q. In this case, he would have had to be on Task Force Barker's frequency?

A. Either that or gunship.

Q. In order for him to communicate with Captain MEDINA he would have had to be on Captain MEDINA's frequency?

A. Yes, sir.

Q. Do you recall any other transmissions?

A. No, sir.

Q. Did you hear any orders come out about stop the burning?

A. No.

Q. Now, let me go back somewhat here. As you were going with Captain MEDINA through the village, both the 1st and 2nd Platoons had already gone before you? Is that correct?

A. Yes, sir.

Q. Did you see any of the huts in this village being burned?

A. There was quite a few being burnt.

Q. You already heard the order once, where Captain MEDINA told the platoon leaders to stop the killing. Did he also mention anything about stop the burning?

A. I can't recall.

Q. What made Captain MEDINA give this order to stop the killing?

A. I don't know.

Q. Was there any specific incident that occurred, or did he get a radio call from someone telling him about these, or what?

A. I can't recall, sir.

Q. In other words, the only thing you can recall, then was just Captain MEDINA giving this order over the radio to the platoon leaders to stop the killing?

A. Yes, sir.

Q. You don't know what caused him to give this particular order?

A. No.

Q. Since you were with him so close, we would assume then, that he saw these bodies too. Is that correct?

A. Well, he had to. I mean, they were right there in plain sight.

Q. In addition to yourself and Captain MEDINA and the RTO's was there anybody else in the command group that you can recall by name?

A. You mean his RTO's?

Q. Other than his RTO's; other personnel that stayed with the command group.

A. Well, I knew the medic guy. I can't recall his name.

Q. Do you recall a PIO man and a photographer going along on this operation?

A. Jay ROBERTS, and I didn't know the other guy.

Q. You mentioned Jay ROBERTS. Did you know him personally?

A. Yes, sir.

Q. Was this from past association?

A. Yes, sir.

Q. Did you talk to him at all during your route through this village?

A. Yes, I believe, I did.

Q. Was there any conversation brought up about the number of bodies or number of killings that you had observed?

A. I believe I was by him that I was asked if we always did that when we went through the villages, and I told him I didn't know because I had just got there the day before. I believe I only talked to him once that I can remember, because he left about noon or a little bit before.

Q. Did he stay with you throughout your entire route through the village or did he move in another direction? Did he accompany you throughout the entire trip with Captain MEDINA's command group or did he go on his own?

A. I believe he went on his own, sir.

Q. Other than this PIO man, this photographer that accompanied ROBERTS, do you recall anyone else that may have been taking pictures there in My Lai (4)?

A. No, sir.

Q. Anybody else that you can recall that had a camera?

A. No, sir.

Q. After you ate lunch there in the eastern part of the village of My Lai (4), do you recall what your actions were from there?

A. I remember we had those two little girls with us

and we started sweeping on through this rice paddy area right in here. Where is the Pinkville area on here?

Q. Well, it is actually located over here further. The map over there could show you a better picture.

A. I believe we come through here (indicating on Exhibit MAP-4).

Q. What do you recall about that day, that afternoon?

A. Well, I remember we got in one of the villages and there was a lady there. She had a young son, holding it in her arms and she was jabbering about something. I didn't know what she was talking about or anything. Captain MEDINA told the interpreter to tell her to go down the highway or some place down there and go towards--I don't know if it was Quang Ngai or what.

Q. You don't know what she was talking about?

A. No.

Q. That night you laagered in near a cemetery. Do you recall this?

A. Yes, right inside the cemetery.

Q. Did C/1/20 marry up, with Bravo Company?

A. Bravo Company was down across the rice paddy, sweeping way down across, and we were going through the villages and stuff.

Q. I am referring now, to the evening of the 16th. Did you marry up with Bravo Company?

A. I don't think we did.

Q. Is there anything that took place that evening that you can recall?

A. Well, I can remember that we--well, we saw some Vietnamese. Must have been 500 meters away or something like

that. I remember they took the machingun out there and tried to shoot at them, but they didn't get them.

Q. From the time you left My Lai (4), until you laagered in for the night was there any more shooting or burning of villages or huts?

A. I couldn't say for sure.

Q. On the evening of the 16th do you recall seeing any National Policemen there?

A. Yes.

Q. Do you know if the company had captured any suspected VC or NVA?

A. Yes, they had.

Q. Did you see the National Police interrogating the prisoners?

A. Yes.

Q. Did you see anything transpire, as to how they were treating them or anything else of this nature?

A. Well, they treated them pretty rough.

Q. Was there an American officer with them at this time?

A. Yes.

Q. Do you know who he was?

A. No, sir.

Q. Could you describe him?

A. No, sir, I couldn't.

Q. Did you see him do anything?

A. Well, I don't know if it was him, but I remember seeing somebody interrogating one guy. Well, I was standing there watching him and they cut one guy's ear or cut his neck or something and I remember seeing them chop one of his fingers off.

Q. Who was doing this?

A. I don't know.

Q. You don't recall who did the chopping or the cutting of the ear or neck, then?

A. No, sir. It was an American.

Q. Pardon.

A. It wasn't a National Police or anything.

Q. It was not the National Police?

A. No, it was an American.

Q. It was an American?

A. Yes, sir.

Q. Do you recall what rank he may have been?

A. No, sir.

Q. How close were you to the scene?

A. Between 5 and 10 feet.

Q. And you don't recall who it was?

A. No, sir.

Q. Had you seen him before?

A. No, sir.

Q. Do you know what happened to these prisoners after that?

A. Well, they were shot.

Q. They were shot?

A. I believe.

Q. Shot by whom?

A. I think it was by the National Police, but I can't say, because I know the National Police took them behind some trees and stuff, took them off a ways from where we were.

Q. At this time was it dark or light?

A. It was still light.

Q. Do you know approximately, how many of these prisoners were shot?

A. All but one of them.

Q. All but one. Well, how many is all?

A. I believe there was 10 of them there to start with.

Q. 10?

A. I think so, if I can remember. There was one that said he was something like a preacher or something like that.

Q. On the day of the 16th, now, do you recall if the company was visited by anybody from Task Force Barker, the brigade, or the division?

A. Well, yes, some officers came down.

Q. This was on the 16th, now?

A. Yes, sir, I believe.

Q. Was this in the morning or afternoon?

A. It was in the afternoon.

Q. In the afternoon?

A. Yes, sir.

Q. Where was the company located then? Was it just outside of My Lai (4), or were you near the laager area, or where?

A. It was closer to some village. It was nearer the laager area than it was to My Lai (4).

Q. Nearer to the laager area?

A. Yes, sir.

Q. Do you recall who this may have been?

A. No, sir.

Q. Could you describe what took place?

A. Well, we had taken a break about mid-afternoon, and along the way they picked up a bunch of prisoners.

Q. Who is "they"?

A. I don't know where they came from.

Q. The company had prisoners?

A. Yes. And we met up with a different unit. I believe it was from B Company from some other unit.

Q. B/4/3?

A. Yes, sir. And then we were right outside of some little village or some place and, well, we were standing there; we were taking a long break, and at that time they were interrogating those prisoners. I saw one. He was an officer, I know, the guy that was interrogating one and had a knife by his ear, up in here (pointing to his ear) and was trying to get stuff out of them. I remember he put his finger over a

piece of board and took a knife and chopped it off.

Q. The American officer did this?

A. Yes, sir.

Q. And you say that you don't recall who this officer was?

A. No, I don't, sir.

Q. What I was referring to prior to this chopper that came down when you were visited by somebody from Task Force Barker or the brigade or the division. I wanted you to relate what happened there. What could you recall about this particular chopper coming down? Would you describe the rank of the person or who he was?

A. I wouldn't know. He was either a major or a colonel.

Q. Major or a colonel, or a major or a lieutenant colonel?

A. Lieutenant colonel.

Q. You don't know who it was, then?

A. No, sir.

Q. What did they do; talk to Captain MEDINA, or what?

A. I can't say for sure.

Q. And you say this happened from the time you left My Lai (4) and before you got to the laager area for the night when their chopper landed? Is that correct?

A. Yes, sir.

Q. Did the chopper stay on the ground or did it take off?

A. Stayed on the ground, I believe.

Q. Was it just one officer that got off?

A. I can't say.

Q. How far away were you from the chopper?

A. Maybe 50 meters.

Q. 50?

A. Yes, sir.

Q. You don't recall anything else?

A. No, sir. They brought in a bunch of National Police. I can't say if any of them came on that same chopper. I know they brought in a bunch but I can't say how many there were, either.

Q. This chopper that brought the major or lieutenant colonel in also brought some National Police in with them?

A. I can't remember if it was that same chopper or not.

Q. But you don't recall or recognize any officer from Task Force Barker, brigade, or division that may have landed at this time?

A. No, sir.

Q. Okay. We know that from other testimony that the company then moved down south to the river and then you more or less came back on up and that you were then extracted on the 18th of March. Do you recall this?

A. I think I do.

Q. Do you know where you were extracted to? Did you go back to Dottie?

A. I can't say for sure, sir.

Q. Before you left did Captain MEDINA or anybody else have a talk with you about what occurred at My Lai (4)?

A. No, sir.

Q. Nobody told you anything about it?

A. I don't remember if it was out there that I was told or not, but Captain MEDINA told us that they were having a brigade investigation.

Q. Going to have a brigade investigation?

A. Something like that. An investigation about what happened and he told us not to say anything about what happened and that he was the only one that should talk about it.

Q. He was what?

A. I believe he said he would talk about it.

Q. He would talk about it but for the rest of you not to talk about it?

A. Yes, sir.

Q. Did he indicated that in the event you were questioned by someone that you were --

A. (Interposing) Yes, sir.

Q. How did you understand this? What was your interpretation of what he told you? Let's say that if the investigating officer or some officer came to you and ask you what transpired, what was your understanding? What were you to say?

A. I can't remember, sir.

Q. Was it your impression, then, that you were not to say anything or --

A. (Interposing) Yes, sir.

Q. Only that Captain MEDINA himself was to do the talking?

A. Yes, sir.

Q. Now do you recall if this happened before you were

extracted from there or after?

A. I can't say, sir.

Q. When you arrived--indications are that you arrived back at LZ Dottie, was your chopper met by any officer there?

A. I can't remember, sir.

Q. You can't recall if any officer talked to you and asked you what actions took place at My Lai (4)?

A. Nobody asked me about it.

Q. You don't recall any officers meeting you out at the pad and questioning anybody as to what they saw at My Lai (4) or what happened there?

A. No, sir.

Q. This briefing that Captain MEDINA gave you, you don't know if it took place prior to your being extracted on the 18th or if it took place at LZ Dottie after you arrived there?

A. I can't recall, sir.

Q. Your understanding then, was that you were not to discuss this with anyone?

A. Yes, sir.

Q. Let me just ask you then, assuming that you were questioned by some officer about what took place at My Lai (4), what would your answer have been?

A. Well, I don't know what I would have said.

Q. Well, what was your understanding? This is what I'm trying to draw out of you?

A. I probably would have just answered questions. I wouldn't have come out and said, you know....

Q. You wouldn't have told them what took place there

in My Lai (4)?

A. Well, if I would have had to answer questions but I wouldn't come out and tell them.

Q. In other words, you would have answered the questions if they were asked of you, but you wouldn't have volunteered? Is this correct?

A. Yes.

Q. I'm going to ask you a number of general questions. A lot these are strictly opinion type questions and it will actually call for your opinion. What kind of an officer was Captain MEDINA?

A. He was pretty strict.

Q. Strict?

A. Yes, sir. Well, I thought he knew his job real well and everything.

Q. We have heard this from a number of witnesses who indicated the same thing. He was strict, but yet, he knew his job quite well. Anything else that you can relate about Captain MEDINA?

A. No, not really.

Q. Would you say that he had control of the company during My Lai (4)?

A. Yes, I think he did.

Q. If he had control of the company, then what would you say was the reason why so many women and children were killed?

A. Well, they were told the night before to shoot them all. And I don't think there was any attempt to stop that until around noon someplace.

Q. Did you hear anything at all about any killings that may have taken place down in Co Lay (2)? I am now

referring to that of B Company's operations?

A. No.

Q. We had some testimony where some people thought something occurred down in B Company's area of operation or perhaps that when the companies got together, some information may have been exchanged between the personnel and so forth, but you didn't hear anything?

A. No, sir.

Q. Now, this incident was not reported to the Department of the Army until sometime ago and it was not known to the public for sometime. Could you give a reason why it was not reported before this?

A. Well, probably everybody wanted to forget about it, I would think.

Q. What was the attitude of the men when they arrived back at LZ Dottie after this operation? Did they talk about it? Was there a discussion of any type?

A. No, sir, I can't recall.

Q. In other words, did you talk to anybody about it after you got back?

A. No.

Q. The subject was just dropped completely?

A. Well, guys talked about it, yes, but --

Q. (Interposing) Well, that's what I was referring to. What was discussed, basically? Do you recall?

A. I can't say for sure, sir.

Q. To your knowledge was there an investigation of My Lai (4)?

A. You mean brigade investigation?

Q. Any type of investigation?

A. Right after it happened? The only thing I heard about it was when Captain MEDINA told us not to say anything about it at all and that's all I heard about it until this here came up.

Q. Again, this investigation that Captain MEDINA was referring to, did you say he mentioned that this was a brigade investigation being conducted?

A. Yes, sir.

Q. Were you questioned by anyone?

A. No, I wasn't.

Q. Other than what Captain MEDINA told you, not to talk about it, did anybody else tell you to keep quiet about it?

A. No, sir.

Q. What was the attitude of the men in C Company toward the Vietnamese personnel?

A. It was a pretty shrewd attitude.

Q. What do you mean?

A. You mean how they liked them?

Q. Yes.

A. They didn't.

Q. They didn't like them?

A. No, sir.

Q. Would you elaborate on that a little bit? This is an opinion, I realize.

A. Well, they just didn't like them.

Q. Well, do you recall any discussions or actions

toward the Vietnamese personnel?

A. Well, they were pretty rough on them.

Q. In what way?

A. Well, I just know there was a lot of raping going on in the village when they went out and stuff like that. I can recall that in that one down in Pinkville, I believe it was, we captured this one officer and nurse and one other guy, I believe it was, and they picked on him quite a bit.

Q. Was this on the day following the My Lai operation, the 17th, or was this another operation that you are talking about?

A. No, it was the same operation.

Q. What do you mean they picked on them?

A. Well, they put cigarette butts in the elastic of their pants and stuff like that and the Vietnamese had their hands tied.

Q. Who was doing this?

A. Well, I couldn't say for sure.

Q. You say you saw them put cigarette butts in the rubber by their trousers?

A. Yes, sir.

Q. You mentioned a rape a while ago. Was there any raping done at My Lai (4)?

A. I don't think so; not that I heard of anyway.

Q. But you did hear of rapes prior to this?

A. Oh, yes.

Q. Did you see any rapes?

A. No.

Q. Just talk among the men?

A. Yes.

Q. Do you know who was talking about it?

A. No, not really.

Q. So in other words, you don't know who was doing the raping or anything else; that it was just talk among the men?

A. Yes, sir.

Q. In other words, one GI wouldn't tell another that he raped somebody?

A. No, sir.

Q. But just the talk that rapes were taking place?

A. Yes, sir.

Q. Do you know if this was reported at all to Captain MEDINA at anytime, about the rapes?

A. I don't believe so, sir.

Q. What was his feelings about rapes?

A. Well, I wouldn't really know.

Q. Why do you think, in your opinion, the shootings and so forth and everything that transpired in My Lai (4) actually occurred?

A. Why they did?

Q. Yes.

A. Well, we were told that they had received information that it was a VC village.

Q. And?

A. Well, I guess they had guys lost in there quite a bit, and this Sergeant COX I know, I think it was that village, he was around there and around Pinkville, and he got killed there and there was some pretty popular people in our company that were killed that night. Probably just feelings about that area.

Q. In other words, the information that you had received, that this was a VC or NVA area?

A. Yes, sir.

Q. The fact that some of the men had been killed prior to this time?

A. Well, I wouldn't say that's why it took place or anything but it would be easier for the men to do it then, I would think.

Q. In your opinion, why do you think it happened?

A. We were ordered to do it.

Q. Pardon?

A. We were ordered to do it.

Q. Again, this is based on the order that Captain MEDINA gave you, that women, children, cows, chickens, and pigs and so forth were to be killed?

A. Yes.

Q. You definitely did hear Captain MEDINA say that, especially about the women and children to be killed?

A. Yes.

Q. If I recall, I asked you this question previously; this was a question that was asked him.

A. I believe it was, the night before we went on the assault.

Q. The night of the 15th at the briefing, then?

A. Yes.

Q. You think somebody did ask him -- about women and children?

A. I think so.

Q. If this included women and children? You think it was asked, and his reply was, yes it did include them?

A. Yes. He just said everything and in the briefing he said men, women, and children.

Q. Did he indicate where he got his orders from or were his orders from his superiors?

A. Well, he said it come down from intelligence that it was a VC village and who were we to question it?

Q. What did you think about this when the question was asked, did this include women and children? What was your feeling about this?

A. Well, we felt it was a complete VC village. They were holding up enemy in there.

Q. Just because this was supposed to be a VC village do you think that the women and children should have been killed?

A. Well, the way I looked at it we were ordered to do it.

Q. Well, you mentioned that you don't recall receiving any fire. These people that you saw laying dead, women and children, were they armed?

A. No, not unless somebody got the weapons from them before we got there.

Q. In other words then, the fact that women and children were killed really didn't phase you that much, then?

A. No, not really.

Q. In other words, your feeling was this is a VC village and these were VC women and children in that village?

A. Yes, sir.

Q. The newspapers have indicated to some extent that there may have been a marijuana problem in the company, or another name for marijuana would be that of pot. What is your opinion of this? Was there a problem?

A. Well, the biggest percentage didn't smoke it that I could see.

Q. You say the biggest percentage didn't smoke it?

A. I don't think so.

Q. From your observations of the 16th, would you say that anybody was under the influence of marijuana?

A. No.

Q. Did you observe at any time anyone being under the influence of marijuana?

A. You mean that day?

Q. Yes.

A. That day, no.

Q. Getting back to My Lai (4), you mentioned that Colonel BARKER was flying over the area and he was communicating with Captain MEDINA. What was the altitude of this plane? Was he high, was he low, or what? Do you recall?

A. He wasn't really high and, well, he wasn't really low either.

Q. Do you recall him making any low passes over the village?

A. I believe it was him that did.

Q. But you're not sure, then?

A. No, sir.

Q. You don't recall whether a chopper may have come in low and then a radio transmission from the chopper to Captain MEDINA?

A. No.

Q. Mr. FLYNN, I have asked you a number of questions. Is there anything else that you can recall from My Lai (4) or anything that we haven't discussed and comes to mind?

A. No, I don't believe so.

Q. Okay, the hearing will recess.

(The hearing recessed at 1455 hours, 11 February 1970.)

(The hearing reconvened at 1505 hours, 11 February 1970.)

MAJ ZYCHOWSKI: The hearing will come to order. MAJ ZYCHOWSKI is present.

Mr. FLYNN, this portion of the interview will be dealing with the aerial photograph on which we'll try to plot the route that you took through the village of My Lai (4). I will have you look at some photographs and see if you can identify or recognize anything on these photographs and possibly plot them on this map, before you is the aerial photograph of My Lai (4) and its surrounding area. Going back to the 16th of March, 1968, would you indicated on this map the approximate area of the LZ?

A. Right back here.

Q. If I recall from your previous testimony, you mentioned you got out of the helicopter and you scattered throughout the area. When you landed, I assume then, that the other platoons were already going into the village? Is that correct?

A. Yes, sir.

Q. How long did you stay out here in the LZ before you proceeded to My Lai (4)?

A. About 5 to 10 minutes.

Q. And you were with Captain MEDINA and the command group?

A. Yes, sir.

Q. From the LZ would you indicated the route that you took?

A. Well, we come right up in here and we started coming down the trail.

Q. You went into about the center and you went in a southerly direction on the western portion of the village? Is that correct?

A. Yes, sir. We took this trail up to here.

Q. Prior to getting to the north-south trail did you state you went some place here to look for some weapons?

A. Yes, sir. While we were on our way up there we got a call from one of the choppers. There was a "gook" with a weapon over here. The whole command group, all the platoons were up ahead, so the command group told us to come down here to see if we could find those weapons. We didn't find any, so it was over here beyond the rice paddy. There was a girl lying down with a basket, and Captain MEDINA looked over there --

Q. (Interposing) Point 1 would be the approximate area where Mr. FLYNN and the command group went and attempted to find the weapons that were reported to them by the helicopter pilot. Is that correct?

A. Yes, sir.

Q. Also this is the same area where you saw Captain MEDINA shoot this girl. Is that correct?

A. Yes, sir.

- Q. You stated this in your previous testimony?
- A. Yes.
- Q. This is where you looked for the weapons but you did not find the weapons. Is that correct?
- A. Yes, sir.
- Q. Did you find any bodies in this area?
- A. Yes, sir.
- Q. How many bodies were there?
- A. There weren't very many.
- Q. I'm referring down here where point 1 is.
- A. Well, I'd say that at least four down in there.
- Q. Four down in here?
- A. Yes, sir.
- Q. But you did not find the weapons?
- A. No, sir.
- Q. Point 1, this area was marked by the chopper pilots with smoke?
- A. Yes.
- Q. Was there any communication with the pilots and Captain MEDINA while you were at this area?
- A. Well, yes, sir. We were trying to find out where they had seen those weapons and we couldn't find them at all.
- Q. This information then, was passed on to the chopper pilots?
- A. Yes, sir.
- Q. Did you hear any transmissions coming back from

the pilots?

A. There were weapons over there.

Q. But you didn't find them?

A. No, sir.

Q. Mr. FLYNN, would you continue your route from point 1?

A. Well, we were back up here along the big trail.

Q. You moved back up to the southern part of the village to this trail. Is that correct?

A. Yes, sir, and we came down along here.

Q. You moved down this trail in a easterly direction?

A. Yes, right in here.

Q. Before you came to the north-south trail, did you observe anything else which stands in your mind from point 1 to this north-south trail?

A. When those people were running but they weren't shot or anything.

Q. At the north-south trail what happened there?

A. Well, that's where CARTER was. Well, CARTER was right where the blue line is.

Q. On the western part of the trail?

A. And right down in here, maybe about 10 meters down this trail there was a big pile of dead bodies there.

Q. Before we got to the bodies, this would be about the area here where CARTER --

A. (Interposing) Right about in here some place.

Q. Right by the trail here?

A. Yes, sir.

Q. This is where you saw him actually sitting. Is that correct?

A. Yes, sir.

Q. Point 2 will be the approximate area where Mr. FLYNN observed CARTER when he was wounded.

Okay. You mentioned then that a dustoff was called in for CARTER and a chopper came in. Would you show the approximate area where the chopper landed. In this case, it is on the eastern side of the trail?

A. Yes, sir, I believe so.

Q. Point 3 will be the approximate area where Mr. FLYNN observed the chopper land and pick up CARTER and evacuate him. Mr. FLYNN, you indicated you saw bodies on this north-south trail. Would you point on the map the approximate location?

A. Right here.

Q. Mr. FLYNN, where were you located, physically located, when you observed these bodies?

A. Right up on the corner.

Q. You were right there in the approximate area where CARTER was at, point 2?

A. Yes, sir.

Q. Approximately how many bodies would you say were located here?

A. Between 15 and 20.

Q. Point 4, the approximate area where Mr. FLYNN observed from 15 to 20 bodies on the trail, north-south trail, south of the village of My Lai (4). Mr. FLYNN, could you estimate the approximate distance that these bodies were from the southern edge of the village?

A. About 10 meters.

Q. Okay. Mr. FLYNN, did you observe anything else that stands out in your mind of this area?

A. No, sir.

Q. Would you please continue your route through the village of My Lai (4)?

A. From this part we started in this corner right over here.

Q. You then proceeded in a northeasterly direction. Is that correct?

A. Yes.

Q. Mr. FLYNN, when you were going from point 2 in a northeasterly direction toward the eastern part of the village did you observe anything there that stands out in your mind?

A. Just the dead body in front of the houses and things like that.

Q. You saw dead bodies in front of the houses along the trail?

A. Yes.

Q. Could you estimate the number you saw along the trail?

A. No, not really. But in one place in here I remember looking into a house. The floor was almost covered with dead bodies in there and on the outside of the hootches and places like that. Some were burning and there was dead bodies lying out in front of there.

Q. You couldn't estimate the approximate number that you saw there?

A. No, sir.

Q. As you reached the eastern edge of the village,

you indicated in your prior testimony that you observed a ditch somewhere with some bodies in it. Could you indicate the approximate area where you observed this ditch?

A. I believe it was right around in here some place.

Q. On your right as you were going through the village?

A. It was on the outer edge of the village.

Q. On the outer edge of the village?

A. Yes, sir, that's where I was.

Q. I would be correct then, in saying in a north-easterly direction?

A. Right.

Q. Mr. FLYNN, when you arrived at the eastern edge of the village, is this where you ate lunch?

A. Yes, sir.

Q. And prior to eating lunch, you mentioned that Captain MEDINA gave an order to stop the killing to the platoon leaders. Can you recall about what your location was when you heard this order given?

A. Right about in here.

Q. Point 5 would be the approximate location of Mr. FLYNN when he heard the order given by Captain MEDINA to stop the killing. Now, Mr. FLYNN, after you ate lunch what happened?

A. Well, we started going up in this northeasterly direction, right up around in here some place. Well, I know they went up through in here.

Q. But you went in a easterly-northeasterly direction?

A. Yes, sir. I can't remember exactly where it was.

They were interrogating these prisoners.

Q. That would be at the laager area?

A. No.

Q. This was before then, the middle of the afternoon. This was when the American officers were interrogating the Vietnamese?

A. Yes, sir.

Q. This was not in the cemetery area, then?

A. It could have been there, but I know it was toward -- it was more towards there.

Q. You don't recall being in that cemetery whenever this interrogation was taking place?

A. There wasn't any cemetery.

Q. We have this on the record here, from your previous testimony where you were located. You mentioned this ditch with a number of bodies located in it. Could you indicate the approximate area where this may have been?

A. Well, it was in here someplace. I know I was walking down through here. As I looked down to the right, you look down in the ditch, you look down in there.

Q. As you left the eastern part of My Lai (4), going in a northeasterly direction, somewhere on your right you observed a ditch that had bodies in it. Is that correct?

A. Yes.

Q. Do you know the approximate number you may have seen?

A. Well, I couldn't say how many there were but there were quite a few.

Q. How close were you to this ditch?

A. About 25 meters.

Q. As you walked along it, you glanced to the right?

A. Yes, sir.

Q. Was there any comment made at this time by anyone about the bodies in that ditch?

A. No, sir. We were walking -- usually we walked about 10 meters apart or something like that.

Q. Mr. FLYNN, at this time, I'll show you the photographs which you have indicated you recognized and ask you to describe it for me and to state what you do recognized about the photograph, P-2?

A. That's that old man that we found in that one house and they didn't kill him.

Q. Do you recall on the map where this may have been located?

A. Somewhere in the vicinity of point 2 on the map here.

Q. Point 2 would be that where CARTER had been wounded. In this case it would be on the eastern part of the north-south trail.

A. Well, the western.

Q. Excuse me, the western part.

Q. P-3?

A. Same location.

Q. P-3 and P-4?

A. The same.

Q. P-2, P-3, and P-4 are the same Vietnamese and were

all located in the same vicinity. Is that correct?

A. Yes, sir.

Q. Do you recognize the individual in P-3, the Vietnamese soldier?

A. Yes, sir.

Q. Sergeant PHU?

A. Yes, sir.

Q. How about P-4?

A. I can't see who it is.

Q. Do you know who this may have been with his back turned on the extreme right of the picture?

A. No, sir.

Q. P-6, located in the vicinity of 2, do you recognize anybody in the photograph?

A. Just him.

Q. In this case, CARTER who was in the center of the photograph lying down. No one else?

A. No, sir.

Q. P-7?

A. It was in the same area.

Q. Do you recognize anyone?

A. No, sir.

Q. Did you recognize CARTER?

A. Yes, sir. I believe that's one of Captain MEDINA's RTO's, P-8.

Q. P-8, you recognize CARTER being treated. CARTER in this picture, is on the right sitting down. Did you recognize anybody else?

A. MARTIN on Captain MEDINA's right. His artillery forward observer, RTO.

Q. MARTIN is the person sitting down in the left back ground of the photograph.

Q. P-9?

A. That's in the same area.

Q. The chopper landed over here. Do you recognize the personnel in the photograph?

A. All I know is his first name is Fred.

Q. Do you know his last name?

A. No, sir.

Q. You recognize CARTER?

A. Yes, sir.

Q. How about this person here?

A. I don't know his name.

Q. So P-9 is enroute to the chopper?

A. Yes, sir.

Q. P-10?

A. That's right, in the same area.

Q. That's BERNHARDT on the right standing up?

A. Yes, sir.

Q. P-11 and P-12 are photographs showing CARTER being taken to the chopper. P-11 and P-12 were somewhere near 3,

then. Is that right?

A. Yes, sir.

Q. What do you recognize about P-13?

A. That's --

Q. (Interposing) Do you know their names? Who is this?

A. He is the artillery FO.

Q. What's his name?

A. Well, I can't say.

Q. You don't know the person's name here on the right?

A. No.

Q. Who is the person sitting to his right without his steel pot on?

A. He was the 81mm mortar platoon sergeant, Sergeant MARONEY.

Q. Sergeant PHU is the third person from the right in the photograph and to the right of Sergeant MARONEY? Is that correct?

A. Yes, sir.

Q. Who is that?

A. Myself.

Q. This is you with a steel pot off and your hands behind your head?

A. Yes, sir.

Q. In this case, to the right of Sergeant PHU?

- A. Yes, sir.
- Q. Anything else you recognize?
- A. No, sir.
- Q. P-16, you saw this house here?
- A. Yes, sir.
- Q. This is in My Lai (4)?
- A. Yes, sir.
- Q. Do you know approximately where you saw this?
- A. Well, I don't think I could place it.
- Q. It would be somewhere around point 2?
- A. More towards the outer edge.
- Q. You couldn't actually plot it on the map then, right?
- A. No, sir.
- Q. Photograph 17, does that look familiar?
- A. Yes, sir.
- Q. Do you recognize those people on there? Let's start from the right over here. You don't recall the person's name on the far left of the picture, then?
- A. That's Lieutenant ALAUX and Sergeant MARONEY.
- Q. Sergeant MARONEY is the one without the steel pot on. Sergeant PHU is to the right of Sergeant MARONEY.
- A. This is Captain MEDINA.
- Q. Captain MEDINA is standing in the background, and what is he doing?

A. Pointing.

Q. How about the person sitting there with his hands behind his head?

A. That's myself.

Q. Do you recognize anybody to the left here? CAPEZZA would be the third person from the left of the photograph? Is that correct?

A. Yes, sir.

Q. In this case his left hand is holding his M-16, which is on the ground? Is that right?

A. Yes, sir.

Q. Do you recognize anyone else?

A. That's an engineer.

Q. The engineer is the second person from the left standing. How about this person here?

A. He's from the 81mm mortar platoon. I didn't know his name at all. I didn't know him all that well. This is MARTIN right back in here, Lieutenant ALAUX's RTO.

Q. MARTIN would be the fourth person from the left, standing by the tree?

A. Yes, sir.

Q. Is there anybody else you recognize in that photo?

A. No, sir.

Q. Do you recall where this picture was taken?

A. No, sir.

Q. P-18?

A. That was some suspects that they had captured.

Q. Do you know who this is, the U.S. soldier?

A. No, sir, I don't.

Q. This was identified as being in B/4/3 area. P-35, what do you recognize in that photograph?

A. I have seen that, all that stuff being set on fire.

Q. Did you recognize who the soldier is?

A. No, sir.

Q. Is this My Lai (4)?

A. Yes, sir.

Q. P-36 would be that of CARTER, which you indicated in the black and white photo before?

A. Yes, sir.

Q. P-41?

A. I recall that, sir.

Q. Where was this at?

A. The north-south trail.

Q. This is where you have indicated as point 4, where you observed 15 or 20 bodies?

A. Yes, sir.

Q. Mr. FLYNN, if the information which has been placed on the photograph is correct to the best of your memory. I would ask you at this time, to sign your name at the upper left-hand corner.

(The witness did as instructed.)

This photograph, which is signed by Mr. FLYNN, is entered into the record as P-226.

Mr. FLYNN, when did you first join the 11th Brigade?

A. August of 1966, I believe.

Q. And where did you join them?

A. In Hawaii.

Q. While you were in Hawaii and prior to going to Vietnam, the brigade did make some preparations and training. That is prior to the 11th Brigade going to Vietnam there was a certain amount of training that I'm sure they conducted prior to that departure.

A. Yes, sir.

Q. Do you recall if you had any training on the handling of noncombatants and prisoners of war?

A. Myself, no.

Q. You didn't receive any at all?

A. No, sir.

Q. Mr. FLYNN, I show you a Xerox copy of Exhibit M-2, which is entitled, "Nine Rules." I'd like to show it to you and have you look at it and let me know if you have ever seen this card or if you were issued this card. This would be a little card that would be issued to personnel, the type you would have carried it in your wallet.

(The witness reviews Exhibit M-2.)

A. I have never seen it.

Q. Okay. I also show you on the same sheet here Exhibit M-3, which is entitled, "The Enemy In Your Hands." Again, I would ask you to read this over and let me know if you have ever seen this card or were issued a card.

A. No, sir.

Q. Where did you arrive in Vietnam?

A. Qui Nhon.

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Q. How long did you stay there?

A. Just overnight.

Q. Where did you go from there?

A. To Duc Pho.

Q. Did you have any training there on the handling of noncombatants, the prisoners of war?

A. No, sir. I was with the 4.2 mortar then and maybe they didn't think we needed that.

Q. Mr. FLYNN, we've discussed a number of things that occurred on the 16th of March and after that. Is there anything else now, that you can recall that we haven't discussed or perhaps has come to mind that you can relate.

A. No, sir.

Q. At this time, I'd like to give you the opportunity to make any statement that you would like to make or anything else you would like to say about this incident.

A. I don't think the blame should go on CALLEY.

Q. Mr. FLYNN, it is requested that you not discuss your testimony with others except in the performance of duty or as you may be required to do so before a competent judicial or legislative or administrative body. I asked you before if you had received a letter from the military judge in the case United States v. Calley, and you indicated in this case that you did not. If you had received such a notification, your appearing here today and testifying would in no way change the applicability and the effect of that order. My request that you not discuss your testimony with others would not apply if you had to appear at the court martial. You may be requested to appear before a special subcommittee of the House Armed Services Committee. Now, this committee is looking into the entire incident of My Lai and your appearance and instructions before the Peers Inquiry in no way restricts your

appearance before the House Armed Services Committee. Do you understand that?

A. Yes, sir.

Q. You will be notified prior to your departure if you are to appear before that committee. Mr. FLYNN, are there any questions that you have that I can answer at this time?

A. No, sir.

Q. Mr. FLYNN, we appreciate your coming and giving us the information you have. It has been very helpful to us. Thank you very much.

(The hearing recessed at 1605 hours, 11 February 1970.)

SUMMARY OF TESTIMONY

WITNESS: HEIN, David B.

DATE OF TESTIMONY: 10 January 1970

PLACE OF TESTIMONY: Pentagon

WITNESS SUSPECTED OF: N/A

COUNSEL: None

DUTY ASSIGNMENT ON 16 MARCH 1968: Mortar platoon, C/1/20.

1. PRIOR TRAINING IN THE RULES OF LAND WARFARE.

HEIN received training on the handling of PW's and noncombatants in Hawaii, but he could not recall the amount (pg. 26). He received no such training in Vietnam (pg. 26). He was issued the MACV Cards "Nine Rules" and "Enemy in Your Hands" a week or two before leaving Hawaii (pg. 27). He remembered being told about the Geneva Conventions (pg. 27).

2. PREOPERATIONAL PLANS AND BRIEFINGS.

There was a memorial service for those who had died when the company stumbled into a minefield (pg. 3). This took place immediately prior to Captain MEDINA's briefing (pg. 3). MEDINA said that the village was enemy controlled and contained no civilians (pg. 4). Hootches and food supplies were to be destroyed (pg. 5). MEDINA did not order civilians killed (pg. 19). HEIN expected a hard fight, but did not expect to see civilians killed (pg. 5).

3. ASSAULT ON MY LAI.

a. Movements in the village.

While coming into the LZ the doorgunner leaned over and said he had shot a VC with a rifle (pg. 19). HEIN thought the VC were firing and expected a hot LZ (pg. 19). On landing the platoon set up the mortar and waited for orders to displace to the village which came approximately

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(2) Further action.

A nurse, a commander, an ARVN turned VC, and a 30 year old man were captured on the 17th (pgs. 16, 17). No more civilians were killed and houses were not burned (pg. 16). HEIN watched MEDINA gain information from the VC commander by firing progressively closer shots over the man's head (pg. 17). The company had one of the prisoners climb a tree to get coconuts (pg. 17).

4. INQUIRIES AFTER THE ASSAULT.

HEIN did not see Colonel HENDERSON after the extraction and was not told to keep quiet about the incident by MEDINA or anyone else (pgs. 17, 18). The only thing MEDINA told the company concerned a commendation from General WESTMORELAND (pg. 18). HEIN heard a rumor that an investigation was going to take place, but no one ever spoke to the mortar platoon (pg. 18). The men did not discuss it (pg. 18). Had a thorough investigation been conducted he supposed that the investigating officer would have found out what had happened (pg. 20). He never heard anything about a coverup (pg. 20).

5. OTHER INFORMATION.

Although it was used at other times, the men did not use marijuana on an operation (pgs. 20, 21).

EXHIBITS

EXHIBIT NUMBER	DESCRIPTION	NOTES	PAGES
M-2	MACV Card "Nine Rules"	Wit had a copy.	27
M-3	MACV Card, "Enemy in Your Hands"	Wit had a copy.	27
P-1	Aerial photo of My Lai	Wit asked to orient himself on it.	5,6
		1-Indicates LZ.	22
		2-Indicates where ARCOREN threw grenade in bunker.	22
		3-Area where HEIN saw first dead person.	22
		4-Area where HEIN took a break wait- int for dust-off.	22
		5-Area where dust- off helicopter landed.	22
		6-Area where HEIN saw 15 dead bodies.	22
		7-Area where HEIN captured one VC suspect.	22
		8-Area where he saw dead woman and child and old man.	22

EXHIBITS

EXHIBIT NUMBER	DESCRIPTION	NOTES	PAGES
P-1 (cont)	Aerial photo of My Lai	9-Place where HEIN ate lunch.	22
		10-Saw a group of 20 bodies in ditch.	22
P-6	Picture of CARTER	As identified by the witness.	23
P-8	MEDINA with MURRAY on right.	As identified by the witness.	23
P-13	MARONEY is second from right, PHU to his right, FLYNN next to him and FAGAN in rear.	As identified by the witness.	24
P-24	Sgt LOPEZ cutting down corn.	As identified by the witness.	24
P-28	Graveyard where they laagered for the night.	As identified by the witness.	25
P-41	Place where he saw people killed on trail.	As identified by the witness.	25
P-120	Place where he saw bodies in ditch.	As identified by the witness.	25

(The hearing reconvened at 1055 hours, 10 January 1970.)

MR WEST: The hearing will come to order.

RCDR: The following persons are present: MR WEST, MAJ ZYCHOWSKI, and MAJ COOP.

The next witness is Mr. David B. HEIN.

(MR HEIN was called as a witness, was sworn, and testified as follows:)

Will you state your full name, occupation, and address?

A. David Benjamin HEIN. I work for Gilman Engineering, Jamesville, Wisconsin.

MR WEST: Mr. HEIN, before we get into any questions, I want to advise you concerning the nature and purpose of this inquiry this morning.

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

(1) the adequacy of prior investigations into what is now commonly referred to as the My Lai incident of 16 March 1968.

(2) possible withholding or suppression of information concerning this incident by anyone who had a duty to report the facts; in other words, whether there was any coverup. You, perhaps, have read in the papers about this group and what we are doing.

We are not trying to investigate all the facts and circumstances of what happened at My Lai. For example, we are not directly concerned with whether any of the men of Charlie Company who were at My Lai (4) that morning committed any offenses. We are concerned, as I say, with whether there was any coverup and the adequacy of the investigation. However, we do need to know what happened

in My Lai (4) that morning as a background for us to be able to judge whether there was a coverup.

We've had made available to us and have reviewed prior official statements obtained during other investigations. For example, we have a copy of the statement which you made to the CID agents in Jamesville, a Mr. BYERS, I believe.

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

The general classification of our report will be confidential. However, it is possible that the testimony or parts of it may later become a matter of public record. This will eventually pass out of our hands. Right now, this is all being kept confidential.

We ask that you not discuss your testimony here this morning with anyone, including other witnesses who may be called, except as you may be asked or directed to do in connection with any other official inquiry before an administrative, judicial, or legislative body. There is a subcommittee of the House of Armed Services Committee which is inquiring into the My Lai incident, and they have called some witnesses. When we ask you not to talk about this, this does not apply to that subcommittee. Have you received an order from the military judge in the case of the United States v. Calley?

A. No, I haven't.

Q. Some of the witnesses have. Should you receive an order from the military judge, the fact that you appeared here and talked to us doesn't affect the validity of that order. In turn, that order does not prevent people from appearing here to testify. The purpose of this order by the military judge is to try to minimize publicity in order to protect the rights of those who have thus far been accused or charged with offenses arising out of the events that morning in My Lai (4). Do you have any questions up to this point?

A. No.

Q. Mr. HEIN, for the record, were you a member of the United States Army on 16 March 1968?

A. I was.

Q. What was your grade and your station at that time?

A. I don't know if I was a sergeant then or a SP4. I was assigned as a gunner for the 81 mm, M-29 mortar.

Q. Were you made a sergeant just about that time?

A. Yes. I didn't get my orders until about a couple of months late, when I first got a pay check that said I was a sergeant.

Q. Mortar platoon, C/1/20? Is that right?

A. Yes.

Q. At that time was Charlie Company part of Task Force Barker?

A. It was.

Q. Do you remember when you first heard of the planned combat assault on My Lai (4)?

A. I do.

Q. When was this?

A. Two days before--no, it was the day before we were supposed to go in that they briefed us on it.

Q. Was this the briefing of the company by Captain MEDINA?

A. It was.

Q. On or about this time, do you remember a memorial service being held for some men in the company who had been killed?

A. Right. We got hit pretty bad in the minefield. There was, I think, 17 in all that was wounded. A couple of guys got killed, and the rest of them were pretty well beat up and stuff like that.

Q. Do you remember who conducted the service? We've been told that he was a Catholic chaplain and he was a major, but nobody can seem to remember his name.

A. I can't remember who did it.

Q. Can you fix the time of this service with relation to this briefing of the company?

A. To me, I think it was right before--it had to be sometime in the afternoon. You see, we got briefed just before dark that night on what we were going to do and to get ready.

Q. But your recollection was that it was the same afternoon?

A. Yes.

Q. We've had different testimony on this. Some men have placed it a few days ahead. One man said he thought it was in February. Can you tell us what Captain MEDINA told the company as you recall, how he described the mission, what the orders were, and so forth?

A. First he built us up, because everybody was pretty well down. Like me, I lost my best friend from Minneapolis right outside the same village.

Q. What was his name?

A. William WEBER.

Q. WEBER. Was he the first man killed from the company?

A. The first man. He got us pretty well built up. Nobody had been able to get inside this village, never. We all knew about it, and everybody was pretty well scared anyway of going into that place. A company a couple days before that got pinned down, and they couldn't get out. They had to be moved by tracks and even they got pinned down. So they told us we were going in with just infantry, and we were pretty well shaky. He built us up that there were going to be Viet Cong there, which we knew there was. He said that there shouldn't be any civilians there, like he says, "Don't worry about civilians 'cause there is none there, because this is all enemy controlled." You could almost tell that there couldn't be hardly anybody living there. And so he just kept up all this stuff until we were all ready to go. We wanted to get in there and get these people that shot our men.

Q. What did he tell you to do? Did he talk about livestock or food in the village?

A. He said search and destroy, and everything goes; all the rice and anything that can help feed the Viet Cong. Everything goes. He didn't want any huts standing or anything that could house them, and all the tunnels were to be blown up.

Q. Do you remember whether there was a briefing for platoon leaders and platoon sergeants either before or after the company briefing?

A. I believe there was one for platoon leaders and you know, squad leaders and stuff like that. I wasn't involved in that though. I was acting squad leader before this, but my platoon sergeant took over as squad leader, and they moved me down to gunner, so I couldn't tell you about that date.

Q. Did Captain MEDINA indicate how long this operation was supposed to last?

A. I believe it was 3 days.

Q. Well, that's the way it turned out. It was 3 days. Your platoon sergeant was Sergeant MARONEY. Did he give you any separate briefing after the company briefing?

A. He just told us how many rounds to take, who was carrying what, and where we were going to be in the company formation.

Q. I think you know that the next day there were a lot of civilian residents of My Lai (4) killed. Did you have any indication the night before that such a thing was going to happen?

A. Never did.

Q. You just expected the VC to be in there and a hard fight? Is that it?

A. That's it. That's all we were told that was there.

(The recorder hands the aerial photograph and map, Exhibits P-1 and MAP-4, to the witness.)

Q. You have before you, Mr. HEIN, an enlarged aerial photograph of My Lai (4) and the vicinity. Alongside it is

a 1:25,000 map which has been admitted into evidence as Exhibit MAP-4. The aerial photograph has a scale of approximately 1 inch equals 80 meters, and it is oriented so that this is north (indicating) and the China Sea is over here to the east. This is My Lai (4) here (pointing to MAP-4). Do you recall, then, what the movement through My Lai (4) was from west to east?

A. Yes.

Q. Could you tell us just what happened, as far as you know, after you got out of the helicopters there at the landing zone on the morning of 16 March?

A. Well, we sat around there on the ground there for about 15 or 20 minutes. Christ, they were shooting all over. There were helicopters, gunships, and rockets and just everything going. We didn't know whether we were getting sniper fire or what the hell was going on, because bullets were ricocheting, and I was pretty well scared. It was the first CA I had ever made, so I kept pretty well low. I wasn't about to jump up and move any place. Everybody else--well, we were supposed to wait for headquarters group, anyway, to move out. So we waited and then finally we got the order to move out and it was real slow--

Q. (Interposing) Let me ask you a question. Did you set up your mortar there?

A. Yes.

Q. You had one mortar?

A. Yes.

Q. Okay. Go ahead.

A. We moved out and went north northeast like and moved into a corner of the village. From there we stopped and you know you go--you move and you stop and you move and you stop.

Q. Were you moving with the 3d Platoon?

A. We were right behind the headquarters.

Q. Was the 3d Platoon behind you or ahead?

A. Behind. They were rear security. Then we moved east and from there just followed the trail on a little broken off pass through the village and just burned down the hootches and all the rice and evcrything until we got--

Q. (Interposing) Was the mortar platoon helping out in burning the houses?

A. Yes.

Q. During this time, did you see a couple of engineers who were attached to the company? They were demolition men, I understand, and they blew up a few houses and bunkers. Did you see any of this?

A. I didn't see them until way up at this end (pointing to a portion of P-1). This one big house here, they tried to blow a window out, and they blew the whole side of the house down. They got laughed at a little bit.

Q. We've had some testimony that there were two engineers. Do you remember them? Do you know their names?

A. I don't know their names, but I know there were two engineers.

Q. Could you describe them? We've had some testimony that one was a Negro soldier and the other was white. The Negro was called "Hotshot." Do you recall any of this?

A. This "Hotshot," I've heard of him before. Because, you know, we used to have engineers walking along with us every once in awhile blowing up stuff. I can remember a guy named "Hotshot" though.

Q. Let's go back to where you were at the beginning in the village.

A. Right. We just straggled our way, zigzagged back and forth going east, until we came out on the main trail. It went over toward the south side of the village, and then we got kind of held up a bit. Somebody said there

was a dead man laying over there. I never seen a dead human being before in my life, and I thought I would take a stroll on over there and see what it was like. Some guy about 45 years old had half his head blown off. I nearly got an upset stomach.

Q. Was this a little south of the center of the village?

A. Right. Just a little bit. Then we went over to this little building that was kind of like a little break area, and everybody held up and--

Q. (Interposing) And the firing let up about this time?

A. There was none at all. There was just this one shot. Then they brought back this colored guy and his foot--this guy got shot in the foot.

Q. Was this CARTER?

A. I guess so.

Q. The man's name was CARTER. Do you know what time this was?

A. No idea. I never had a watch.

Q. Did you, at about this time, hear an order to stop the shooting or stop the killing and the burning?

A. Negative.

Q. You never heard that?

A. Never.

Q. Okay.

A. We just waited there until we got the medevac in. We set up our--I had to take my squad and go out alongside this--not my squad, but the rest of the guys. The platoon sergeant wasn't about ready to take us out there and direct us where to put them, so he told me to do it. We set up out here for the helicopter which was going to land.

Q. Security for the dustoff?

A. Right.

Q. Did you have a man named CORNWELL with you?

A. Right.

Q. Did you see him this morning?

A. Yes. He's just as ugly as ever.

Q. What did you see after the dustoff? Tell us where you went and what you did?

A. Right. Well, we went on that main trail and we started to move up--

Q. (Interposing) East along the edge of the village?

A. Right. The south edge of the village. There was a little curve there, and we came around there, and there was a boy there with his leg halfway off. It looked like an artillery job because I never seen a rifle do anything like that. It was impossible to do.

Q. You don't think an M-16 could have done that?

A. Never. Not tear off a whole leg. We got down this trail and there was about 15 people laying there (pointing to a portion of Exhibit P-1).

Q. This was on the trail leading south to the center of the village?

A. Right.

Q. About how far out from the edge of the trees would you say this was?

A. Halfway in between these two, whatever that is.

Q. One inch on there equals about 80 meters.

A. It was about 40 meters, then.

Q. A little later, Major ZYCHOWSKI will show you some photographs, and we may have a photograph of that. Go right ahead.

A. From there we cut back up north, and we just zig-zagged all the way through it.

Q. Before we get away from this, did you go up and look at this group of bodies?

A. Negative.

Q. One question we have is just how these people were killed: whether they were killed with rifle fire, gunship, or whatever. Do you have any idea about that? Did anybody give you any idea as to how they were killed?

A. No idea at all.

Q. They were just there?

A. Right.

Q. Please go ahead as to what you did next.

A. We were just going north and zigzagging north, northeast, and we came up to this one hut. Inside there was a woman and a little girl that was dead. The house was pretty well blown apart, you know. I don't know what hit that, but I just took a peek and turned around and backed out again. There was a guy laying outside. He was about 60 years old. He was just laying there, and he was dead. We went on, and a little bit west there were two little girls on the one main trail. They were crying and the platoon sergeant had them. I guess Lieutenant LACROSS gave them to him.

Q. Sergeant MARONEY?

A. Right. Then, they come down to me, and they followed me around for awhile. It wasn't too much--I had to carry that bipod, and I was getting tired. I would stop and throw it down and sit down a little while and rest because everything was going so slow. The whole mortar platoon split up and was searching and looking for rifles and stuff like that. We all got back together, and we come up to

the east side of the village, and we took our dinner break there. That's when the engineers tried to blow this window out in the building cause the doors were all blocked up. They were trying to get inside so they blew down the whole side of it trying to get out a window.

Q. I think you set up your mortar, initially, out in the landing zone. Did you ever set it up anytime after that when you got through the village?

A. Not till when we got to the graveyard that night.

Q. I see. Did the mortar platoon take any prisoners that morning?

A. Yes. I forgot that. I did. I got one guy out of a tunnel just after we cut back in on this trail. I was just going through everything and tipping up stuff and all of a sudden I heard this hootenany stuff, this Vietnamese in the way they talk, and that scared the hell out of me. This was the first time, you know--I was going through this stuff and all of a sudden this Vietnamese started talking and this old guy was standing there like he was praying to me. I was shaking. I took him to, you know, headquarters and give him to Roger MURRAY. That's the last time I ever seen him.

Q. Roger MURRAY was one of MEDINA's RTO's?

A. Yes. They took care of him.

Q. Did you see any other prisoners taken by the mortar platoon that morning, or any other civilians being detained?

A. Not by mortar. We were mostly looking for rifles and stuff; something to take home.

Q. Did you see any other prisoners taken that morning?

A. We had a bunch of them sitting down at the end where we ate dinner. Captain MEDINA told the interpreter to tell the people to get all their stuff together and--

Q. (Interposing) This was after the firing had stopped?

A. There hadn't been firing since we moved into the village, not that I can recall. Most of the firing was when we were sitting out here in the rice paddies.

Q. I see. Even back before you moved in the firing had stopped?

A. Pretty well. Nothing hardly. And the gunships, they were all gone.

Q. During your break for chow at the east end of the village, did you see a helicopter land out in the rice paddy?

A. I can't recall that one at all.

Q. Did you see any other groups of bodies besides the group on the trail leading south?

A. There were some here in this ditch (pointing to a point on Exhibit P-1). This was after we moved out of the village.

Q. You are indicating a point east of the village and across the rice paddy and in the edge of some trees there. Is that correct?

A. Right. After we told all these civilians to get out of there, we moved across--

Q. (Interposing) Did you see the bodies in the ditch?

A. Yes.

Q. Could you estimate how many there were?

A. I didn't even--just one peek is all I took.

Q. How did you happen to go there? Did somebody tell you about it?

A. No. We moved out and--

Q. (Interposing) That was just in your direction of movement?

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A. I believe Captain MEDINA from the headquarters section was there.

Q. Did you know Captain MICHLES of Bravo Company?

A. I knew him--well, not personally, but I had seen him around.

Q. Do you remember the events of the next 2 days, the 17th and 18th of March?

A. Well, we just moved the next day toward the river.

Q. Did you move south toward the river?

A. We moved some way toward the river, and we kept going through little villages along the way. Captain MEDINA came up and told us to get the people together and tell them to move out of the area. I think they did.

Q. Was there any repetition of the killing of civilians as there had been in My Lai (4)?

A. To tell you the truth, I never saw a civilian shot over there.

Q. I understand. But you did see bodies and you know there were people shot. Is that correct?

A. Right.

Q. Was there anything like that on the 17th?

A. Negative.

Q. How about the houses as you went along? Were they all burning?

A. They all stood. We just went right toward the river, and we got right to this little village--it had to be this one here (pointing to a place on Exhibit P-1). We moved out and back down. Right to the edge of that, we caught a woman, and she was a nurse. You could tell that she was one of these Viet Cong nurses. Her feet were all torn up from the mountains and walking you know. I think

he was a commander that we had captured. There was an ARVN that had turned Viet Cong and another guy about 30 years old. They were scared as all hell, as I remember, except for the commander. He thought he was really something. When they brought them all in, they had--they tried to get behind us, and we had gone through already, and the platoon following us--they started running back. The 1st Platoon saw them running back, stopped them, and tied them with bamboo behind their heads so that they couldn't run, you know. Then, Captain MEDINA started questioning them. He's a very persuasive man when he wants someone to talk. He got this--I think he was a colonel or some commander to talk--he placed him against a tree and shot above his head. He kept on coming closer and closer to his head and finally he got real close to him, and he backed off. Like he really makes you believe he is going to do something. He wasn't going to talk but when Captain MEDINA pulled back and he aimed, he started talking like all hell because he could feel those bullets coming closer and closer.

Q. Captain MEDINA described that when he was in here.

A. The whole company thought it was very amusing and laughed and hollered. Then we chased this one up a tree to get coconuts. They are good at climbing up a tree to get coconuts.

Q. Do you remember being lifted out the next day on the 18th and going back to Landing Zone Dottie?

A. We moved back across the river and as soon as we got across the river and we went across a dike. It wasn't too much farther then that we got lifted out.

Q. When you got to Landing Zone Dottie, did a field grade officer come out and talk to you or others that had been on the lift with you?

A. Nobody ever talked to me.

Q. A few days later, do you remember Captain MEDINA calling the company together and saying that there was an investigation of My Lai (4) going on?

A. I can't remember anything like that.

Q. Did anybody ever tell you to keep quiet about what went on in My Lai (4)?

A. Just a rumor that they were investigating or something was going on, some big deal. Captain MEDINA said, you know, that we got a letter of commendation from General WESTMORELAND and everybody was real happy. We must have done something good for him. That was about all I ever heard about the place.

Q. Nobody ever came and talked to you about My Lai (4)?

A. I had enough troubles with that stupid squad of mine.

Q. As far as you know, did anyone come and talk to anyone in the mortar platoon or company?

A. Not in the mortar platoon. I'm pretty sure.

Q. Apart from the bodies you saw, when did you realize that a lot of people had been killed in My Lai (4)?

A. Well, when we got on this trail, in between that and the ditch was about the only--except for a few laying around in the village. I don't think there was that many though. They say in the papers, you know, 470. I don't think--

Q. (Interposing) About how many dead people do you think you saw all together?

A. About 45 or 50.

Q. Did you realize, or did anybody tell you later on, that more people than that were killed, in fact quite a few more?

A. Not over there.

Q. The men of the company didn't talk about it much afterward?

A. Nobody did, really.

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Q. Did it strike you as unusual that so many civilians would be killed?

A. No.

Q. But you expected a hard fight in there, and it had not happened.

A. Not that I know of.

Q. Did anybody in there shoot at you?

A. When we were coming in, the doorgunner next to the door leaned over and said he shot a VC with a rifle. I thought that the VC were firing and the LZ was hot.

Q. On the ground in the village, was there any resistance at all?

A. I don't think so. With all the shooting and stuff going on, you don't know what the hell. With the gunships cutting loose, you don't know where you are going half the time.

Q. Do you have any idea why so many civilians were killed there at My Lai (4)?

A. No idea at all.

Q. Was it your impression that Captain MEDINA had ordered this done?

A. No. Captain MEDINA never shot a prisoner all the time he was over there. A lot of captains had a practice, you know, they catch somebody, and they don't want to take them along, and they shoot them. But Captain MEDINA just liked to drag them along and put them out in front of the company to lead us through minefields and stuff like that.

Q. This incident didn't become known back in the Department of the Army until April 1969. Apparently, what happened there was not officially reported through the chain of command the way things usually are. Do you have any idea why reports were not made on what happened there?

A. I was only a squad leader trying to keep five men together.

Q. Did you ever hear anything about a coverup?

A. Never. After we moved out of here we went north, and I think we had a little more problems there than we did here.

Q. If there had been an investigation at the time and somebody had come around from brigade or division and taken statements from the men, do you think they would have found out what happened there that day?

A. I suppose they would have, but they couldn't have found out nothing from the mortars. This was our first time, and we didn't know whether this happened every time they went in or what.

Q. Did you think this might have been the way it was all the time?

A. We didn't know. We didn't make too many CA's in villages.

Q. Mr. HEIN, can you think of anything that we haven't touched on that would help us in our investigation in determining what happened that day, whether the investigations were adequate, and whether there was any coverup? If you can think of anything we would appreciate knowing it.

A. There isn't too much. Half of this stuff you got to keep away from the papers, like the way it all got built up.

Q. I do have one other question. In November, the newspapers were speculating that perhaps some of the men of the company were under the influence of marijuana that morning in My Lai (4). Do you know anything about that?

A. That's a "no" on that. Never.

Q. Was there a marijuana problem in the company of any proportions?

A. Every once in a while somebody would lay their

hands on it and sneak around, but that's natural in about every company over there.

Q. Did you know of any men going into combat under the influence of marijuana?

A. I think everybody wants to get home. I think that was kind of ridiculous of them saying we were probably under--

Q. (Interposing) Do you remember seeing that in the papers?

A. Yes.

Mr. HEIN, we very much appreciate your coming in this morning and talking to us. I realize its been quite an inconvenience, but you have been helpful to us, and we are very grateful. Thank you very much. If you will, stay with Major ZYCHOWSKI, and he will show you some photographs and papers.

The hearing will be recessed.

(The hearing recessed at 1135 hours, 10 January 1970.)

(The hearing reconvened at 1155 hours, 10 January 1970.)

MAJ ZYCHOWSKI: The hearing will come to order.

(Present during the hearing were Major ZYCHOWSKI, Mr. HEIN, and the reporter.)

MAJ ZYCHOWSKI: Mr. HEIN, this portion of the interrogation will be one of trying to trace your steps through My Lai (4) and also to have you look through some photographs and try and see if you can recognize the persons that are on these photographs.

In front of you is an aerial photograph (Exhibit P-1) of My Lai (4) and its surrounding area. What I would like you to do is to trace the routes that you took through My Lai (4) starting with the time that you landed at the LZ.

The annotated aerial photograph was later on entered into the record as Exhibit P-155.)

Can you show me the approximate area of the LZ (showing the witness the aerial photograph of the My Lai (4) area)?

A. Yes, here (indicating).

MAJ ZYCHOWSKI: Point 1 on the map (later Exhibit P-155) will indicate the area of the LZ.

Point 2 will indicate the approximate area where he saw Private ARCOREN throw the grenade into the bunker.

Point 3 denotes the approximate area where Mr. HEIN saw the first dead person.

Point 4 will indicate where Mr. HEIN took his break while waiting for the dustoff.

Point 5 will indicate the approximate area where the dustoff helicopter landed.

Point 6 indicates the approximate area where Mr. HEIN saw 15 dead bodies lying on the north - south trail which is located on the south side of My Lai (4).

Point 7 indicates the approximate area where Mr. HEIN captured one VC suspect.

Point 8 indicates the approximate area where Mr. HEIN saw the dead woman and child in the house and an elderly man on the outside.

Point 9 indicates the place where Mr. HEIN ate lunch.

Point 10 indicates the approximate area where Mr. HEIN observed a group of bodies. He estimates there were approximately 20 bodies in a ditch.

Mr. HEIN, I now show you those photographs that I gave you prior to this interview that you have selected on some basis of recognition. Please give me all of the information that you can concerning each photograph.

Q. Photograph P-6. What do you recognize there?

A. CARTER.

Q. CARTER is which one?

A. The colored guy.

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Q. The one looking up in the center of the picture?

A. Right.

Q. Do you recognize anyone else?

A. Negative.

Q. Do you recognize the scene as being in My Lai
(4)?

A. That's the only place he was ever hit at.

Q. P-8?

A. Captain MEDINA.

Q. MEDINA is the officer in the right back center?
He has the captain's bars on his helmet?

A. Right.

Q. Who else do you recognize?

A. Sergeant MURRAY next to him.

Q. Next to MEDINA's immediate right?

A. Yes.

Q. Do you know this person?

A. I forget his name. He's called "M."

Q. This scene in P-8 would be down by point 4 that
you drew on the map. Is this correct?

A. Yes, sir.

Q. Is this the building that the engineers tried to
blow up?

A. We already walked through it. It was already
blown up and everything.

Q. Photo P-13. What do you recognize there?

A. Sergeant MARONEY.

Q. Sergeant MARONEY is the second person from the right without the helmet on?

A. Right. Also, Sergeant PHU.

Q. Sergeant PHU is to his right?

A. Right. I think also PFC FLYNN.

Q. Next to him is who you believe to be FLYNN?

A. Right. Also Sergeant FAGAN.

Q. In the extreme rear of the picture is the individual you identified as Specialist Five FAGAN, who is now Staff Sergeant FAGAN. Do you recognize anyone else?

A. That's all.

I forgot to mention something on the map. Right after we pulled out from point 4 on the map, it was not very far down, we stopped before this north-south trail, where it comes out. Something scared somebody, and he shot this one male off to the side here. (The witness indicates a point on the photo, Exhibit P-155.)

Q. Could you point to where it is located approximately on the map?

A. Right here (indicating).

Q. You say you were going in from point 4 which is in the southern part of the village here, that a Vietnamese male moved in the shrubbery, and it scared everyone. Is that correct?

A. We didn't see it when it happened, but shots were fired and I guess they must have scared somebody. All of a sudden there were some shots. Then, we went over to see what was going on.

Q. Did you observe the individual?

A. No, I was walking along the trail when he was shot.

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Q. Did anyone go over to check and look at the body?

A. We were sitting there for a couple of minutes. I don't know if anyone checked or not. I couldn't see what happened. It was right back in here (indicating).

MAJ ZYCHOWSKI: Point 11 on the map will indicate approximately where the Vietnamese male was shot. Now, what do you recognize in P-24?

A. That's Sergeant LOPEZ.

Q. What is he doing?

A. Cutting down corn.

Q. P-28?

A. That's the graveyard where we laagered in for the night.

Q. P-41?

A. That's the same place we saw on the map here where the people were killed on the trail.

Q. P-41 is a group of people that you saw and that you listed as point number 6 on the map?

A. Right.

Q. P-120?

A. That's where I seen the people, here on point number 10 on the map.

Q. This is number 10 that you already indicated on the map. Is that correct?

A. Right.

Q. Mr. HEIN, if everything that was put on the map is correct, I would like to ask you at this time if you would sign your name below the portion here that is listed as being prepared from memory on 10 January 1970?

A. Right. (The witness signed his name on the aerial photograph.)

MAJ ZYCHOWSKI: The aerial photograph that was prepared from memory at Washington, D.C., on 10 January 1970 by Mr. HEIN and signed by him is entered into the record as Exhibit P-155.

Mr. HEIN, when did you join C/1/20?

A. In August 21, 1966.

Q. Where was it located?

A. Hawaii. I was the 14th member of the company.

Q. While you were in Hawaii and prior to going to Vietnam, did the company have any training that dealt with the treatment of prisoners of war and noncombatants?

A. The company was fully up to strength until 2 weeks prior to going to Vietnam. We were always understrength until we were told that we were going to Vietnam, and then they started to bring in people.

Q. Prior to going then, you had some kind of training?

A. Yes.

Q. Do you know if you had any training on the treatment of prisoners of war and noncombatants?

A. Yes.

Q. Do you recall approximately how much training you received, in hours?

A. I couldn't tell you how many hours.

Q. Upon your arrival in Vietnam, did you receive any additional training?

A. We went to Duc Pho by truck, and for the next 3 days we were fixing up bunkers at LZ Carantan. You could almost say we were out in the field 24 hours after we arrived in Vietnam.

Q. So, actually, upon arrival in Vietnam, you received no additional training in the treatment of prisoners of war and noncombatants?

A. No.

Q. Mr. HEIN, I show you Exhibit M-2 which is entitled, "Nine Rules" and M-3 which is entitled, "The Enemy in your Hands." I ask you, have you ever seen or have you ever been issued a copy of these forms?

A. These copies here I still got at home some place.

Q. You were issued cards similar to these exhibits?

A. Yes.

Q. Were they issued to you in Hawaii or upon your arrival in Vietnam?

A. In Hawaii at the same time we drew uniforms.

Q. Were you given any training, or did anyone discuss these particular cards with you?

A. Well, we were always told about the Geneva Convention stuff.

Q. Do you remember that?

A. Yes.

Q. Did you carry these cards with you while you were in Vietnam?

A. They would get wet. I had some put away for souvenirs. Most of the guys had plastic around their billfolds so that the stuff in them wouldn't get wet.

Q. When you were issued these cards in Hawaii, were the other members of your company issued these cards, too?

A. Yes, but some of them were not there. We picked these up during the last week or two.

Q. Do you recall when these cards were given to you? Were they given to additional personnel within Charlie Company as they came in?

A. When they came in. When the rest of the personnel came in to fill up the company, these cards were then issued to the company.

Q. Again, this was prior to your departing for Vietnam?

A. Right.

Q. Mr. HEIN, is there anything else, or any further information, that you could give me which would be beneficial to General PEERS and this group in enlightening us as to what happened at My Lai (4)?

A. You've got about all of it. That's about as far as I can get to what happened.

MAJ ZYCHOWSKI: Mr. HEIN, we appreciate your coming in and giving us this information. Should you find any other documents, maps, tape recordings, or anything that you may have sent home or brought with you which you feel might be beneficial to this investigation, we would sincerely appreciate your letting us know about it. I'd just like to re-emphasize what Mr. WEST told you earlier. We ask that you not discuss the My Lai incident with any other persons who may have been connected with this incident in any way. Again, this request doesn't apply, of course, if you are required to discuss the case in any competent administrative, judicial, or legislative proceedings.

Do you have anything further to offer?

A. No.

MAJ ZYCHOWSKI: Thank you for coming. The hearing will be recessed.

(The hearing recessed at 1305 hours, 10 January 1970.)

SUMMARY OF TESTIMONY

WITNESS: JOLLY, Joe T.

DATE OF TESTIMONY: 3 January 1970

PLACE OF TESTIMONY: Pentagon

WITNESS SUSPECTED OF: Rape

COUNSEL: None

DUTY ASSIGNMENT ON 16 MARCH 1968: Sergeant, 2d Platoon, C/1/20, Forward Observer for the Mortar Platoon.

1. PRIOR TRAINING IN RULES OF LAND WARFARE.

In an unsecured area, he knew they were to fire a warning shot and yell, "Stop" at any running Vietnamese (pgs. 7, 8). In a secure area if someone was running from them, they would not tell them to stop. He explained this to mean, critical suspects, who were running fast and were dressed in khaki or black uniforms (pg. 8). Generally, if they had someone fleeing, they would simply call back to their unit commander and describe the person fleeing (pg.8).

2. PREOPERATIONAL PLANS AND BRIEFINGS.

He first heard of the planned assault on My Lai three or four days after they returned to LZ Dottie from a minefield (pg. 4). His description of the day in the minefield indicated that the second platoon was separated from the rest of the company that day. He heard reports from other people that the mines were command detonated (pg. 4). He did not think that they were command detonated because they had not seen anyone in the area for quite some time (pgs. 4, 5). He thought that there were 22 casualties, including seven dead (pg. 5). There was a memorial service for the seven men who died conducted by Major KISSINGER, their chaplain in Hawaii (pg. 5). This was followed in the later part of the afternoon by Captain MEDINA's briefing (pg. 5). MEDINA told them the village was a VC stronghold and their mission was to search and destroy it (pg. 6). As part of the search and destroy, they were to go through and police

up the people, burn the food, shoot the animals, and throw the rice on the ground (pg. 6). Any of the residents who did not run were to be brought back to their CO or the platoon leader (pg. 6). If they did run, they were to tell them to stop, fire a warning shot, and if they did not stop, shoot to kill (pg. 6). He did not recall specifically something being said by MEDINA that it was their chance to get even (pgs. 7, 23).

He received no further briefing from Lieutenant BROOKS (pg. 7). In describing the mood of the men in C/1/20 he said "they were loaded for bear." Everyone was carrying extra ammunition and people were more or less out for vengeance. It seemed wrong to him (pg. 7).

3. ASSAULT ON MY LAI.

a. The landing at My Lai (4).

The witness thought that the LZ was correctly marked on MAP-1. The LZ was prepped and he saw "quite a few" rounds land in the paddies, but did not see any land in the village (pg. 9). The third platoon secured the LZ. He indicated the locations of the first and second platoons on Exhibit P-134, an aerial photograph, depicting My Lai (4). He stayed in the headquarters section with BROOKS most of the time (pg. 10).

b. Movement through the village.

They began pushing through the village in a north-easterly direction (pg. 9). They did not receive any hostile fire, and they questioned anyone they came upon as best they could. Anyone who ran or looked suspicious was often shot (pg. 10). The second platoon reconned by fire (pg. 10). If they came upon a bunker, they would tell the people to come out and if no one did, a grenade was thrown in (pg. 10). The men were also searching the hootches in a rapid manner as they moved through. Midway through the village, the pace slowed down (pg. 10). There were no prisoners taken up to this point (pg. 10). He did not see the first platoon, but later learned they operated differently in that they policed people up and "cut them down" (pg. 20). The second platoon performed their action as they came to it, and the third platoon did the burning (pg. 20). Quite a few people were shot in the first phase which carried them halfway into the village (pg. 11). He cited an incident where someone shot at the roof of a

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hootch and the man who was in it came out, ran, and did not stop when he was told to. There were several shots fired into him (pg. 11). The witness did not fire any of these shots (pg. 11). He saw 50 dead people in the first half of the village.

c. Movement through the second half of the village and the taking of prisoners.

In the second half of the village, they policed 15 to 20 people up who were interrogated at the RON by the South Vietnamese, later in the day (pgs. 11, 12). After completing the sweep through My Lai (4), the platoon moved to My Lai (5) because gunships had killed two uniformed individuals with weapons in that area (pg. 12). From My Lai (5) they went to the laager area which was a graveyard where they joined with B/4/3 (pg. 13).

d. Civilians in the village of My Lai (4).

The 50 people that the witness saw shot in the first half of the village were not all running away (pgs. 11, 13, 20). He felt that some were hiding in bunkers (pg. 20). There were 20 people whom the platoon passed by and let go. These people were primarily inside hootches, and 10 to 15 percent had been wounded (pg. 21). Of the 50 dead, there were possibly five or 10 children below the age of 12 (pg. 22). In the laager area, where the Vietnamese interrogators questioned some of the prisoners, the witness heard they did it in a ditch. He felt this was to prevent the rest of the company from seeing it. He heard that they cut off a finger (pg. 16). When a prisoner would not answer they would cut off his ear, and if his silence continued they would shoot him and then go on to the next one (pg. 16). This was being done by the National Police and although he did not see it himself he thought that they killed two (pgs. 16, 17).

e. Movement to My Lai (5).

When the second platoon moved to the northeast, all three squads were abreast of each other for a 100-150 meter front (pg. 35). Nothing that happened in the village stood out particularly in his mind (pg. 35).

f. Activities of officers during the assault.

The witness heard that CALLEY's platoon had policed up people, put them into groups, and then shot them

but he did not see this (pg. 13). About two-thirds of the way through the village, BROOKS passed an order to stop shooting (pg. 14). This was approximately one hour and a half after they had entered the village (pg. 14). He did not see CALLEY confer with a helicopter pilot (pg. 14). He felt that MEDINA lost control of the company because he felt that MEDINA did not want the killings (pg. 15). He felt that BROOKS kept control (pg. 15). Usually, BROOKS would depend upon his squad leaders to supervise the performance of the men (pg. 16).

g. Activities after My Lai.

Either on the evening of 16 March or the next morning the platoon was briefed and told the mission had changed "quite a bit from what it was before" and that it was no longer a search and destroy mission but was now a search and clear mission (pg. 17). The unit pushed in the southerly direction to the west of Hill 85 and the east of Hill 72. They hit the river, pushed forward to the gulf and while on the way they encountered several suspects, one of whom proved to be a NVA leader (pg. 17). MEDINA played Russian Roulette with this individual (pg. 17). On 18 March, they laagered southeast of Hill 85 and then were extracted to LZ Dottie. They never went into Pinkville (pg. 18).

4. INQUIRIES CONCERNING THE ASSAULT.

The witness knew Colonel HENDERSON (pg. 18), and recalled his talking to the men at LZ Dottie (pg. 19). He also recalled that MEDINA called the company together, told them there was an investigation of what had occurred at My Lai (4), and told them not to discuss the matter (pg. 19). The witness stated that "if an officer or someone else wanted to discuss it they could see our commanders" (pg. 19). The witness was not approached. MEDINA's instructions influenced them in not talking about the incident (pg. 36). He heard nothing further about it until he was approached by the CID two months ago (pg. 19).

5. OTHER INFORMATION.

a. The witness explained "search and destroy" as meaning search the hootches and destroy the food. It did not mean to kill everybody (pg. 23). In this situation they had orders to search the hootches, destroy the food supply, and destroy the animals (pg. 23).

b. When they saw the wounded people they did not feel sorry for them (pg. 23). He felt that BROOKS was sorry. BROOKS ordered them to stop firing unless it was absolutely necessary. He believed that this order came from BROOKS and not from MEDINA (pg. 24).

c. The witness did not feel that the members of the unit had used marijuana prior to the operation. Some people probably smoked it before but did not do it that morning, because the situation was too tense (pg. 25).

d. The witness identified a number of photographs and traced his unit's route through the village (See Exhibit list, infra)

EXHIBITS

EXHIBIT NUMBER	DESCRIPTION	NOTES	PAGES
P-6	Miscellaneous Scene	Wit identified CARTER.	36
P-9	Miscellaneous Scene	Wit identified WIDMER on the right, CARTER in the center and MAURO on the right.	36
P-10	Miscellaneous Scene	Wit recognized only CARTER.	36
P-13	Miscellaneous Scene	Wit recognized the command group: LT ALAUX, SGT MARONEY, and SP4 HOLLAND.	36
P-22	Miscellaneous Scene	Wit recognized one as being an interpreter.	37
P-25	Miscellaneous Scene	Wit identified SGT CARLSON of 3d platoon.	37
P-26	Miscellaneous Scene	Wit identified as LZ Dottie and place of lift off on 16 March.	37,38
P-27	Miscellaneous Scene	Not identified. Possibly LZ Uptight	38
P=29	Miscellaneous Scene	Wit identified a Rattler at landing area.	38
P-33	Miscellaneous Scene	Wit identified it as a hootch in their sector, which was not burning when he saw it.	39

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EXHIBITS

EXHIBIT NUMBER	DESCRIPTION	NOTES	PAGES
P-37	Miscellaneous Scene	Wit did not see a man being put into a well.	39
P-42	Miscellaneous Scene	Wit did not see anyone being shot on doorstep but heard about it.	39
P-56	Miscellaneous Scene	Wit recognized it as someone throwing a grenade into a hole.	40
P-57	Miscellaneous Scene	Wit recognized LOPEZ.	40
P-61	Miscellaneous Scene	Wit identified it as a unit leaving the village.	40
P-64	Miscellaneous Scene	Wit identified DELPOME in the center and SMITH as the first one.	40
P-66	Miscellaneous Scene	Wit identified PHU, unit interpreter and MARTIN on the right.	41
P-126	Miscellaneous Scene	Wit recognized it as the location of the RON with SGT SMAIL on the left and GRIMES.	41
P-128	Miscellaneous Scene	Wit recognized SMAIL in center.	42

EXHIBITS

EXHIBIT NUMBER	DESCRIPTION	NOTES	PAGES
P-134	Aerial photo	Wit showed locations of platoons on 16 March assault.	9
		Wit pointed out location in village of an encounter.	10
		Wit showed location of a man being shot and of HQ element.	11
		Wit showed location of unit when told when told to stop firing (point #2).	14,24, 32.
		Wit marked #1 for landing zone. Wit marked the frontage for the platoon's assault with a circle and the boundaries with a straight line.	28,29
		Point #3 indicates My Lai (5) where two VC were killed by gunships and two weapons captured.	12,35, 36
MAP-1	Wall Map	Wit agreed with location of LZ.	9
MAP-4	Map 6739 II	Used to orient witness to aerial photo.	9

(The hearing reconvened at 0938 hours, 3 January 1970.)

RCDR: The following persons are present: Mk WEST, COL MILLER, COL WILSON, MAJ ZYCHOWSKI, and MAJ COOP.

The next witness is Mr. Joe T. JOLLY.

(MR JOLLY was called as a witness, was sworn, and testified as follows:)

RCDR: Will you state your full name, occupation, and residence?

A. My name is Joe T. JOLLY. I am a boat driver and a public relations worker at Cyprus Gardens in Winter Haven, Florida. I am also an engineering student at Coke Junior College there in Winter Haven.

MR WEST: Mr. JOLLY, it is our understanding that you were a member of the Army on March 1968.

A. Yes, sir, this is true.

Q. When were you discharged?

A. On November 27, 1968.

Q. What was your grade on March 1968?

A. E-5, sir.

Q. And your duty assignment?

A. Well, while I was in Vietnam my title was forward observer.

Q. What unit were you with on the 16th of March, 1968?

A. C/1/20, attached to the 2d Platoon.

Q. C/1/20 was then attached to Task Force Barker?

A. Yes, sir, it was.

Q. 11th Brigade, Americal Division?

A. Yes, sir.

Q. Mr. JOLLY, before we proceed with any questions, Colonel MILLER will inform you of several matters.

COL MILLER: This investigation was directed jointly by the Secretary of the Army and the Chief of Staff of the Army to determine facts and make findings and recommendations in two major areas:

(1) the adequacy of prior investigations and inquiries into, and subsequent reports and reviews within the chain of command, of what we now commonly refer 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 information concerning this incident.

We are not primarily concerned with everything that took place in My Lai, but rather with the specific purposes which I just mentioned. However, we shall get into some detail of what actually happened at My Lai in March of 1968.

We have had made available to us and we have reviewed the statements of many witnesses, and summaries of what witnesses may have said in previous investigations in this case. I refer primarily to the CID and IG investigations.

Today, your testimony will be under oath. We will prepare a verbatim transcript. A tape recording is being made in addition to the verbatim notes being taken by the reporter.

The general classification of our report is confidential. However, there is at least the possibility that some or all of the testimony given here may at some later time become a matter of public knowledge.

We request that you not discuss your testimony here with others, including other witnesses who have either been here or may appear before a competent judicial, legislative, or administrative body. An example of a judicial

body would be a court-martial or an Article 32 pretrial investigation. This inquiry is an example of an administrative body. I understand that you are under orders by the military judge in the case of United States v. Calley. Have you received such an order?

A. Yes, sir, I have.

Q. Your testimony here is not in violation of that order. You may give testimony, if you wish, without violating the judge's order. The fact that you testify here does not change the effect of the applicability of that order after you leave here. That order still stays in effect.

I have told you the purpose of the investigation and also that we had read various statements. At this time I want to inform you that, on the basis of testimony of one other witness, you are now suspected of having committed the offense of rape in the village of My Lai. This is a violation of the Uniform Code of Military Justice and possibly a violation of the laws of war. This being the case, I want to be sure you understand your testimonial rights and your rights to counsel. If you have any questions on what I have already told you or what I am about to say, feel free to ask questions so that you have a complete understanding.

First of all, you do have the right to remain silent, to answer no questions whatsoever.

Any statement that you make could be used against you in a criminal trial.

You have the right to consult with counsel, and by counsel I mean qualified lawyer. This lawyer can be either a civilian lawyer, whom you hire at your own expense, or a military lawyer, whom we would provide. In fact, you could have both if you wished. If you wish to have counsel, they can be present with you at the hearing. You can consult with them and they can consult with you at any time.

If you decide that you are willing to answer questions today without counsel present, you may stop answering questions at any time, or you may stop and request that counsel be made available to you, or both. If you decide to testify, you may answer on a selective basis those questions you feel that you can answer, and you may decline to answer those questions that you feel you should not answer for whatever reason. Do you understand what I have gone through so far?

A. Perfectly.

Q. Do you have any questions?

A. None at all.

Q. Would you like to have counsel made available to you?

A. No, sir, I don't think that will be necessary.

Q. Are you willing to answer questions?

A. Yes, sir, I am.

Q. Keep in mind that if you feel at anytime you wish to have counsel, or there are any questions you don't want to answer, this is your privilege.

A. Yes, sir, certainly.

Q. Any other questions?

A. Nothing at all, sir.

MR WEST: Mr. JOLLY, when did you first hear of the planned assault on My Lai (4)?

A. As far as the date, I cannot be sure. I can say that it was shortly after we came out of the minefield. By shortly, I mean we got into base camp one day, and I think it was the second or third day that we heard we were going into My Lai (4).

Q. Was your base camp at Landing Zone Dottie?

A. Yes, sir, it was LZ Dottie.

Q. On the minefield incident, we have one statement that these mines were command detonated, and that people of one of the villages stood off and watched while the members of the company suffered casualties. Is this how you recall it?

A. On the particular day of the minefield, our 2d Platoon was separated a great deal from the rest of the company. I had heard reports from the other people that they thought some of the mines were command detonated. I know that the two people we had injured in our platoon--I did not think they were command detonated.

We had not seen anyone in that area for sometime. And this is generally, to my knowledge, the rule in Vietnam, that if you have a minefield then the civilians have got enough sense to stay out of it.

Q. We think it was CARTER who talked to us recently, and he said that he didn't think they were command detonated.

A. Was he in the 3d Platoon, sir? I think he was.

Q. CARTER was in the 1st. So, we have had evidence on both sides. Were there any civilians around when the company got into the minefield?

A. To my knowledge, we did not see any in the 2d Platoon. The company said that they may have seen some. Like I said, I had talked to a couple of the people, but as far as remembering specific names, it has been too long.

Q. Do you remember the number of casualties?

A. I think it was 22 with 7 dead, or 7 out of the 22 died.

Q. Do you recall that the combat assault on My Lai (4) was on the 16th of March, 1968, and do you remember the briefing of the company by Captain MEDINA the day before on Landing Zone Dottie?

A. Yes, sir, I think it was in the later part of the afternoon.

Q. Do you remember whether there was a memorial service that took place before the briefing?

A. For the seven men that did die, I think there was a memorial service.

Q. We have been told that the chaplain that conducted the service was a major, and we have been trying to learn his name. Do you recall this?

A. KISSINGER was our chaplain in Hawaii. He may have been this day, maybe. I think that he was, but like I say, I cannot be sure. He was a major at that time.

Q. Could you tell us what Captain MEDINA told the company during the briefing?

A. Yes, sir. He said that this village was a VC stronghold. Our mission was to search and destroy it.

Q. Anything else?

A. If anyone was to run, we would tell them to stop. If they did not stop, we would fire a warning shot over their heads. If they don't stop then, we shot to kill. These were our orders.

Q. Was anything said about burning the houses or shooting the livestock or destroying crops or food?

A. Yes, sir. This was a section of the destroy part of the mission. We were to go through and police up the people. Any people that were suspects and we could catch. We were to police these people up, burn food, shoot the animals, and throw rice on the ground. The potatoes, I forget the name of the Vietnamese potato, but I always remember that they were in small circles drying in the sun--we were to destroy everything.

Q. There has been considerable conflict in the evidence as to whether anything was said directly or by implication about killing all the residents of the village. Now, just what do you recollect? Was anything said along this line?

A. We were told that the entire village was VC and that our mission was to search and destroy.

Q. What did you understand, then, from this regarding the Vietnamese residents of the village?

A. Anyone, naturally, that did not run, we were to send back to the captain or to the platoon leader.

Q. In other words, you did not understand that you were going to go in and kill everybody in My Lai (4)?

A. No, sir, but we did know that the village, we were told that the village, was entirely VC dominated. I might change that to entirely VC rather than dominated.

Q. What was the mood of the company after the briefing? How did the men feel about this operation coming up the next day?

A. We had just lost, like I say, 22 injured and 7 of these men died. In short, I could say that we were "loaded for bear." Everybody was carrying extra ammo. Although, of course, I know it is wrong, but the people were more or less out for vengeance. This is, to me, wrong, although--

Q. (Interposing) Was something said by Captain MEDINA during the briefing to the effect that this was your chance to get even with the VC?

A. He may have said something to that effect. I do recall something to that effect. As far as specifics, I don't know, sir.

COL WILSON: Did anyone brief besides MEDINA? Did any other person there brief?

A. No, sir. Generally, Captain MEDINA talked to the platoon leaders, and then the platoon leaders passed the word down to the squad leaders, and then the squad leaders passed it down to the individual men. But that particular day he passed it out to the entire company.

Q. Now, you were with the 2d Platoon?

A. I was attached to the 2d Platoon, sir.

Q. Lieutenant BROOKS?

A. Yes, sir.

Q. Did Lieutenant BROOKS brief the squad leaders after that?

A. Not to my knowledge, sir. No, sir. I don't think that he did.

Q. Did he say anything to you after that?

A. No, sir, not to my knowledge.

Q. The procedure that you stated earlier concerning Vietnamese running in the village: firing and hollering "stop." Had you ever heard this before?

A. Yes, sir.

Q. Had you ever been told any different procedure before? Was this any different than any other time that you had Vietnamese running from you?

A. Naturally, if we were in a more or less settled village, something similar to Duc Pho-- I realize that you are not familiar with the area-- but a village that is more or less secured, then naturally you would not do this type of thing.

A. Wouldn't do what?

Q. If someone is running from you, tell them to stop. But I mean in an area that was unsecured, this was the rule. Generally, if they were not critical suspects, by that I mean individuals running fast or dressed in khaki or black uniforms, then we would call back and say to the captain or platoon leader that there is a Vietnamese wearing a black uniform or black PJ's or khaki uniform running to your front. Sometimes, by the time you would call back and got clearance to fire at him, then he would be gone. Of course, when they were running they were too far to hear you say stop.

Q. The reason I asked was that there is one procedure there that I think was omitted. Did anyone ever tell you to fire a warning shot?

A. Yes, sir, I did say that, over their head.

MR WEST: You said that you were attached to the 2d Platoon. Are you a forward observer for a mortar platoon or for artillery?

A. I was forward observer for the mortar platoon.

Q. You were actually a member of the mortar platoon?

A. Yes, sir.

Q. Sergeant MARONEY was your platoon sergeant?

A. Yes, sir, he was.

Q. Will you describe, please, what occurred the next day after you were CA'd into the landing zone.

A. May I use the map?

Q. Yes. The record will show that the witness is looking at MAP-1. Go right ahead.

A. This was our LZ as you have got it marked here (indicating).

(Witness turned to second map.)

Q. Let the record show that witness is using MAP-1. Mr. JOLLY, before you go ahead, we have a larger aerial photograph and a 1:25,000 scale map. The aerial photograph (received in evidence on page 43 as Exhibit P-134) has a scale of 1 inch equals approximately 100 meters. The map is Exhibit MAP-4 (pointing out directions on both maps for witness). Does this orient you on the photograph now?

A. To a great deal, sir.

Q. Will you describe what happened after you hit the LZ and got out of the helicopter?

A. Just like all combat assaults, they prepped the LZ.

Q. Did you see any artillery rounds land in the village?

A. No, sir, I didn't. I saw quite a few land in the paddies, but I did not see any land in the village. The 2d Platoon had the left side over here--

Q. (Interposing) Go ahead and mark it.

A. The 3d Platoon, I believe, secured the LZ. They were the first lift. I am not sure, like I said. The 1st Platoon, Lieutenant CALLEY's platoon, was on the right side here (pointing to aerial photo).

Q. You might mark those; 1st Platoon and 2d Platoon.

A. We began pushing through the village, supposedly on line.

Q. To the east?

A. I would say to the east, northeast.

Q. Where were you? Did you stay with the headquarters section, with Lieutenant BROOKS?

A. A great deal of the time. We pushed on to about right here and by this time--

Q. (Interposing) Would you mark that in some way (Exhibit P-134)? What occurred now as you moved into the village. For example, were you getting any hostile fire at all?

A. No, sir. We were not receiving any at all. Anyone that we came up to we questioned as best we could in English. If there was anyone there that ran, or more or less looked suspicious, oftentimes they were shot.

Q. What were the men in the 2d Platoon doing, now; the riflemen and the gun teams with the machineguns?

A. We were pushing through on line as far as--

Q. (Interposing) Were they reconnoitering by fire or firing as they moved?

A. Firing as they moved. Primarily, just about every hootch had a small bunker in the back; and if we came upon a bunker, we did not ask questions. We would tell the people to come out of the bunkers. If no one came out, a grenade was tossed in. I think the Vietnamese word for come was "lai day."

Q. Were the men searching the hootches as they went along, checking bunkers?

A. Yes, sir. They were doing it in a very hurried manner.

Q. You mean moving fast?

A. Yes, sir. By that I mean by the time we got midway through the village, they had slowed down quite a bit. But the first part, they were quite fast.

Q. During this first phase now, about halfway through the village, did the platoon take any prisoners?

A. Not to my knowledge, sir. The prisoners were taken toward the later part, if I remember correctly.

Q. During this first phase, halfway through the village, do you remember anything unusual with regard to Vietnamese civilians?

A. There were quite a few people that were shot. I can say that. The amount I could not be accurate about.

Q. Does any particular incident stand out in your mind?

A. I think that the first individual that was shot--we were right on the edge of a small dike here (pointing to aerial photo). There is a small creek here, and then a dike. There was a man who had just come out of his house. Someone had shot at his house and they shot through the roof, I think. The man came running out. Someone told him to stop, and he did not stop. Shortly after that there were several shots fired into him. I did not fire any of these shots.

Q. About how many dead people do you think you saw during this first half of the village?

A. I would say that 50 would be a conservative number.

Q. Go ahead now and tell what happened after you passed this phase one.

A. As we pushed on through, the headquarters element was directly back here (pointing to Exhibit P-134). The job of the 3d was to burn and destroy everything. As we pushed toward the end, there were a few people who were policed up, primarily the military-aged males. There were, I suppose, people who were most likely to have information that would be vital to us.

Q. These people were taken prisoners then?

A. Yes, sir. As far as the number goes, I would say 15 or 20.

Q. What happened to these people as far as you know?

A. They were interrogated at the RON by the South Vietnamese that we had with us.

Q. Was that later in the day?

A. Yes, sir. We RON'd in a graveyard, a large sandy area. One thing that I did leave out was that one squad of the 2d, no, I take that back, it was the whole 2d Platoon, went to the north, to this small area right here (indicating). I think there were a few houses over there. The reason for going over there was that the gunships had killed two uniformed individuals with weapons.

Q. You don't remember the name of the hamlet or subhamlet?

A. Let's see, it is marked here on the map (Exhibit MAP-4) as My Lai (5), sir. There was a small carbine, 30 caliber, and an M-1. TREVINO, which was one the boys from Texas, an ex-Mexican, picked up the M-1, and Lieutenant BROOKS picked up the carbine. I think TREVINO was later on talked out of the M-1 by Captain MEDINA.

Q. Would you tell us again about what the gunships reported, what the reports that you received from the gunships were?

A. Well, I was not carrying a radio, so I had no knowledge of this.

Q. Just whatever you heard? You mentioned gunships at My Lai (5)--

A. (Interposing) Yes, the gunships shot the uniformed individuals. You may call them uniformed VC. From there we pushed onto this village right here (pointing to Exhibit P-134). As far as contact over there, it was light. There was a couple of people shot but not a great deal. We radioed the information back to Captain MEDINA.

Q. What did you do then? Did you go back to My Lai (4)?

A. Yes, sir, the company was--

Q. (Interposing) Let me ask you this, before you moved into My Lai (5), did you complete sweeping through your sector of My Lai (4)?

A. Yes, sir, we did.

Q. You got clear to the edge and then you moved up to My Lai (5)?

A. Yes, sir.

Q. Go ahead with what happened after you left My Lai (5).

A. For our RON, we joined the company. I can remember that it was a graveyard.

Q. I think it is off that photograph (Exhibit P-134), but we have had testimony that it was a graveyard. You joined up with B/4/3 and laagered for the night near a cemetery.

A. Yes, sir. We got quite a few supplies and naturally some more ammunition. We set up our mortars. I believe they put the mortars together.

Q. Let's go back to My Lai (4) just briefly now.

A. Yes, sir.

Q. Do you recall anything that perhaps you have not told us yet about seeing Vietnamese residents of My Lai (4) killed? You mentioned seeing perhaps 50 dead people in the first half of the village. How about the other sector? Did you see any dead people there?

A. The 1st Platoon sector was Lieutenant CALLEY's platoon. I had heard that he had policed up the people, put them into groups, and then cut them down with the 60's. As far as seeing this, I did not see it.

Q. Did anything like that happen in the 2d Platoon's sector?

A. No, sir, it did not. All of our action was as it came. I could say that there may have been civilians shot unnecessarily. As far as me directly killing, no, sir.

Q. But you don't know of any incidents of rounding up civilians in a group then shooting them down?

A. No. Like I say, I heard of Lieutenant CALLEY's Platoon doing this, but it was a quick day, and we stayed in our own sector. I did hear that some of the people from the 3d went and joined CALLEY's outfit, but I never saw any in the 2d Platoon.

Q. During the morning did you hear an order passed down to stop the shooting?

A. Yes, sir.

Q. We have had one witness who said that Lieutenant BROOKS passed the order to knock off the shooting or knock off the killing or something like that.

Q. Yes, sir, he did.

Q. What did you hear?

A. I would say that that was about this sector right about here (pointing to Exhibit P-134).

Q. About two-thirds of the way through the village?

A. Yes, sir.

Q. Could you place a time on that?

A. Not accurately, sir.

Q. You must have gone in somewhere between 0700 and 0800 in the morning, hit the LZ. Just as a point of reference, was it after this that you broke for chow?

A. I would say 1100. I did not have a watch at the time, and it has been quite awhile.

Q. That was 11 o'clock chow, or when the order was given to stop killing?

A. That was--the order to stop the killing was given quite early, I would say a hour and a half after we got into the village.

Q. During the morning at My Lai (4), did you see any visiting officers from Task Force Barker or the brigade or the division?

A. No, sir. I have read Time and it said that Lieutenant CALLEY had conferred with a helicopter pilot.

Q. Did you see that?

A. No, sir, I didn't.

Q. Did you know Captain MEDINA very well?

A. As good as any of his men did, sir.

Q. What kind of officer was he?

A. He was not a "reason why" man, just a "do or die" type officer; and in my opinion, a credit to the Army. He is the type of man who would never speak to his men as though they were friends of his. He was always an officer first, and then a man.

Q. Were you in a position to tell whether he maintained control of the company that morning at My Lai?

A. I think that he lost control of the company, because there were things going on such as a great deal of killing that I don't think he would have wanted. But--

Q. (Interposing) Did the men of the company--excuse me, go ahead.

A. I would say that I don't think anybody felt a great deal of sympathy for any of these people because, like I say, we had lost, I think, seven of our men, and these were primarily men we had in Hawaii together with us, those that we had had good times with and bad times with. I didn't mean to interrupt you.

Q. I was going to ask whether the men of the company followed the operational plan and moved through in their own sector, or did they get off and mill around some?

A. I would say that I think members of the 3d Platoon came into the wrong element. Their job was in the rear. In doing this, I say Captain MEDINA lost, more or less, control of the company.

Q. How about the 2d Platoon, did Lieutenant BROOKS keep control?

A. Yes, I think he did. He was a good officer. He was quite a bit different from Captain MEDINA in that he was the type of man that, to a great deal, did not care how his men did the job, just so they did it, which is quite different from Captain MEDINA. Oftentimes Captain MEDINA would chew him out for hours on end, and instead of walking away with

his head bowed and more or less with his tail between his legs, he would walk away with a smile on his face. I am not saying he ignored an officer of higher rank, but I am saying that it seemed that he did not let it get under his skin. He did not let an officer of higher rank disturb him.

Q. Speaking of attitude toward the men in the platoon, he didn't supervise very closely their performance of duty?

A. He depended upon his squad leaders to do this a great deal. He had some good squad leaders. Occasionally he would check on what they were supposed to be doing. If they were doing right, fine. But he would not do it in the traditional Army manner: Tell the squad leader to tell the men. He would oftentimes directly tell the men.

Q. By-pass the squad leaders?

A. Yes, sir. Oftentimes he did not insist on being called "sir" which was, I think, a good idea in combat situation. He was a very popular platoon leader.

Q. Do you remember the operation of Charlie Company that afternoon after you left My Lai(4) and My Lai(5)? Did anything of significance occur between that time and the time you laagered in for the night?

A. I can remember when we laagered in, well, after we left My Lai(4), it more or less turned into a search and clear mission. There may have been a few hootches burned, I don't think there were. But I can remember when we did laager in, the Vietnamese interrogators questioned some individuals, and when they refused to answer--I had heard that they did this off in a ditch; I think this was something to prevent more or less the rest of the company seeing it--I had heard that they cut off a finger. And when they wouldn't answer they would cut off his ear, and when he wouldn't talk then, they would shoot one, and then they would go on to the next one. I think this kept up--

Q. (Interposing) Are you talking about members of the National Police?

A. Yes, sir.

Q. And they were interrogating VC suspects?

A. Yes, sir.

Q. How many did they shoot to your knowledge?

A. I would say two.

Q. Did you see this yourself?

A. No, sir, I didn't.

Q. Do you remember the operation of Charlie Company--

A. (Interposing) This is only what I had heard, sir.

Q. Do you remember the operations of Charlie Company the next day, the 17th?

A. I can't remember whether it was the captain or the platoon leaders that briefed us. But they told us that the mission had changed quite a bit from what it was before, that it was no longer a search and destroy mission, it was search and clear.

Q. When did that briefing take place?

A. It may have been later on that night. It may have been the next morning. They may have done it over the radio.

Q. You don't recall?

A. No, sir.

Q. What did you do on the 17th? We understand that the company turned south and moved on down to the Song Tra Khuc River, then came back part way and laagered in for the night. Do you recall this?

A. Yes, sir. We had pushed down to this area here (pointing to MAP-4) to the west of Hill 85 and to the east of Hill 72. We hit the river, pushed forward to the gulf. While we were there at the gulf, there were several suspects there, and one was proved to be an NVA area leader or area commander. Captain MEDINA, I think he played Russian roulette with this individual. He knew where the round was at all time but the individual didn't.

Q. Captain MEDINA described this incident to us. During the day, did the company burn any hamlets or anything of that nature?

A. I can't be sure.

Q. Do you remember the operations of the next day, the 18th?

A. We RON'd in this area here (indicating) and from there--

Q. (Interposing) Let the record show that the witness is pointing to an area southeast of Hill 85.

A. From there we pushed on. I can't be sure, but I think it was the next morning when we were lifted out.

Q. Did you go up to an area approximately west of Pinkville before you were lifted out?

A. This may have been the LZ in this area in here (pointing to MAP-4). I can remember that we never did go into the area known as the Pinkville.

Q. You went to a point west of Pinkville and were lifted out and were taken back to LZ Dottie?

A. Yes, sir, it was LZ Dottie.

Q. Mr. JOLLY, did you know a Colonel HENDERSON, the brigade commander?

A. As far as knowing him as an officer to an enlisted man, yes. Knowing him man to man, no. I knew that he had control of the brigade previously, I think three times, twice in Hawaii.

Q. Colonel HENDERSON told us that when the company was extracted and taken back to LZ Dottie, he met some of the men as they came in and talked to them about what had happened at My Lai(4). He asked them if they knew anything about civilians being killed, and he asked questions of several of the men. Do you recall this?

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A. Yes, sir, I do. I also recall we were being told not to discuss the matter. If an officer or someone else wanted to discuss it, then they could see our commanders. Where the order came from, the platoon leaders or Captain MEDINA, I don't remember.

Q. Perhaps it will refresh your memory. Captain MEDINA appeared here, and he told us that a short time after My Lai(4), he had called the company together and told them that there was an investigation of what had occurred at My Lai(4).

A. Yes, sir, this is true.

Q. Do you recall this formation?

A. Yes, sir.

Q. Did anybody ever come and talk to you in connection with an investigation of My Lai(4)?

A. Only a Mr. KASH. He was a CID investigator and a warrant officer, and that was about 2 months ago.

Q. I mean back in Vietnam?

A. No, sir. No one approached me in particular. Colonel HENDERSON may have approached me in Vietnam, but I don't remember that.

Q. Except for what we have talked about, did anyone ever tell you to keep quiet about what happened at My Lai(4)?

A. No, sir. Would it be in addition to the letter that I received?

Q. Well, you are now talking about the letter from the military judge?

A. Yes, sir.

Q. Okay.

COL FRANKLIN: Is there a distinction in your mind between what the 2d Platoon and what the 1st Platoon did?

A. As far as--

Q. (Interposing) Going through the village?

A. Yes, sir, as far as going through the village, I think there was. I did not see the 1st Platoon, but from people that I had talked to and things that I had seen, I think it was a different type of operation?

Q. In what respect?

A. The 1st Platoon, from the way I understand it, policed the people up and cut them down, All the animals shot, food burned, hootches burned. Like I say, the 3d did the burning. The 2d did their action as they came to it. If there was anyone that ran, they were taken care of in the manner that I described before.

Q. Suppose they didn't run?

A. Then we would check them and question them and pass them on or leave them or send them back to the headquarters element with someone to watch them.

Q. You mean the only people the 2d Platoon killed were people that were running away?

A. There may have been some more people, but this was generally speaking.

Q. These 50 people that you saw dead. Were they all running away?

A. There may have been some that weren't running. There may have been some that were hiding in bunkers. There may have been some that were innocent.

Q. As the platoon was going through, was everybody firing the whole time, just firing into the hootches, just firing everywhere?

A. There was a great deal of firing going on everywhere.

Q. When you got to a bunker, you yelled for them to come out. If nobody came out you dropped grenades down on them?

(Witness nods in the affirmative.)

When the word came out to stop the killing, were there very many people left to kill after an hour and one half?

A. Not a great deal. Like I say, there was a conservative number of 50--

Q. (Interposing) This is what you saw?

A. Yes, sir, that were more or less innocent.

Q. You mean there were 50 live ones? How many people did you see alive that the platoon just passed through and let go, kids, women, men, et cetera? How many people did you see that were just left alone and checked and stayed where they were or moved somewhere?

A. I would say very few, possibly 20.

Q. You saw about 20 people that were not hurt. Where were they, inside hootches or inside bunkers?

A. Primarily inside hootches.

Q. How many of those were wounded would you say?

A. Ten to fifteen percent.

Q. No one felt sorry for them. Would you explain that?

A. We had lost several, 22 previously.

Q. 22?

A. 22 men injured, as I said before, and I think 7 of these men died. Of course, we knew that while these weren't the individuals that did it, it was possible that they could have been the individuals that set the mines. But out of all the Vietnamese it is not likely. We more or less felt a dislike for all the Vietnamese. When someone was injured, especially someone that was running when we fired the warning shot and told them to stop, then no one lost any sleep over it.

Q. Did you lose any sleep over this operation?

A. Quite a bit.

Q. Why?

A. To me it was wrong, especially when the investigation came up. This made it even worse. Of course, I know that it was wrong to begin with. Then, when I found out that certain people may be prosecuted for it, even though they were guilty, they were still my friends. These were people that I had fought with, slept with, people that would often-times die for me and I for them. This is what the Army is all about. I think this is one of the reasons we are in Vietnam.

Q. Those 50 dead people you saw, were most of them VC? Any uniformed, armed, or shot back?

A. No, sir, there was very little shooting back. As far as I know, we met no resistance all day long.

Q. Who were these 50 people?

A. These were people that would run when we told them to stop; people that were in bunkers; people that were hiding in the area and would possibly jump out at a GI or something like this--the GI in fright would shoot the people.

Q. Were many of these kids in the 50 bodies that you saw?

A. Some of them, as far as numbers go, I would say possibly five or ten.

Q. When you say kids, you are talking about what age?

A. Below 12.

Q. Were there a lot of people in these bunkers where you threw grenades that you would not even have seen? Every bunker that they came across, did they throw grenades down it?

A. The ones we could see in, we did not throw grenades in. The ones we couldn't see, then we'd oftentimes yell "come out," and then we would throw grenades in.

Q. You feel bad now that some of your buddies may be prosecuted, but did anyone feel bad about the 50 bodies you say you saw?

A. I don't think anyone felt bad about it. But, like I said, these people, possibly myself, are guilty. If there were civilians there, then this may be called an incident of war. I think we did not feel sorry for them, but certainly somebody feels sorry for them. They have got their loved ones just like we do.

Q. I am trying to get your frame of mind there. Why didn't you kill everybody in that area? What is the difference between the people in My Lai(4) and the second and third days of the operation? What was the difference between these people on subsequent operations?

A. I don't know, sir--

Q. (Interposing) Why didn't you just kill everybody all the time? Why these people? Or did you kill other people other places?

A. No, sir, there was nothing quite this bad. These were our orders to do this?

Q. To do what?

A. What we did in My Lai(4).

Q. Can you tell us what those orders were?

A. Search and destroy.

Q. That means to you to kill everybody?

A. No, sir. It does not mean to me to kill everybody. I am sorry if you got that impression. To me, it means just what it says, search and destroy: search the hootches; destroy the food. In a situations like this, we had explicit orders to search the hootches; to destroy the food supply; and to destroy the animals, even though the animals may belong to an innocent farmer. The individuals that were running, and we told them to stop, and fired a warning shot, and if not, then these were assumed VC.

Q. Are you trying to tell me, now, that every single one of these people shot had a warning shot and something yelled at them before you shot them?

A. No, sir, I am not saying this. I am saying that these were our orders.

Q. To shoot them if they ran, after all of this other business. Did most of the men in your company that were your friends feel like you did?

A. Like I did what, sir? You mean like--

Q. (Interposing) Did anybody ever come up to you and say, "It is terrible what we did"?

A. Yes, sir.

Q. Who?

A. As far as explicit names, I can't be sure, sir. This has been too long of a time. I can say that GARZA and FLORES, the medics in this outfit, were sorry to see this happen. I think that the officers--I don't know about Lieutenant CALLEY, I think Lieutenant BROOKS was sorry. I think that Captain MEDINA was sorry that it happened.

Q. Did Lieutenant BROOKS make any effort to get the men to control their fire or to stop firing?

A. Yes, sir, at this point here that I pointed out earlier (referring to Exhibit P-134).

Q. After he got the order from Captain MEDINA?

A. I think that order came from himself, sir.

Q. You think that was his own order to stop the killing?

A. Yes, sir, unless it was--he said stop, unless it was absolutely necessary.

MR WEST: I just want to ask you some general questions now. What kind of assignments did Company C receive after the My Lai operation? Was there anything different about them, or were they about the same as they had been before?

A. About the same as it had been before the My Lai incident.

Q. Did you have any more search and destroy missions or search and clear?

A. Primarily search and clear.

Q. In November there were some newspaper stories to the effect that the men of Charlie Company may have been under the influence of marijuana that morning at My Lai(4). Do you know anything about such a thing?

A. I don't think so. I don't have any knowledge of such. I think that it may have happened, but I don't think it is possible. These people probably had smoked it before, but I don't think that they did it that morning. They had thought--we had been told that this situation would be too tense for such a thing as this.

Q. Just summing up, Mr. JOLLY, what do you think really happened at My Lai(4) to result in all of these killings of Vietnamese civilians?

A. What do you--

Q. (Interposing) For example, do you think this was a result of orders that were passed down, or did the men get out of control and go too far?

A. I think it was a combination of orders and the men taking out their own vengeance themselves, which I have said before is against the rules of common sense for somebody to take out vengeance themselves.

Q. Speaking of the orders now, you stated clearly that in your opinion you had not been ordered to kill all the Vietnamese residents in My Lai(4). Do you think some of the men may have misunderstood the orders and thought they were actually supposed to kill everybody?

A. I think that this is quite possible.

Q. I want to be sure that I am not putting the thought in your mind. Now, this is your real feeling, is it?

A. Yes.

Q. I think that you realize that this incident at My Lai(4) was largely unknown until recently. The first word that Department of the Army here in Washington had of the incident from the Department of Defense came from a letter written by RIDENHOUR, formerly a soldier in Vietnam. This resulted in an investigation being started in April this year by Colonel WILSON. In your opinion why was this not reported earlier? Do you have any ideas on this?

A. The investigation, as you say, may have been concealed. Mr. KASH said that the report that General WESTMORELAND got was "blood and gut," inch by inch up the hill, Marine-type tactics; but it was not that way. I think then it was more or less concealed, because nobody is going to condemn the GI's for a mission like that even if that is what it was; and it was not anything like that. As to why it has not been brought out before, I think someone wrote their Congressman. I don't think that--as to why he wrote his Congressman, I don't know. As to why it was not brought out, I don't know.

Q. Did the members of Charlie Company talk about what happened at My Lai(4) afterwards?

A. No, sir.

Q. Was there any tendency to keep quiet about it because they felt bad about it, or were ashamed?

A. No, sir. There was more or less--they just kept quiet. We had plenty of other things to think about while we were over there.

Q. Do you think Captain MEDINA's instructions had much influence?

A. With the amount of killing you mean?

Q. No. I mean in not talking about the incident.

A. I think they did.

Q. Mr. JOLLY, can you think of anything else that you could tell us that would help us in our inquiry, any statement that you would like to make at this time?

A. No, sir, I think we have just about covered everything.

Q. We would like you, after we recess here, to spend some time with Colonel WILSON. He will go over some photographs with you and ask you some questions about your training. This concludes the interrogation at this time. We want to thank you for coming, and we realize it is a great inconvenience to you. You have helped us, and we appreciate it very much.

A. Well, I was certainly glad to do it. I never was much on patriotism, but now that I look back on it, I think that I may not have been able to be proud to die for my country. But my parents have told me that they would have been proud to say that their son had died for his country. As it was, it did not turn out like this. The way it turned out was certainly unpleasant. As far as the inconvenience goes, it is some inconvenience. I may miss out on a little school, but it is worth it. I think that is about it.

MR WEST: The hearing will recess.

(The hearing recessed at 1053 hours, 3
January 1970)

(The hearing reconvened at 1055 hours, 3
January 1970)

COL WILSON: The hearing will come to order.

RCDR: The following persons were present: COL WILSON, MAJ ZYCHOWSKI, and MAJ COOP.

COL WILSON: I want you to take all these photographs and put them into two piles: one pile for the ones you recognize, either the individuals or the place; and the other pile for those that you do not recognize and don't mean anything to you. When you have separated them, we will plot the photos you can remember. If you can remember something in them, please identify it.

A. Yes, sir.

(The hearing recessed at 1057 hours, 3
January 1970)

(The hearing reconvened at 1110 hours, 3
January 1970)

COL WILSON: The hearing will come to order. Do you recall the location where your helicopter set down?

(Witness points out on an aerial photo, Exhibit P-134.)

So what you are pointing at here is the landing zone. Do you remember where it was in reference to this tree line? Do you remember this tree line?

A. I think it was north of that tree line.

Q. I am going to put a mark generally right in this area--number 1 as the landing zone. As I recall, you gave the information that the 1st Platoon was on the right and the 2d Platoon was on the left. Do you recall when you went up to the village, did you stop and regroup on a terrain feature or did you go right from your helicopter into the village?

A. We regrouped around this line right here (pointing to aerial photo). There is a little ditch right there and an embankment.

Q. Along an embankment?

A. Yes, sir.

Q. What squad were you with?

A. I was near Lieutenant BROOKS the majority of the time. I was not with the squad. If I was with the squad, it was the third squad, Sergeant LACROIX's squad.

Q. Were they three squads abreast or--

A. (Interposing) Three squads abreast.

Q. Do you remember which squad was on the right, which was in the center, and which was on the left?

A. First squad on the right, third in the center, and second on the left.

Q. Do you remember how far down the north portion of the village your platoon's frontage extended? Can you point out generally where that frontage was?

A. I would say in this area. I can't be sure (pointing to aerial photo).

(Witness draws circles on map and numbers them.)

Q. Where was the platoon headquarters, the platoon CP? Was it behind any of these squads?

A. Somewhere right here between the first and the third.

Q. Right about in here (referring to aerial photo)?

A. Yes, sir.

Q. I am placing the command post location between the first and the third squads. Do you feel that your platoon's southern boundary went due east or extended down through to the village? Could you point out what you think your boundary was?

A. I would say more or less like so (marking on photo).

Q. Did the second squad extend off into the rice paddy or did they stay--

A. (Interposing) They moved through the paddies. They had a couple of men on the paddies.

Q. I want you to draw what you think your boundary was in a straight line, but I want to separate it at about halfway with the boundary symbol. So just go ahead and draw it. You were at the right sector of the platoon where the platoon joined the 1st Platoon.

(Witness does as directed.)

You went through here?

A. Yes, sir. I would like to draw something. This is more over here.

Q. This is sort of the general idea though?

A. Yes, sir.

Q. Do you recall whether there was any control in

the movement? I mean by that, how did the first squad keep from extending right off to the right? What did it use as a guide? Was it by direction, through phase lines, or was it coordinating points?

A. More or less the squad leader's own judgment.

Q. He really had nothing to guide on, no direction or anything? He just maintained the general direction?

A. Yes, sir.

Q. Now, the 2d Platoon went more or less on the side. The second squad went due east just about out of the village? And straight on up?

A. They moved up this way, they kept a few people in the paddies (indicating).

Q. So, actually the platoons started moving southeast. Sort of closing in?

A. More or less, but they kept a few people in the paddies. On the other map this appeared to be northeast.

Q. What were the methods of control between the squads as they moved through the village? As you were going through the paddies, you probably lost sight of each other. So what type of control did the squad leaders use to keep from overlapping? Was it just a line of sight?

A. Yes.

Q. I think the one would be this one. You were going to come down about like this and move out in this direction more or less extending out, more or less controlled, moving on the boundary of the village?

A. Yes.

Q. I suppose the general procedure extended a little bit to the south and somewhat straighter. Is that correct?

A. Yes.

Q. Now, from the time you left the landing zone and you moved forward with the command post to this location generally, how many mortars were with the company?

A. Just one tube.

Q. And where was that tube?

A. That was just behind the company CP, Captain MEDINA, at the time.

Q. I understand Captain MEDINA's men had gone to the south?

A. He may have, but I understood previously that the mortars were going to stay with him.

Q. Did the mortars set up right away, or did they move off?

A. They kept pushing. I don't know whether they moved with the CP, but they moved.

Q. If you had a fire order to pass to the mortar and it was moving, how would it fire?

A. It would go into action right away, more or less a hip shoot. Like I said, I was not there but the plan was behind the headquarters element.

Q. But you don't know for sure whether it was there or not?

A. No, sir.

Q. What is the next thing--

A. (Interposing) Headquarters.

Q. In other words that shows the headquarters group leading the mortar platoon?

A. Yes.

Q. You indicated that you stopped somewhere in the village?

A. I indicated that the word was passed down to stop the excessive firing.

Q. Did they say stop firing or stop killing?

A. I can't be sure.

Q. Where was the approximate location when this word was put out?

(Witness points to the Exhibit P-134.)

Point number 2 is the area where the order was received to stop firing?

A. You might put "excessive" in there.

Q. Then you moved. Is there anything in particular that you can highlight as you moved through this village that you can remember, other than what we might pick up from the photographs?

A. No.

Q. When you moved to the far side of the village, did you reach the far east side of the village before moving toward the north?

A. If we did not reach it, we reached close to it. As I said, we moved up here and picked up the two individuals: not the individuals, we picked up their weapons.

Q. It was an 81?

A. Yes, it was. The new one with circles on the tubes, three I think.

Q. When you reached this position, had reconnaissance by fire started, or had the troops started firing at this point (pointing on aerial photo)?

A. I don't think so.

Q. In other words, we can call this almost a line of departure because you did build up your squads on that

line. Is that correct?

A. Yes.

Q. And they did not fire at that point?

A. No.

Q. When did the firing start?

A. Immediately after movement commenced. Of course, now, you understand that the choppers prepped the LZ and so there was firing right there (indicating on aerial photo). And while we were sitting here, they were shooting. As to specific targets, I don't know.

Q. Now, on the sketch over here, you showed the 3d moving in the center. Did it follow generally into the center of the village, or did it follow one of the leading platoons?

A. At that time, I think it brought up the rear behind the headquarters element in the center, but I was not there so I can't say for sure.

Q. You don't know for sure about that?

A. No, sir.

Q. You have indicated on your photo (pointing to a circled M)--

A. (Interposing) Mortar.

Q. Is that the location of the tube?

A. That is where they were in relation to the movement.

Q. This is where the mortar went in, right there? When you moved to the far east side of the village, or in that area, did you establish a perimeter or did you move out immediately?

A. Moved out immediately.

Q. And you moved to this village and not this one (indicating on aerial photo)?

A. I have told you this one previously, but it has been some time.

Q. You are not quite sure which? It could have been this one here?

A. It is possible (looking at map).

Q. Where was your right platoon moving--from My Lai (4) in a general northeast direction toward the village which is in the bow of the stream. Before we leave the village, was there anything at the edge of the village that you can comment on? Did anything happen in this area?

A. Near the end, one of the boys shot himself in the foot with a .45.

Q. Was that near you?

A. No, I think that was 3d Platoon. It could possibly have been the 3d or 1st, I am not sure. But I remember seeing his picture in here.

Q. Did you have any knowledge of what time that he was evacuated, when the helicopter came in, or anything like that?

A. No, I just heard that he shot himself in the foot.

Q. Do you know if any of the 1st Platoon was on the east edge of the village? Did you notice anything unusual going on in this area to the east?

A. No.

Q. I am going to show the 2d Platoon moving from My Lai (4) up to the village to the northeast. What was your platoon's frontage, do you recall?

A. You mean the distance across the open terrain--

Q. (Interposing) Let me add something to that question. When you moved across the paddies, were you in a column or skirmish formation?

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- A. I think this is called fire teams abreast.
- Q. All fire teams abreast, all three squads?
- A. I think so.
- Q. And that is as you moved to the other village?
- A. Yes.
- Q. So this gives you about 150 to 250 meter front. Is that about right? Was it more or less than that?
- A. I would say 100 to 150.
- Q. Was there anything in particular that happened in this village to the northeast?
- A. Nothing that stands out in my mind.
- Q. Let's start with the ground photographs. Could you tell me where the location was that you secured the VC weapons?
- A. About midway between--this is My Lai (4)--and the village that we were going to.
- Q. Point 3--
- A. (Interposing) I can say that I don't remember crossing a stream.
- Q. You don't remember crossing a stream?
- A. I may have, but I don't remember it.
- Q. It could have been dry?
- A. Yes. It was that time of year anyway.
- Q. We have a weather analysis of that time of year, but I don't have it with me. It is in my book out there. Point number 3, area where the two VC were killed--was it two?
- A. Yes.

Q. Is it the area where the two VC were killed or the area where the weapons were captured?

A. They are one and the same. The choppers killed these individuals. We didn't.

Q. Point 3, two VC KIA by choppers and two weapons captured. This is the weather report that indicates a dry month in Quang Ngai. On 16 March: "temperature was relatively pleasant, visibility was good, and there was no measurable rainfall" (reading report to witness).

Number 6 shows CARTER. Is there anyone else that you can identify?

A. I can't identify any of the men.

Q. What did you identify in photo number 9?

A. WIDMER is on the right, the individual shot is in the middle, and I think that fellow's name is OLSEN. No, it is not OLSEN either.

Q. How about MAURO?

A. Yes.

Q. Was he in the mortar platoon?

A. I think he was in the 3d--WIDMER was an RTO in the captain's platoon, headquarters section.

Q. Photo 10?

A. Again, the individual that shot himself in the foot. I don't recognize anything else.

Q. Photo 13?

A. Lieutenant ALAUX, Sergeant MARONEY, and his name is HOLLAND, I believe he was a SP4 at that time.

Q. Does this appear to be the company command group?

A. Yes, Lieutenant ALAUX was the artillery FO.

Q. Do you recognize that location?

A. No.

Q. Did Sergeant MARONEY always stay with the command group?

A. To my knowledge.

Q. Where were the other mortar tubes of the company?

A. The other tubes were on LZ Uptight.

Q. If I give you a list of names after this, could you say which members of the mortar platoon were in My Lai (4)?

A. I may be able to, I will certainly recognize some of them.

Q. Photo number 22?

A. This was one of our interrogators here on the left.

Q. Do you recognize the Vietnamese there?

A. As far as the individual, no.

Q. Photograph number 25?

A. That was Sergeant CARLSON, 3d Platoon.

Q. Sergeant CARLSON? Do you know where that location is?

A. No, I don't. I think this is Sergeant CARLSON.

Q. You believe it is Sergeant CARLSON but you are not sure?

A. Yes.

Q. Photo 26?

A. I believe that is Dottie.

Q. Yes, it is. That is where you took off from. Is that the day of the operation?

A. I think that was the first day of the operation, yes.

Q. In number 27, can you identify the location where the photograph was taken?

A. No, I can't.

Q. Is there anything you want to comment on?

A. Only that this was, of course, the seashore, and this area here is more or less an intracoastal waterway. You can see that by looking at it. This hill may be LZ Uptight. It looks as though it would be. It has got the high portion. If this picture was taken from a chopper, then it would have to be on the southern side, taken to the north with LZ Uptight in the background.

Q. It could also be the Song Diem Diem River?

A. Yes, it could. I was just thinking that if this chopper was on the south side and that is LZ Uptight, then there is no body of water that big between them.

Q. Photograph number 29?

A. Getting out of the aircraft. This particular chopper is a Rattler. They were out of Chu Lai.

Q. This photograph allegedly shows OLSEN and HALL. We had not heard the possibility of a Rattler identified aircraft being used in this mission. Most of them we had had to date were Dolphin.

A. This front one looks like a Dolphin, but you can see the snake on the front of this chopper, and that was the symbol for Rattler. There is no doubt about that. It is a snake. I can tell that, and I think the other one is a Dolphin. I know that the Dolphins had a blue porpoise painted on the front of the thing.

Q. The second aircraft in photograph 29 has a snake as a symbol. Is there anything else about this photograph that you want to point out?

A. It looks like the landing area because we landed in an area where the rice was quite high. It

looked like a comparatively good crop of rice, what little I know about rice; but it looked like it was good rice-- it was tall like this rice is.

Q. Photograph number 33? Did you see that scene?

A. That was one of the hootches that was in our sector. I did not see it burning but I did see the hootch.

Q. Was it in your sector?

A. I think so, sir.

Q. Do you know where it was?

A. The first third of the village.

Q. Number 37?

A. I had heard that from some people--as far as specific names I could not name them--but they said that they had pushed an individual into a well. Whether they shot him when he was down there or shot him on the way down or shot him before they put him in, I don't know. But I had heard that they had.

Q. Did you see this?

A. No, I didn't.

Q. Photo 42. Did you see that scene?

A. I vaguely remember someone telling me about this.

Q. Telling you what about it?

A. Someone being shot on a doorstep, I think.

Q. You don't know where that was?

A. No, only in the village.

Q. Number 56?

A. Someone throwing a grenade through a hole.

Q. Do you know where that scene was?

A. No, I don't.

Q. Number 57?

A. I thought I recognized that man but I do not recall his name.

Q. LOPEZ?

A. Yes, he was the 3d Platoon sergeant.

Q. Do you know the location?

A. No.

Q. Photo 61?

A. Leaving the village--as to what unit, I do not know.

Q. When you say leaving the village, are you talking about leaving it after the village had been swept and you were leaving from the east side?

A. Yes.

Q. Does this look like the area that your platoon moved to toward the northeast?

A. It looks like the area that one of the platoons left. As far as if it is mine, I don't know.

Q. Number 64?

A. This is the 3d Platoon. This serviceman is DELPOME in the center. The fellow that is over there, I do not know his name.

Q. The man that you identified as DELPOME is the second man. Is the first one SMITH?

A. Yes, I think that was his name, sir.

Q. Do you know where that location is?

A. Right offhand I would say it is leaving the village because going into the village we would not be walking like that. We would be crouched and running.

Q. Was there an ammunition resupply?

A. That evening. This one has got a bandoleer and everyone had on flak jackets. I think you can see a bandoleer under here too (referring to photo 64).

Q. The 3d Platoon did not do much firing as I understand. Were they mostly on a sweep operation?

A. That was the way that the plan was.

Q. Number 66?

A. This was Sergeant PHU. He was our interpreter for about 6 months in Vietnam. I think this was MARTIN on the right, Lieutenant ALAUX's RTO. And this other Vietnamese individual in the GI clothes was the other interrogator.

Q. Sergeant MINH?

A. I think that was his name. He was with the headquarters element. He may have been attached to another platoon, but it was not to my knowledge.

Q. Number 69?

A. I can't recall the man's name, but I do remember the man. I don't remember seeing him doing this.

Q. Burning the hut?

A. Right.

Q. Which platoon?

A. Third, I think.

Q. Number 126?

A. We got some tools from the village. This was our RON, the graveyard. The soft sand was quite easy digging. Everyone was expecting trouble that night, so we all pitched in and dug unusually deep holes. The second man from the left is Sergeant SMAIL, and I think this fellow on the right is GRIMES.

Q. The man on the right?

A. Yes.

Q. Photo 128?

A. SMAIL again.

Q. Center man?

A. Yes, the location is indefinite.

Q. Were there any other photographs that you could locate as far as the village goes?

A. No, sir.

Q. Is there any particular ground feature in this village that you remember?

A. Only the bodies to the north, sir.

Q. Just the bodies to the north?

A. Yes.

Q. Was it possible, from your location, as you moved through the village, to keep Hill 85 in sight? Did it stand up that high?

A. No, I think this brush was too high. Occasionally you could see it when you got into a clear area, but that brush was too high.

Q. When you moved out of My Lai (4) to the other village, do you recall seeing Hill 85?

A. No.

Q. Is there anything further that you can offer, anything else that you can place on this aerial photo?

A. No.

Q. Would you sign this, up here?

(The witness did as directed.)

Mr. JOLLY, I want you to recall the instructions that were given to you earlier in the hearing when you were told that you were not to discuss this matter except before a competent judicial, administrative, or legislative body. The matters we have discussed here should not be discussed with others. This will terminate the hearing unless you have something else to offer.

(JOLLY)

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I am going to show you a list of names and I will have someone go over the roster with you to see if you can recall who was at My Lai (4) from the mortar platoon or who was not there. In other words, if you are sure one way or the other this would be a help to us.

At a later date, if you run across some photographs, tape recordings, documents, or anything on that order, then I would appreciate your calling this office and letting us know. Do you have any further testimony at this time?

A. No, sir.

Q. We will introduce your aerial photograph into evidence as Exhibit P-134.

(The hearing recessed at 1221 hours, 3 January 1970)

SUMMARY OF TESTIMONY

WITNESS: KINCH, Thomas J. SGT

DATE OF TESTIMONY: 21 January 1970

PLACE OF TESTIMONY: Pentagon

WITNESS SUSPECTED OF: N/A

COUNSEL: None

DUTY ASSIGNMENT ON 16 MARCH 1968: Assistant Gunner, Weapons Platoon, C/1/20.

1. PRIOR TRAINING IN THE RULES OF LAND WARFARE.

When the witness underwent training at Fort Dix, he was informed that there was a difference between a lawful and an unlawful order, but the subject was not explained in detail and no combat examples were given (pg. 37). On entering Vietnam and going through inprocessing at Chu Lai, he was given no instructions concerning the treatment of noncombatants or how to treat women and children (pgs. 38, 55). KINCH was given a copy of Exhibit M-2, "Nine Rules", but its contents were not discussed (pgs. 55, 56). He was not issued Exhibit M-3, "The Enemy in Your Hands" (pg. 56). He was never informed of his responsibility for reporting war crimes and atrocities under combat conditions (pg. 37).

2. PREOPERATIONAL PLANS AND BRIEFINGS.

The witness did not recall the memorial service which preceded MEDINA's briefing (pg. 3). MEDINA told the company that they were going into Pinkville the next day (pgs. 4, 36). He said that as far as he was concerned everyone there was either a VC or a VC sympathizer (pgs. 4, 36). He then said something like "I want everything burned to the ground and killed tomorrow" (pgs. 4, 36). He also said, "When I come through tomorrow I don't want to see nothing living but us" (pgs. 4, 36). MEDINA went on that he wanted the livestock killed and everything burned to the ground (pgs. 4, 36). The witness interpreted MEDINA's speech to mean that the company should get revenge for the

(KINCH)

1

SUM APP T-202

various incidents they had had in the past in Pinkville (pg. 5). KINCH received the impression that the company was to eliminate houses, crops, and every living thing (pg. 36). MEDINA did not say anything about the Pinkville mission being given to them by higher headquarters (pg. 42). The operation was to last three days (pg. 4). The witness remembered "something" about a warning being given to the villagers of the pending operation, but did not recall what it was (pgs. 4, 5). The weapons platoon was not given a briefing by Sergeant MARONEY following MEDINA's briefing (pg. 6). The morale of the men was high after the briefing and everyone seemed ready to go (pg. 6). The men did not talk over what they had heard from MEDINA, and his orders were not questioned (pgs. 5, 6).

3. THE ASSAULT ON MY LAI.

a. Initial assault into the village.

On landing the mortar was set up (pgs. 7, 8). The rest of the company was already in the village (pg. 7). He heard firing everywhere, but could identify no hostile return fire (pg. 7). The weapons platoon stayed on the west side of the village approximately 20 to 30 minutes at which time it was ordered by MEDINA to join the command group (pgs. 7, 8). They broke down the mortar, which was never fired, and moved south along the trail on the western edge of the village with the command group (pgs. 8, 48). As they walked along the trail he observed the body of a dead boy (pgs. 9, 48). Word was received that a soldier had accidentally shot himself in the foot and the command group waited along a dike for the medevac helicopter (pgs. 8, 48). The witness marked this position with a "2" on Exhibit P-184.

b. Observations within the village.

(1) Shooting of a young boy.

While awaiting the medevac helicopter KINCH heard a machinegun open up (pg. 8). He observed a young boy eight to ten years old running from a house towards a dike near which there were bodies (pgs. 8, 24). The boy fell to the ground and the machinegun stopped (pgs. 8, 24). The youngster got up again and was screaming and crying (pgs. 8, 24). The machinegun opened up again and the boy fell (pgs. 8, 9). The boy was near a trail intersection in the middle of the dike next to other bodies (pgs. 12, 24). KINCH did not know whether MEDINA, who was at the intersection at the time the boy was shot, saw this or not, but he had to have

heard it (pg. 14). After this the American casualty was taken out by the medevac helicopter (pg. 9).

(2) Observation of dead bodies.

As they started out again they came to the trail junction where he had to step over a dead boy who had been shot because someone thought he was suffering too much (pg. 9). This trail intersection was on the south edge of the village at the place where the trail runs south to Highway 521 (pgs. 10, 24). From this intersection KINCH saw 40 to 50 bodies of women and children (pgs. 9, 14, 49). The bodies were alongside the dike at the edge of the trail (pg. 12). The medevac helicopter, which landed east to west in the southern rice paddy, had to pass right over these bodies (pgs. 9, 24). The witness felt that these bodies were also visible to MEDINA (pgs. 12, 25). Nobody walked out to look at them (pg. 24). The bodies could have been visible to BARKER, whom the witness believed to be flying over head in a helicopter, but BARKER's helicopter might have been too high (pg. 12). The witness marked P-184 with a "3" at the place where he saw these bodies (pg. 49).

(3) Orders to stop the shooting.

After this the command group headed north into the village (pg. 49). About five to ten minutes later, as they were moving east, MEDINA received a radio transmission from a person whom KINCH was told was BARKER asking why there were so many bodies all over the place (pgs. 10, 11, 27, 50). BARKER prefaced his remarks by saying, "I just got a call from the dustoff chopper and he said he spotted a lot of bodies all over the place" (pgs. 10, 11, 25). MEDINA replied that he could not explain the numerous bodies at that time, but would call forward to find out (pgs. 10, 12, 25). MEDINA then contacted either the first platoon alone or all the platoons at once and said something like "Stop the shooting; the party's over" (pgs. 10, 13, 25, 26). The witness marked the place where this order was given with a "4" on Exhibit P-184 (pg. 50). The witness had been able to hear all this because the radio speaker was used rather than earphones (pg. 11). Around 0900 someone had told him that it was BARKER who was above them in the helicopter and this is why he believed it was BARKER who had asked about the bodies (pg. 26). After MEDINA's order went out the shooting did subside (pg. 13).

(4) Bodies in the ditch.

The command group, which was continuing to move

in an easterly direction, then came upon approximately 50 bodies of women, children, and a few 60 to 70 year old men lying in a ditch which was off to the right of the path (pgs. 13, 16, 27, 28, 50). The ditch was in the northeast section of the village (pg. 27). It is marked with a "5" on Exhibit P-184 (pg. 50). It ran about 15 to 20 feet before it curved away, and it was built above the ground to a height of six feet (pg. 15). MEDINA, who was 10 to 15 feet in front of KINCH, would have seen this if he looked to his right (pgs. 15, 16, 28, 29).

(5) Bodies outside a hootch.

After passing the ditch he noticed a building (pgs. 16, 29, 50). There was an old man lying on the steps, a young girl lying between the house and a hedgerow, and a baby lying at the girl's feet (pgs. 16, 29, 50). The witness marked the place of this occurrence with a "6" on Exhibit P-184 (pg. 51).

(6) Bodies in a ditch outside the village.

After observing this they came upon a group of 50 bodies of women and children in a ditch in a rice paddy just outside the village (pgs. 30, 51). The witness marked the location of this ditch with an "8" on Exhibit P-184 (pg. 51).

(7) A request for a body count.

Either before or after the lunch break there was a radio communication from a man whom the witness believed was BARKER requesting a body count (pgs. 19, 29). Without specifying whether it consisted of VC or anything else MEDINA said, "310" (pgs. 19, 29). This was the only body count the witness heard given all day (pg. 22). The witness was sure of the figure 310 because he could remember thinking that he had not seen that many bodies (pg. 19). The witness did not recall MEDINA either asking for or receiving a body count from the platoons (pg. 20). MEDINA did ask for a body count during the lunch break (pg. 20).

(8) Lunch break.

The company broke for lunch about 150 meters from the eastern edge of the village around 1230 to 1300 (pgs. 18, 20, 51). While they ate, a house that was booby-trapped was blown up (pgs. 17, 18, 51). The witness marked

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c. Further inquiries.

KINCH did not speak to an investigating officer after MEDINA's meeting, and he knew of no one else who did (pg. 41). He was told by either Sergeant MARONEY or Lieutenant THOMAS to keep quiet about the matter (pg.36). However, other than this he was not asked to remain silent about the affair (pg. 41). KINCH did nothing further about the situation, because he thought the operation was being investigated, and because he did not have enough training concerning illegal orders in a combat situation to be able to determine whether anything reportable had occurred at My Lai (pgs. 36, 37, 43). There was a lot of talk about the incident in the company for a couple of weeks after it occurred, but it died down because everyone wanted to forget it (pg. 43).

6. OTHER INFORMATION.

a. Rape.

Several of the men in the company raped women as the company swept through villages. MEDINA, who the witness thought knew about it, did nothing to stop it (pg. 44). KINCH based his belief that MEDINA knew of it on the fact that when the company captured the VC nurse on the second day of the My Lai operation he did not stop SIMONE, who had stated he intended to rape the woman, from carrying her around on his shoulder (pg. 45). In addition, MEDINA grabbed the woman, who had no blouse, by the breast and led her to the helicopter (pg. 44). These were the only instances upon which KINCH based his feeling that MEDINA was not concerned about the treatment of women (pg. 45).

b. Marijuana.

Several people in the company used marijuana, but the witness knew of no one who went into combat under the influence of marijuana or went on the My Lai operation under its influence (pg. 43).

c. Assessment of MEDINA.

MEDINA was a good company commander who knew his job (pg. 56). MEDINA always had control of his company, and he had control at My Lai (pg. 42). The witness felt that what was done at My Lai was a massacre committed under orders and that the men had merely carried out their instructions (pg. 42).

d. Miscellaneous.

(1) KINCH did not hear of an action similar to My Lai taking place in B Company's AO along the coast (pg.41).

(2) Through the grapevine he heard that General WESTMORELAND was doing something to honor C Company for the My Lai operation (pg. 44).

(3) KINCH did not shoot anyone, and thought that "not many people in the command group were shooting Vietnamese" (pg. 47).

(4) While in My Lai he saw a man taking pictures who left in the late afternoon (pg. 23).

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EXHIBITS

EXHIBIT NUMBER	DESCRIPTION	NOTES	PAGES
M-2	MACV Card "Nine Rules"	Witness was issued the card.	55
M-3	MACV Card "The Enemy in Your Hands"	Witness had never seen before.	56
P-1	Aerial photo of My Lai	Witness was oriented on the photo.	7
		1-Area where wit observed dead boy.	48
		2-Place where wounded soldier medevac'd.	48
		3-Area where he saw boy shot and 50 bodies.	49
		4-Place where wit overheard orders to stop the shooting.	50
		5-Area where KINCH saw ditch with 30 to 40 bodies in it.	50
		6-Place where wit saw dead old man, women and baby outside a house.	51
		7-Place where wit saw 50 bodies outside village.	51
		8-Point where they ate lunch.	51
P-9	WIDMER, man left of ctr	As identified by the witness.	52

EXHIBITS

EXHIBIT NUMBER	DESCRIPTION	NOTES	PAGES
P-13	MARONEY second person from right without a steelpot; PHU is third from right. FAGAN is in extreme rear	As identified by witness.	52
P-17	MARONEY second person from right without steel pot, PHU on his right	As identified by witness.	52
P-66	PHU on extreme right MURRAY on right carrying the radio	As identified by witness.	53,54
P-67	PHU on right	As identified by witness.	54
P-126	SMAIL second from left	As identified by witness.	54
P-128	SMAIL standing in center of picture	As identified by witness.	54
P-184	P-1 as annotated by the witness	Entered into evidence.	55

(The hearing was reconvened at 1626 hours, 21 January 1970.)

MR WEST: The hearing will come to order.

RCDR: The following persons are present: MR WEST, MR WALSH, and MAJ COOP.

The next witness is Sergeant Thomas J. KINCH.

(SGT KINCH, was called as witness, was sworn, and testified as follows:)

RCDR: Please state your full name, grade, Social Security number, branch of service, organization and station.

A. KINCH, Thomas J., , Sergeant (E-5).

RCDR: Are you in the United States Army?

A. United States Army.

RCDR: What is your organization and station?

A. 5/31 Infantry, Fort Benning, Georgia.

MR WEST: Sergeant KINCH, before we get into any questions I want to tell you something about the nature and purpose of this inquiry. This investigation was directed jointly by the Secretary of the Army and the Chief of Staff for the purpose of determining facts and making findings and recommendations concerning:

(1) the adequacy of prior investigations 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. In other words, whether there was a coverup.

We are not looking into all the facts and circumstances of what happened at My Lai. For example, we are not directly concerned with anyone who might have committed an offense of some kind at My Lai, but our interest is directed to these two purposes I stated, the accuracy of the prior investigations, and whether there was a coverup.

We have had made available to us and I have reviewed prior statements obtained in other official investigations into the My Lai incident. For example, we have a copy, a statement which you gave to the CID investigator back in 28 November 1968, when you were over at the Americal Division in Vietnam, Mr. FEHER.

Frankly, we asked you to come here today, because your statement indicated that you had in your possession, in your knowledge, many facts which would help us in our investigation.

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 taken by the reporter.

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

You are directed not to discuss your testimony in here with others, including others who may be witnesses before the inquiry, except as you may be required to do in the performance of official duty, or in connection with the functions of any competent administrative, legislative or judicial body. For example, there is a subcommittee of the House Armed Services Committee which is looking into the My Lai incident, and they are hearing some witnesses. Should you be called over there, our direction not to discuss your testimony, of course, has no application to them. We could not tell you not to give testimony to a Congressional subcommittee.

Have you received an order from the military judge in the case the United States v. Calley, or the case of the United States v. Mitchell? Either one?

A. No, sir.

Q. Do you have any questions up to this point?

A. No, sir.

Q. Sergeant KINCH, I notice in your CID statement, that you gave to Mr. FEHER, you used the form of statement that is used when you take a statement from an accused or

a suspect person. I want to say to you, that we have no basis for suspecting you of anything at all, so if anything should come up in the interrogation, in your testimony, that raises a question, stop right there, and I will go on to the matter of advising you of your rights, and so forth. But, we have no basis at this time of suspecting you of any offense. Would you tell us, Sergeant KINCH, what your duty assignment was on 16 March 1968?

A. Assistant gunner to the 81 millimeter mortar in the weapons platoon, C/1/20.

Q. We understand that, at this time, the mortar platoon normally was stationed at Landing Zone Uptight?

A. That's affirmative, sir. Yes, sir.

Q. And your platoon sergeant was Sergeant MARONEY?

A. Yes, sir.

Q. We talked to Sergeant WATSON this morning. Did you see him?

A. No, sir, I just got in.

Q. He was in a little earlier. He mentioned that on occasions you and he monitored the radios in your Fire Direction Center at Uptight.

A. Yes, sir, we did.

Q. I also understand from your statement that you did participate in the operation at My Lai on 16 March 1968?

A. Yes, sir, I did.

Q. Were you present at Landing Zone Dottie when Captain MEDINA briefed the company?

A. Yes, sir.

Q. Do you remember whether there was a memorial ceremony for the company, sometime before this briefing? It may not have been the same day. A memorial service for some of the men in the company who had been killed?

A. No. I can't say that I remember it that day, sir.

Q. Could you tell us to the best of your recollection anything that Captain MEDINA told the company during that briefing?

A. Well, what happened--I guess I have to go back a few days before that, because I had just joined the company. I was only in there 2 weeks at the most. I was separated from the company, so what happened was I would get called out to LZ Uptight, and after about 3-day's stay there we went down to LZ Dottie. And I never heard about My Lai until then, and what I heard that day, on 15 March, was that the company had gone in there about 2 weeks before that, and they lost so many casualties, so many dead, in a minefield out there. And what was said, at the prebriefing, before the briefing, before we went in the next morning, was that Captain MEDINA got up and said he wanted--we were going to go back in there, into My Lai, the next day and he said, they called it Operation Pinkville, because of the pink village, we're going into the pink village tomorrow and he says, "As far as I'm concerned anyone there is a VC suspect, or a VC sympathizer." He said, "I want everything burned to the ground, and killed tomorrow." That was about it, sir.

Q. Did he indicate how long the operation was to last?

A. I believe he said 3 days, sir. I knew we were supposed to move on a little farther, past the village.

Q. Did he talk about the livestock, or the hootches--burning of the hootches? That kind of thing?

A. He said he wanted everything burned to the ground, and livestock killed. He said he wanted everything dead when he came through.

Q. Did this strike you as being unusual?

A. No, sir, because before I went to Vietnam I heard of search and destroy missions, and things of this such nature.

Q. Was anything said about just the normal residents of the village? I know you just said that Captain MEDINA said he considered everybody there to be VC or VC sympathizers. Some other people have indicated that he said something about the village had been warned previously by loud

speakers, or leaflet drops, or something like that.

A. I believe he did say something in that sense, sir. I can't say for sure.

Q. Do you remember that clearly?

A. No, sir.

Q. One other thing that other people have brought out, and see if you can remember anything like this, and confirm it. Did you get the impression that he talked about sort of getting even with the VC? Going in there or was the word "revenge" used, maybe?

A. That's the way I took it. Everything was all over, guys were talking amongst themselves, and I wasn't acquainted with any of them at the time, except the men in my own platoon. That's the way I took it, to my own knowledge, that they wanted revenge on the village, for what had happened.

Q. That was really the next thing, that I was going to ask you, was whether you talked it over with your buddies afterwards. We've had one or two people tell us that they felt a little confused, and not sure when they heard this order, so they talked it over, to be sure that they understood it. Did you all talk it over among yourselves?

A. We didn't talk it over. We just went in the next day. We just went to sleep that night. The next morning we got on the choppers.

Q. I'll put it another way. Could you tell if the other members of the mortar platoon with you understood Captain MEDINA the same way you did?

A. I believe they did, sir.

Q. Was there any discussion on this? Whether it was unusual or not?

A. Now, there, was discussion amongst the other platoons, but I didn't hear anything from any of the guys that I knew.

Q. What did you hear from the other platoons?

A. I just heard hearsay, things afterwards, after it was all over. After we had gone through.

Q. I'm thinking about that night, the 15th?

A. No, I didn't hear anything specifically. I could tell you about the morale of the company that night.

Q. I wish you would, please. Just in your own words.

A. In my own words, it seemed pretty high. It seemed like everybody was ready to get up and go. It seemed like they were ready to go out and enjoy themselves the next day.

Q. Was there anybody that had any different views?

A. Nobody talked against the orders that were given, in the briefing that was given. I don't believe questions were asked.

Q. Did you get any additional briefing from Sergeant MARONEY, afterwards?

A. No, not that I remember, sir. He said that when we hit the landing zone we'd be setting the mortar up, as soon as we did. That's all I can remember. It was just a short thing.

Q. Did you refer to yourself as the weapons platoon, or mortar platoon? I've heard both terms used.

A. They used both terms. Like in Europe, they used weapons platoon, and over in Vietnam they used mortar platoon, or the 4th Platoon. It's got all kinds.

Q. Did Captain MEDINA give a specific mission to the mortar platoon during his briefing, or did you get this perhaps from Sergeant MARONEY?

A. Well, we got the mission when we were up on LZ Uptight, and all we knew was that we were supposed to link up-- join the company, and support the company with one mortar, of which the company had three mortars.

Q. Sergeant, you say you got the mission at Uptight. Do you mean by that you got the briefing from Captain MEDINA at Uptight?

A. No, I got the briefing on LZ Dottie, on the evening of the 15th.

Q. You went over from Uptight to Dottie, on the evening of the 15th?

A. On the morning of the 15th, we went from Uptight.

Q. You stayed at Dottie overnight?

A. Right, sir.

MR WEST: We'll have a short recess.

(The hearing recessed at 1643 hours, 21 January 1970.)

(The hearing reconvened at 1647 hours, 21 January 1970.)

MR WEST: The hearing will come to order.

RCDR: The following persons are present: MR WEST, MR WALSH, MAJ ZYCHOWSKI, and MAJ COOP.

MR WEST: Sergeant KINCH, you have in front of you a large aerial photograph which shows My Lai (4), and it's vicinity.

(Mr. WEST oriented the witness on Exhibit P-1 and MAP-4.)

Q. Could you tell us, Sergeant KINCH, just what you did and saw after you got out of the helicopter there, on the landing zone that morning?

A. Well, we landed over here, on the west, like you said, sir, and we took this little trail. We sat there for about 20 or 30 minutes, the weapons platoon, there were already troops inside the village. I remember seeing some over here (indicating northeast of My Lai (4)).

Q. Did you hear firing?

A. Right, sir. It seemed everywhere.

Q. Was there any hostile fire?

A. None that I could identify, sir. Now, there were troops over here, on line setting up, I don't know what it was.

Q. Indicating off to the west about 300 meters from

My Lai (4). Did you identify the 3d Platoon? Did you know where the 3d Platoon was?

A. I believe this was the 3d Platoon over here, sir.

Q. To the west?

A. Right, sir. I can't say for sure. We sat up here for about 30 minutes, like I said.

Q. Did you set up your mortar?

A. Right, sir, set up the mortar. We did not fire it, and then we took--this is the trail, right here. Right around in here. Took this trail up.

Q. Indicating a trail on the western edge of My Lai (4). Did you move south along the trail?

A. Yes, sir.

Q. Where was Captain MEDINA, at this time?

A. He was over here, already on the trail when we set up. We met up with him, and he told us to break down the mortar and catch up.

Q. Did you, in general, move with Captain MEDINA's command group?

A. Right, sir.

Q. All right, please go ahead.

A. We moved south, on this trail (indicating), and we got word over the radio that a man had shot himself in the foot. An accidental casualty, and they were bringing a chopper for him, so they brought in the medevac. We stopped along this trail. They brought in the medevac for him. Right before they brought him in, we stopped. We were waiting on a dike and all of a sudden, we heard a machinegun open up. A .60 caliber, coming from this vicinity, or somewhere. There was a little house over here. I really can't pick it out very well, and I saw a little boy, maybe 8 or 10 years old, come running from that house, and a machinegun opened up, and he fell to the ground. He got back up. He was screaming and crying, and the machinegun opened up again,

and he fell to the ground. Then, after that, the medevac came in, picked up the man that was a casualty, that shot himself in the foot, and took him out.

When we started moving again. There was one junction intersection there on the dike, where we had to step over this body, to get by a young boy--I'd say anywhere from 8, to 10, or 12, somewhere around there--and he had a big chunk of meat out of his right arm. And later on, I heard that he was shot, because they thought that he was suffering from the wound too much. But he had no dressing or nothing, on the wound.

We started moving south again, and I looked up this one dike where I saw this first young boy running from, and I seen a pile of bodies out there, and the boy was lying on the dike, with the bodies laying there, so we moved into the village. That's when I heard that there was a chopper up overhead.

Q. Before we get too far along. About how many people would you say--You say there was a ditch?

A. It was right alongside the rice paddy dike. It was in the paddy itself. There was a bunch of people laying there. I would say 30 or 50, possibly more. It looked like a lot more.

Q. Was this somewhere near where the medevac helicopter came in?

A. Right, sir. The medevac helicopter had to pass right over it, to come in, because he came in from a south approach.

Q. Sergeant KINCH, after we go through some more testimony, Major ZYCHOWSKI will get with you, and ask you to mark up an aerial photograph, indicating perhaps the route which you took through My Lai (4). He'll also show you some photographs. Perhaps some documents. At that time you can indicate exactly where, to the best of your recollection, you saw certain things happen. Can you go on and tell us what happened after the dustoff, and after you saw the bodies along the edge of the dike?

A. Then we--well, after I saw the bodies right here, in this intersection, I looked up to the dike and saw these bodies.

(KINCH)

Q. That is the intersection on the south edge of the village where a trail leads south to 521?

A. Right, sir, and then we proceeded to go inside the village, and we were no more than maybe 5 or 10 minutes into the village--we heard over the radio, from the chopper up above, talking to the CO, Captain MEDINA, asking him why there was so many bodies. He had gotten a call from the dustoff chopper, and he wanted to know why there were so many bodies laying down there, and Captain MEDINA replied "I don't know. I'll call forward and find out." At this time he called, after he got done talking to whoever was in that chopper. He called up in front of him, I imagine it was the 1st Platoon, and told them to stop the shooting, and words similar to that. "The party's over."

Q. Did he call more than one platoon? Just the 1st Platoon?

A. I believe he just called one platoon.

Q. I read your account of this in your statement to Mr. FEHER. Would you explain to us, how you could tell, what was said to Captain MEDINA over the radio, from the helicopter?

A. Whoever it was in the helicopter, I imagine it was probably Colonel BARKER in the helicopter, he just called down, and they were using callsigns then, not giving names.

Q. Was MEDINA's RTO using a little speaker on his radio, so that you could hear it?

A. No, he had a regular big speaker, or whoever was behind me, had a regular big speaker.

Q. It was a speaker. They weren't using earphones.

A. No, we were using speakers.

Q. You could hear over the speaker what the transmission was?

A. Yes, sir.

Q. What made you think that this was Captain MEDINA-- I'm sorry, Colonel BARKER?

A. Because I heard that that was Colonel BARKER, sir, from a couple of guys in the platoon. Some guy said, that that was Colonel BARKER's chopper, up there.

Q. You could see the helicopter overhead?

A. No, I said I could see it before we went into the village. I could just hear it, when I went inside the village.

Q. You saw it hovering in the air before?

A. Yes, sir.

Q. About what time was this, or can you recall?

A. I wouldn't know, sir.

Q. I'll give you a point of reference. The dustoff occurred around 1025.

A. Maybe it was about 1045, maybe 1040. Sometime around there.

Q. Now, going back a little ways, to the previous time when you had seen Colonel BARKER's chopper up in the air. What time was this?

A. That was when the medevac chopper was coming in.

Q. He was up in the air, too?

A. There was also gunships, up there. A couple of jets flying off to the east.

Q. Did you remember Colonel BARKER's exact words, or close to them, as they came over the speaker?

A. As close as I can get them is "I just got a call from the dustoff chopper, and he said he spotted a lot of bodies, all over the place," or something similiar to that.

Q. All right. What else did he say?

A. That's all I remember him saying.

Q. What did MEDINA say?

A. He wanted to know what was going on down there, and Captain MEDINA replied, "I don't know what's happening. I'll call up forward and see what is happening."

Q. Let me ask you something. You have just been down on the south edge of the village, where the dustoff helicopter was. Wasn't Captain MEDINA there?

A. He was right there, by that intersection.

Q. Wouldn't you say, the bodies were visible to him there, as they were to you?

A. Yes, I would.

Q. Would you say they were visible to Colonel BARKER's helicopter?

A. The ones out in the paddy, yes, sir, but he was flying pretty high. I wouldn't know, exactly. He was well up there. I imagine that he could probably see them.

Q. You are referring to the bodies alongside the dike, at the edge of the trail?

A. Yes, sir.

Q. You testified a little while ago about seeing a boy, about eight years old, taken under fire, by a machine-gun. Did this occur after you heard the transmission from Colonel BARKER to Captain MEDINA?

A. No, before that.

Q. About where was that one, in reference to the dustoff?

A. Just east of the dustoff.

Q. Was it somewhere near where the pile of bodies was?

A. Yes, sir. This body was out in the middle of the dike, next to these other bodies.

Q. All right. Could you tell us what happened next, after Captain MEDINA had this call from Colonel BARKER?

A. Then he called up in front, and whatever platoon he was talking to, I imagine it was the 1st Platoon. He said, "Okay, that's it for today, let's quit the shooting." Something similiar to that, not exactly the same words, he said. So then the shooting did slow down and then we proceeded to go into the village. And, there were hootches burning, and a few of the guys, in the headquarters section, put matches to the hootches that someone had missed. And then, we come across this other pile of bodies, inside the village, on the right hand side of the dike.

Q. Looking at the aerial photograph, do you think you could locate the general position of this group of bodies? You started out by a trail near the center of the village, on the south edge.

A. Then we took all different little trails all through the village. It's hard to say.

Q. You went north, somewhat. Did you go north and east?

A. Right, sir, we went in every direction, and I say it would be right around in here, maybe around in there.

Q. Indicating a spot about 150 meters northeast of the intersection of the trail with the south line of the village.

A. I would say it was right around in there.

Q. Major ZYCHOWSKI will you help you mark it later. Could you tell us about these bodies, as far as ages and sexes are concerned?

A. Well, most of them were females and children. There was males scattered. There were a few males, but not that many. Old men, 70's or 80's, something like that.

Q. About how many were there?

A. Altogether, in that pile?

Q. Yes.

A. I'd say about 30, 40. There was quite a few.

Q. Going back to these other bodies, that were out on the trail, alongside the dike. What were their ages and sexes?

A. Mostly women, children. The same thing. A few men, scattered. I don't remember seeing any men in that first pile. I was off in the distance, you know, on the trail there.

Q. You described the machinegun opening up on the little boy, near the pile of bodies. Where was Captain MEDINA at this time?

A. I'd say he was just about at the intersection, at that time, when they opened up on the boy--when the machinegun opened up on the boy.

Q. Could you tell whether he saw it?

A. I don't know whether he saw it or not, but I know he had to hear it.

Q. He was right there, the same as you. He could have seen it?

A. He was looking right at the dike. I wouldn't say he was looking at the dike, but he was standing right there, at the intersection of the dike.

Q. How far where you then, from the machinegun?

A. I wouldn't know. From the dike at that time, I was about 50, maybe 70 meters, to the west.

Q. Did you see the man who used the machinegun on the little boy?

A. No, sir.

Q. What did this ditch look like? We have heard of this before, but the evidence is not to clear on it. For example, the length of it, the depth of it, whether there was brush around it?

A. I would say it was 6-foot, maybe 6 1/2-foot tall, in size. You looked straight at it. I wouldn't say how deep it was because, it ran quite a ways and then it turned. I believe it turned.

(COL MILLER entered the hearing.)

Q. Was this a built up sort of thing, or was it just a ditch, just cut out of the ground? When you say 6 feet, do you mean 6-feet deep?

A. Well, from ground level there was walls on the side, they were 6-foot high.

Q. They were built up, then?

A. Right, sir.

Q. You don't recall how deep it was?

A. No, sir.

Q. The length of the ditch; it wound through the village did it?

A. I don't know. You could only see about maybe 15, 20 feet back.

Q. Before it curved away?

A. Before it curved away. I just looked down and kept on going.

Q. Do you have any idea how these people were killed?

A. No, sir.

Q. All right. Please describe what you saw--I'm sorry, Mr. WALSH?

MR WALSH: Sergeant, when you describe it, I'm having a little trouble visualizing it. You said it was built up to a height of about 6 feet, above the level of the ground around it?

A. Yes, sir.

Q. How did you see the bodies? Did you climb up--

A. (Interposing) They were inside. As I looked to my right, there was this ditch on the right side of the dike, and the bodies were laying in there.

MR WEST: You passed across the end of it?

A. No, the path ran this way (indicating) and the ditch was off on the right of the path.

MR WALSH: From the path, you could look up the length of the ditch?

A. You could look up the ditch, right.

MR WEST: Okay, would you please continue?

A. Okay, then we started walking down the path a little further. We were walking and at that time I noticed these people in the ditch, and then we come across this house.

Q. Was Captain MEDINA walking along, too?

A. Right, he was right in front of us.

Q. Could he have seen what you saw?

A. If he would have looked to the right, he would have seen it, and then there was this one house off to the left. I noticed there was an old man laying on the steps, a young girl laying on what you would call a lawn, between a hedgerow and the house, and there was a little 6-month-old baby, laying just about at her feet. Then we walked a little bit futher down the path, or the route that we were taking, then we come outside and there was another--well, as we come out to the village, I should say--I think it was just as we come out of the village, there were bodies there, and they were scattered on the right-hand side, if I'm not mistaken.

Q. Now, would you describe the place where these bodies were? Was this a trail or a rice paddy?

A. I would say they were right over here, on the east side. There was a path coming out. I don't know if this was the path or not. It could have been this paddy, or this paddy.

Q. It was a rather large open field on the east end of My Lai (4). Was it out in there, or was it still within the outer limits of the village?

A. It might have been out in there, because I know there were a few more trees in front of us, which I would say are these trees here.

Q. Okay. Major ZYCHOWSKI will help you locate that point later. What did you do there now?

A. Well, we just kept on walking until we come out of the village, and then we stopped for lunch. There was this one building that was booby-trapped.

Q. Do you remember the demolition men around that building?

A. No, I don't. I remember we blew the building. I don't know if there was demo men with us, or some of the guys from the company.

Q. You did see a demolition set off?

A. Right, sir.

Q. Do you remember what happened to the building?

A. It blew up, sir.

Q. Can you remember anyone laughing at the demolition men?

A. No, sir.

Q. We heard some people poked fun at them, because they blew the wall of the building out, when they were only trying to blow out an entrance to the building.

A. I had heard that there was a 105 booby-trapped round on the steps to the building. I didn't see the round, myself.

Q. They were trying, in effect, to make a window into the place, in the side, and not have to go in the front. Where you broke for lunch, was that on the outskirts of My Lai (4), or still in the outer limits?

A. I believe it was on the outskirts, right around in here (indicating).

Q. As yet, had you crossed that rice paddy, to the east of My Lai (4)? It looks like it's about, probably 200 meters across here.

A. I don't know whether we crossed that before we stopped for lunch or not, sir. We might have, and we might have stopped in here, somewhere (indicating). I really can't say.

Q. All right. Would you tell us what happened during the lunch break?

A. During the lunch break, like I said, we stopped because this house was booby-trapped. We stopped for lunch while we were there, and during lunch they blew it, right in the middle of franks and beans, or whatever I was having.

Q. You ate C-rations that day?

A. Yes, sir.

Q. Okay. What else?

A. Then we went out and started moving again, kept on going east.

Q. Well, before we leave that point, do you remember talking to Mr. FEHER about a body count?

A. Oh, right, sir. That was just as we were coming out of the village.

Q. You were moving then, were you?

A. Yes, sir, we were moving.

Q. Before, or after lunch?

A. No, it was before lunch. Right before we hit the house, we were going through some brush and that.

Q. Did you hear another radio transmission over the radio here, through the loud speaker?

A. Yes, sir, and whoever it was on the other end-- Captain MEDINA was on one end, and whoever was on the other end, which I gathered it was Colonel BARKER, I don't know, and he said, "Do you have a body count," or words similiar to that, and Captain MEDINA replied, "310," I believe it was.

Q. Did he say 310 anything, or just 310?

A. No, he just said "310."

Q. I think you told Mr. FEHER that this was shortly after lunch.

A. It might have been after lunch. I really can't remember, right now.

Q. You did say that during lunch the demolition blew up the house. After lunch you went into the village.

A. I'm not sure if it was before lunch or after lunch.

Q. Okay, it's not too important, but at least you were on the move, when the call came in.

A. Right, sir.

Q. You know, this figure of 310, we've not heard before. How good is your recollection of this?

A. Pretty good, because that is the one thing that day that I won't forget. I said to myself, "310." I don't believe I seen that many. I just said, "What the hell is happening?"

Q. Well, you had seen quite a few up to that time.

A. Right, sir.

Q. Do you have any estimate of how many you had seen, up to that time?

A. I'd say about 150. Somewhere around there.

Q. Now, you were near, I guess, to Captain MEDINA, some of the time. Did he receive reports from the platoons? You know body counts, from the platoons?

A. No, sir. I don't remember him asking for a body count, or him receiving one.

Q. Did you happen to hear, during lunch, him ask the platoon leaders for a body count?

A. No, sir.

Q. Did you see where Captain MEDINA had lunch?

A. Yes, sir, he wasn't too far from us. We were just around a little dike, and he was up and around the other way. You could hear him.

Q. How far were you from the village?

A. I would say about 150 meters. Somewhere around there (indicating).

Q. Back in toward the village, from the building?

A. No, I would say we were south of the building. Just about south.

Q. Do you recall who was sitting with Captain MEDINA, as you had lunch?

A. No, sir.

Q. I realize you hadn't been with the company too long. Had you gotten to know his RTO's?

A. Right, sir, I did know a few of them.

Q. Did you know John WOOD?

A. Yes, sir, I knew him. Sergeant WIDMER, and MURRAY.

Q. Did you know the RTO for the artillery forward observer?

A. I can't remember his name now. Do you mean the officer?

Q. Not the officer. The officer was Lieutenant ALAUX. He had an RTO.

A. It wasn't JOLLY, was it?

Q. JOLLY was a forward observer for the mortar platoon. He floated around, various places. ALAUX's RTO's name begins with M.

A. I don't remember, sir.

Q. Maybe you didn't know him, at that time. MARTIN.

A. No, I don't believe I did.

Q. Did you see an MI officer there that morning with Captain MEDINA?

A. No, sir, I didn't.

Q. A lieutenant?

A. I don't recall seeing an MI officer.

Q. Did you know Captain MEDINA's interpreter?

A. Sergeant PHU. Right, sir.

Q. There was another Vietnamese sergeant there that day.

A. I don't recall seeing another Vietnamese interpreter.

Q. Was anybody near you that you can recall, when Captain MEDINA gave this body count, that could have heard the same thing you heard?

A. Probably. Harold HOLLAND and WATSON may have heard it, because he was near me. I don't recall anyone else in the area, or anyone else near me at the time.

Q. You are talking about WATSON from the mortar platoon? He was back at Landing Zone Uptight.

Q. OLIPHENT is the one I'm talking about. Who was sitting with you at lunch?

A. HOLLAND and OLIPHENT.

Q. And they were near you, also? Perhaps it was before lunch or after lunch, when you were walking along and heard this body count?

A. Right.

MR WALSH: Do you remember which of the RTO's was on the battalion net?

A. No, it was either WIDMER or MURRAY. One or the other, probably.

Q. Do you remember the callsign, Coyote 6?

A. No, sir. You hear so many different callsigns.

MR WEST: Do you remember hearing the call sign Rawhide 6, Saber 6?

A. No, sir. That was 20 some months ago, sir. You go through a lot of callsigns.

COL MILLER: Did this report of 310 body count mean to you that there was a body count of 310 people, or was this a code?

A. I don't know, sir. I took it as a body count, because whoever was calling asked for a body count and the CO replied "310."

Q. Was this the only body count report you heard during the day?

A. Yes, sir.

Q. Did you, during the day, hear any radios going at all? Were they turned on--

A. (Interposing) Yes, sir, they were on all day.

MR WEST: They were using speakers. Did you see any visiting officers up there that morning, from Task Force Barker, or brigade, or division?

A. No, sir. The only chopper that landed, after we landed, was that medevac chopper.

Q. Did you see a photographer there that morning, and a man from the PIO section?

A. I remember seeing a man taking pictures.

Q. Did you observe him leaving in a helicopter?

A. It was late that afternoon when they left--I heard they left.

Q. Later on in the day?

A. Right, sir. I don't know whether they did leave or not. I just heard they left.

Q. All right. Would you tell us where you went after lunch?

A. Well, I believe we kept on going east.

Q. You were still with the command group?

A. Yes, sir, and then--I had a mix up there. It was either that day or the day after. I think it was that day we hit the water. We--it wasn't a sea.

Q. I think you're referring to the mouth of the Song Tra Khuc River. It was a wide river. It might have looked like a beach.

(IO entered the hearing.)

Sergeant KINCH, General PEERS, as you see, has just joined us. I wish you would go back in your testimony to the point where you saw the dustoff helicopter pick up CARTER and take him out. And then describe the bodies you saw on the trail, and go on from there.

A. Right, sir.

IO: Before you go ahead, tell me, were you with the mortar platoon?

A. Yes, sir.

Q. What was your platoon leader's name?

A. MARONEY was the platoon sergeant with us.

(KINCH)

Q. Were you moving with the company headquarters?

A. CP group, right, sir.

Q. CP with Charlie Company?

A. Right, sir.

Q. That's all I need to know. Go ahead.

A. Well, just along this dike south of the hamlet there was a pile of bodies, just southeast of the dike there. And, the medevac chopper came in over these bodies and landed in the southern rice paddy dike, right here (indicating).

Q. He was landing from east to west then?

A. Yes, sir, and then I looked up the dike, when we got to the dike after the medevac chopper had left, and I seen these bodies sitting out there. I didn't notice them before that, and before the chopper had come in, I heard a machinegun open up over here, on the southeastern side of the hamlet. It was firing at a little boy, that was running from a house--building over here, running out towards the dike, towards us.

MR WEST: Towards the pile of bodies?

A. Yes, sir, and he dropped once, and the machinegun stopped. He got up, and he was screaming and crying, and then the machinegun opened up again, and he dropped again. The next time I saw him, was when I, from this intersection, looked up the dike. I'd seen him laying there, and saw the bodies off to the right. We then proceeded into the village.

Q. Would you describe the bodies for General PEERS?

A. Mostly women and children.

IO: Did you walk out and see them?

A. No, sir. I saw them from the dike.

Q. Did anybody walk out to see them?

A. Not that I know of, sir. I didn't see anyone out that way.

MR WEST: Where was Captain MEDINA at this time?

A. The time just before he was shot, he was standing just about on the intersection--junction going into the village, there (indicating).

IO: Could he have seen that?

A. I believe so, sir. He was standing right there. Just off the dike. The dike was straight ahead of him, and if he was going into the village, he'd just make an about face. Then we went into the village, after we crossed--well, there was a young boy laying along the dike, there, that we had to step over to get back.

Q. Do you know where you went into the village, from that point onward?

A. Well, we went in, I believe it's this intersection right here (indicating), sir, and then we just scattered all through the village.

MR WEST: Could you describe, now, what you told us about hearing the call from Colonel BARKER?

A. Well, just as we got into the village, just as we set foot in the village--well, just as I did anyway--got into the village, right at the edge there, I heard someone over the radio call the CO, Captain MEDINA, and he asked--he said, that he had gotten a call from the medevac chopper. The medevac pilot wanted to know why there were bodies all over the place down there, and Colonel BARKER had asked Captain MEDINA and Captain MEDINA replied, "I don't know, I'll call forward and find out." That's what was said, and he called forward after that and said, "Stop the shooting, the party's over," or something similiar to that. I wouldn't say that those were his words.

Q. Do you know who he was calling?

A. No, sir. I believe it was the 1st Platoon.

Q. Did he call more than one platoon?

A. I couldn't say about that, sir.

Q. Could this have been a call to all the platoon leaders, at the same time?

A. Yes, sir, it may have been.

Q. How could you hear this conversation, between Colonel BARKER and Captain MEDINA?

A. Through the speakers on the radios.

Q. How did you know this was Colonel BARKER speaking?

A. Because, I heard prior to--before we went into the village I heard--Colonel BARKER's chopper was pointed out to me--that Colonel BARKER was up there, in the chopper.

IO: Well, it was his chopper, but do you know that he was in it?

A. I don't know if he was in it, but I heard he was.

Q. Do you remember his callsigns?

A. No, sir.

MR WEST: You told us a little while ago that a man standing there told you this was Colonel BARKER's voice on the radio?

A. Yes, sir--I couldn't say that that was Colonel BARKER's voice, or not.

Q. I understand that, but what were you told at the time?

A. I was told that that was Colonel BARKER's chopper up there in the sky.

Q. This was when the transmission was coming in?

A. No, this was before that. Before the medevac chopper even came in.

IO: Now, about what time was that? Can you fix that? You started into the village about 9 o'clock, as I recall.

A. Somewhere around there, sir.

Q. How much longer after that did you recall that transmission?

A. I would say, it was a good 45 minutes almost an hour after that. We sat up in the paddy, 30 or 40 minutes, then we started walking, and then we waited for the medevac.

Q. This was after CARTER was medevac'd out?

A. Yes, sir.

Q. How much longer after that, approximately?

A. I would say 5 or 10 minutes.

Q. Now, when you moved into the village, as you moved north and east from that point, you got into quite a conglomeration of houses, did you not?

A. Yes, sir.

Q. Did you see many bodies in there?

A. No, not many bodies. But all the livestock was killed off, and there was hootches burning, and there wasn't too many bodies, that I'd seen in there.

Q. Aside from that group on the road, where else did you see bodies in the village?

A. Just inside the village here, just about, I'd say northwest from where we entered the village--northeast.

Q. And how many do you think you saw in there?

A. Pretty close to 50. 40 or 50.

MR WEST: Would you go over your testimony as you gave us earlier about moving down this ditch and coming to this ditch. Could you describe the ditch, and what you saw there?

A. We were moving on the path, I believe we were going east--

IO: (Interposing) In the village?

A. Yes, sir.

Q. Lots of trees, not lots of trees, but there were hedgerows, and bamboo, and so forth, around.

A. Right, sir, and then I come across and I looked to my right and there was this ditch there. I call it a ditch, anyway, because it had walls around it, and there was these bodies, just laying in there.

MR WEST: What were there ages and sexes?

A. Well, the males that I did see, which was only about two, three, a couple more. I remember I did see one male laying right in front of the bodies, and I would say he was about 60 or 70. The rest were all young and old females, and children.

IO: Can you just draw a line on that map for me, and show me about where you think that ditch was, and in which direction it was running?

A. I'd say it was running south about like that (indicating), if we were walking this way, because once I got in there, I didn't know my directions, no way. For all I know it might have been off over here, somewhere.

Q. Could it have been right along, about in here (indicating)?

A. It might have been. We might have been walking this way.

Q. I understand when you finally came out, you came out at that point right there, or near that point?

A. Somewhere around there I'd imagine.

MR WEST: Where was Captain MEDINA, at that time, when you crossed the ditch?

A. He was in front of us all the time, during this whole operation.

Q. How far in front?

A. Oh, about 10, 15 feet, at the most.

Q. He could have seen the bodies in the ditch?

A. Yes, sir, if he would have looked to his right.

MR WALSH: After you passed the ditch inside the village, you described some other scenes of bodies.

A. Right, sir, we were walking along a path, just after we passed that ditch, and I noticed this one building. There was a man laying on the steps of the building, house, and a young girl laying between the hedgerow on my left and the house, and then there was a little baby just about at her feet. Maybe a foot off her left foot.

Q. This was on the path that you were walking, following the command group?

A. Yes, sir.

MR WEST: Sergeant KINCH, could you tell us again about the body count incident, about where you were and when this took place? Just what you heard.

A. Well, I don't recall if it was before lunch or after lunch, but we were still following the CP group and a guy who was Colonel BARKER again called down.

Q. You heard the voice over the speaker?

A. Yes, sir, and he asked for a body count and Captain MEDINA replied, "310."

Q. Do you recall any more of the conversation back and forth?

A. No, sir. I believe that was the end of the body count--the end of the conversation.

Q. He didn't specify VC, or anything else, just 310?

A. No, just 310.

IO: That came through loud and clear?

A. Yes, sir. That's the one thing I won't forget about that day.

MR WEST: Tell General PEERS why you recall this?

A. Because it just stunned me, if anything. I heard him say, "310," and it just hit my mind. I said "What's happening?" It just scared the hell out of me.

IO: How long had you been in the Army up till this time, Sergeant KINCH?

A. Up till that time, I was in 3 years, 6 months, sir. It will be 5 years next month, sir.

Q. You had a little background as far as military training, and so on?

A. Yes, sir. 33 months in Europe.

MR WEST: How many people do you estimate you had seen, up to this time? How many dead bodies?

A. I'd say about 150, sir. Somewhere around there.

MR WALSH: You had just reported in to Task Force Barker?

A. Yes, sir, I was with them about 2 months then. I got there 12 January 1968, and this was March 1968--3 months.

MR WEST: You had joined, just before Charlie Company moved to Vietnam?

A. Yes, sir. Just after they moved to Vietnam. They got there in December, and I got there in January.

Q. All right. After your lunch break, can you tell us where you went next? You continued to move with the command group did you?

A. Yes, sir.

Q. Did you remember anything you saw, particularly after you left the village of My Lai (4)?

A. Yes, sir, that afternoon when we were along that river.

Q. Did you see another group of bodies?

A. Yes, sir, just outside the village, like I said-- the hamlet.

Q. You did describe it, that's right, would you describe for General PEERS the bodies you saw, just outside the hamlet?

A. Well, we had just come out of the hamlet. I don't remember which one of these paddies it was.

Q. This was before the break for lunch?

A. Right, sir. We come out of the hamlet, and there were scattered bodies on the right side of the dike, as we crossed the dike.

Q. Now, was this a dike alongside a rice paddy?

A. Yes, sir, it ran right in between two rice paddies. Like if it was this one here, we were walking in this direction, it would have been over in here (indicating).

Q. Now, were they in a ditch, or were they alongside a dike?

A. They were scattered out. It looked like to me a ditch, because it had one wall running this way, and another wall running the other way, higher than the dike we were on. They were just scattered out.

Q. About how many?

A. I would say there was about 50 in there also.

Q. 50?

A. Yes, sir.

Q. And you saw this, before the lunch break?

A. Yes, sir, I'm quite sure it was before lunch.

Q. Before you saw the building, where the wall was blown out, during lunch?

A. I believe it was, sir.

Q. Sergeant KINCH, we had started to discuss what C Company did after leaving My Lai (4), and I believe you said you moved to the east.

A. Yes, sir.

Q. Now, what actually occurred when you moved to the east and joined up with B Company, and laagered in for the night, near a graveyard?

A. Yes, sir. But before that I believe we hit a river bed, and we took three prisoners there at that river bed, and one was female.

Q. Do you remember seeing some National Police there that day? We're still talking about the 16th, now.

A. No, sir. That evening I do, when we met up with Bravo Company.

Q. Okay.

A. We slept in a graveyard.

Q That's what I meant. Could you tell us about that?

IO: Before you tell us, did you see the National Police arrive?

A. No, sir. I thought they come in with B Company when we met up with them. I thought they were with them, all the time. Well, once we got into the graveyard that we slept in that night, this one captain, I heard that he was from Chu Lai, he was an interrogator, or working with the CID, or something like that. And he had this one Vietnamese old fellow and he was asking him questions and all of a sudden he just put a piece of board under his hand and he chopped off the one finger, while he was still asking him questions.

Q. Had he been doing anything to his hand, prior to that time?

A. Not that I remember, sir.

Q. What kind of a knife did he have?

A. It looked like a big "Jim Bowie" knife. It was a big one.

Q. Did you see him use the knife, or any other thing to beat him on the hand, or anything of that nature?

A. No, sir.

Q. How much of the finger did he cut off?

A. Just to the first break I'd say. First knuckle.

MR WEST: How close were you to him?

A. I was maybe 8 or 10 feet away when they cut it off. There was a big crowd of us, standing around there.

IO: Was anybody else with him at that moment?

A. Yeah, Sergeant PHU was there.

Q. PHU was right with him?

A. Yes, sir.

Q. Was anybody else there?

A. Well, like I said, there was a lot of us GI's just standing around watching.

Q. How about Sergeant MINH? Did you know a Sergeant by the name of MINH?

A. No, sir.

Q. Did you ever know one by the name of HIEN? H-I-E-N.

A. No, sir.

Q. Did you see any other interpreters, aside from PHU?

A. Yes, I did, but they was over in a distance, over where B Company was set up. I didn't see them at that time. I saw them later on that night.

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A. No, it was a little bit longer than a few minutes, because we had already dug in. After that. It seemed to be an hour or 45 minutes, later.

MR WEST: You mean after the finger--the piece of the finger was cut off?

A. Yes, sir.

IO: Do you think you could identify the officer, if you were to see a picture of him?

A. The captain?

Q. Yes.

A. I probably could. A big, heavy-set fellow.

Q. How was he dressed?

A. Like an Army officer.

Q. Yes, some dress pretty good, and some dress more like I do.

A. He had starched fatigues and that, sir. I believe he was carrying a .38, also. I'm not sure.

MR WEST: Sergeant KINCH, I would like to take you into another matter here, before General PEERS leaves. I'll ask you a question that Mr. FEHER asked you. You had seen a lot of people killed in My Lai (4), and yet there apparently was no resistance in the hamlet. If there was no resistance in the village, why were these people shot? In your opinion?

A. In my opinion, just for the sake of revenge, because of what happened prior--2 weeks earlier.

IO: Had there been any reference to that in the briefing you received the night before? That you were going in there to get revenge? You were going in there, to clean out that place?

A. No, it just looked that way to me. That night and after that, also.

Q. Were you there when the orders were issued to C Company?

A. Yes, sir.

Q. Specifically, what was said as to what you were to do in there?

A. Well, Captain MEDINA got us all together. I'd say just about the whole company was there at the same time and he said, "You all know what happened in the minefields. We've got a chance to go back to the Pink Village"--is what they called it-- "We got a chance to go back into the Pink Village. We're going in tomorrow morning." He says, "As far as I'm concerned, they're VC or VC sympathizers, and when I come through tomorrow, I don't want to see nothing living but us." Words similar to that. He said he wanted the live-stock killed.

Q. You got the impression that you were just to eliminate any living thing, houses, crops, everything?

A. Yes, sir.

Q. Before I leave, I would like to ask you just one more question, which is quite important to me. You are an Army soldier, and you've gone through this experience, Sergeant KINCH. How was it that you didn't go to somebody and tell them about it?

A. Because of what I had heard right after we had come out of that operation. I heard that they were pulling an investigation, and we were told to keep quiet if we were asked questions, the guys in the company.

Q. Who told you that?

A. I believe it came down through the platoons. I believe it was Sergeant MARONEY that told us, or it might have been Lieutenant THOMAS.

Q. My question would still be so what? You've got this drifting down. You have seen the worst thing you could possibly imagine. Do you know the accessibility of the Inspector General?

A. Yes, sir.

Q. I'm just wondering why you, a regular Army soldier, for example, and with your intellect, and your moral standards and so forth, why you were not compelled to do something about it?

A. Well, sir, the way I took it was that it was something that we were supposed to do. The men in the company at the time did it. I know when I came into the Army they told me to follow orders, and that is what I've been doing, just like I stated to Mr. FEHER. He asked me a question there, and said, "Do you know what an unlawful order and a lawful order is?" And I just told him I had thought about it, because when I came through Fort Dix 5 years ago they told me there was such a thing as an unlawful order, but they didn't go into detail, under combat situations, what you can do and what you can't do about it.

IO: That's very helpful to me, because very frankly we are interested in what happened there. Were also interested in other aspects of it as well.

MR WEST: Do you remember what you told Mr. FEHER on this point? He asked you if you thought that an order to shoot women and children is a lawful order. You said that this question is hard to answer, and went on and described the feeling. He also asked you if the order means to shoot women and children. You said "This is also a hard question to answer. I don't know what I would have done had I been in that position." You said "I myself think it's wrong, the way they teach it, in basic training. They should go about it in some other way." Do you remember this?

A. Yes, sir.

Q. Could you elaborate on that for General PEERS?

A. Well, what I was talking about is--what I just got done stating about, the unlawful order. When I come through, they told you there was such a thing as an unlawful order, but they didn't go into detail on it.

Q. They never explained it, gave example?

A. In the Army an order is an order.

IO: Did anybody ever tell you about reporting atrocities, and war crimes, and your responsibilities as a soldier?

A. Not during combat conditions.

IO: For your information it is brought out very clearly in the regulations at the top echelon. That you are responsible, that I'm responsible, that everyone else who wears a

uniform is responsible, for reporting any atrocities against an individual, and crimes against humanity. So, the question I'm trying to settle in my mind is whether or not it got down to you on the cutting edge, as a soldier in the fighting front.

MR WEST: Would you explain for General PEERS the circumstances of how you came through the pipeline to join Charlie Company? You went to Hawaii?

A. I went from Europe, I came from Europe. I went home on leave. I was stationed in Europe and then went home on leave. I was assigned to C/1/20 through the Americal Division processing center.

Q. What did they tell you at the processing center?

A. They didn't tell you much.

Q. Did you have any briefing on this kind of thing, the treatment of noncombatants and so forth. Did you have instruction by the division staff judge advocate or division commander on this kind of topic?

A. No, sir.

Q. Any senior officer in the division talk about how you respect women and children?

A. No, sir, the main thing they got on was booby traps. That was the main thing they pushed, booby traps, first aid. Different things like that, which you'd find in jungle warfare, and wouldn't find anywhere else.

(IO withdrew from the hearing.)

MR WEST: Sergeant KINCH, can you think of anything of significance that occurred during the next 2 days. That would be on the 17th and the 18th. Do you know pretty much how the company moved on the 17th? They moved down south to the Song Tra Khuc River and then back up a ways and spent the night in the field. Then they moved north across another river, the Song Diem Diem, I believe, and were lifted out in the afternoon of the 18th to Landing Zone Dottie. In those two days, do you recall anything of significance that occurred?

A. The only thing that I can remember that is we took

prisoners and we had them carry our rucksacks.

Q. Was there any more killing of Vietnamese people during that time--civilians?

A. No, not that I seen.

Q. How about the hamlets that you passed through? Did you find any more inhabited hamlets?

A. No, sir.

Q. What was done with these hamlets as you passed through them?

A. I really couldn't say, sir. I don't know if there was anything done to them or not. I don't believe there was.

(COL MILLER entered the hearing.)

Q. After you got back to Landing Zone Dottie, do you remember being met there with other members of the company, by a field grade officer?

A. No, sir.

Q. Do you know Colonel HENDERSON, the brigade commander?

A. I've heard of him.

Q. You weren't familiar with him?

A. No, sir.

Q. Nobody met your helicopter, when you came in?

A. No, sir.

Q. Were you present at a company formation, at which Captain MEDINA spoke about an investigation into what had happened at My Lai (4) and said not to talk about it, except perhaps to an investigating officer?

A. I remember, I believe it was just after we landed, he got us all together and said were going to run an investigation into what happened the last couple of days, and said,

as far as anyone knows we went in there, we caught fire and we returned fire.

Q. So this happened while you were still at Dottie?

A. Yes, sir.

Q. We've had at least one witness who indicated that Captain MEDINA got the company together while it was still out in the field, perhaps the 18th.

A. I don't know if it was out in the field or back at Dottie. I really can't recall, sir.

Q. It could have been in the field?

A. Yes, sir.

Q. Would you tell us again what Captain MEDINA said?

A. He said that they were running an investigation into the Pink village operation, and that if we were asked any questions, to tell them that we were in the village, we caught hostile fire, and we returned fire.

(COL FRANKLIN entered the hearing.)

Q. Is that all he said?

A. Yes, sir.

Q. Did he say anything about standing up for the company, taking the responsibility?

A. Not that I remember, sir.

Q. This is to help your recollection. When did you get back to Landing Zone Uptight?

A. I believe it was that evening, the day we pulled into Dottie.

Q. Can you remember how much time elapsed before you caught a helicopter up to Uptight?

A. Not offhand, sir.

Q. I'm trying to help you remember if there was a meeting that Captain Medina called.

A. We might have left right from the field to Uptight.

Q. All right, that was another question. Could you have gone back to Uptight instead of Dottie?

A. We could have. I don't know if we did or not.

Q. You're not sure?

A. No, sir. It all happened so fast, especially just being new in the company.

Q. You might keep that in the back of your mind. If your recollection clears up, tell Major ZYCHOWSKI later. Did anybody ever come around and talk to you about the My Lai operation?

A. No, sir.

Q. Do you know of anybody else in your platoon or in your company who was questioned by an investigating officer about the My Lai incident?

A. No, sir.

Q. Did anyone else tell you to keep quiet about it?

A. No, not that I remember, sir.

Q. Did you ever hear anything about a similiar incident, on a smaller scale, taking place over in Bravo Company's zone of operations along the coast?

A. No, sir.

Q. Nothing similar?

(Witness shook head in the negative.)

I want to ask you some general questions, now. We really have touched on these matters somewhat before, but this is the summing up. What is your opinion of exactly what happened at My Lai on 16 March 1968?

A. My opinion as to what, sir, as to what exactly happened?

Q. Yes, this is the most unusual thing you know. How do you think that event was--as to what happened?

A. I think it was a disgrace myself, sir, not just to the company, but to the government itself.

Q. Do you think of it as an atrocity, a massacre?

A. A massacre, no doubt.

Q. Do you think of it as something the men did, under orders? The men got out of control? Some of them. Run wild? Killed these people.

A. I think it was something that was done under orders, but should have not been done.

Q. You were with Captain MEDINA quite a bit during the day. Did it seem that he had control of his company?

(MR MACCRATE entered the hearing.)

A. Yes, sir, Captain MEDINA always had control of his company.

Q. There have been some people who have suggested that things got out of hand, that really the company got out of control, and that is why these things happened. Did you have any similiar impression?

A. No, sir, just that the men were told what to do and they went in there and done it. I just come in afterwards and seen what they had done.

Q. The second general question I'd like to ask, and again you've touched on this somewhat, that is, why did it happen?

A. Well, mainly because of the revenge thing. They just wanted revenge on this village. I don't know if it was a given order to Captain MEDINA, or not.

Q. Did he mention, I'm not sure whether I asked you, did he mention anything about this being directed by higher headquarters? This was a mission given to the company by higher headquarters?

A. No, sir.

Q. You don't remember that?

A. No, sir, I remember him saying that we got a mission and he told us on the night of the 15th.

Q. General PEERS perhaps covered my third question and that question is, why was it not reported? Your answer I take it was that you understood there was an investigation going to be made into the incident. This is why you didn't do anything?

A. Yes, sir.

Q. What about all the other people? I think you must realize by now that essentially it was not known back here in the States until--widely at least, until about 2 months ago, in November.

A. I imagine that everyone else thought the way I thought. It was something that happened, and everyone wanted to forget it.

Q. Was there much talk about what had happened, there in the company afterwards?

A. For a week or two afterwards, I'd say there was.

Q. It died down after that?

A. Yes, sir. You've always got some guys running around bragging.

Q. There were some stories in the newspapers in November, about a possibility that the men of Charlie company were under the influence of marijuana on 16 March 1968. Do you know of any such thing?

A. No, sir.

Q. Was there a marijuana problem in your platoon?

A. Not in my platoon, sir. I knew there was a few cases in the company.

Q. Do you know of anybody who went into combat in the company while under the influence of marijuana?

A. No, sir.

MR WALSH: Sergeant, do you remember if the company was ever advised of any congratulatory message from General WESTMORELAND, about this operation?

A. Yes, sir, we heard--word was passed around that they was bringing something down to the company to honor them, or something, for what had happened at My Lai (4), but it was just hearsay. I don't know.

Q. You never had a company formation, or any announcement by a platoon leader, or by anybody, that a congratulatory message had been received by the division commander or somebody higher up the line?

A. No, sir. I believe it just come through the guys in the platoon.

Q. Just a rumor you heard?

A. Yes, sir.

Q. Tell me sergeant, was it your experience in operations with C Company that there would, at least among some of the men, commonly be a practice of abusing or raping of women when they swept through villages?

A. There were a couple of guys in the company that did do things like that.

Q. Do you know of any effort that was made by any of the officers in the company to stop it?

A. No, sir, not for a long time afterwards. After we changed company commanders and platoon leaders.

Q. Do you know if Captain MEDINA was aware of this?

A. I believe so, sir.

Q. What's the basis for your belief?

A. Because this one day, I believe it was 16 March we hit the river and took in these three suspects, and there was a female--I think there was four, three male and one female, and her blouse was off, and the guy that found her said that he was going to rape her until he looked at her and changed his mind. So anyway, just as the chopper came in to pick up these suspects Captain MEDINA, I guess Captain MEDINA

had heard about this guy was planning to rape her or something. So the girl, she wore no blouse or nothing, she just had a skirt on. She was supposed to be a VC nurse, or something, and Captain MEDINA grabbed her by the breast and pulled her to the chopper.

MR WALSH: Was the individual that captured the VC nurse Private SIMONE?

A. I believe it was Private SIMONE, because I remember seeing him carrying her over his shoulder. I don't know if he raped her or not.

Q. When he was carrying her over his shoulder, was Captain MEDINA in the area?

A. Yes, sir.

Q. Could he have seen that?

A. Yes, sir.

Q. Did he hear SIMONE say what he intended to do?

A. I couldn't say if he did or not, sir.

Q. Did you have any other instances that lead you to believe that Captain MEDINA, or any of the other officers, were not concerned about raping women?

A. No, sir.

MR WEST: Sergeant KINCH, did you write home about what you had seen at My Lai (4)?

A. No, I didn't, sir.

Q. The reason I asked is because other witnesses that we've had in here did.

A. I did say something after I got hit the first time, but that was about another incident, sir.

Q. Not about this?

A. No, sir.

Q. You were wounded twice in Vietnam?

A. Yes, sir.

Q. When was your first one?

A. May 6, 1968.

Q. You were still with C Company?

A. Yes, sir.

MR WEST: Well, if you should run across any letters, note, memorandum, photographs, anything that you think might help us in our investigation, we would appreciate hearing from you.

A. I will, sir.

Q. Can you think of anything now that might help us, that hasn't been brought up in the questioning? If so, we would appreciate your telling us now, or if you want to make a statement on any matter.

A. Not exactly, sir.

Q. I'm sorry, I didn't hear your answer?

A. No, sir. There's nothing I need to make.

Q. Any kind of comments you would like to make, I'll be glad to hear it. One witness yesterday talked to us along much the same line as you did about the training, about the illegal order.

A. Yes, sir, that's about the only thing.

Q. He felt that he had been trained to obey an order without question.

A. That's the way I've been trained. I was once told, when I came through basic, that there was such an order--an illegal order. In a lot of cases, a guy disobeys an order and he's court-martialed, or something, so you don't know which way to turn, when you are up against one of these predicaments.

Q. Do you think this played a part in what happened at My Lai (4) that day and the killing of all these people?

A. I don't know, sir. I don't believe there are too many people, who said anything against the act, when it happened.

Q. Well, you didn't shoot any body?

A. No, sir.

Q. Were there many people in that command group that were shooting Vietnamese people?

A. Not that I seen, sir.

Q. Do you know WIDMER?

A. Yes, sir.

Q. Did you see him with a weapon, that day?

A. I don't know if he carried a weapon or not. I imagine that he carried an M-16. I don't remember seeing him with one.

Q. Is there anything else that you can think of? Anything you might tell us?

A. No, sir.

COL FRANKLIN: Sergeant KINCH, I would like for you to remain after, and talk to Colonel MAHAFFEY for a few minutes.

MR WEST: This will terminate the hearing and if you will stay with Colonel FRANKLIN, Colonel MAHAFFEY, and Major ZYCHOWSKI we'd appreciate it. We thank you for coming Sergeant KINCH, you've helped us a great deal, and we're very appreciative.

The hearing will be recessed.

(The hearing recessed at 1830 hours, 21 January 1970.)

(The hearing reconvened at 1940 hours, 21 January 1970.)

MAJ ZYCHOWSKI: The hearing will come to order.

Sergeant KINCH, this portion of the hearing will

be that of trying to retrace your steps through My Lai (4), and to have you look through some photographs and try and see if you can recognize and identify any of the persons, terrain, or locations. In front of you is an aerial photograph of My Lai (4) and the surrounding area. What I would like for you to do is to try and trace the route that you took through My Lai (4), starting with the time that you landed at the LZ. Can you show me the approximate area of the LZ?

A. Right here.

MAJ ZYCHOWSKI: Sergeant KINCH will you then show the approximate route that you took through My Lai (4) from the LZ?

A. From the LZ we went south.

Q. A southeasterly direction around the western edge of My Lai (4)?

A. Right, we stayed on the edge until I came to this path, where I found one dead boy.

Q. Now as you came to the southwesterly part of the village, you then went in an easterly direction until you came to this trail here. Is this correct?

A. Yes, sir.

Q. Did you see anybody shoot this boy?

A. No, not this one.

(MAJ ZYCHOWSKI marks on the aerial photo, Exhibit P-1, which is later received in evidence as Exhibit P-184.)

MAJ ZYCHOWSKI: Point 1 will depict the area in which Sergeant KINCH observed a dead boy. Sergeant KINCH, will you please continue from this point?

A. Then we went down the path, and we stopped, and then a medevac chopper came in and picked up a casualty that we had, right about here, in the middle of this paddy.

MAJ ZYCHOWSKI: Point 2, will be the approximate area where the medevac landed to pick up the wounded soldier.

Q. Would you please continue from there.

A. We came down to this junction--this intersection.

Q. This is the north-south trail you are talking about. Is this correct?

A. Right, I believe, I saw this one boy get shot. He was shot right out in here, by this dike here.

Q. You actually saw him shot?

A. Right.

Q. Do you know who shot him, or how he was shot?

A. He was shot by a .60 caliber machinegun.

Q. Sergeant KINCH, in addition to the boy that you saw shot here, did you observe anything else?

A. Yes, a pile of bodies, just to the right of the dike from him.

Q. This would be the east portion--in an easterly direction?

A. Right.

Q. Sergeant KINCH, could you determine up to this time what the ages, or the sexes, were of these 40-50 bodies?

A. I would say they were middle class--mostly women and children.

Q. Do you mean middle class or middle aged?

A. Middle aged.

Q. You saw mostly women and children then?

A. Right.

MAJ ZYCHOWSKI: Point 3 will be the area--approximate area where Sergeant KINCH saw a boy get shot, and approximately 40-50 bodies.

Q. Sergeant KINCH, would you please continue?

A. Then we went inside the village.

Q. Now heading in a northerly direction. Is that correct?

(KINCH)

A. Right, and then we just turned easterly, and then I heard the conversation over the radio, giving the orders to stop the shooting.

Q. You were then going in a northeasterly direction. How far in the village would you say you were?

A. I would say, about half way through it.

Q. Referring from the southern edge of the village?

A. I would say about 150 to 200 meters in.

Q. And where were you when you heard this order? Approximately where?

A. Right about in here.

MAJ ZYCHOWSKI: Point 4, shows the approximate area where Sergeant KINCH heard the order to stop the shooting.

A. Then we came across the ditch.

Q. You were now heading in an easterly direction and came to this ditch. What did you observe in this ditch?

A. About 30-40 bodies in it.

Q. Can you describe these bodies?

A. Mostly women and children. I did see about three or four old men.

MAJ ZYCHOWSKI: Point 5, will be the area where Sergeant KINCH observed approximately 30-40 bodies in a ditch.

Q. Okay Sergeant KINCH, would you please continue?

A. We went on a little further, and I came across this house with a man laying on the steps, a women laying about 15 or 20 meters away from the house, and a baby laying out on the path, where I was walking.

Q. These were dead?

A. Yes, they were.

MAJ ZYCHOWSKI: Point 6, will be the approximate area where Sergeant KINCH observed the elderly man, women, and baby that were near a house, and all were dead.

Q. Okay, Sergeant KINCH, would you please continue with your movement through the My Lai (4) village?

A. All right, then we started to walk on the path, and I came across another group of bodies, out here in the paddy.

Q. This was out in the rice paddies here?

A. Right, just outside the village.

Q. And these were how many bodies again?

A. About 50.

Q. Could you describe them?

A. Mostly women and children.

MAJ ZYCHOWSKI: Point 7 will be the approximate area where Sergeant KINCH observed 50 bodies.

Q. Sergeant KINCH, would you please continue?

A. Then we proceeded on the path, and stopped for lunch, just about here.

Q. Right on the outer edge of the village, on the eastern portion of the ditch.

A. Right, on the eastern side of the village.

Q. Approximately what time did you eat lunch, Sergeant KINCH, do you recall?

A. About 1230 or 1300, I guess.

MAJ ZYCHOWSKI: Point 8, will be the approximate area where Sergeant KINCH ate lunch.

Q. Other than what you've indicated on the map, Sergeant KINCH, did you observe any other atrocities?

A. No, I didn't.

- Q. Then after you ate lunch what happened?
- A. During lunch we blew a house out there, that was booby-trapped.
- Q. This was in the approximate area where you were eating?
- A. Correct, just about in there, and I proceeded until we got to the river. Just went over paddies and a lot of little villages.
- Q. Sergeant KINCH, I now show you the photographs that I gave you prior to this interview, that you have selected on some basis of recognition. Now, please give me all the information that you can, concerning each photograph. What do you recognize about Exhibit P-9?
- A. Sergeant WIDMER, left of the man in the center.
- Q. The extreme right side of the picture as your looking at it.
- A. Right.
- Q. Do you recognize anybody else there?
- A. No, I don't.
- Q. P-13?
- A. I recognize Sergeant MARONEY.
- Q. Sergeant MARONEY is the second person from the right, without a steel pot.
- A. Then Sergeant PHU.
- Q. Sergeant PHU is the third person in the photo. He is on Sergeant MARONEY's right.
- A. And Specialist FAGAN.
- Q. FAGAN would be in the extreme rear of the picture, and actually, on the top side of the photograph. Is this correct?

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- A. Right.
- Q. Do you know anyone else?
- A. No, I don't.
- Q. Do you recognize the area?
- A. Yes, I do.
- Q. Is this My Lai (4)?
- A. Yes.
- Q. Do you recognize where this might be on the map?
- A. It looks like where we stopped for lunch.
- Q. Can you locate this particular scene, on the photograph?
- A. No, I cannot.
- Q. P-17?
- A. Okay, I identified Sergeant MARONEY.
- Q. Sergeant MARONEY, the second person on the right, without a steel pot.
- A. Sergeant PHU.
- Q. Sergeant PHU, is on his right.
- P-66?
- A. Sergeant PHU, on the extreme right.
- Q. On the left?
- A. Left?
- Q. The extreme left of the photograph, as you are looking at it. Do you recognize anyone else in the photograph?
- A. Sergeant MURRAY, or SP4 MURRAY.

Q. MURRAY is on the right of the photograph, carrying a radio?

A. Right.

Q. Do you recognize anyone else in the photograph?

A. No, I don't.

Q. Do you recognize this area?

A. No, I don't.

Q. P-67?

A. Sergeant PHU, on the right of the photograph.

Q. How do you know this is Sergeant PHU? He's got his back to you.

A. I remember him putting the Americal insignia on his helmet.

Q. P-126?

A. Specialist SMAIL.

Q. Which one is he?

A. The second from the left.

Q. Did you observe this scene?

A. No, I didn't.

Q. Do you recognize anyone else?

A. No, I don't.

Q. P-128?

A. SMAIL again, in the center of the picture.

Q. Standing?

A. Right.

Q. These photographs that we have just looked at, Sergeant KINCH, you cannot actually place any of these photographs on the aerial photo before you. Is this correct?

A. No, I can't.

Q. Sergeant KINCH, if the route that you have taken through My Lai (4), and the incidents that you have noted here are correct, I would ask that you sign the photograph.

(The witness signed the aerial photograph.)

MAJ ZYCHOWSKI: The aerial photograph signed by Sergeant KINCH is entered into the record as Exhibit P-184.

Q. Sergeant KINCH when did you join C/1/20?

A. About 12 January 1968.

Q. And this was in Vietnam?

A. Right, in Vietnam.

Q. When you arrived in Vietnam did you have any training in the treatment of prisoners of war and noncombatants?

A. Not much, just a couple of words they had said at the processing center there at Chu Lai.

Q. You don't recall any instructions by anyone from division or any cadre there giving you any formal classes on these subjects? Is that correct.

A. No, I don't.

Q. Sergeant KINCH, I show you Exhibit M-2 which is entitled "Nine Rules". This is a facsimile copy of some cards. Have you ever received this card or have you ever seen it?

A. Yes, I have seen it.

Q. Were you issued this card in Vietnam?

A. Yes, I was.

Q. What instructions did you receive with this card?

A. None, it was just passed out among the men, in the company.

Q. But nobody explained it to you?

A. Nothing else.

Q. I show you Exhibit M-3 "The Enemy In Your Hands." I ask you if you have received this card or seen it.

A. No, I never seen it before.

Q. You've never seen that card before?

A. No.

Q. Sergeant KINCH, on this operation at My Lai (4), did you observe anyone besides the PIO personnel taking any photographs?

A. No, I didn't.

Q. None at all?

A. None at all.

Q. What was your opinion about Captain MEDINA? What kind of company commander was he?

A. I think he was a good company commander and he knew what he was doing all the time that I knew him and he knew his job. That's about it.

Q. Sergeant KINCH, is there anything that we have not discussed, or do you have any further information that would be beneficial to General PEERS and this group in this investigation?

A. No, only the part about an unlawful order, and the way they teach, when a man first comes into the service.

MAJ ZYCHOWSKI: Sergeant KINCH, as Mr. WEST indicated, we are very appreciative for your coming in today and giving us this information. If when you do get back home you should come across any letters, tapes, documents, or anything which would be beneficial to this investigation, we would sincerely appreciate it if you would let us know about it.

Sergeant KINCH, I would again like to reemphasize what Mr. WEST told you earlier. You are directed that you should not directly, or through others, discuss the My Lai incident including subsequent investigations and reports with any person who may have been connected with this incident in any way. This does not apply of course if you are required to discuss the case in any administrative, legislative, quasi-judicial or judicial proceedings, only as you may be required to do so in the performance of official duties. Do you understand that?

A. Yes, I understand that.

MAJ ZYCHOWSKI: Sergeant KINCH, thank you very much for coming.

The hearing is recessed.

(The hearing recessed at 2020 hours, 21 January 1970.)

SUMMARY OF TESTIMONY

WITNESS: MARONEY, Leo M. SFC

DATE OF TESTIMONY: 31 December 1969

PLACE OF TESTIMONY: Pentagon

WITNESS SUSPECTED OF: N/A

COUNSEL: None

DUTY ASSIGNMENT ON 16 MARCH 1968: Platoon Sergeant, Mortar Platoon, C/1/20.

1. PRIOR TRAINING IN THE RULES OF LAND WARFARE.

MARONEY did have some classes on the Geneva Conventions in Hawaii and saw a film on it, but he remembered no instruction on the legality of orders, the handling of non-combatants, or the rules of engagement (pgs. 8, 9). There was a class on the traditions and customs of the Vietnamese (pg. 9). The witness stated that a captured prisoner should be disarmed, searched, tagged, and sent to the rear (pg.10). He knew that one should shout "dung lai" to a fleeing Vietnamese and stated, with some prompting, that if the man kept running one should shoot to wound rather than kill because of the man's intelligence value (pgs. 10, 11). MARONEY recalled no training at Duc Pho concerning the handling of PW's or detainees, the Geneva Conventions, or the rules of engagement (pgs. 13, 14). He had never seen the cards "Nine Rules" or "The Enemy in Your Hands", but he did have "Guidance for Unit Commanders" and knew he was supposed to keep it with him at all times (pgs. 14, 15). He could not recall being asked to deviate from the rules set forth on that card (pg. 15).

2. PREOPERATIONAL PLANS AND BRIEFINGS.

Captain MEDINA told the company that the village contained nothing but VC and VC sympathizers, and they were to destroy everything in it (pgs. 17, 49, 50). Any animals or crops not destroyed would only aid the VC (pg. 17). MEDINA mentioned the names of the company's dead which had been

suffered as a result of sniping and booby traps and said that this would be a chance to get even (pgs. 17, 52). MARONEY did not recall a memorial service prior to the briefing, a statement that the civilians would be at market at 0730, or a platoon briefing after MEDINA finished (pgs. 19, 51). He did not think MEDINA intended the killing of the women and children (pg. 50). Morale was high after the briefing (pg.51).

3. THE ASSAULT ON MY LAI.

a. Entry into the village.

MARONEY's men were the last to arrive at the LZ (pg. 20). The LZ was approximately 100-150 meters from the village, the location of which he marked with a "1" on Exhibit P-131 (pg. 20). He brought only one tube and eight or nine people to My Lai (pgs. 4, 22). The tube was set up within 30 meters of the LZ and MARONEY marked this position with a "2" on Exhibit P-131 (pg. 22). The mortar was in position for half an hour at which time it was displaced and carried with them (pg. 27). He received no fire mission during the operation (pgs. 28, 53). His people followed the command group through the village and were given the mission of cutting down crops and burning hootches (pgs. 29, 53). He did not recall being on a major trail for the whole movement through the village (pg. 23). It took them two hours to make their way through the village and they ate lunch on the other side (pgs. 29, 30). During this time he witnessed CARTER's dustoff, the location of which he marked with a "5" on Exhibit P-131 (pgs. 31-33, 56). His people received no enemy fire while in My Lai (pg. 53).

b. Bodies observed by MARONEY.

(1) Bodies of those already dead.

MARONEY saw at least 50 dead bodies in the village on the 16th (pg. 76). The bodies were those of men, women, and children (pg. 28). He did not know how many bodies MEDINA saw, but he was with MEDINA on the move through My Lai (pg. 77). The largest group he saw was 15 bodies located along a trail on the southern edge of the village which led from some houses to the main village (pgs. 34, 48, 57, 58). He marked the approximate position of these bodies with a "6" on Exhibit P-131 (pg. 57). He saw this group at a distance of 50 meters (pg. 59). All these were

bodies of people who had been killed prior to his arrival (pg. 54).

(2) MARONEY sees an old man killed.

The first person he saw killed was an old man in white who was shot by a member of MARONEY's platoon named ARCOREN (pgs. 35, 54, 55, 79). ARCOREN had been wanting to shoot the old man (pgs. 35). At first MARONEY refused, but, on ARCOREN's insistence, later allowed it by saying, "You might as well. If you don't somebody else will" (pgs. 35, 79). ARCOREN fired at the old man and wounded him (pgs. 35, 79). Another man, whom MARONEY did not know, finished the job (pgs. 35, 79). MARONEY marked the place where this occurred with a "7" on Exhibit P-131 (pg. 57).

c. MARONEY and ALAUX find young girls.

MARONEY and ALAUX found two small girls in a partially knocked-down brick building on a trail at the edge of the village (pgs. 36, 58). One girl was about five years old and the other eight (pg. 36). One of the girls was in a daze (pg. 36). ALAUX asked MARONEY if he thought they should kill the little girls (pg. 36). MARONEY said that they should not because the girls had not hurt anyone (pg. 36). They led the girls clear of My Lai (4) and then had some old man carry them (pg. 37). The girls ate lunch with MARONEY and ALAUX and were dropped off with the other women and children in a yard while the company was en route from My Lai (4) to My Lai (5) (pgs. 36, 37).

d. Actions after leaving My Lai.

(1) Movement to the laager site.

On leaving My Lai (4) and just prior to dropping off the two little girls MARONEY heard MEDINA say he did not want any more killings (pgs. 59, 60, 67, 68). When he said this MEDINA appeared to be depressed (pg. 68).

(2) Actions at the laager site.

On the night of the 16th the company laagered in a cemetery (pg. 60). Although he did not see it, MARONEY knew that two detainees were shot by the National Police (pg. 70). He heard the shooting and saw the bodies in the ditch (pg. 70). KOTOUC was where the interrogations were

going on, but not at this ditch (pg. 70). MEDINA was in the area of the shooting, but he did not know if MEDINA saw it (pg. 71).

(3) Actions on the 17th and 18th.

On the 17th the company moved through the abandoned My Khe hamlets and burned some hootches (pg. 60). They took three or four prisoners in the area of My Khe (2) (pgs. 61, 62). The company was extracted on the 18th (pg. 73).

4. INQUIRIES AFTER THE ASSAULT.

a. HENDERSON visits MEDINA in the field.

MARONEY recalled HENDERSON arriving in a helicopter and leaving for a couple of hours with MEDINA aboard (pg. 61). When they returned MEDINA assembled the platoon leaders and told them that HENDERSON had questioned him about My Lai (4) (pgs. 72, 73). HENDERSON was concerned about what had happened there (pg. 62).

b. Return to LZ Dottie.

MARONEY did not speak to HENDERSON after returning to LZ Dottie (pg. 62). He did not recall a company meeting in which MEDINA said to keep quiet about the incident (pg. 63). No one told him not to talk about it (pgs. 63, 66). He heard nothing about a complaint by a helicopter pilot (pg. 75). MARONEY told his platoon leader, Lieutenant ANDERSON, what had happened (pg. 78).

5. OTHER INFORMATION.

a. Radio transmissions.

MARONEY had a radio on this operation (pg. 26). However, he heard no transmissions concerning a body count, a resweep of the area, or a ceasefire (pgs. 68, 69, 76).

b. Assessment of MEDINA and company.

MEDINA was a very strong commanding officer and demanded strict obedience (pgs. 66, 67). He believed that MEDINA had control of the company on the 16th (pg. 66). The company was very efficient and combat effective (pgs. 7, 8).

c. Miscellaneous.

(1) No one was proud of himself or thought he had accomplished anything at My Lai (pg. 69).

(2) The company did not have a marijuana problem (pg. 63).

(3) The company ran normal operations after My Lai and MARONEY did not get the impression that anyone was trying to get the company out of the way (pg. 75).

(4) He knew nothing about JOLLY raping a woman (pgs. 79,80).

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EXHIBITS

EXHIBIT NUMBER	DESCRIPTION	NOTES	PAGES
M-2	MACV Card "Nine Rules"	Wit had not seen before.	14
M-3	MACV Card "The Enemy in Your Hands"	Wit had not seen before.	14
M-4	MACV Card "Guidance for Unit Commander"	Wit had this card on his person.	14
P-1	Aerial photo of My Lai	Wit asked to study.	15
P-3	Miscellaneous Scene	Recognized PHU.	47
P-6	Miscellaneous Scene	Recognized CARTER and WIDMER.	46
P-7	Miscellaneous Scene	Recognized CARTER, the medic, and WIDMER.	45, 46
P-8	Miscellaneous Scene	Picture of MEDINA - MEDINA's RTO, MURRAY, MARTIN, CARTER, and CAPEZZA	38
P-9	Miscellaneous Scene	Recognized CARTER and WIDMER.	38
P-10	Miscellaneous Scene	Recognized CARTER, and BERNHARDT.	39
P-11	Miscellaneous Scene	CARTER being evacuated.	36
P-12	Miscellaneous Scene	Recognized CARTER.	40
P-13	Miscellaneous Scene	Recognized ALAUX, PHU, FAGAN and himself.	41
P-17	Miscellaneous Scene	Recognized ALAUX, MARONEY, PHU, FAGAN, MEDINA, CAPEZZA and MURRAY.	41, 42
P-24	Miscellaneous Scene	FAGAN cutting corn.	42

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EXHIBITS

EXHIBIT NUMBER	DESCRIPTION	NOTES	PAGES
P-36	Miscellaneous Scene	Recognized CARTER and CAPEZZA.	47
P-41	Miscellaneous Scene	Wit saw scene like this.	47
P-41C	Miscellaneous Scene	Wit identified as bodies he saw at point "6".	58
P-56	Miscellaneous Scene	Recognized WIDMER.	42
P-61	Miscellaneous Scene	Rice paddy company crossed after leaving village.	42
P-64	Miscellaneous Scene	Possibly a picture of SMITH. Wit can not identify area.	43
P-66	Miscellaneous Scene	Recognized PHU and MARONEY.	43
P-67	Miscellaneous Scene	Recognized PHU.	44
P-83	Miscellaneous Scene	Near place where company ate lunch.	44
P-123	Miscellaneous Scene	Church across Highway 1 from LZ Dottie.	44
P-124	Miscellaneous Scene	Same as P-123	45
P-126	Miscellaneous Scene	Wit recognized SMAIL and GRIMES.	45
P-128	Miscellaneous Scene	Recognized SMAIL.	45
P-131	P-1 as annotated by SFC MARONEY	Admitted into evidence.	49

(The hearing reconvened at 0847 hours, 31 December 1969.)

MR WEST: The hearing will come to order.

RCDR: The following named persons are present: MR WEST, COL MILLER, COL FRANKLIN, LTC PATTERSON, MAJ ZYCHOWSKI and MAJ COOP.

The next witness is Sergeant First Class Leo M. MARONEY.

(SFC MARONEY was called as a witness, was sworn, and testified as follows:)

Sergeant MARONEY, state your full name, grade, Social Security number, branch of service, organization, and station.

A. Leo Milton MARONEY, Sergeant First Class, E-7, United States Army, Headquarters and Headquarters Company, 1st Battalion, 41st Infantry, 2d Armored Division, Fort Hood, Texas, Social Security number:

MR WEST: Sergeant MARONEY, before we get into any questions, Colonel MILLER will give you some information on the nature and purpose of this hearing.

COL MILLER: This investigation was directed jointly by the Secretary of the Army and the Chief of Staff, United States Army, for the purpose of determining 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 we now refer 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 to furnish information concerning this My Lai incident.

Our investigation isn't primarily to find out everything which happened at My Lai. However, in our inquiries we have gone into that in some detail. Our main purpose is directed toward these two specific areas which I just stated.

We have had made available to us and we have reviewed statements made by many witnesses in prior investigations into the My Lai incident. I refer to IG and CID statements. Among others, we have your CID statement.

Your testimony today will be taken under oath. A verbatim transcript will be prepared. In addition to the notes being taken by the reporter, we have a tape recording to pick up everything that is being said.

The general classification of the report is confidential. However, there is at least a possibility that some or all of the testimony taken in this hearing may become a matter of public knowledge.

I understand that you are under the orders of the military judge in the general court-martial case of United States v. Calley, in the form of a notice probably to you from the trial counsel. Are you aware of that?

A. Yes, sir.

Q. You are ordered not to discuss your testimony, the testimony that you give in this investigation, with other people, including other witnesses to this investigation, except as you may be required to do during the performance of your official duties or as you may be required to do before a competent administrative, legislative, or judicial forum. An example of a judicial body would be the general court-martial case, if there is one, for CALLEY, or an article 32b investigation. If you have questions you can always make inquiries. The essence of this is that you should not be discussing your testimony with others except as you are required to do so.

In addition, the fact that you testify here does not in any way change the effect of the order issued by the military judge through the trial counsel. Further, your testimony here is within the limits, the permissible limits, of the military judge's order. In other words, his order does not preclude your testimony before this hearing.

Before we met today, you informed me that you had been questioned before, and you asked me a question about counsel.

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A. Yes, sir.

Q. At this time I have no information on which to base any suspicion, and we do not suspect you of having committed an offense in this incident. However, if you have any concern in this respect, I will be glad to answer any questions you may have now. Or, if any come up, feel free to ask me any questions at any time. If any information comes up whereby we do suspect you of an offense, I will, of course, advise you immediately.

A. Yes, sir.

Q. Do you have any questions with respect to counsel at this time?

A. No, sir.

MR WEST: Would you like to have counsel?

A. No, sir. I just asked the colonel a question. Before the CID had me make my statement, they advised me that I had a right to counsel. I just wondered if this were the same thing.

Q. Sergeant MARONEY, what was your duty assignment on the 16th of March, 1968?

A. I was the platoon sergeant of the mortar platoon, C/1/20, sir.

Q. At that time Charlie Company was assigned to Task Force Barker under the 11th Brigade?

A. Yes, sir.

Q. Americal Division?

A. Yes, sir.

Q. Did your entire platoon go on this operation against My Lai (4) that took place on that day?

A. No, sir. As I remember, when we went on the operation, we took eight people, possibly between seven

and nine people with us. The remainder of them stayed on LZ Uptight, which is just to the north of where we had been operating.

Q. What did you take with you, one tube?

A. Just one mortar tube.

Q. Our entire group wants to talk to you. But, what we would like to do at the outset is to have you talk to Lieutenant Colonel PATTERSON. He will show you some photographs, and we'll just run through part of them. Then the entire panel will reconvene and we will ask you some questions. So we will recess for that purpose and Lieutenant Colonel PATTERSON will resume. The hearing will be recessed.

(The hearing recessed at 0856 hours, 31 December 1969.)

(The hearing reconvened at 0904 hours, 31 December 1969.)

LTC PATTERSON: The hearing will come to order. LTC PATTERSON is present.

(SFC MARONEY was reminded that he was still under oath, and he testified as follows:)

Q. Do you have any questions about those instructions which Colonel MILLER gave you in the opening session.

A. No, sir.

Q. The purpose of this part of the inquiry is to try to determine as many of the details of the operation of 16 March in My Lai (4) as possible, with the hopes that you will be able to fill in for us some of the gaps in the testimony that we have received thus far, or to confirm those parts of the testimony that we have received thus far. Would you state for the record, Sergeant MARONEY, how long you were in Charlie Company prior to March 1968?

A. I joined Charlie Company on October the 15th, 1967.

Q. 1967?

A. Yes, sir, I joined Charlie Company in Hawaii, and trained with the 11th Brigade. I then went with them to Vietnam.

Q. As a means of refreshing your memory, the statement that you gave to Billy THOMPSON on 23 September 1969 indicated that you joined them in October, 1966. I understand that this is incorrect and this should be October, 1967?

A. It was October, 1966, but we were in Hawaii 14 months before we went over.

Q. October, 1966.

A. Yes, sir, it was October, 1966.

Q. Then the statement for the record--the statement that you gave Mr. THOMPSON is correct as far as dates are concerned?

A. Yes, sir.

Q. Sergeant MARONEY, can you tell me as much as you recall concerning the training you received in Hawaii with the unit prior to deployment to Vietnam?

A. Yes, sir. Actually, we went through about three or four training cycles. We trained as a ready force, and we weren't actually told that we were going to Vietnam, but everyone suspected that we were. When I joined the company, it had only about 90 people in it. We trained with a couple of platoons, and I had more people in my platoon -- I was actually more up-to-strength than the rifle platoons were. Then the company filled up, and we started a new training cycle.

Q. When was this? When did it fill up?

A. Sir, I had been there for 3 or 4 months, so it was probably sometime around February, 1967.

Q. February, 1967. All right.

A. We trained those people through a training cycle, and just about the time we completed it, we lost them on an overseas levy.

Q. What time frame was this?

A. This was shortly after the training cycle was completed, probably about April.

Q. You were training these people in advanced unit training?

A. Yes, sir. We started with the basic unit training and went through advanced unit training.

Q. Then, as I understand it, about April you again lost some people or parts of the unit. Did you get fillers then?

A. Yes, sir. Later on it was about--I would say, sir, the unit filled back up in September or October of 1967. We went through, at that time, another complete training cycle with the new people whom we had received. When this cycle was completed, we were alerted to go to Vietnam.

Q. The training cycle to which you just referred transpired from September or October until you were alerted for deployment. Did it consist of a normal or a standard advanced or unit training cycle?

A. Yes, sir. We went through it once again. The basic unit went right on through advanced unit training.

Q. Culminating in an Army training test? Did you take an Army training test?

A. We did take a--wait a minute, sir.

Q. Would you say again, did you or do you recall taking an Army training test?

A. I don't remember if, with the second group we trained, we took the test or not. I know the first group, the initial group with which we trained, we did take the test on the big island in Hawaii.

Q. This was sometime in the summer?

A. The spring or early summer of 1967.

Q. After that time, I believe you indicated that you then lost some additional people?

A. Yes, sir, before we refilled for the second training cycle.

Q. Do you recall how many people were lost? How low did you get after that training test before you filled up again in September?

A. No, sir, I don't remember how many we did lose. We did lose several people. I don't know the approximate number.

Q. Your duties were platoon sergeant of the mortar platoon at this time?

A. Yes, sir.

Q. In your opinion, did the loss of these people in the summer of 1967 impair your platoon's effectiveness?

A. No, sir, not my platoon, because I didn't lose that many people. The majority of the people whom the unit lost came from the rifle platoons. Actually, it didn't hurt us that bad.

Q. Would you state an opinion as to the proficiency of the training of your platoon and Charlie Company on deployment on or about the 1st of December, 1967?

A. I think, sir, it was an efficient company. I know that my platoon was the best mortar platoon over there. In fact, we ran competition on organization day, and we took almost everything in the brigade. I had the best mortar platoon I ever had. The best one in which I've ever been.

Q. Would you say then, in your opinion, that your platoon was combat-ready on deployment?

A. Yes, definitely so.

Q. Would you have any feelings about C/1/20 and their combat effectiveness?

A. I think Charlie Company was also combat effective, sir.

Q. Part of the unit training required of a unit undergoing a unit training cycle consists of requirements for training on the Geneva Convention, handling of prisoners of war and of detainees, and the legality of orders. Do you recall receiving this training or conducting this training during any training period while in Hawaii?

A. We did have some classes, sir, on the Geneva Convention. As far as the legality of orders I don't--I couldn't say for certain on that, but we did have training on Geneva Convention and the handling of prisoners.

Q. Do you recall any of this training specifically as to type? Was it classroom training, or conducted in the field, or was it a lecture? Any of the specifics regarding it?

A. The training that I remember, sir--I don't remember the number of classes, but I do remember that we did have some training and that it was conducted in the classrooms. I know we saw a film on it.

Q. Do you recall when this training was conducted in the cycle that you indicated?

A. I don't know, sir. I couldn't say for certain.

Q. You don't know, then, whether or not the training was conducted with a unit that deployed? Or perhaps better stated, between the time frame September to December, 1967?

A. No, sir. I couldn't say.

Q. You do not recall any training concerning the legality of orders either from officers or noncommissioned officers and whether or not the enlisted men must obey them regardless of the content of these orders?

A. Well, I don't remember any particular class, sir, pertaining to a record of this, sir.

- Q. How about any instructions on rules of engagement?
- A. I don't remember any particular class of this title either.
- Q. Noncombatants and the handling of noncombatants?
- A. No, sir. I don't guess so. You are talking about classes with this title?
- Q. I'm talking about any instructions received or training conducted concerning the handling of noncombatants?
- A. Just before we left, sir, we had classes at battalion, in the battalion classroom. They taught us the way the VC act and things of this nature. Not necessarily the VC, but the Vietnamese themselves. The customs is what I'm trying to say.
- Q. Customs and traditions of the Vietnamese?
- A. Vietnamese. Yes, sir.
- Q. And about the mission in Vietnam? What the U.S. was attempting to accomplish in the Republic of Vietnam?
- A. Well, let me get this clarified again, sir.
- Q. Well, let me rephrase this. Sergeant MARONEY, would you tell me what your mission is in Vietnam, as you see it?
- A. Well, our mission in Vietnam, sir, as I see it, is to control the communist aggression in Vietnam.
- Q. How did you expect to handle civilians, noncombatants, and/or combatants when you arrived in Vietnam?
- A. Well, when I arrived in Vietnam, sir, I intended to follow the orders issued by my superiors. It would depend upon the situation, I suppose, if you ran into a particular situation.
- Q. Did you receive any training concerning or did you have in your mind or understand how to apprehend or capture individuals?

A. Yes, sir. I understand that.

Q. For the record would you indicate how that is accomplished?

A. Well, first of all, sir, if it's a group--of course they would have to be surrounded and disarmed. They should be searched, then sent back through the proper channels.

Q. Are there any other actions that you would take as an individual platoon sergeant? Do you tag them?

A. Yes, sir. They should be tagged.

Q. What's on the tag?

A. It should be the location where they were captured. Also, anything that they had on their person and you take from them should be noted.

Q. Let's go back then to this understanding of apprehension. You see an individual. He is some distance away. How do you apprehend this individual?

A. Well, it's a policy, sir--I guess it was a policy. We were told when we were in Vietnam on an operation, before anybody shot anybody, to holler halt. If we saw one out in the rice paddy, for instance, you would holler halt, and he is supposed to halt. They supposedly were told that if they didn't run, they wouldn't get shot.

Q. How do you say halt to another Vietnamese? Do you recall? Do you just holler halt, or do you say something?

A. They have a word for it--I'm trying to think, sir.

Q. Is the Vietnamese word "dung lai"?

A. I believe so, sir. I was trying to think--in Korean it's "chung gi," and I get confused.

Q. But you knew that you indicated to an individual to halt, and you gave it to him in the Vietnamese, which I presume you had forgotten?

A. Yes, sir.

Q. And then, if he didn't halt, what was your next action?

A. Well, probably shoot at him, sir--well depending, sir. This covers a lot of territory. For instance, you're going through an area and somebody has been sniping at you or something, and you saw someone out there. If you told him to halt, he would probably shoot back.

Q. But suppose this fellow or this individual just kept moving away from you. Would you shoot to kill?

A. Probably not, sir. I would probably just shoot to wound him.

Q. Why?

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

Q. Could it be that a live Vietnamese, even a combatant, is more valuable as an intelligence source than a dead one?

A. That's true, sir. If you wounded him and even if you didn't get him, then it takes people to take care of him. So that applies to us as well as the other side.

Q. Okay, Sergeant MARONEY, let's move to Vietnam. I presume you moved to Vietnam along with the rest of the unit the first part of December, 1967?

A. Yes, sir.

Q. Do you recall whether you were with the advance party or the main party?

A. I was in the advance party, sir. All of Charlie Company was in the advance party.

Q. All right, fine. Did you receive any training? Did the unit receive any training upon arrival in Vietnam prior to going operational?

A. Yes, sir. They had a course set up there at the NCO academy.

Q. Where was this?

A. This was down by Duc Pho. We didn't get as much as the rest of the unit did, because we were the advance party there. We had only 1 day of the training. I believe it was a week or 10 days, maybe, that the majority of them received. But when we went over, we had classes 1 day. They just gave us more or less an abbreviated course, I guess, of the entire thing that everybody goes through.

Q. It was a regular program of instruction then?

A. It was a program of instruction, sir. But we had only 1 day of it.

Q. Charlie Company?

A. Yes, sir.

Q. The rest of that battalion had a longer period of instruction?

A. They went to a course of instruction, sir. I don't know how long it was.

Q. What did Charlie Company do while the rest of the battalion was undergoing this instruction?

A. Well, the rest of the battalion was not there, sir. We took off and were occupying--I can't think of the name of the place. We were right there by Duc Pho, a little place to which they moved us. Anyway, that's where we were, sir. We had our defense, and we were responsible for the defense of this area. We ran patrols, and I had my platoon set up, and I had the mortars set up on that particular night.

Q. The record shows, Sergeant MARONEY, that the advance party arrived on or about 4 December 1967. The main body had a welcoming ceremony and a formation on or about 20 December 1967, and then underwent, according to some testimony, an approximate 3 weeks to a month training cycle, training

program, and orientation in country. Do you recall this from 20 December--this 3 to 4 week training program?

A. We were there, sir. When we got there, the advance party I'm talking about--we were there about 3 weeks, between 2 and 3 weeks, before the rest of the unit got there. We ran, if you call it, a training cycle. We ran local patrols and operated generally in this area on that Christmas. It was about the first of the year when we left there. The particular unit I was in moved south about 20 or 30 miles to a place called Sa Huynh.

Q. South of Duc Pho?

A. It was south of Duc Pho. And once again, by morning, we set up in the field. I was also in charge of another unit's mortars which were combined there in one mortar section. The unit operated around this particular area for a period of time.

Q. Do you remember when Charlie Company went operational and was declared to be an operational unit? Or was there such a declaration as you recall?

A. You mean in Hawaii, sir?

Q. No, in Vietnam. Or did you consider yourselves to be operational when you arrived there?

A. We were an operational unit. We went over there as a TO&E unit.

Q. Do you recall any instructions or training given in Vietnam concerning the handling of prisoners of war and detainees, Geneva Convention, and rules of engagement?

A. The one day of training that we had, sir, at the NCO academy or wherever it was we took this--I don't remember. I know we were the--I remember one particular class was outstanding. It was on mines and booby traps. I don't remember all the subjects they covered.

Q. You do or do not recall any training on the subjects that I have just indicated?

A. I couldn't say for certain, sir.

Q. Sergeant MARONEY, I would like to show you Exhibit M-2, a card entitled "Nine Rules." Have you ever seen that card? This is the actual card. (LTC PATTERSON hands card to the witness.)

A. I don't ever throw anything away. I couldn't say definitely, sir, that I have seen one of those cards.

Q. Sergeant MARONEY, I would like to show you Exhibit M-3, a card entitled "Enemy In Your Hands." Have you ever seen that card? (LTC PATTERSON hands card to the witness.)

A. I don't know, sir, if I ever saw that particular card or not.

Q. I would like to show you Exhibit M-4, a card entitled "Guidance For Commanders In Vietnam." Have you ever seen that card? (LTC PATTERSON hands card to the witness.)

A. Yes, sir. I have seen that card.

Q. Do you have a copy of that card in your wallet?

A. Yes, sir.

Q. You recall how you received the card, Sergeant MARONEY?

A. Well, they were passed out to us, sir. I don't remember if they were given to us before we went to Vietnam, or after we got to Vietnam. I don't remember when we got them, but I know that they were passed out to the unit.

Q. Was there a series of cards or was it just the one card?

A. Well, this is the only one that I remember. There may have been other cards passed out at other times, but this is the only one that I remember.

Q. Do you remember the instructions you got concerning the use of or the handling of those cards?

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A. No, sir. I don't remember anything in particular.

Q. Nothing concerning keeping them in your wallet, or putting them on your person, or maintaining them?

A. Yes, sir. We are supposed to keep them in our wallets. I said I don't ever throw anything away. I still have it.

Q. You are supposed to keep them in your possession?

A. Yes, sir.

Q. Concerning the instructions on that card, do you ever recall anybody giving you any instructions to deviate from the instructions on that card?

A. I don't remember everything that's on the card, sir.

Q. Would you take a look at Exhibit M-4?

(Witness does as requested.)

Read it and see if you can recall anybody giving you any instructions to deviate from what that card says?

(Witness does as requested.)

A. No, sir. Not that I can remember.

Q. Sergeant MARONEY, I have placed in front of you a vertical aerial photograph of My Lai (4) (Exhibit P-1). I would like you to study that for a few moments and become oriented if you can. We will take a short recess while you do that.

A. Is this north, sir (indicating)?

Q. Yes. (LTC PATTERSON makes annotation upon the photograph. The annotated aerial photo is later received and entered in evidence as Exhibit P-131.)

(The hearing recessed at 0935 hours, 31 December 1969.)

(The hearing reconvened at 0939 hours, 31 December 1969.)

LTC PATTERSON: The hearing will come to order. The following named person is present: LTC PATTERSON.

(The witness was reminded that he was still under oath, and he testified as follows:)

Do you feel as if you are fairly oriented on this photograph?

A. Yes, sir. I'm fairly oriented.

Q. I would like to give you a set of pictures, pictures marked P-2 through P-42; P-56 through P-70; P-73 through P-120; and P-123 through P-129. I would like to have you look at these pictures, study them. If you recognize individuals or localities, whether they are on the aerial photograph or not, anything or any specifics that you can recognize that can tie these pictures to any piece of terrain in Vietnam, the United States, anywhere, I would like to have you put them in one stack. I'm not interested in whether you saw these photos in a magazine or in Life, or in Time, or in the newspapers. I am interested in identifying these photos to the ground.

A. All right, sir.

LTC PATTERSON: We'll take a short administrative recess while you look at these pictures, and we will reconvene when you are through.

(The hearing recessed at 0942 hours, 31 December 1969.)

(The hearing reconvened at 1030 hours, 31 December 1969.)

LTC PATTERSON: The hearing will come to order. The following named person is present: LTC PATTERSON:

(The witness was reminded that he was still under oath, and he testified as follows:)

What I would like to do now, Sergeant MARONEY, is take this map and the aerial photo, and you and I will try to

relive and document on the photo as much of the morning of 16 March as we possibly can. I would like to mark the photo with you or have you mark it and identify certain activities as best you can recall. First of all, let's go back to the 15th of March, the day before this operation. Do you recall receiving a briefing?

A. Yes, sir. We had a briefing in the late afternoon or evening before the operation.

Q. Who gave you this briefing?

A. Captain MEDINA, the company commander, sir.

Q. Can you tell us the substance of what he said as best as you can recall?

A. Well, I remember some of the high points of it, sir. I remember in particular that according to the information he had received, the only thing in this village into which we were to go were the VC or VC sympathizers. We were to move into the village at a designated time and destroy everything within the village. We were told that anything we left in the village to include animals, crops, or anything of this nature which was not destroyed would be aiding the VC. Also, another comment made by Captain MEDINA was that prior to this operation we had lost several people, some by mines and some by combat fire. And he made a comment to the company that they had been waiting for a chance to get even with the people for what they had done to some of our people. And he called off some of the names at that time of those who had been hurt or killed. I don't remember the names, but he said: "This is our chance."

Q. Would you say that this was an inflammatory briefing, designed to get the men "up" for a big operation?

A. I think it was a statement, sir, to boost the morale of the people, to insure that they were in high spirits and ready to go into this thing. As I understood it, when we went into it, this was--there was a unit--I don't remember the size--battalion-size--or company-size, VC--they were supposed to be in the village at that time. And I think that he definitely wanted the people ready for anything that was there when they hit the ground.

Q. Did anyone else give a briefing or was it all conducted by Captain MEDINA?

A. The only one I remember talking to the company, sir, was Captain MEDINA.

Q. Did Captain MEDINA say anything about personnel that you would find in the village other than the VC units that you have already mentioned?

A. The only comment that was made, sir, about personnel in the village was that everyone in the village was either VC or VC sympathizers. We were to move into the village and completely destroy it.

Q. Did you have a platoon leader for your mortar platoon?

A. I didn't have a platoon leader with me, sir, at that time. I had part of the platoon on the operation, and the platoon leader was with the rest of the platoon up on LZ Uptight.

Q. Was your platoon leader at that briefing?

A. Yes, sir. The entire company was at that briefing, sir. He briefed the entire company. He did this in some cases-- he assembled the company out--we were on LZ Dottie--he assembled the company, and he drew more or less an outline on the ground, the layout of the village, the manner in which we were to go into the village.

Q. How did he state that? Do you recall that little sketch he made on the ground, or any of the particulars about it?

A. No, sir. I don't remember the exact entrance to the village--I'm looking at the aerial photograph here--I think we must have entered from the west, possibly the west side of the village.

Q. Did you or did your platoon leader conduct a briefing of the mortar platoon?

A. No, sir. My people were at the briefing the company commander made. We had a company formation, sir. There was a gun position there with a big hunk of dirt, and we sat down. He briefed the entire company on the operation at that time. Then, of course, after that we checked to see that all of our equipment was ready to go and everything. We were prepared to move out when it came time to move out.

Q. What time of day was this? Do you recall?

A. It was the following morning, sir.

Q. The briefing?

A. It was late in the afternoon, sir. I'd say an hour before dark or possibly longer than that. It could've been 5 o'clock in the afternoon; it could've been 6. I couldn't say.

Q. Other than for this briefing, was there any other reason that the company was called together that you recall?

A. Not that I can recall, sir. He just wanted the company assembled, and we all assembled down there. He went, then, and explained to us about the operation on which we were going.

Q. Do you recall a memorial service on that day, or around this time?

A. No, sir. We had a memorial service--wait a minute--we had one at Dottie, and we had one on LZ Uptight, I believe, prior to that time. I don't know if we had one on that day or not. I know we did have a couple of memorial services. I couldn't say.

Q. To the best of your recollection, then, this company formation, or grouping, or gathering was for the sole purpose of the briefing for the next day's operation?

A. Yes, sir.

Q. To the best you recall?

A. Yes, sir. We were told at that time that we were going on that operation.

Q. Let's go to the morning of the 16th of March, 1968. We've had testimony to indicate that the landing zone for the operation was somewhere to the west of the village of My Lai (4). Does this jibe with your recollection?

A. Well, as I said before, sir, I couldn't say definitely. But I think we must have gone in on the rice paddy on the left-hand side. I can't say the exact spot, but I know that the chopper on which I was, set down in the rice paddy just short of the hedgerow that led into the village.

Q. You pointed here on the aerial photo just to the west of My Lai (4). Remembering that the scale of this photo is 1 inch equals 80 meters, can we identify or can you tell us, looking at the terrain features, approximately where you feel you stepped out of your helicopter?

A. Well, we, sir, were about--I would say about 100 meters short of the village, or 150 meters short of the village. It must have been, say, back in this area here (indicating). It could have been farther north. It could have been farther south. I couldn't say for sure.

Q. Let the record reflect that the witness is pointing to a point that we will subsequently mark as 1 on the photo (later Exhibit P-131). Is that about where you say you landed?

A. As far as I could say, sir, it was in the vicinity.

Q. Do you recall on which lift of choppers you were?

A. Yes, sir. I believe my people were on the last two choppers that went in.

Q. Of the first lift?

A. We had only one lift, sir. I believe we had nine choppers that took us in. I believe we had only one lift, sir, and we were the last ones on the ground.

Q. Previous testimony, Sergeant MARONEY, indicated there were nine slicks. They made one pickup out of Dottie and inserted, and then the nine slicks went back and came back a second time and inserted. Does that refresh your memory on that at all?

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A. It's possible that they could have, sir. Then, if so, we were on the last ship of the second lift, because we were the last ones in.

Q. Troops were already on the ground when you got off your ship?

A. Yes, sir.

Q. What did you do once you arrived on the ground at point 1 on the aerial photo, Sergeant MARONEY?

A. Well, when we hit the ground, I got my people off the chopper. I moved them a short distance from it.

Q. Which direction now?

A. Towards the village.

Q. East?

A. Yes, sir. If we went in on the west side, it would have been east.

Q. Towards the east of the village, then?

A. A very short distance. We stayed down until the choppers lifted off, and we immediately set up the mortars. I contacted the company commander who was--I would say, sir, probably about this hedgerow here, or possibly up in this area right here.

Q. The witness is pointing to an area approximately 150 meters south of the northwest edge of the village. You think Captain MEDINA was located here?

A. He was just short of the hedgerow, sir.

Q. Would you point again to--

A. (Interposing) Well, I would say right about in this area, right in here somewhere, sir.

Q. Mark as point 2 approximate location of Captain MEDINA. Can you point to approximately where you think you

set up the mortars the first time, immediately after the ships departed?

A. Sir, it was between 15, 20, 25, or 30 meters from where we got off the choppers. We didn't move very far. We went ahead and set up because I saw the headquarters group over here. So I went ahead and set up back here (indicating) behind the headquarters group, and I would say possibly just north or maybe halfway between.

Q. The witness is pointing between 1 and 2. Mark as point 3: this is the initial mortar position. How many people were in your mortar platoon and with you during this setup procedure?

A. I had eight or nine people, sir. We had only one gun with us.

Q. What was the function of these eight or nine people?

A. Their functions were computers, mortar gunners, assistant gunners, and ammunition bearers.

Q. How many ammo bearers did you have? How many were carrying ammunition for your mortars? How many rounds did you carry with you?

A. I had three people carrying ammunition, sir. I believe they carried four rounds per man, which would have meant a total of 12 rounds. I believe we carried 12 rounds, possibly 16. I'm not sure.

Q. Would you then relate where you went from position 3?

A. From position 3, sir, when the headquarters element moved, we moved right out and followed the headquarters element through the village.

Q. Do you recall where you went through this village, the center, the edge?

A. I couldn't say definitely, sir. If the headquarters element was located here, we more or less went straight into the village.

Q. Straight into the village?

A. It appears that we went straight into the village.

Q. Did you follow a trail or road or did you walk in rice paddies?

A. There were trails and roads all through the village, sir. As we did most of the time, we went on a trail or the road. In some cases there were cornfields which appear here in one of the pictures, where we cut down the corn and various other crops that people were destroying.

Q. Do you feel that you were in the approximate center as you went through it or do you have any feel for that?

A. I don't know, sir.

Q. You were on a trail?

A. Yes, sir. From time to time.

Q. Was it a large trail or small trail?

A. Well, it wasn't a major road, sir. We just more or less worked our way through the village as we went.

Q. What do you recall seeing upon entering the village?

A. Well, there were a lot of buildings.

Q. Exactly what do you mean? What's the first thing you recall upon entering the village? Anything significant?

A. Well, the first thing that I saw still remains in my memory. I guess the strongest thing is when I started seeing dead people in the village.

Q. In your statement to Mr. THOMPSON of the CID, on 23 September 1969, you indicated that right after getting into the village, and I'm quoting: "One of the chopper pilots radioed that he had sighted a weapon on our flank."

A. This was about at this location of 2 here, sir. The 1st and 2d Platoons were already up in the hedgerow in the

village when we got on the ground.

Q. Do you recall how the platoons were oriented?

A. I couldn't say for sure, sir. But I think the 1st Platoon was possibly on the right and the 2d Platoon on the left. Either that or vice versa, I couldn't say for sure which it was, sir. I know the 3d Platoon hadn't been deployed. They were back here at this time.

Q. Behind you?

A. Yes, sir, just about on line with us. And when the company commander told the 3d Platoon leader that a weapon had been sighted, he sent one of his squads over to pick it up. I think it was back to the southeast where his platoon was located at that time. So it would have been down here near the corner of the village somewhere.

Q. The witness is pointing to the southwest corner of the village. Can you, with the tree lines or with any of these fields, make any reference?

A. It could have possibly been down here, sir. It could have possibly been over here. I couldn't say for sure.

Q. Somewhere in this area that we're marking 4. This is the point where the 3d Platoon went to retrieve a weapon?

A. Yes, sir.

Q. Was it just laying in the area there or what?

A. Well, the chopper had been firing over there. There had been some firing going on, and I understand there was a man over there, and possibly he had been killed. And he did have a weapon. I don't know--now don't quote me, sir--you say he had been or hadn't been. I wasn't over there.

Q. You stated that this 3d Platoon element was sent by Captain MEDINA?

A. Yes, sir, or by the platoon leader. He told the platoon leader to send a squad over there to get the weapon.

Q. And the individual who had this weapon was reported to have been killed by whom?

A. I guess he must've been--if he was killed, he was killed by probably the chopper pilot, sir. I don't know.

Q. How did you get this information? How were you aware of this information?

A. Well, at that time I was right behind the company headquarters, and the 3d Platoon was directly behind me. We were pretty close together there.

Q. Did you hear this by radio, or by voice, or--

A. (Interposing) The first notification I got of this was when the company commander called the 3d Platoon leader and told him that there was a weapon and to send a squad over and pick it up.

Q. Called by radio or by voice?

A. Yes.

Q. By radio or by voice?

A. By radio. And he sent a group of people over, and they started back without it. He notified the company commander, and the second time he hollered and told him to go over there with them and get that weapon. And they went over, as I understand, and got the weapon. I didn't see the weapon, but they came back and reported it was taken care of.

Q. And the place that the 3d Platoon element was dispatched to recover the weapon is indicated by 4 on our aerial photo, is that correct?

A. Approximately, to the best of my knowledge, right.

Q. You had a radio, Sergeant MARONEY?

A. Yes, sir.

Q. Were you carrying the radio?

A. Yes, sir. I carried the radio. I don't know if I carried it the entire time or not, but I was carrying the radio. In fact, there's a picture here where I was carrying it.

Q. You monitored company nets?

A. Yes, sir.

Q. What was your call sign? Do you recall?

A. Diamondhead Charlie 40, I believe.

Q. Who was Charlie 81?

A. That is the mortar section leader. That's the FDC.

Q. And your call sign was Diamondhead Charlie 40?

A. Yes, sir. We could have possibly been using 81 at that time. I couldn't say for certain, sir.

Q. You don't recall whether or not 81 was with you or not?

A. Well, we only had one radio, sir.

Q. What about the element at Uptight?

A. They had a radio up at their location, also.

Q. Do you recall their call sign?

A. The platoon, sir--let me back up a minute. The platoon leader's call sign was 40, my call sign was 40 Mike, and the FDC's was 81.

Q. The FDC was with you or was he at Uptight?

A. Well, we had a FDC in both places, sir.

Q. Okay, what was the call sign of the FDC with you?

A. It was 81 if we used the FDC, but I don't know if we used it or not at that time. I think probably they just used my call sign.

Q. Then what happened after the 3d Platoon was dispatched to recover this weapon? Then what did you do?

A. Well, when they returned, sir, this is when they entered the village, after the weapon had been recovered.

Q. Did you stay close to the command group?

A. We followed the command group, sir. We were close to them sometimes, and sometimes we weren't too close. Sometimes we were inside of them, sometimes we were up with them, and sometimes we were a short distance behind them.

Q. About how long did you leave your mortar placed in position 3?

A. Well, we left it set up from the time we got on the ground until we entered the village. I'd say approximately 30 minutes or possibly a little bit longer.

Q. Do you recall about what time of day this might have been?

A. No, sir. I would say about the middle of the morning, maybe later.

Q. The records, testimony we have, and the logs of this operation indicate that the landing zone was secured and the lift completed about 0750 hours in the morning?

A. I was thinking that it was a little later than that when we went in there, sir. Possibly it was. I don't remember the time.

Q. All right. But for a period of time, you set up in this position. When the platoon started moving through the village, you then displaced your mortars?

A. We displaced the mortar at that time, sir. We hand-carried it through the remainder of the operation in the village. We did not set it up any more.

Q. You received no fire mission for your mortars that day?

A. No, sir. The only thing that we were told, in fact, is the following. When I came up here, I set the mortar up facing east. I reported to the company commander that we were in position and ready to fire, and he said: "Standby. If we have a target, I will call you." And they never called a target to us.

Q. Just for the record, Sergeant MARONEY, would you state the size of the mortar and its range?

A. It's an 81mm mortar, and with the new type ammunition it will fire about 4,500 meters, and with the old type of ammunition it will fire 3,600 meters. I believe that day we were carrying the old type ammunition, so it would be about 3,600 meters.

Q. And the minimum range?

A. The minimum range with the new type ammunition was within 35 meters of the base plate, and the old type I don't know. It will fire about 50 meters.

Q. When you moved through the village with the command group, or shortly after they went through there, I believe you indicated earlier that you saw several dead people lying around the area?

A. Yes, sir.

Q. What's the next thing that you recall? You can put yourself back into when you first entered the village--about any of these dead people, or any of these other things that you saw. Were they soldiers, these dead people. Who were they? What did they look like?

A. Well, the dead people that I saw throughout the village area were men, women, and children. I didn't see any particular uniform.

Q. Were there large groups of them or were there--

A. (Interposing) No, sir. Not that. I saw only this one case lying on the trail. I think maybe this picture might be--

Q. (Interposing) We will attempt to identify that picture at a later time. What was the mission of the mortar platoon as you were progressing through the village carrying the mortar, and your base plate, and your computer boards? What were you and your platoon accomplishing?

A. Well, our platoon--the mission of the mortar of course was to support the rifle platoons. We also assisted in destroying crops and burning some of the buildings. Just following behind the squads which were mopping up I guess you might call it.

Q. Were all of the buildings, hootches, and structures being burned?

A. I don't know if they were all burned or not, sir.

Q. Well, if you came across them, were they being burned?

A. Yes, they were being burned at that time. My people mainly cut down the crops and stuff like that. Just about the majority of the buildings, when we got to them--and as far as the livestock and the people goes--all the rifle companies had already been through there, so that had already been accomplished.

Q. If you accept, Sergeant MARONEY, the fact that the operation began through the village somewhere around 8:00 in the morning after, I presume, a reorganizational phase after the landing, how long do you think it took, as you best recall, and do you have any references that you can recall until you were on the far end of the village, east of it?

A. From the time we landed until we got to the east of the village, sir, I would say probably--my people probably took 2 hours. Or it could've been 30 minutes, or an hour or more, or possibly less.

Q. Do you recall eating lunch that day?

A. Yes, sir.

Q. Where?

A. We had gone through the village and came back. I don't know on what side of the village we were. I have one picture here--

Q. (Interposing) Do you recall where you ate? Did you eat lunch on the east end of the village or were you in the village when you ate lunch?

A. It appeared to me we were to the end of the village and then doubled back down the side of the village, and we started--

Q. (Interposing) Back down the side. Would that be to the south?

A. I believe that would be on the north side of the village. I believe, sir, we had the noon meal on the north side of the village. I am thinking now of the direction in which we were to move after we completed this operation in there, and I believe it would have been on the north side of the village.

Q. As I understand it, you went through the village and came out somewhere to the south or the southeastern edge, then turned around and went up to the north?

A. We went through. I don't know if we came down. I know that the rifle platoons were extended through it. I don't know exactly where I came out, but I came out somewhere, probably down on the north -- down on the east corner or northeast corner. Then we doubled back down the side of the village and stopped somewhere along the trail. That's where we ate the noon meal.

Q. Was this noon meal that you ate with your people with the rest of the company or were you together as a company unit?

A. Yes, sir. This was after the operation in this particular village was over. We came back around the area and, of course, the rifle platoons were put out on security. And we sat down and ate.

Q. Can you point out where you think you had lunch that day?

(The witness does as requested.)

A. If I told you, sir, I would just be guessing. But I would say possibly it would be back along down in this area here.

Q. About 150 meters from where you entered the village to the north?

A. To the northeast, yes, sir. Very possibly 200 meters over on the edge of the village there.

Q. You can't be sure, so do you want to put it in here or not?

A. Well, I would just be guessing, sir.

Q. Well, we won't put it in here. Somewhere during the morning an incident happened that called for a dustoff. Do you recall anything about that incident?

A. Yes, sir.

Q. Would you tell us about it?

A. I don't know exactly how it happened, sir. We were behind the headquarters group, and we caught up with them which was on the -- I think it was on the east end of the village or possibly the northeast edge of the village. This boy had been shot through the foot. We were behind headquarters company, and when we caught up with them, this boy had been brought back -- or was being brought. The medics attended to his foot, and a helicopter was called to take him out.

Q. Did you know the soldier or did you see the soldier who was shot?

A. I saw him. He was a colored boy. I didn't know his name. When I made the statement to the CID, Mr. THOMPSON told me his name was CARTER, I believe.

Q. This location where you saw CARTER, was this where he was shot, or from where he was being evacuated, or were they one and the same?

A. This is not where he was shot. He was shot somewhere back down to the north or -- when I saw him -- when I got there, they were bringing him up the trail from the west on the north side of the village. They were bringing him towards the east, and the headquarters group was about there. So they could've been bringing him from the west or north-west. And this is where they doctored his foot. There was an open area there, and they called for a helicopter. They sent a part of a platoon of security out, and a helicopter came in and picked him up.

Q. Sergeant MARONEY, do you think this happened on the north edge of the village? Is that the way I read it?

A. Yes, sir. That's what I'd say now. I couldn't be certain on it, sir, I don't know. From the time we went into the village, I didn't check my compass or anything. If I'd set my mortar, then I would've had to -- I wasn't worried about directions then.

Q. We have a good deal of testimony that indicates the dustoff for CARTER was somewhere to the south of the village, that CARTER was wounded up in the village somewhere and brought down to the south, and that the chopper landed somewhere generally on the trail leading due south from the southern edge of the village. Does that refresh your memory, or does that help in any way, or do you still think it was to the north? I'm not trying to put any words in your mouth. Do you recall?

A. I couldn't say, sir. I just hadn't made up my mind. When we went through the village, we went more or less straight through to the side, and then we turned left. Possibly this could be right, I couldn't say, sir. I don't know where it was.

Q. Could you or would you be willing to draw a line along the general axis on which you think went through that village?

A. It wouldn't be anywhere near accurate, sir.

Q. All right. What happened then after the CARTER incident? Can you fix a time, any time for this, an approximation, to the best you can recall?

A. It must have been somewhere around 10 o'clock, sir, or possibly maybe a little later. We went in about 8.

Q. The record indicates that CARTER was wounded about 1020 hours and was dusted-off very shortly thereafter. Does this kind of coincide with any recollection, or any recall, or does it help you in any way?

A. I was there, sir, after he was shot, and when he was brought to the location, I observed the medics working on him. I was still present when he was dusted-off, but other than that I couldn't tell you anything about it.

Q. Then what did you do after the CARTER dustoff?

A. Well, from there we moved back down through another part of the village and along an edge of it. I don't know what side of the village we were on. From there we went back down to the chow, wherever we had chow.

Q. Let's try to relive this walking through the village then. Were you inside the village, or were you walking along a trail, or along the edge of the village?

A. Many people, sir, were on the trail along the edge of the village most of the time. In some instances we did get inside of the village.

Q. I understand. Was the village on your left or on your right as you were walking?

A. It was on the left, sir.

Q. Was the area on your right more village or was it open?

A. There was a rice paddy. And out from the village, it could have been this place right here, there was another little village, and a trail that ran between the two of them.

Q. Well, if the village was on your left as you were walking, and the area to your right was open, and the general movement throughout the morning was from west to east, which side of the village would you be on, Sergeant MARONEY?

A. I would have to be on the north side, sir. If we had completed going through the village, and turned back or turned left, I'd have to be on the east of -- to the north side of the village.

Q. What do you recall seeing as you were then walking through the village or along the trail on the side of the village?

A. Well, there were some dead people scattered on the trail. And on the right, the trail leading from this other village into the main village here, there were a good many dead people on that trail.

Q. Can you point out that trail?

A. Well, I don't know for sure which side of the village I was on now, sir. Anyway, it was a trail leading from another group of houses that wasn't actually a village. It was a group of houses into the main village.

Q. Could it have been this area here (indicating the southeast corner of the village)? This trail runs into My Lai (4).

A. It could have been, sir. I couldn't say.

Q. Did you see any Vietnamese who were alive during this time frame?

A. Yes, sir. I saw one man who was alive, the only man I saw killed. And then I saw two or three other men who were alive. I saw two little girls who were alive. Those are all the live people whom I saw in the village.

Q. Let's take them one at a time, if you can recall the instances. What's the first instance that you saw?

A. Well, the first one was an old man. He was out beside a house. A boy in my platoon had been wanting to shoot him. I kept telling him no, and finally I said: "You might as well. If you don't, somebody else will." Well, he fired a shot. I believe he hit the old man in the side or something, but it didn't kill him. A couple of minutes later, some of the rifle platoon was just up ahead of us. One of them turned around, and shot, and killed him. I don't know who shot and killed him. I have that in my report on the CID's statement. I couldn't say who actually killed him, but I know that the shot that this boy -- ARCOREN was his name -- he did shoot and hit the old man, I suppose. But it didn't kill him, and another boy turned around, and shot him, and killed him.

Q. You stated that you told ARCOREN if he didn't somebody else probably would?

A. I told him probably if he didn't somebody would.

Q. Why did you say that?

A. Well, everybody else was dead, sir. I don't know.

Q. Okay. Was there anything identifiable about this old man? How was he dressed?

A. I don't know. I think he had on white pajamas, sir.

Q. White?

A. Yes.

Q. Was he carrying anything?

A. Not that I know of, sir. I wasn't close to him.

Q. How far away were you?

A. Oh, about 25 or 30 meters.

Q. And you can't pick out the point on the aerial photo?

A. No, sir. I don't know where this actually was.

Q. After this incident with this single old man, I believe you indicated you saw some girls and an old man?

A. Well, the next thing, sir, there were two old men picked up. I don't know who picked them up. Myself and Lieutenant ALAUX, the artillery FO with the headquarters group, were walking down this trail at the edge of the village. And he spotted the two little girls in a house, so he brought it to my attention. He asked me if I thought we ought to kill them, and I said: "No, those little girls haven't hurt anyone."

Q. Excuse me. Lieutenant ALAUX asked you if you thought that you should kill them?

A. Yes, sir. I told him: "No, they haven't hurt anybody." One of them was actually in a daze or something. She couldn't speak. He took the biggest one, who was probably about, I'd say, 8 years old. The other one was probably about 4 or 5. I took her, and we led them by the hand and kept them with us until we got back clear of the village. These two old men whom someone had picked up -- we made those two old men carry them. And we carried them into the next village or group of buildings, houses into which we went. There were a lot of women, and kids, and stuff sitting around there, and we left these two little girls with these people.

Q. And these people were Vietnamese people?

A. They were Vietnamese people. And we left these two little girls with them. In fact, we left the old man there too, I guess.

Q. Was this in a hootch?

A. Hootch? It was in a different, separate group of houses, sir. It was in a different village. It wasn't the main part of this village. It was another village around there somewhere. We were en route from My Lai (4) to My Lai (5) when we came to this particular bunch of houses.

Q. This occurred before lunch?

A. No, sir. We had the little girls with us when we ate lunch.

Q. And the old men?

A. They were with us, too. When we left from eating lunch and moved up, we moved out across the rice paddy, and had these two old men with us. They carried the two little girls.

A. Was this building where you left them, was this a grass hut, a lean-to? What type of building was it, do you remember?

A. The best I remember, sir, it had a -- it was a grass top. It was a large building, and had more or less a walk-under roof that came out, and the people were all sitting outside the building.

Q. The people?

A. The people where we left the little girls. They were all sitting outside of a big building there, out in the yard, you might call it. And we left them with them.

Q. Were there any other incidents before you ate lunch?

A. Not that I remember, sir.

Q. After you ate lunch, according to your testimony, I got the indication that you then went forward, left My Lai (4) and went into one of the other villages?

A. Yes, sir.

Q. You could not identify on the photo where you ate lunch or where you picked up the two old men and the two little girls?

A. No, sir.

Q. Let's look at these photos for a minute. Exhibit P-8, can you identify it? And if you will, Sergeant MARONEY, when you identify people or places, indicate them for the record as to their location on the photograph.

A. This is Captain MEDINA at the top right--top center; his radio operator, I believe his name is MURRAY at the center; this is the medic. I don't know what his name is.

Q. Would you know if you heard it?

A. Very possibly.

Q. CAPEZZA?

A. CAPEZZA. Spanish.

Q. Anyone else in the photo?

A. This is the boy who got shot here. This colored boy, I possibly recall his name -- I would know who he was. He looks familiar, but I don't know his name.

Q. You recognize this man?

A. I believe that it is the artillery FO's radio operator, sir. MARTIN, I believe is his name, sitting with his helmet off at the left rear. This man, I don't recognize him, sir.

Q. Photo P-9?

A. This picture here, sir, is where, I believe, they were carrying CARTER to put him on the medevac when it came to pick him up.

Q. Did you see this?

A. I saw him when the dustoff came to pick him up. This was either when they were bringing him down to have his foot treated by the medics or when they were taking him and putting him on the helicopter.

Q. Do you recognize any of the individuals?

A. This is one of the company commander's radio operators here.

Q. Would you know his name?

A. If I heard it I would, sir.

Q. WIDMER?

A. WIDMER. Yes, sir.

Q. How about the man whom you have your finger on now, to the right side of CARTER?

A. He looks familiar, but I don't know his name. I can't tell about the people in the background.

Q. Do you recognize the area?

A. No, sir. This must have been where they were bringing him down to get his foot worked on, because it doesn't look like the area where they actually worked on it and dusted him off.

Q. Photograph P-10?

A. This, of course, is CARTER here who got wounded. This man here, I believe his name was BERNHARDT or something like that.

Q. BERNHARDT?

A. BERNHARDT. (Witness points to the man on the right, standing.) And I think this man was the other one whom I couldn't identify just a while ago. And this one, I don't recall him either.

Q. Photograph P-11?

A. This sir, I believe, is where they were putting him on the helicopter. And this was where CARTER was being evacuated. This is the field where he landed, and this is where he was evacuated.

Q. Looking at that, Sergeant MARONEY, which direction would you say was east?

A. The tail of the helicopter.

Q. How do you arrive at that conclusion?

A. Well, like I said, sir, I think when this -- when we were on the northeast corner of the village, and unless I'm confused in my directions, the helicopter was pointing towards the west. They were bringing him from the village area here out towards the helicopter. This would be north-- this would be south, west, and east.

Q. Look at the shadow. The shadow is present, and where the sun is, and knowing that this occurred around 10 o'clock in the morning--

A. (Interposing) Well, sir, the shadow is almost directly underneath the helicopter.

Q. Okay. Photograph P-12?

A. I think this is the same location, sir. This must be CARTER sitting up in the helicopter.

Q. Do you recognize anyone else in the photo?

A. No, sir. All of them have their backs to me. I couldn't say for sure.

Q. Photograph P-13?

A. This is Lieutenant ALAUX, the artillery FO, on the right. This is myself, second from the right. And next to me is the company commander's interpreter. I don't know what his name was.

Q. Would you know it if you heard it? Sergeant PHU?

A. PHU, yes, sir. And back over here is Sergeant FAGAN. He has the plotting board with him, in the rear center with the plotting board in front of him. I don't know about the rest of the people in here, sir.

Q. Do you recognize this area?

A. I remember one time when we were sitting on the side of the hill here. This was after CARTER had been dusted-off, I believe.

Q. Is this where you ate lunch?

A. This was just prior to the time we had lunch.

Q. Did you move from this area to lunch?

A. Yes, sir.

Q. About how far, do you recall?

A. Probably 200 or 300 meters, sir.

Q. Do you recognize anybody else in these?

A. I don't believe so, sir.

Q. P-17?

A. This is the same picture I believe, sir. This is Lieutenant ALAUX. This is myself. This is PHU. The same picture, I would say.

Q. When you say same picture, do you refer to the same picture as P-17?

A. Yes, sir. But I think this is Captain MEDINA standing right here, sir.

Q. That's he standing in the center?

A. Yes, sir.

Q. I would like to point out to you--or I would like to ask you if you can identify what that is on the ground?

(The witness studies the photograph.)

A. No, sir. I can't say for sure, sir, unless it is somebody lying down. It looks like possibly two legs sticking out.

Q. Could it be a pack with a rifle laying up against it?

A. It could very well be, sir. In fact, I believe that's what it is. That's why I say I believe these two here were taken at the same place.

Q. Do you recognize anybody else in that picture?

A. This again is the medic, I believe, CAPEZZA. This is the company commander's radio operator, MURRAY, fourth from the left. This individual right here I can't say, sir.

Q. The fifth from the left is unidentified. Then Captain MEDINA is sixth from the left?

A. I think this is Captain MEDINA right here. That's about all I can identify.

Q. How about P-24?

A. Yes, sir. This is FAGAN, I believe. This is my computer cutting down some corn there.

Q. P-56?

A. This right here appears to be WIDMER. I don't know just what was going on. The individual on the right. That's the reason I kept this photograph. I don't know who this is.

Q. Do you recognize the area?

A. No, sir, not in particular.

Q. Photograph P-61?

A. This appears to be the rice paddy that we moved across after we left the village. Either that or--I can't identify it unless it was. Because I don't remember any other occasion when we had people standing up like this moving out, unless this was taken before the entrance to the village. If so, it was taken before I landed.

Q. Do you recognize that area?

A. No. Other than there was some tall rice around part of the village, sir, and people moving in and out. I picked this one out because I thought maybe it was possible this could be a picture of where we were leaving the village.

Q. Before or after you deposited the two old men and the two little girls?

A. I would think it would be when we were leaving My Lai (4).

Q. And before you left the little girls and the two old men?

A. Yes, sir.

Q. P-64?

A. Is this man named SMITH?

Q. I'm asking you, Sergeant MARONEY.

A. It could possibly be SMITH, sir, the man on the right. I can't identify this one, that's why I---

Q. (Interposing) Can you identify the area?

A. No, sir. Not definitely.

Q. P-66?

A. The only thing that I know about this one is that I don't remember the area, and I didn't see it. But this is the company commander's radio operator, MURRAY, on the extreme right, and this is the company commander's interpreter on the extreme left bottom.

Q. Do you recognize the two individuals in the rear?

A. Their faces look familiar, sir, but I can't remember the names.

Q. Would you recognize the names if you heard them?

A. Possibly.

Q. WYATT, WOOD, STANLEY?

A. We have a WYATT and WOOD in the company, but I couldn't definitely say.

Q. Do you recognize the Vietnamese in the picture here?

A. No, sir. I don't recognize that picture at all.

Q. P-67?

A. This is the company commander's interpreter. I didn't see this picture, and I don't recognize anyone else.

Q. And this is Sergeant PHU again?

A. Yes, sir.

Q. P-83?

A. This appears to me to be, sir, near the place where we ate the noon meal. There was a brick building similar to this that had been almost completely blown away. And if this would be the case, then down near the lower right-hand corner of this picture is the trail that runs across here. If so, this is the nearest photo that I've seen as to where we probably had the noon meal.

Q. Do you recall seeing those billets?

A. I couldn't definitely say this is the building, sir. But I say it appears to be similar to the place where we--

Q. (Interposing) P-123?

A. I think this is the church across Highway 1 from LZ Dottie, and possibly these were the helicopters that lifted us.

Q. This looks like LZ Dottie here?

A. This looks like LZ Dottie.

Q. P-124?

A. This is the same area and the same picture.

Q. Can you identify that positively as LZ Dottie, to the best of your recollection?

A. The best I remember, sir, that would be LZ Dottie.

Q. P-126?

A. No, sir. I remember this man right here was a squad leader.

Q. Do you remember his name?

A. No, sir. I don't. This one I recognize, but I don't know his name either. He made sergeant before he left from over there.

Q. Would you recognize the name if I mention any?

A. Possibly, sir.

Q. SMAIL, GRIMES? On the right, the second from the left is SMAIL. Is there anybody else you recognize?

A. No, sir. I don't believe I can recognize any more.

Q. P-128?

A. I didn't pick this one out, did I? This individual here looks familiar. This might be SMAIL. I don't know. (Witness points to an individual on the photograph.) Other than that I don't think so.

Q. How about the area?

A. I don't remember anything in particular about it, sir.

Q. P-7?

A. This again is CARTER and the medic. This is the radiotelephone operator.

Q. WIDMER?

A. WIDMER.

Q. How do you identify WIDMER?

A. By his--he had this written on his helmet, sir.

Q. What's that?

A. I don't know if it's his girl friend's name or something else.

Q. Can you read the name?

A. (Witness looks at the photo.) Yes, sir.

Q. Is it an R or a P?

A. It looks like an R to me. It may be a P.

Q. Do you recognize anybody else in that picture?

A. Well, this is the man who got shot here, CARTER. Other than that, I don't recognize anyone else.

Q. Do you know that WIDMER had that on his helmet?

A. I know in reading that, that is WIDMER, sir. And I know that he had something on his helmet.

Q. P-6?

A. This is CARTER again, and since I can't see his face I can't say for sure, but I think that's WIDMER. (Witness points to an individual on the photograph with his head turned, holding CARTER's foot.)

Q. How about this man? Do you recognize this man?

A. No, sir. I don't.

Q. Do you see what he has on his helmet?

A. Yes, sir.

Q. What is it?

A. It's a joker. It looks like it's from a deck of cards.

Q. Did you see anybody with that on his helmet? Do you remember?

A. Some people wore them, sir. And some people wore a black ace of spades on their helmets. But I couldn't say whose helmet that is.

Q. Do you notice this man here with something in his helmet?

A. No, sir. I can't see enough of his face to recognize him.

Q. P-3?

A. That is the company commander's interpreter. I don't know any of the Vietnamese, either.

Q. You don't recall seeing any of these?

A. No, sir.

Q. P-36?

A. This is the individual who got shot again, CARTER. And I couldn't say for sure, but this appears to be the medic who was attending him.

Q. Do you remember his name?

A. CAPEZZA. I believe this is CAPEZZA. And I believe this is GRIMES right here, sir. I couldn't be sure on that. (GRIMES is shown kneeling in the background.)

Q. P-41, showing the Vietnamese dead on some sort of a trail?

A. This picture, sir, I can't say for sure. But I saw one place that appears as this picture does. And if so,

we were walking on a trail perpendicular to this. This appears to be a trail that runs from My Lai (4) to another village or another group of houses a short distance from it. I saw a group of people, about, I estimate, 15 people.

Q. You don't recall where that is, and you can't pinpoint it on the map?

A. I can't say which side of the village it was on, sir. I thought it was on the north side, but I couldn't be certain. Now if the picture here is the trail that I was on, I believe--

Q. (Interposing) From the right to the left on the photo?

A. Yes, sir.

Q. Do you remember seeing anything such as this? What is that?

A. That's a wire fence there, sir, that goes around that rice paddy.

Q. Was that around the village?

A. In one place to which we came there was a fence across the trail. Actually it was on the opposite side of the trail from the village.

Q. Sergeant MARONEY, you don't think that you can help us in any way identify any of these photos geographically on the aerial photo that you have in front of you?

A. No, sir. I just don't believe I could definitely say where any of them actually took place.

LTC PATTERSON: We will recess here for a minute. We will be going into general session in a minute.

A. Yes, sir.

(The hearing recessed at 1117 hours, 31 December 1969.)

(The hearing reconvened at 1150 hours,
31 December 1969.)

MR WEST: The hearing will come to order.

RCDR: The following persons are present: MR WEST, COL MILLER, COL FRANKLIN, LTC PATTERSON, MAJ ZYCHOWSKI, and MAJ COOP.

I have an exhibit for the record. This is an aerial photograph annotated by Sergeant First Class MARONEY. It will be entered into the record and marked as Exhibit P-131.

We will now recall Sergeant MARONEY.

(SFC MARONEY was recalled as a witness for the hearing, was reminded that he was still under oath, and testified as follows:)

MR WEST: Sergeant MARONEY, when did you first hear of this operation at My Lai (4), which actually took place on the 16th of March, 1968?

A. The first time I heard about it, sir, was the late afternoon prior to that date.

Q. The 15th?

A. Yes, sir.

Q. Did you attend the briefing by Captain MEDINA of Charlie Company at LZ Dottie?

A. Yes, sir.

Q. Could you tell us please, what Captain MEDINA told the company, as best as you can recall?

A. He told the company, sir, that we were going into My Lai (4). A VC organization had been reported in there. I don't remember whether it was battalion size or company size. He told us that we were to go in there and completely destroy the village, to include all livestock and any crops that they might have, because anything that was left when we cleared that village would be doing nothing but aiding the VC. He

also made a statement to the company that they had been waiting for a chance for a long time to get even for some of the people we had lost due to combat conditions, and this was their chance to get even.

Q. Did you get the impression that the company was supposed to kill everybody in the village?

A. Well, when you say everybody, sir, I don't feel that everybody in the village should have been killed. I don't--I may have gotten that impression before I went in there. However, after I got in there, if I had had that impression, I would've changed my mind. I don't think that the women and the kids should've been, and I don't think actually that Captain MEDINA had intended that they would be, either. I believe that he did--if anyone were similar to a VC or anything of this nature, then I feel possibly that this would be a different story. But I don't think that Captain MEDINA intended that the kids, especially, and the women--

Q. (Interposing) Do you think it is fair to say that his orders might have covered VC sympathizers, to include women if they were actually helping the VC, but didn't go to the point of little children?

A. No, sir, he didn't say kill any kids.

Q. Was he specific on this point at all as far as your recollection?

A. The best I remember, sir, all who were supposed to be in the village were supposed to be VC and VC sympathizers. That is what we were told was in the village when we went in there. There was nothing else in there, as far as we were concerned, when we went in there.

Q. Well, according to the briefing then, did Captain MEDINA convey the thought that the VC sympathizers could be shot or should be shot? Were they just lumped together with VC, that they are the enemy, go in and shoot them?

A. We were told, sir, that everybody in there was a VC and VC sympathizers, and we were to go in there and destroy everything and leave nothing.

Q. Do you recall anything being said about the possibility that by the time the operation was to start, which was 7:30 in the morning, all the civilians, noncombatants, we'll say, would be out of the hamlet and gone to market? Do you remember any statement like that being made?

A. No, sir. I don't remember that in the meeting that the company commander held with us. But I did hear something on TV about it which has no connection with this whatsoever. I don't remember probably that we might not have been told this, anyway.

Q. Do you recall a memorial service being held for the company along the time of this briefing?

A. Yes, sir. We'd had more than one. We had one that I remember at LZ Uptight where my mortars were just prior to this operation, and we had one at Dottie. But I don't remember if it was just about the same time or before. It wasn't after the operation, but I couldn't say if it was the same time.

Q. Well, the evidence that we've received has been very conflicting. I can recall two witnesses who say that there was a memorial service just before the briefing right there at LZ Dottie. Other witnesses have put this some time earlier. One of them had put it back as far as 3 or 4 weeks before, so we have had difficulty pinning this down.

A. The best I remember, sir, when the company commander briefed us that afternoon, he notified all the subordinate leaders that he wanted the company assembled down by one of the--an old gun pit--105--155 artillery piece. And there was a big embankment there. We moved the company down there, and everybody was seated, and he briefed us. The only thing I remember having there, at that time, was the briefing on the operation that was going to take place the next day.

Q. What was the mood of the men of the company after the briefing, when they were told that there would be perhaps a battalion of VC there? Were they ready for a fight? Were they apprehensive?

A. I think that the unit had real high morale, sir. They were ready to go, and immediately after the briefing we

started preparing our people, getting things ready to go. We got that done, and we waited until the next morning.

Q. As I recall, you said Captain MEDINA told the company this was their chance to get even?

A. That's for the people whom the unit had lost previously, sir.

Q. Did the company react to this? Did they consider this a chance to get even with the VC? Were they getting ready for it with that in mind, would you say?

A. Well, I suppose they were getting ready for anything that was in there, sir. This is what they expected-- is what I expected when I went into the village.

Q. What do you mean? Were you expecting a good fight?

A. I expected that there was a unit of VC in there, like we were told, a great number. I don't remember the size of the unit that we were told was in there. I believe they said it was a battalion. It could've been a company. It could've been something different.

Q. Well, moving to the next day now, after you were airlifted in from LZ Dottie, you set up your mortar. I refer you now to an aerial photograph which has been admitted as Exhibit P-131. From point 1, where you set up your mortar, did you observe the village of My Lai (4)? Did you have a good view of it?

A. Actually, sir, from where we first set up, you couldn't tell hardly anything about the village. It was a hedgerow that ran across here, and then there was a tree line right on the edge of the village. I set up right here (indicating). The company commander and the headquarters were here. Two of the assault platoons were already in the village, or through the hedgerow at least. I don't know if they were completely in the village, but they were out of sight from us when we landed on the ground.

Q. Where was the 3d Platoon?

A. The 3d Platoon was back here, just about where we were, just a little bit behind us.

Q. Did you draw any fire out there while you were in position, any enemy fire?

A. Directly where I was located, sir?

Q. Yes.

A. No, sir.

Q. Would you tell us, or would you describe for us, then, what you and members of the platoon did after this, when you moved forward and went through the village?

A. Well, when we went through, the village, sir, we moved behind the headquarters group. We were with them part of the time, and part of the time we were behind them. We participated in destroying the crops that were being grown there in the village area, and in some cases, I couldn't say for sure, in helping to burn hootches. The majority of them were already burning when we got to them because two platoons were ahead of us.

Q. Did you get your order to do this, to help to destroy crops and burn hootches, on the day before, or did you get some specifics that morning?

A. Well, there was a headquarters group with the company commander. He had--must have had about a dozen people or more with him. They were the ones actually, I guess, responsible, because we didn't know exactly what the situation would be. Then we were told after we got into the village that we could help these people.

Q. Help the 3d Platoon?

A. Well, the 3d Platoon also and the company commander's excess people he had with him. We set up the mortar once we got there, and then we hand-carried it all the way through the village. We didn't set up any more in My Lai (4).

Q. From then on you helped them in the mop-up operation, so to speak?

A. Yes, sir.

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Q. You were in charge of the mortar platoon, I take it?

A. I was in charge of the gun that was with us at that time. The platoon leader was on LZ Uptight with the remainder of the platoon.

Q. You had an officer, did you?

A. Yes, sir.

Q. Do you remember his name?

A. Lieutenant ANDERSON.

Q. Do you remember that day whether any men of the mortar platoon went along with Bravo Company, which had another mission in another place that morning farther to the east?

A. Not that I can remember, sir. It's possible, but no one from my platoon that I can remember.

Q. They might have taken some of their own mortars along, but you don't know about that, I take it?

A. No, sir.

Q. Are you aware, Sergeant MARONEY, that the thing that has made My Lai (4) unique was the fact that quite a number of Vietnamese civilians were killed during this operation in the hamlet, including many women and children? Could you tell us, please, what you observed of this when you moved through My Lai (4) with your men, any killings that you saw there, any dead or wounded Vietnamese? Just describe it as best as you can. We appreciate that it is difficult to reconstruct something that happened that long ago in view of the confusion of the combat situation.

A. Sir, when we went through the village all the people whom I saw dead were already dead except one who was killed later. I didn't see anybody killed until we cleared the village, until we got completely through it and started back down a different part of it. I saw one man killed at

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that time, and he's the only individual. I saw a lot of dead people, but he's the only individual whom I saw killed the entire time in the village.

Q. All right. Could you describe that?

A. Yes, sir. I--one of my men in my platoon shot him, but he didn't kill him. Somebody from one of the rifle platoons a short distance over--after he had shot him--I think he shot him in the side or something--shot him and killed him. And he is the only one whom I saw. I don't know who the individual was who shot him the second time.

Q. We received testimony yesterday indicating-- now this man you are speaking of, is he--did he appear to be a monk or a priest? Was he wearing a white robe?

A. No, sir. He wasn't wearing any robe. He had on pajamas.

Q. Was he an old man or a young man?

A. He was an old man, sir.

Q. Did you see a priest or a monk in the hamlet wearing a white robe?

A. No, sir. I didn't. Not that I remember, sir. I didn't see one.

Q. Where did this take place?

A. Well, this picture is a little confusing to me, sir. We went through the village. I thought we were going straight through it, but we were varying back and forth. I thought that we were over on the northeast corner or the northeast portion of the village.

Q. Let me stop you there a moment. I believe you told Colonel PATTERSON about the incident involving CARTER, and how he shot himself in the foot?

A. Yes, sir.

Q. Were you there when he was dusted-off?

A. I was there when he was dusted-off. They brought him to the location where the company commander was. At that time we were behind the headquarters group. We moved up to where they were located. They brought him up to that location. The medics worked on him there, and they called for a dustoff. They came in and picked him up a few minutes later.

MR WEST: All right. Could I have a marking pen please?

(Recorder does as requested.)

Q. We have substantial evidence indicating that the dustoff helicopter landed right around in here (indicating) in the rice paddy just outside of the southern edge of the hamlet, and east of the lane that ran south joining Highway 521. I will mark a circle here. Could you put a number 5 in there? (Witness marks Exhibit P-131 as requested.) Now, on the assumption that this is the correct spot where the dustoff for CARTER occurred, does this help you fix the location of the place where you saw this old man shot?

A. Where is My Lai (5) on here, sir? It should be to the northeast of--

Q. (Interposing) That's right. It is northeast. And I'll refer you to the map on the wall there. It is MAP-1 which indicates that My Lai (5) is northeast.

A. Well, if this is where the helicopter dustoff was, I'm completely disoriented as far as this goes, as far as where this stuff took place. I was thinking it was on this side of the village. If, this being the case--if he was--is this where he was hurt or is this where he was dusted-off?

Q. That's the dustoff.

A. I don't know where he was hurt. He was already shot and brought there when I saw him. We must have been moving--I'm not definite on this, but to the best of my knowledge, we moved into the village from the west just like I got it here.

Q. Well, if you were following Captain MEDINA, actually he moved in a meandering course, generally down to the south and east, and he wound up down around the point

where the trail leaves My Lai (4)--leaves the southern edge about the center of the village and goes almost directly south to join with Highway 521. So he moved from point 2 on your photograph generally down to the intersection of the trail.

A. This is where he was dusted-off, sir. And one of the pictures that you have with dead people lying on the trail. That could've been on this trail right here (indicating).

Q. You did see the group of people on the trail?

A. I saw some dead people lying on the trail. And that being the case, then we moved right along another trail here, right along the side of the village.

Q. The southern edge of the hamlet, right?

A. Yes, sir.

Q. You might mark the spot there where you saw the bodies.

A. Well, just an X or a circle here?

Q. A circle with a 6.

(The witness does as requested.)

And you moved along the southern edge of the village?

A. We moved on along here, sir. And we moved down, I believe, past this trail here somewhere. And this is where this old man, the only one whom I saw killed was killed. And then we moved back into the edge of the village, and after we got back in here--

Q. (Interposing) Why don't you mark that spot where you saw the old man killed?

A. I'm just estimating now, sir. I couldn't be definite on it, it could have been--

Q. (Interposing) We understand that.

(The witness marked the spot where the old man was killed with a 7 on Exhibit P-131.)

A. We moved back to the edge of the village then. And a couple of more people--men were picked up back in there-- I don't know who secured them or what the story was behind them. But myself and the artillery FO moved down, and we found two little girls in an old, knocked-down, partially brick building.

Q. You told that story to Colonel PATTERSON, did you?

A. Yes, sir.

Q. Okay. Did you also give him the name of the man who shot the old man?

A. The first time?

Q. Yes.

A. Yes, sir. I gave it to him.

Q. Apart from the group of bodies on the trail down there that you marked as point 6, did you see any other groups of bodies or piles of bodies that morning?

A. No, sir. I saw several bodies scattered through the village. When the CID interviewed me, he asked me about a bunch of people in a ditch. I didn't see anybody stacked. This is the most people I saw dead in one spot, and they were on this trail here. I don't have any idea how they got-- who killed them or how they got killed. It could have been our people. It could have been artillery or gunships. I couldn't say, but they were all in a pile there. And these are the only ones. I'd estimate it to be about 15 of them, sir.

Q. Did Colonel PATTERSON show you a photograph of a group of bodies on a trail? I am referring specifically to Exhibit P-41C, which is a color photograph taken by Sergeant HAEBERLE. I will show it to you now in the form of an illustration in a Life magazine article, which has been introduced in evidence as Exhibit M-1. Does it look anything like the bodies you saw on the trail at point 6?

A. Yes, sir, this could be the same. It looks very similar, sir. Now, I wasn't close to these people, sir. I

saw them from a distance. They were on this trail quite a ways, and I was over here near the wood line. I saw them from a distance.

Q. Could you estimate the distance?

A. I'd say they were about 50 meters down the trail, sir, from where I was. They were probably about halfway between this wood line here and where this next little wood line starts at this group of houses right here.

Q. South of there?

A. Yes, sir.

Q. Did you hear during the morning any orders passed down to stop the shooting, to stop the killings?

A. No, sir. Not before the village--not before we completed that--I don't remember hearing any--I know that--I believe it was after--it was at noontime, or after we left the village. We went into the next one or something--I believe we went to the next village possibly. Captain MEDINA said--I don't know if he put it out as an order to everybody, but I heard him make a comment that he didn't want any more killings. And I believe it was after we left this village here.

Q. After you left My Lai (4)?

A. Yes, sir.

Q. We've had some evidence on this, and it's not been clear as to the time this order was issued. We've had testimony that Lieutenant CALLEY told his platoon to stop the shooting, and Lieutenant BROOKS called out to his men to knock off the killings, or words to that effect. We have had difficulty placing the time.

A. Sir, Lieutenant CALLEY and Lieutenant BROOKS had the 1st and the 2d Platoons, and I don't remember seeing either one of them. I did see some of the people in their platoons. I don't remember whose platoon CARTER was in, the boy who got shot in the foot, but he was in one of

the rifle platoons. But I don't remember seeing him. They have squad radios that they use for communications, so possibly they could have done this, and I wouldn't know anything about it.

Q. Well, this is one reason why I have asked you this. We are trying to determine a time when this came about.

A. I remember when we moved from here (indicating). We took the two little girls I told you about and these two old men over to this next village where we left them. I believe at that time, just before we went into that next village where we left them, Captain MEDINA said he didn't want any more killings.

Q. Did you stay with the operation until they came out of the field?

A. Yes, sir.

Q. Our evidence is that the company moved on to the east and laagered for the night around a cemetery.

A. Yes, sir.

Q. And on the next day moved south through some hamlets near My Khe (3), My Khe (1), and My Khe (2), south, and then came back up and spent the night somewhere around My Khe (1). Does this fit in with your recollection?

A. Yes, sir.

Q. We also have some evidence that during that day, which was the 17th, as the company passed through these hamlets, it burned hootches also. Do you remember this?

A. I remember, sir, that some hootches were burned. But we moved from here (indicating) over through--I believe, we went through My Lai (5) and (6) and spent the night. After that, and from there south, we didn't see very many people at all. Everybody had already gone, but there were some hootches. Not everything was destroyed, but there were some hootches that were burned.

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Q. During that day and the next day, which was the 18th, did you stick around the command group pretty well?

A. We stayed--the majority of the time, sir, the mortars stayed close to the command group.

Q. On the 18th, in the afternoon, do you remember a visit by Colonel HENDERSON to Captain MEDINA?

A. I don't remember what day it was, sir. But I know Colonel HENDERSON came out and picked up Captain MEDINA in his helicopter. They left, and they were gone for an hour or 2 hours, I guess. A couple of hours, I'd say--an hour and one half maybe.

Q. Anyway you can fix the date of that?

A. Well, it was after My Lai (4), sir. I don't know if it was on the same operation or not, but I do remember in one case and--

Q. (Interposing) It could have been some other operation?

A. Yes, sir. But I believe that Captain MEDINA mentioned something about it.

Q. The incident that I am speaking of is one where Colonel HENDERSON just came down, and this was shortly before the company was lifted out by helicopter. He visited with Captain MEDINA on the ground for a few minutes. His helicopter, meanwhile, had gone back up in the air, because they weren't sure, you know, about the area. And then it came down and picked him up, and he left. Do you recall anything like that?

A. When we got all the way down--can I look at your map, sir?

Q. Sure.

A. We got all the way down to the south here, sir. I believe it was just about in this area right here (indicating on Exhibit MAP-4) as far as we went. Because this peninsula runs out here. I remember this across here. We had three prisoners, three or four prisoners. We had three men and a woman, I believe.

MR WEST: Let the record show the witness is pointing to the vicinity of My Khe (2).

A. There were either one or two helicopters which came at that time. And I don't remember if Colonel HENDERSON was on one or not. But this is where the prisoners we had were lifted out. Then, from that point, we moved back. We were going to spend the night down in this area, but our artillery was up here (indicating) on LZ Uptight, and they couldn't support us from there. So we pulled back and spent the night north of this location.

Q. Right, fine, thank you. Do you remember the afternoon you were lifted out and taken back to LZ Dottie--well, let me ask you, was your platoon lifted out and taken back to LZ Dottie?

A. Yes, sir. I believe we went back to Dottie.

Q. We have testimony to indicate that Colonel HENDERSON met some of the men as they came back in, talked to them about My Lai (4), and asked questions as to whether there had been any civilians killed there, Vietnamese noncombatants. Were you present?

A. He could have possibly talked to some of the people, sir. He didn't talk to---

Q. (Interposing) Did anyone ever tell you that an investigation of the killings at My Lai (4) was underway, that they were conducting an investigation?

A. When I told you a while ago about Colonel HENDERSON coming down and picking up Captain MEDINA in a helicopter he-- Captain MEDINA said, I believe, at that time that that's what this was about. That they were--I don't know if he called it an investigation or what the story was behind it. But it was something about they were concerned about what actually happened in My Lai (4).

Q. We had also been told that Captain MEDINA called the company together, told them that My Lai (4) was being investigated, and advised everybody not to talk about it while the investigation was taking place. Were you present at such a briefing by Captain MEDINA?

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A. Not that I recall, sir. However, it could have been very possible because, like I said, the mortars worked separately when we were not in the field. We were on LZ Uptight. The rifle platoons were on Dottie and working from Dottie and Uptight. He could have possibly talked to the majority of the company, but I don't remember him talking.

Q. Did anybody ever tell you not to talk about the incident of My Lai (4)?

A. Not that I remember, sir. There were some pictures that came out in the papers soon after it occurred, and I don't remember anybody saying anything about not talking about it.

Q. In November there were some newspapers speculating as to whether some of the men of Charlie Company, during the operation at My Lai (4), had been under the influence of marijuana. Do you know about such a thing?

A. I don't believe, sir, that anybody in my platoon took any kind of drugs in Vietnam. If so, it was not known to me. I have heard talk from the other platoon sergeants that possibly some of their people were smoking "pot," not on this operation now, but had at one time or another, whatever that is. I guess it's some kind of dope or something.

Q. Well, what I was really trying to find out is whether any of them--if you know if any of the men going into the My Lai (4) operation were under the influence of marijuana?

A. This was altogether a different time about which I was talking.

Q. To your knowledge, did Charlie Company have the same kind of missions after My Lai (4) or were they given different types of missions?

A. Well, this is the only mission on which I'd ever been where we were actually told to destroy everything and to leave nothing. We still continued the same type missions that we had done previously.

Q. Search and clear?

A. Yes, sir. Soon after that, in fact, we were combat assaulted down to a southern area. They had a whole lot of trouble down there. But this is--we just ran normal operations, sir.

Q. Do you know or do you have any idea how these orders originated to go in there and destroy everything? Where they started? For example, did you hear that they came from Task Force Barker, or the 11th Brigade, or the division?

A. No, sir. When the company commander gave it to us, he gave it to us just like he always did. The only thing that he mentioned other than a regular order that he would give from higher headquarters was that--he did mention something about intelligence sources saying that everything in the village was VC or VC sympathizers. And I took it as I would any order that anybody would give me that came from the next higher headquarters. I don't know where it came from.

Q. How long have you been in the service, Sergeant MARONEY?

A. It will be 18 years this January, sir.

Q. You are a professional, I take it?

A. I try to be, sir.

Q. Did you ever run into anything like this before or since My Lai?

A. Not exactly of this nature. This is my first time.

Q. It would help us, Sergeant MARONEY, if you could just tell us what your opinion is as to what brought this about, this killing of the Vietnamese residents of My Lai (4).

A. Well, sir, all I can tell you is the fact that when--from what the unit was told, they went into the operation, they went in there with the feeling that this is it. I don't know what happened after they got into the village. Maybe it possibly got out of hand or something. I don't know what the story is. I was way back in the rear myself, but I know that--like I said before, they were ready when they went in there. The morale of the unit was high, and I thought at that time that we had a good unit. I worked apart from the rest of the company most of the time. I was on Task Force Barker for 3

months, and for 6 weeks just prior to this operation my platoon stayed up on LZ Uptight all the time. We didn't run any operations with the company. Actually, as far as their efficiency, effect-iveness, and field work prior to this time, I couldn't tell you too much about it, because we weren't with them.

Q. Well, we have received evidence that the men were pretty keyed up. They then were told that they would come up against strong enemy opposition. They evidently were ready to go. Apparently at least some of the men felt like it was a chance to get even for the casualties that they suffered from the VC before. It's been suggested also that the two leading platoons, the 1st and 2d Platoons, went in with reconnaissance by fire and just kept marching and shooting as they went all the way through.

A. I don't know about that, sir. They were already in the village. I didn't even see the 1st and 2d Platoons until we were completely through the village.

Q. Well, let me ask you about another aspect of this. You are aware, I think, that this incident of My Lai (4) was really unknown to Department of the Army until about April of this year. In fact, there apparently was no official report of the incident above division level. The people who knew the facts just didn't report it through the usual channels. Apparently they didn't talk about it. Could you tell us, in your opinion, why this was not reported?

A. Well, as far as I know, sir, I don't know of any-- as far as I know--as far as I knew at that time, everybody in the world knew about it. I know that the people of the task force knew about it. I know that the separate battalions from which the three companies came to make up Task Force Barker very possibly knew about it. There were pictures that came out in the newspapers in Vietnam probably some 7 to 10 days after the thing occurred with some of the pictures in it that the colonel has shown me. I don't know exactly which pictures were in it, but I remember a writeup--

Q. (Interposing) Showing dead civilians?

A. I don't remember exactly which pictures were in the newspapers, sir. But I know it was a story of My Lai in the newspaper.

Q. Well, we know there was a story in the division paper in which they related, among other things, that there were 128 VC killed in action, but we have not seen any stories or heard of any stories where they spoke of a large number of Vietnamese people--in which women and children were being killed. Is that what you meant was published in the papers in Vietnam?

A. It was in--I believe it was in the division paper, sir, or the Stars and Stripes. I'm not sure which. But as far as talking about it, I don't remember anybody telling me in particular not to say anything. Possibly some of the rest of the company could've been told this.

Q. Was there any reluctance on the part of the men to talk about the thing? Those who participated in it, for example, did they later maybe feel shame and remorse and, for that reason perhaps, kept it to themselves?

A. I think, sir, that anybody who went through there and saw all those dead people--I know it made me sick to my stomach, and I don't have too weak a stomach. I imagine that probably some of the rest of them it affected worse than it did me. I think there was a mistake made. I don't know what caused it, but like I said, we were told to go in there and clean the place out. But I don't believe anybody meant to go in there and kill little kids and stuff like this.

Q. We have had other statements to the effect that they thought things got out of hand, and I believe you made that same comment a few minutes ago. Do you have any reason to believe that that really may have occurred, and some people in the company just went berserk, you might say, just on their own went beyond the letter of the orders?

A. I couldn't say, sir.

Q. Would you express an opinion as to whether Captain MEDINA remained in control of the company that day?

A. As far as I know, Captain MEDINA was in control of the company at all times on any operation in which he's ever been.

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He was a very strong company commander, and when he put out something it had better go like he said. Now as far as--after they got inside of the village, he couldn't see everything. And I couldn't say, possibly stuff happened there that he didn't know about. I know that he didn't see everything either, because from time to time throughout the village I was right close to him, and there's a whole lot of stuff in those pictures that I don't--that I didn't know anything about and never saw. And I don't know, sir, if it would be a true statement to say he was or wasn't. But I know that he was a very strong company commander, and I'm quite sure that the platoon leaders had control over their people to follow his orders as to whatever he told them.

Q. Well, our impression is that My Lai (4) was quite heavily wooded; there was a lot of underbrush.

A. Yes, sir.

MR WEST: Only limited visibility as you move along; you just see short distance.

COL FRANKLIN: Sergeant MARONEY, is there any special reason you wear the 7th Division patch instead of the Americal patch?

A. Well, I've had it longer, sir. I got it in 1952, and I have been wearing it ever since. I'm told that I'm authorized to wear either of them.

Q. Well, is there any special reason why you are not wearing the Americal patch? Let me put it that way.

A. I have the Americal patch on part of my uniforms, sir, the ones that I've had since I came back from Vietnam. I have two sets of Class A's. The Americal patch is on the other one. These I had before I went to Vietnam. It was on there, so I just didn't take it off.

Q. I want to ask you a couple of questions about some of the stuff you covered with Colonel PATTERSON, Sergeant MARONEY. When Captain MEDINA got to that southeast edge of the village and said, "No more killings," to whom did he say it?

A. I don't know if he put it out as an official order

or not, sir, but I know I heard him say it. I was there close to the headquarters group, and I don't remember if he had the platoon leaders there at that time or not. But I know that I heard him make this comment before we went into the next--

Q. (Interposing) He said he wanted no more killings?

A. Yes, sir.

Q. Did he seem any different putting that out than he did when normally putting out instructions?

A. I think Captain MEDINA when he came out of the village was pretty well depressed. He appeared to be. It hurt Captain MEDINA when one of his people got hurt. It hurt him just as badly as the guy who got hurt. I think that after we got through this thing, and everybody had a chance to stop and realize what had taken place, actually he could have felt bad about it. I know I did, and probably everybody else did.

Q. Do you recall Captain MEDINA at any time going through--there were certainly bodies around. Did you ever hear a radio transmission, or instructions, or orders of any kind to stop the killing there?

A. No, sir. I don't remember hearing any cease-fire come over the radio.

Q. Being around the command group, if that were put out, of course, you would hear that on your own radio, wouldn't you?

A. Yes, sir. I don't remember, sir, until after everything was over. And the best I remember, everything was completed in this village, and we stopped, and we had something to eat. And then, I believe, before we moved into this next little village and got these two little girls, before we went in there, I believe, that's the time I heard him say it.

Q. Do you recall after you met up in the afternoon with --before we get into that--Charlie Company reported a body count to Task Force Barker early in the morning. Do you recall any of the platoons--were you on the company "push"?

A. Yes, sir.

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Q. Do you recall any of the platoons calling in at any time and giving a body count?

A. I don't remember, sir. Possibly they could have. Possibly it could have been given verbally by the platoon leaders. I don't remember any particular instance where they did.

Q. Do you ever recall hearing Captain MEDINA or somebody in the command group making a call to battalion and telling or giving them a body count?

A. I wasn't on the command net, sir. Anytime I was around the headquarters group, I don't remember any particular transmission.

Q. Do you recall anybody talking or being pretty happy about killing a lot of VC? Or did anybody not really think they had killed a lot of VC?

A. Well, actually, like I said, sir, I don't think--once the people--once it was over, and the people had time to stop and think, I don't think anybody was real proud of himself. I don't know how many--they did get something like three weapons. I've heard seven weapons, but I don't know how many VC were in there who weren't carrying weapons. I don't think that anybody felt they were a hero or anything or that they had accomplished anything.

Q. We read these newspapers, or some of them, and this was portrayed in the newspapers as a great victory. You say everybody sort of knew about it. I think 128 VC were reported killed. Does that number ring a bell with you at all?

A. I don't know the number, sir. That was--that came out in the newspaper. I just remember that there were some pictures published in--I probably read the article, but I don't remember.

Q. Well, do you recall reading the article and then thinking any certain thing? Do you normally read an article?

A. Well, if I read it, and they said there were 128 VC

killed, I would probably think there weren't that many VC in the village. I don't remember anything particular, sir. I do remember seeing the pictures in the papers, and I am not even sure that I read the article.

Q. That would be strange, not reading the article?

A. I guess it would, sir. But I don't remember the number that was mentioned if I did read it.

Q. While you were with Bravo Company later up to the northeast the evening of the same day, do you recall seeing any police interrogating any suspects, VC suspects?

A. Yes, sir.

Q. What happened?

A. Well, I believe we had three prisoners with us. The other unit that was there had five, six, or seven. I would say there were somewhere between a half dozen and dozen total. The police and our S2 were there. I think there were three or four of them possibly. I did not see them interrogate them. I did not see them talking to them, but they had a place they carried them behind to talk to them. And after they talked to them--and I guess they didn't get the information they wanted out of them--well, they would bring them back around to a ditch, back over on one side, and they shot, I believe, two of them.

Q. Did you see them shot?

A. I didn't. I wasn't close enough to see them. I could hear the shots, and I knew that they were shooting them. I walked over to the ditch after it was all over and looked, and they were lying in the ditch.

Q. Did Captain KOTOUC see this?

A. I don't believe--I know Captain KOTOUC wasn't around there when they shot them, but he was there when they were interrogating them. He was around on the other side where they were interrogating them. Captain KOTOUC did not come around with them when they shot them, because it was the police who brought them around.

Q. Did you ever see Captain KOTOUC with a knife in his hand while he was interrogating?

A. No, sir, I didn't. I didn't actually see the interrogation, but I know that they had a place where they were taking them in one at a time. Then they brought, I believe, it was two of them, sir, possibly three--I don't know--around--

Q. (Interposing) Captain MEDINA, was he in a position to be aware of this?

A. Captain MEDINA was there in the vicinity. I don't know if he saw them or not. He was there, right in the same area. This took place right in our position where we spent the night.

Q. Did this seem sort of unusual to you, seeing people shot down like this?

A. Yes, sir, it did.

Q. That was a long day, the 16th of March, for you, Charlie Company, wasn't it, Sergeant MARONEY?

A. It sure was.

Q. You mentioned this pickup. You weren't sure. Can you think a little bit on that time when Colonel HENDERSON came down and picked up Captain MEDINA? Just kind of place it a little bit for us.

A. Sir, I am not sure if it was on that day or the next day, but I know it was after this operation or during this operation that he came out and picked him up in his helicopter. Captain MEDINA left with him, and they were gone for I would say an hour and a half or 2 hours, possibly 2 hours and one half. Captain MEDINA mentioned something about Colonel HENDERSON talking to him about this My Lai (4) operation.

Q. Did Captain MEDINA tell you that or did you just hear him talking?

A. Well, I believe he was talking to the platoon leaders when he mentioned something about Colonel HENDERSON talking to him about that, sir.

Q. But you heard Captain MEDINA talking to somebody about that, is that right?

A. Yes, sir. I heard him make the statement that the reason Colonel HENDERSON came and got him was to talk to him about this My Lai operation.

Q. Were you out in the field at that time on the operation?

A. Yes, sir.

Q. Did he mention anything about an investigation when he was talking? Did he seem sort of upset about it, or did he just say it in conjunction with a whole bunch of things. What was your impression? What did you think when you heard that?

A. Well, when I heard it, sir, I figured that they were investigating. I don't know if Captain MEDINA said directly that they were starting an investigation or just exactly what his words were, but Colonel HENDERSON was questioning him on what happened there.

Q. Did he say anything more?

A. Not that I recall, sir.

Q. There was no implication about -- do you think he was warning these people that they were going to be asked questions themselves, maybe? Did you get that impression?

A. No, sir. I don't think I got that impression from it.

Q. Would you have been afraid of an investigation in Charlie Company about that operation, Sergeant MARONEY?

A. Would I have been, sir?

Q. Yes.

A. No, sir.

Q. Do you think Captain MEDINA would have been?

A. I don't know, sir. I don't know Captain MEDINA's feelings on this whole situation. I couldn't say.

Q. Do you remember the platoon leaders after they got there going down and talking to the platoon about Colonel HENDERSON, the brigade commander, was upset or words -- just looking into this?

A. They could have, sir. I don't know. I don't recall going back and saying anything to my people about it. Of course, I only had about seven or eight people there. The rifle platoon leaders could possibly have gone back and talked to their people.

Q. You were at this meeting as a platoon leader, weren't you? You had the mortars?

A. Yes, sir.

Q. Did any of the platoon leaders ask any questions?

A. I don't remember, sir. The only comment that I remember Captain MEDINA making is the fact that Colonel HENDERSON came down, picked him up, rode around with him, and talked to him or questioned him about what took place at My Lai. I don't remember any other thing he said in particular about it. He could have said something else, but it did not seem of importance at that time to me if he did say anything else.

Q. You were extracted on the 18th, and you went back to Dottie. When Charlie Company went on its next operation, did you go with them into the field?

A. I don't remember, sir, what the next operation was. I know that up until this time I had been separate from the unit. I was on LZ Uptight when we were called. The platoon leader was supposed to come down there, and Captain MEDINA said for me to bring the people down. I believe, as far as I know, the next operation we went on very possibly I was with the unit.

Q. I am trying to fix this, when Captain MEDINA talked to you platoon leaders. You are pretty sure it was on this operation, sometime during the My Lai operation, in that area, as in that 3-day period. You're pretty sure of that, then? If you're not, say you're not.

A. Sir, I can't say definitely. I know it was soon after that incident, because Colonel HENDERSON came down and we were out in the field. He picked up Captain MEDINA and took him up in his helicopter. And they rode around for a long time, for a couple of hours. He came back and then-- I don't know if you call it a meeting, but the platoon leaders were there. He just made a comment about the fact that Colonel HENDERSON wanted to talk to him and find out something about the situation in that My Lai operation. It could have been possibly on the next operation or it could have been on this same operation. I'm not definitely sure.

Q. Was that the only thing discussed at that meeting, or did you put out other stuff about the--

A. (Interposing) I don't know, sir. I don't think he would just call them up there to tell them that. I think probably there would have been other things discussed, but at this time I can't tell you what else was said.

Q. Do you have any idea about the time interval between the end of this operation and--the end of that operation until the time that you went back to the 1/20? About how long was it?

A. We went back to the 1/20 about the end of--sir, I don't know if it was the end of March when we went back. I guess it was the end of March possibly when we went back, because the weather must have been--I'd say 10 days, between

10 and 15 days, if that was when Task Force Barker was disbanded. I'm not sure it was the end of March.

Q. Did anybody in that company ever express a feeling on subsequent operations that somebody was trying to get you out of the way, out of sight, or get you to where people couldn't get in to see you. Did this ever cross your mind? Did you ever hear that expressed, that idea, anywhere?

A. No, sir, not to my knowledge.

Q. Were your operations, as far as you're concerned, very normal right after this operation? The operations in which you participated later on, did they seem like the operation that you had been doing before?

A. They were like I told Mr. WEST. We ran, as far as I saw, normal operations. It could've been a little different, because we were given areas to clear. We were given so many grid squares to cover, and we covered this area.

Q. How about Sergeant BERNHARDT? Do you know Sergeant BERNHARDT?

A. I'm familiar with him, sir. I don't really know him.

Q. Did you ever hear about Sergeant BERNHARDT being sent away on a detail while the investigation was being made so he wouldn't be around? Did you ever hear the NCO's talking about that?

A. No, sir.

Q. Did you ever hear about a helicopter pilot causing an investigation or about some problem with a helicopter pilot and your company?

A. No, sir. Not me.

Q. You never did hear about that?

A. I don't guess so, sir.

Q. Did you see any helicopters land on the 16th of March other than the one that dusted-off CARTER? Do you recall any choppers landing anywhere?

A. That's all there was, sir, that I remember landing. When the CID interviewed me, he asked me the same thing. I don't remember any other helicopter landing there where I could see him other than the one that picked up CARTER after we were dropped off.

Q. Did you ever hear anything about a radio transmission in the command group about the company being turned around to go back into My Lai (4), and the division commander coming on the net saying something? Did you ever hear anything like that?

A. No, sir.

Q. Did you know the radiotelephone operator of Captain MEDINA pretty well or at all?

A. I know -- I knew him pretty well at that time, sir.

COL FRANKLIN: Thank you Sergeant MARONEY, you were very helpful.

MR WEST: Let me just go back briefly to the events on the morning of My Lai (4). When you talked to Mr. THOMPSON down at Fort Hood back in September, he asked you how many people you estimated were killed in there, and you said between 50 and 100. Does that still fit in with your recollection?

A. Sir, I would say throughout the village, counting the group that I saw on the road, I'd say at least 50. And when I gave him that figure, I told him I didn't even think about counting them or anything else. I just figured that that would be a fair figure, and I figured that probably I did see 50 people dead or possibly more.

Q. From what you know of Captain MEDINA's movements through the hamlet that morning, would you say that he was in the same position to see the dead people that you were?

A. Possibly he could have seen more or he could have seen less, sir. I was near Captain MEDINA the majority of the time through the village. Part of the time we would drop back behind the headquarters group, then we would catch up with them. We were with them part of the time and behind them part of the time. I couldn't say.

Q. Well, as you moved along with Captain MEDINA, behind him, from time to time you did see dead people in the hamlet?

A. Inside of the village?

Q. Yes, in the village?

A. Yes, sir. There were dead people.

Q. In other words, you were moving generally along the route that Captain MEDINA took, and you saw --

A. (Interposing) I was behind Captain MEDINA almost throughout the village, and in some cases we were fairly close to him at all times.

Q. During the morning, before you left My Lai (4), at any time during the morning were you visited by any officer of the task force, the brigade, or the division? Did anybody come in by helicopter to visit Captain MEDINA, for example?

A. The only helicopter that I remember coming in, sir, was the one that took out CARTER. I was there when they loaded him on it. I don't particularly remember anybody getting off and staying. You mean if somebody came and stayed or --

Q. (Interposing) Either came and stayed, or just was there briefly, or--

A. (Interposing) There could've possibly been somebody on the helicopter, and maybe he talked to him then. I don't know, sir. I don't remember any.

Q. Nobody else came, then, to your knowledge?

A. Not to my knowledge, sir.

COL FRANKLIN: Just two questions, sir. When you went back to Uptight, did you talk to your platoon leader about this?

A. About what had happened, sir?

Q. Yes.

A. Yes, sir. We talked about it. The platoon talked about it.

Q. The platoon talked about it. He knew about it, then?

A. Yes, sir. He knew about what took place, sir. I wouldn't say that he knew exactly what took place, but he knew a bunch of people got killed down there.

Q. You think that he knew a lot of innocent people or kids had been killed?

A. I don't exactly remember. Lieutenant ANDERSON, sir, he was kind of funny. The company commander put him with the mortar platoon, and he didn't know anything about the mortars. And he didn't try to learn anything about the mortars. That's why myself and this platoon sergeant went on this operation, and we left him back up there. I don't exactly know how much Lieutenant ANDERSON knew about it. He was aware of it. I know he was aware that it took place.

Q. Did you ever talk to the the platoon sergeants much about this?

A. No, sir. I never discussed it that much with them. Anytime, sir, that we operated in the field, or anytime we were on a landing zone, we were always separate from the rifle platoons. When we were in the field we were separate except when we set up at night. In some cases I would go around and talk to some of them. That's the only chance I ever got to talk to anybody other than the people in my platoon. It is almost a separate unit.

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Q. This guy, JOLLY. Was he your FO?

A. He was the only FO I had, sir.

Q. Did you ever hear about him getting involved in a rape with some woman?

A. No, sir.

Q. You never heard him talk about that?

A. No, sir.

MR WEST: Sergeant MARONEY, can you think of anything you would like to tell us? Any statements that you would like to make before we close the interrogation?

A. I have a question, sir, that I'd like to ask.

Q. All right.

A. I made a statement here a while ago to the effect that this one individual -- the only one that I saw killed-- a boy in my platoon shot him first. Well, the boy shot him. He kept harrassing me about wanting to shoot somebody, wanting to shoot somebody, and I guess I finally got disgusted, and finally I said that if he didn't shoot him somebody else probably would. So he shot him. Evidently, however, he didn't -- it didn't kill the man, and another man shot him. But I'd just like to know for my benefit, if you can tell me anything, how serious this would be as far as I'm concerned?

Q. Well, I don't believe this is the time and place to advise you about this, Sergeant MARONEY. It isn't our mission to inquire into the culpability of individuals for what happened there that day. Essentially, we are trying to find out what happened and are primarily looking into the adequacy of the investigation of the incident and whether there was any coverup. I think you have been advised, though, that the testimony that was given here could possibly be used against you, if things come out. I would recommend to you that you seek counsel separately, legal advice, in the event of possible culpability arising out of this incident. It would be inappropriate to advise you on this point at this time.

A. Yes, sir.

Q. Sergeant MARONEY, after you leave here, if you could think of anything else which you feel might help the inquiry, if you run across any notes, photographs, memoranda, or old letters that you wrote home which perhaps may throw some light on the subject into which we are inquiring, we would appreciate hearing from you. I want to thank you for coming here today, and helping us. You have contributed materially to the investigation.

A. Sir, can I ask one more question?

Q. Yes, indeed.

A. I would like to ask a question that Colonel FRANKLIN -- when this JOLLY was supposed to have got involved in this thing, did this happen in this same case?

COL FRANKLIN: We have evidence to believe that JOLLY may have been implicated in an incident of this type, yes.

A. I was completely unaware of it, sir. I didn't know anything about this.

Q. I don't say this was a true statement. I say that there is evidence that he might have.

A. Jolly was--he was my FO, and he was with one of the rifle platoons. He wasn't with me, but I was unaware of this. JOLLY was a real fine man. He was a good man to have in my platoon. I was completely unaware of this. I didn't know anything about it.

MR WEST: Well, we have a lot of statements about a lot of things happening, and we have formed no conclusions yet. I say that in regards to JOLLY as well as many others.

Anything else?

(Witness makes no response.)

The hearing will be recessed.

(The hearing recessed at 1304 hours, 31 December 1969.)

SUMMARY OF TESTIMONY

WITNESS: OLIPHANT, John L., SP4

DATE OF TESTIMONY: 31 December 1969

PLACE OF TESTIMONY: Pentagon

WITNESS SUSPECTED OF: N/A

COUNSEL: None

DUTY ASSIGNMENT ON 16 MARCH 1968: Ammunition Bearer,
Mortar Platoon, C/1/20.

1. PREOPERATIONAL PLANS AND BRIEFINGS.

Witness stated that he was present at Captain MEDINA's briefing on 15 March (pg. 3), but he could not remember what was said other than it was a search and destroy mission (pg. 4). He later stated that he could have heard orders that the troops should destroy the food in the village (pg. 8). He did not recall a memorial service being held (pg. 4), and felt that the mood of the men in the unit was the same as that preceding any other operation (pg. 4). It was his first briefing as he had been there only a month (pgs. 4, 10).

2. ASSAULT ON MY LAI.

He thought his platoon went in on the last lift. There were seven or eight members of the platoon with him and they had one tube (pg. 5). Upon landing, they set up their weapon in a rice paddy close to the helicopter (pg. 5), approximately 300 to 400 meters from the hamlet (pg. 6). They then moved forward almost to the village where they set up again (pg. 6). They followed this pattern moving forward and setting up through the village (pg. 6). They never fired the mortars (pg. 7). They followed the third platoon (pg. 7). He stated that it took them a little more than half a day to move through the village (pgs. 9, 10). They went through in single or double file on a trail through

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bushes (pg. 14). He noticed some hootches burning (pg. 7), some dead livestock (pg. 8), and saw a number of dead bodies most of whom were men (pg. 8). Somewhere between the middle of the village and the end, they saw a number of live Vietnamese, mostly women and children, but he did not recall if someone had taken them in charge (pg. 9). He agreed with his statement to the CID which was made in September at Fort Hood, that there were 200 to 300 dead people (pgs. 10, 15, 16). He did not recall seeing the ditch with a number of bodies in it (pg. 12). He feels that there were quite a few women and children dead but he did not notice if there were bunches of people. They were scattered all around the hootches and trails (pg. 14). He stated he has no idea why it happened (pg. 19). He did recall the company moving to spend the night near a graveyard (pg. 16), but did not recall clearly the operations on the 17th (pg. 16). He thought, but was not sure, that they were not lifted out of the area of operation by helicopter but walked out (pg. 17).

3. INQUIRIES CONCERNING THE ASSAULT.

The witness had not been in combat before and felt that this was the way the company normally operated (pg. 11). He stated that he did not know at the time what a search and destroy mission meant (pg. 19). He did not know that there was an investigation going on nor did he know Colonel HENDERSON (pg. 17). No one approached him and asked him about the incident (pgs. 17, 18) and he never saw Colonel BARKER (pg. 17). He felt that MEDINA called the company together, after the operation, but did not remember MEDINA's words (pg. 18). He states that no one ever told him not to talk about the incident (pg. 18).

4. OTHER INFORMATION.

OLIPHANT stated that he did not know there was a marijuana problem in the company, and he knew nothing of any member of the company being under the influence of marijuana (pg. 19)

(The hearing reconvened at 0910 hours,
31 December 1969.)

MR WEST: The hearing will come to order.

RCDR: The following persons are present: MR WEST,
COL MILLER, COL FRANKLIN, MAJ ZYCHOWSKI, and MAJ COOP.

The next witness is Specialist Four John
L. OLIPHENT.

(SP4 OLIPHENT, was called as a witness, was
sworn, and testified as follows:)

RCDR: Would you state your full name, grade,
Social Security number, branch of service, organization
and station?

A. John L. OLIPHENT, Specialist Four,

Q. Branch of service?

A. Army.

Q. Organization and station?

A. C/2/46, Fort Hood.

MR WEST: Specialist OLIPHENT, before we get into
any questions Colonel MILLER will give you some infor-
mation about the nature and purpose of this investi-
gation.

COL MILLER: This investigation has been directed
by the Secretary of the Army and by the Chief of Staff
of the Army for the purpose of determining facts and
making findings and recommendations with respect to
two major matters:

(1) the adequacy of prior investigations
and inquiries into and the subsequent reports and
reviews within the chain of command of what we now
refer to commonly as the My Lai incident of March
of 1968. I think you know to what I refer, and

(2) the possible suppression or withholding of information by any person who had a duty to report and to furnish information concerning this incident.

It is not our primary purpose to investigate everything that happened at My Lai. The purposes are as I just stated. We are actually having to inquire in some detail to what happened at My Lai.

We have had made available to us and have read statements made by witnesses in other investigations such as the IG and the CID investigations into this incident. We have your prior statement, too.

Your testimony today will be under oath, and a verbatim record will be made. In addition to having the reporter, we also have a tape recorder.

Our report has a general classification of confidential. However, there is at least the possibility that some or all of the testimony given may at some time in the future become a matter of public knowledge.

You are directed or ordered to not discuss the testimony you give here in this investigation with others, including other witnesses for this investigation, both those who have been here and those who may come, except in the performance of your official duty or as you may be required to do before a competent judicial, legislative or administrative body.

I'll explain that a little bit more in just a moment.

I understand that you are under the order issued by the military judge in the general court-martial case of the United States v. Calley to not discuss your testimony in certain areas. Are you aware of the order to which I am referring?

A. I think that's the same letter I got from Fort Benning. Yes, I did receive it.

COL MILLER: Your appearance here in no way changes the effect of that order. That order is still standing and you are expected to comply with it.

Your testimony here and your appearance here is within the permissible limits of that order. In other words, you are not violating the order by testifying before this hearing. The limitation on the discussion of your testimony, which I just mentioned, does not prohibit you from testifying as you may be called to do before an Article 32 investigation or any other official investigation into this case or as a witness in a court-martial.

At this time you are not suspected of any offense with respect to My Lai. You may recall that before you came in here you and Sergeant MARONEY had asked about counsel. Do you have any desire to have counsel made available to you?

A. No, sir.

Q. In the event anything comes up where it appears that counsel would be appropriate, we will certainly inform you. If you feel at some time that you need counsel, you certainly have the right to request counsel immediately.

MR WEST: Specialist OLIPHENT, would you tell us what your duty assignment was on 16 March 1968?

A. I was an ammo bearer for the mortar platoon.

Q. Do you remember the operation against a little hamlet of My Lai (4)?

A. Yes, sir.

Q. We understand that Captain MEDINA briefed Charlie Company about the upcoming operation on the day before, on the 15th. Were you present at that briefing?

A. Yes.

Q. Could you tell us what Captain MEDINA said?

A. Offhand, I can't remember what it was all about. The only thing I really can remember is that he said that we had to go in.

Q. Did he talk about the enemy strength or what to expect in there?

A. Not that I can recall.

Q. Do you recall him saying what kind of a mission it was: a search and clear, search and destroy?

A. The only thing I can remember is that I heard it was a search and destroy mission.

Q. Do you remember, about this time, a memorial service being held for the company?

A. No, I don't.

Q. What was the mood of the men of the company after the briefing the night before the operation?

A. Well, I can't, you know, say that it was that much different from any other operation.

Q. Just about like any other operation?

A. Yes.

Q. We've had some testimony that Captain MEDINA gave what might be called a pep talk and tried to work the men up and impress on them that this was a big operation and the enemy would be in My Lai (4) in strength. Do you recall any of this? Does this refresh your memory?

A. Well, maybe he could have given a pep talk, but I don't know. This is the first one for me.

Q. You say that this is the first company briefing you've ever attended?

A. Right, in that case.

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Q. Let's go to the next day now, the day of the assault on My Lai (4), the 16th. How many members of the mortar platoon went along on this operation?

A. Well, on that day I think it was maybe, approximately seven or eight at the most.

Q. How many tubes did you take with you?

A. We only had one tube.

Q. You're an ammunition bearer you say. What did you carry?

A. It was a switchup, you know. Part of the time you were carrying ammo, and then again a switchover on your gun, and switch around like that.

Q. What lift did you go in?

A. Well, to my remembering it had to be around the last one, you know.

Q. Do you remember about what time it was when you hit the landing zone?

A. The objective?

Q. Yes?

A. Not right offhand, but I think it was kind of early in the morning. I don't know.

Q. What did you first do after you got out of the helicopter near My Lai (4)?

A. We got out and we just set up the gun.

Q. Where were you at this time?

A. We set up just out from where the helicopter landed. It was out in a rice paddy.

Q. In a rice paddy?

A. Right.

Q. How far from the hamlet of My Lai (4) were you?

- A. It's hard to say. Maybe it was just 300 to 400 meters.
- Q. You could see the hamlet?
- A. You could see into it across the rice paddies.
- Q. Did you draw any enemy fire during this time? Did anybody shoot at you?
- A. Not to my memory. I can't remember them.
- Q. Did you see Captain MEDINA at this time when you set up the mortar?
- A. No, I don't remember seeing him.
- Q. Would you tell us what happened after that?
- A. From what I can remember, as they went through we would pull up and set up, pull up and set up, just in case they called for us, and fire.
- Q. You initially set up your mortar in the rice paddy, and then you moved forward to another position and set up again. Do you recall where you set up after the rice paddy?
- A. If I am not mistaken, I think we had gotten almost into the village.
- Q. Close to the edge of the village?
- A. Pretty close.
- Q. How about other positions after this?
- A. Well, it just went on and on until we were through.
- Q. You just moved forward through the village, moved forward and set up, forward and set up?
- A. Yes, sir.
- Q. Did you ever fire the mortars?

A. No, we never fired a round.

Q. What did you see as you went through the village? It is very important to know what happened in there. So, will you just tell us what you remember and what you saw in the village of My Lai (4)?

A. When we went through it everything was done. As we came through the damage was all done. There were bodies laying around.

Q. Could you explain that a little more? You say the damage was already done. What do you mean by that?

A. As far as killing and whatever happened, I didn't see that.

Q. How about the houses, hootches?

A. Some were burning.

Q. Did the mortar platoon move along with the 3d Platoon or did you move separately?

A. We moved separately, pull up as security more or less.

Q. Did you move with the headquarters section of the command group?

A. If I can remember correctly, I think we were moving separately.

Q. Do you remember the 3d Platoon moving through the village?

A. They were ahead of us.

Q. They were ahead of you?

A. Yes.

Q. That is what I wanted to know. The scheme of operations was that the 1st and 2d Platoons got on line and they moved through the village first? They moved pretty fast?

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A. They might have, I don't remember.

Q. And the 3d Platoon came along behind them, and they had a mission of mopping up. They moved a little bit more slowly, supposedly, and went through hootches and burned them, and they were supposed to take care of the things that the other two platoons hadn't. Now, how about livestock? What did you see? Cows, water buffalos, pigs?

A. I saw a few.

Q. What were the troops doing?

A. What were they doing?

Q. Yes, with the livestock.

A. Some were dead that I saw.

Q. Did you hear any orders about killing all the livestock?

A. Not to my remembering I didn't.

Q. Did you hear any orders that the troops should destroy the food in the village?

A. No, I didn't. I could have, yes.

Q. You mentioned about seeing dead bodies. Would you tell us about that please?

A. As we went in, as we walked in, there were some there.

Q. The 1st, 2d, and 3d Platoons had already moved through, I take it, by the time you moved up?

A. Right.

Q. When you say dead bodies, are you talking about Vietnamese and civilians? What looked like civilians?

A. Just Vietnamese people.

Q. What were they? Were they men, women and children?

A. The biggest portion of them was men.

- Q. Old men, young men or what?
- A. They seemed to be about middle age and like that.
- Q. How about women and children?
- A. I saw a few of them. I did not see too many of them.
- Q. Did you see any Vietnamese alive in the village?
- A. Near the end we saw quite a few.
- Q. You mean the end of the village after everybody had moved through it?
- A. Actually, it was before we got through.
- Q. Somewhere in the middle of the village you saw some alive?
- A. Yes.
- Q. Will you describe these?
- A. Seemed like ladies and a couple of kids. If I can remember correctly, it was a few children still in the village.
- Q. What were they doing?
- A. Just standing.
- Q. Had somebody taken them in charge, was taking them some place, for example?
- A. I really don't know.
- Q. Did you see any Vietnamese people killed that morning?
- A. No, I didn't. They were all dead when we went through.
- Q. Do you remember how long it took you to get through the village?

A. I think it took us a little over half a day..

Q. Do you remember talking to a CID agent named Billy H. THOMPSON at Fort Hood?

A. Yes, I do.

Q. This is back in September?

A. Yes.

Q. Mr. THOMPSON asked you some questions, and he wrote them in a report which you signed. Let me read two or three questions and your answers:

"Q. What did you see as you moved through the village?

"A. From what I could see, the whole village was on fire, and there were dead people around everywhere.

"Q. Can you describe these dead people?

"A. They were in all different kinds of clothes. There was a lot of women and children. I estimate that I saw between 200 to 300 people. That is about all I can recall."

Q. Do you remember making this statement?

A. Yes, I do.

Q. And this is your recollection of what you saw that day?

A. Yes, it is.

Q. Had you ever seen anything like this before?

A. Never.

Q. Since then?

A. Never.

Q. What went through your mind when you saw these dead Vietnamese?

A. It was a shock to me because I had just got there. I hadn't been there but about a month at the most. I didn't know what was going on.

Q. Had you expected anything like this when you went in?

A. No, not really.

Q. Did you think that that was the way that Charlie Company operated, and did it occur to you that there was something very wrong, and maybe it was something like a war crime?

A. Repeat that?

Q. Well, you said that this was unusual, you had never seen anything like it. Did you think that, at the time, this was the way Charlie Company operates, or did you think this was very wrong, and maybe it was a war crime or something of that nature?

A. Back then I think I just thought that is the way things happen over there.

Q. Had you been in combat before in other places?

A. No, sir.

Q. You had been with Charlie Company just about a month?

A. At the time of this, yes.

Q. Do you remember what other operations you had been on with Charlie Company before 16 March 1968?

A. No, just search around certain areas.

Q. We had been told that there were some search and clear missions.

A. They might have been, but I was never with them.

Q. Were you with them when the company got into a minefield and suffered a lot of casualties?

A. No, sir. I wasn't there.

Q. Did you remember any talk about that when you joined them?

A. No. I don't remember.

Q. I think that, from what we have been told, this must have occurred just before you joined them, and they had lost perhaps 20 men in a minefield. So, would you say this was your first real combat experience?

A. Right, sir.

Q. Could you describe a little bit more about where they were? Around the hootches or on trails or were they in holes?

A. From what I can remember, some were together around the hootches and trails from where we went through.

Q. Do you remember seeing a ditch about 30 feet long with quite a few bodies in it? It would have been toward the end of the village after you had gone through?

A. No. I don't.

Q. Do you remember where you ate lunch that day? Or broke for chow?

A. If I am correct, I think it was about just before we got all the way through. I don't know how far we had gone.

Q. That would have been in the eastern edge of the hamlet. Did you hear, late in the morning, anyone pass the word to stop shooting, stop burning, anything like that?

A. Not to my remembrance. No, I didn't.

Q. Did you see any officers that day, going through the hamlet?

A. No. I didn't.

Q. Well, you did tell Mr. THOMPSON that you saw Captain MEDINA several times.

A. At around chow time, I saw him several times then.

Q. But before that?

A. I didn't see him.

Q. You didn't see any lieutenants or platoon leaders?

A. If I did, you know, I probably--

Q. (Interposing) Do you know who was in charge of your mortar platoon?

A. Sergeant MARONEY.

Q. You didn't have an officer along?

A. We had an officer, but I can't remember if he was with us.

COL MILLER: I think that you can see what we are trying to do is find out as much as you know in detail about what you saw. So far, we have tried to go step by step asking you specific questions. I wonder if you would think back over what we have asked you so far and what you recall, and see if, without our asking questions, you can just relate to us in as much detail as possible what you did see, what was unusual, what was there that stuck in your memory? You have already told us, for example, that this was nothing like you expected. You may have even been rather shocked. I don't know. But, if you could just tell us in your own words, and in as much detail as possible, what you did see, we would certainly appreciate it. Do you think you could?

A. That's about it. Like I said, we went through. That was everything. I was shocked. There were probably some things that I did see that I can't remember.

Q. Let me give you some examples. Did you go up and look at some of the bodies to see what kind of wounds they had? Did you talk to some of the other men in the platoon about this? Did anybody say anything or seem to be surprised?

A. No, sir. A lot of the guys were like I was.

Q. Would I be right in saying that it would be something that you did not want to talk about right then?

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A. I would say so.

Q. You said mostly middle age men. Were there many women and children in these groups?

A. There were quite a few.

Q. In bunches?

A. From what I can remember, sir, I did not notice if there was bunches or not. They were scattered all around.

Q. Were they mostly along the trails and paths? Were some of them in hootches?

A. I would say around the hootches and trails just where we went through at. There could have been others, you know.

Q. Do you remember generally what path you took through the village, whether you went through the middle of it, whether you went from the north down to the south, generally, how your trail went?

A. Well, I remember we went in just like going through a flock of bushes. And then on this trail, a woman, or maybe back in the woods--

Q. (Interposing) Did you go single file or did you go abreast, spread out?

A. As the mortar, we usually went sometimes single or sometimes double file, you know.

Q. As you went through, you didn't even talk about this?

A. No, sir.

COL FRANKLIN: You just moved in to find a mortar position and set it up?

A. Right, sir, that was our job.

Q. You didn't have any other mission?

A. No, sir, like I said, it was just mostly for security is the only thing I can think of.

Q. And you moved about 400 meters the first time you displaced? You were in the LZ our initial position. Then you displaced. How far forward did you go inside when you displaced?

A. When? The first time?

Q. Yes.

A. As soon as we got out of the chopper, I guess we ran out of the chopper a pretty good distance, we would set up about 300 to 400 meters from the village, out in the rice paddy.

Q. How many displacements did you make inside the village after you set up about 300 to 400 meters outside the village? Then you went to the edge of the village, I guess you told Mr. WEST, right?

A. Right.

Q. Did you ever set up inside the village?

A. After we set up the second time when we first got in the village, I think we set up again when we stopped for chow.

Q. So you just walked straight through that village and you saw 200 to 300 bodies. Your feet could hardly touch the ground for the bodies, I would think.

A. Just for estimation that is right, they were all scattered around from what I could see.

Q. Is that what you thought at the time or is that what you thought after thinking about it and talking to people? That is an awful lot of bodies.

A. That is what I thought after I had been asked questions.

Q. How many bodies did you really see?

A. That is what I guess it to be.

Q. 200 to 300 bodies?

A. That is the way it seemed to me.

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Q. They must have just been stacked everywhere. In every hootch and every bush along the trail and everywhere you went.

A. They were all around.

Q. That is over two full-strength rifle companies in formation, down at Fort Hood. You have seen that haven't you? Have you seen two companies side by side at Fort Hood?

A. Yes.

Q. And you saw that many bodies? If you didn't, say it. But if you did, say you did.

A. That is the estimation, sir.

Q. 200 to 300 bodies?

A. That is right. That is what I figured.

MR WEST: Do you recall the rest of the operation that Charlie Company went on? We have had evidence that on the afternoon of the 16th the company moved on to the east and north, and spent the night in or near a cemetery or graveyard, do you recall this?

A. Yes, I believe I do.

Q. Then the next day they moved south down to several little hamlets, and there is some testimony that each little hamlet they came to they burned the hootches. Do you recall this? This was on the 17th. Do you recall the operations that day?

A. I remember the set up, but I can't recall if we went down through there with them, but I remember the set up. I don't know if we stayed there in the perimeter, set up our perimeter and stayed there, or not.

Q. You mean there is a possibility that you didn't move out with Charlie Company?

A. Yes, there is a possibility.

Q. Do you remember, were you taken out by helicopter, lifted out, or did you walk out?

A. I think we walked out. I don't know for sure.

Q. I know that most of the company was apparently taken out by helicopter the next day, the 18th, and they went back to Landing Zone Dottie.

A. If we did, we walked out quite a distance.

Q. It must have been quite a walk, but you don't recall?

A. I don't recall that we got picked up anywhere near there.

Q. Well, I think you would have remembered it if you walked out carrying a mortar tube and rounds of ammunition?

A. That was an everyday thing, so we got used to it.

Q. Did you ever hear that there was an investigation going on of what had happened at My Lai (4), about all the civilians, Vietnamese, that had got killed there? Did you ever hear anything about an investigation?

A. Not until lately.

Q. I mean right at the time, a day or 2 maybe a week later while you were in Vietnam?

A. No, sir. I never did.

Q. Did you know Colonel HENDERSON, the brigade commander?

A. No, sir.

Q. Colonel BARKER, the task force commander?

A. I hadn't seen him, but I had heard of him.

Q. Nobody came around and talked to you, and said they were investigating?

A. No, sir.

Q. Captain MEDINA talked to us, and told us that shortly after the operation at My Lai (4) he called the company together, and told the company that there was an investigation going on, and that it would be better not to talk about what happened at My Lai while the investigation was going on. Were you present at this time?

A. If he called the company together at this time I had to be present.

Q. Do you remember this happening, the captain telling the company about the investigation and not to talk about it?

A. I can remember it, but I don't remember what he said, his exact words.

Q. Did anybody ever tell you not to talk about My Lai (4) and what happened that day?

A. No, sir.

Q. Do you remember what kind of missions Charlie Company had after this, the following month? Did they have other search and destroy missions, search and clear? Just what did the company do after this?

A. I remember a few search and clear missions. I don't remember too many killings or anything like this.

Q. Did the mortar platoon usually go with the company on the search and clear operations, or did you get other missions?

A. Lots of times when they would just go around like that, we would just be sitting up at our base camp. Things like this.

Q. Were you given security missions?

A. Yes.

Q. You didn't go out into the field?

A. Not too often, no.

Q. In November there was some newspaper reports, actually speculation, that perhaps when the company went in that day to My Lai (4), on the 16th of March, that some of the members of the company may have been under the influence of marijuana. Do you know anything about this, such a thing?

A. No, sir.

Q. Was there a marijuana problem in the company, do you know?

A. Not to my knowledge, sir.

Q. After this operation was over, did you talk about it to any members of the mortar platoon? Did you discuss it any, do you recall? About how many people had been killed?

A. We talked about it a little, wondering about this, why it had happened.

Q. Did you ever reach any conclusions?

A. No. I haven't, not yet.

Q. This is one of the things we are trying to figure out, why it happened. If you have any thoughts on it, we would appreciate knowing because you were there. You saw it.

A. I have no idea of why it happened.

Q. Did you hear anything about this being done according to orders, that it had been ordered, that everybody was to go in there and kill all the civilians they see, or anything like that?

A. No, the only thing I heard was when he told us that morning it was a search and destroy mission. I guess, at the time, I didn't know what that meant.

Q. This incident at My Lai (4) was not widely known. In fact, it was hardly known at all outside of the division, and many people in the Americal Division didn't know anything about it. It was over a year before word got back here to Headquarters, Department of the Army, that anything like this had happened, a lot of Vietnamese had been killed in My Lai (4). So, as far as we have been able to discover, there has been no official report of this incident made at the time or immediately afterwards. People just didn't talk about it. Do you have any idea why people didn't talk about it and why it wasn't reported? This is another thing we are trying to figure out.

A. No, sir. I have no idea why.

Q. How did you feel about it? Was it something you didn't like to think about or talk about? How did you feel?

A. I didn't even like to think about it or talk about it either.

Q. How about the other members of the platoon? What were their feelings?

A. I think most of them felt the same as I did. That is the way I could see it.

Q. Did you have a feeling that this was the way war or combat was, or did you think of this as something that was unusual and wrong? Something that had gone wrong?

A. I guess it was unusual, but still maybe I thought--I didn't think it would be like that.

Q. This didn't strike you as something maybe you had to go talk to the IG about or somebody else?

A. No, sir.

Q. Can you think of anything else that you can tell us that would help us in trying to figure this thing out?

A. That is about it, sir, all I can think of offhand.

MAJ ZYCHOWSKI: Do you recall if there were any members from an engineer unit that accompanied you on this mission?

A. No, sir. I don't

MR WEST: We very much appreciate your coming in and talking to us and helping us out. If you think of anything else that comes to you that might help us, if you find any notes or photographs or anything like that, maybe a letter you had written home, that would help you remember, we would appreciate knowing.

(The hearing recessed at 1000 hours, 31
December 1969.)