

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

Volume II
TESTIMONY

BOOK 24

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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 24

PAUL
WIDMER
BACON
BERGTHOLD
BOYCE

CALLEY
CARTER, H.
CONTI
COWAN

DOINES
DURST
HAYWOOD
KONWINSKI

14 MARCH 1970

SUMMARY OF TESTIMONY

WITNESS: PAUL, John H.

DATE OF TESTIMONY: 29 December 1969

PLACE OF TESTIMONY: Pentagon

WITNESS SUSPECTED OF: N/A

COUNSEL: None

DUTY ASSIGNMENT ON 16 MARCH 1968: Captain MEDINA's RTO.

1. PRIOR TRAINING.

PAUL recalled no training concerning the Geneva Conventions, the Rules of Land Warfare, or the regulations concerning the reporting of war crimes (pg.55). He was taught, however, to interrogate suspects immediately and get them to the rear if they had any significant information (pg. 55). If the civilian population had information as to VC movement or VC operations, then they would be handled the same way (pg. 56). He thought he received this training in Hawaii and Duc Pho and through experience (pgs. 57, 61). After returning to LZ Dottie he did not receive any further training on the handling of PW's or detainees (pg. 57).

2. PREOPERATIONAL PLANS AND BRIEFINGS.

PAUL remembered a memorial service for an individual who had been killed, but this was prior to the operation and did not take place at LZ Dottie (pg. 5). The person for whom it was held was named WEBER; he had been killed in February. The men had been disturbed by the minefield incident and certain people were waiting for an opportunity to "equalize the situation" (pg. 6). In his briefing the night before the operation MEDINA explained to the company that My Lai was a VC controlled area which had a VC battalion working out of it (pg. 3). The civilians in this area were VC or VC supporters (pg. 3). C Company was to search and destroy My Lai (pg. 3). PAUL interpreted these remarks to mean that there would be VC in the village and they were to be killed (pg. 5). MEDINA left the impression that there would only be

enemy in the village (pg. 5). However, PAUL did not think that civilians were to be killed (pgs. 5, 10). MEDINA informed the men that they would be outnumbered and told them to expect anything (pgs. 3, 10). He did not recall MEDINA saying that the hootches were to be burned; however, he did say they were to be destroyed (pg. 30). The company had burned some hootches in uninhabited villages, but he could recall no instance where C Company had leveled an inhabited place (pg. 7). After the briefing the men discussed the instructions they had been given (pg. 9). Their morale was good although they were somewhat worried since this was their first fire fight (pg. 6).

3. THE ASSAULT ON MY LAI.

a. Landing and initial assault.

As they came into the area three gunships were firing a heavy volume of suppressive fire (pgs. 10, 31). In addition, he believed he saw two UH-23 helicopters (pg. 31). The doorgunner on PAUL's helicopter fired from the end of the artillery prep until the time the ship landed (pgs. 36, 37). He did not recall firing by helicopters on the second lift (pg. 43). He did not remember receiving any hostile fire at the time of landing or immediately thereafter (pg. 11). On landing, the command group which was composed of MEDINA, MURRAY, MARTIN, KERN, PHU, ALAUX, WIDMER, and two engineers, assumed a position on the outskirts of the village while the first and second platoons swept through (pgs. 11, 12). The witness marked this with a "1" on Exhibit P-72 (pg. 12). This was around 0800 (pg. 12). As PAUL understood it the first platoon was on the right, the second platoon on the left, and the third platoon was to mop-up (pg. 13).

b. Actions of the command group.

The command group remained in position outside the village for approximately an hour (pg. 13). During this time the platoons reported their progress as they moved through the village (pg. 13). PAUL could not recall what they reported and did not remember that their progress was recorded (pgs. 13, 38). He did not recollect any report of hostile fire (pg. 13). PAUL learned afterwards that whatever VC had been in the village had moved out prior to C Company's arrival (pg. 54). Progress reports from the platoons were based on estimates as to their distance into the village (pg. 37).

c. MEDINA's shooting of the woman.

PAUL accompanied MEDINA as MEDINA made his way toward bodies reported by a helicopter pilot (pg. 14). They moved into the rice paddies west of the village and came upon a group of three or four bodies lying face down in the rice paddies (pgs. 14, 15). The group was composed of women who appeared to have been shot by small arms fire (pg. 15). They checked the bodies for weapons and, after finding none, turned to leave (pgs. 15, 16). As they turned their backs to the bodies one of them moved (pg. 16). MEDINA turned and yelled "Oh my God, the bastard has a grenade" and fired a couple of rounds into it (pg. 16). PAUL did not recall seeing a weapon, ammo box, or medical equipment on the woman that MEDINA shot (pg. 38). She just had a few baskets lying next to her (pg. 38).

d. Movements within the village.(1) Entry into the village.

After the woman was shot, the command group checked some other positions for weapons and moved back toward the hamlet (pg. 17). An hour had passed since the company had first arrived (pg. 17). MEDINA moved into the village with the third platoon (pg. 17). PAUL marked the place where they entered the village with a "2" on Exhibit P-72 (pg. 17). By the time they entered most of the first and second platoons had already gone through the village and the third platoon was mopping up (pg. 20). Generally, the command group moved around the outskirts of the hamlet on its left side and not through the village center (pgs. 18, 64). Their line of march would be a line drawn from the initial CP to point "2" and then back to point "3" (pg.64).

(2) PAUL's observations of bodies.

PAUL saw approximately 15 to 20 bodies of older men, women, and children who had been killed by small arms fire strung out along the trail (pg. 19). He marked this place with the number "6" on Exhibit P-72 (pg. 76). In all he saw about 40 to 50 bodies of older men, women, and children scattered about the village (pg. 21). He did not recall seeing a ditch with bodies in it and did not hear about such a ditch from anyone else (pg. 23). Although he was not aware of what was going on while in the village, the fact that so many women and children had been killed raised quite a few questions in his mind (pgs. 24, 25).

(3) Destruction seen by PAUL.

As he went through the village he noticed livestock being killed and hootches being burned (pg. 18). PAUL recalled actually seeing the hootches being set on fire (pg. 31). The majority of the people in the company took part in this (pg. 31). Throughout the morning there was sporadic automatic fire from the M-16's (pgs. 33, 34). It was the heaviest volume of fire that PAUL had ever heard the company put down (pg. 33).

(4) PAUL's conclusions from what he had witnessed.

PAUL knew that he had seen an unusual amount of bodies in comparison with other operations on which he had been (pg. 34). He had the impression that everyone moving or alive in the village was being shot (pg. 34). He believed that MEDINA knew this also. However, MEDINA kept his conclusions to himself (pg. 34).

e. CARTER is medevac'd.

As they were moving down the trail on which PAUL saw the bodies they came upon CARTER who had accidentally shot himself in the foot (pg. 19). The group stopped until a chopper came to pick him up (pg. 19). While waiting, PAUL noticed a young boy running down the trail where the bodies were lying (pg. 20). One or two shots rang out and the boy dropped (pg. 20). PAUL could not tell who had fired the shots, but they came somewhere from his rear (pg. 20). He saw no other people shot down like this (pg. 21). MEDINA was tending to CARTER or going through some hootches in the immediate area and thus was not right next to PAUL at this time (pgs. 20, 27). The boy did not appear to be endangering their position or the people around him (pg. 43). The witness marked the approximate location where CARTER was wounded with a point "4" on Exhibit P-72 (pgs. 65, 66).

f. MEDINA orders the firing stopped.

About 1000 or 1030 MEDINA ordered the firing stopped (pgs. 25, 26). The firing that they heard was coming from in front of them some place (pg. 22). At one point MEDINA had called CALLEY and asked what all the firing was about, but PAUL did not recall CALLEY reporting back (pg. 22). MEDINA put out the message to the platoon leaders to conserve ammunition which they would need later on (pg. 26). There was no implication in MEDINA's order to stop hurting people

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5. OTHER INFORMATION.

a. Transmissions concerning body counts during the My Lai operation.

For security reasons body counts were not usually reported over the radio (pg. 27). MEDINA would get the body count afterwards by direct correspondence between himself and his platoon leaders (pgs. 27, 28). In this particular instance he believed that the platoon leaders or other individuals from the platoon came to the CP (pg. 28). The only body count that he could remember being reported to MEDINA during the course of the operation was the artillery body count (pg. 28). Had MEDINA wanted to report this to higher headquarters it would have gone over the battalion net (pg. 29).

b. Transmissions with helicopter pilots during the My Lai operation.

PAUL carried the radio for the company net (pg. 30). He believed that the helicopter pilots were also operating on this net (pg. 30). The only transmission he received from the helicopter pilots was when they pointed out the bodies in the rice paddy and marked them with smoke (pg.30).

c. PAUL's assessment of MEDINA.

MEDINA was a good company commander and the men serving under him had a lot of confidence in and respect for him (pg. 35). Some did not like MEDINA because they considered him quite a hard individual (pg. 35). He pushed hard and expected a lot out of his men (pg. 35).

d. Miscellaneous.

(1) The company did not have a marijuana problem (pg. 47).

(2) The only people to whom he spoke in Vietnamese were two little girls with whom the company ate when it broke for lunch (pg. 57).

(3) He did not have the impression that the men did not want to talk about My Lai (pg. 57).

(4) He remembered some instances in which Vietnamese casualties had been sent back on helicopters for medical treatment (pg. 62).

(5) PAUL has not been in touch with people from C Company since he left Vietnam (pg. 12).

e. PAUL's opinion of why the incident occurred.

PAUL believed that the incident occurred because of the interpretation some of the individuals in the company gave to the preoperational briefing and because some individuals within the company got carried away with what they were doing (pg. 53).

EXHIBITS

EXHIBIT NUMBER	DESCRIPTION	NOTES	PAGES
M-2	MACV Card "Nine Rules"	Wit had not seen.	60
M-3	MACV Card "Enemy in Your Hands"	Wit had not seen.	60
P-1	Aerial photo of My Lai	Wit asked to annotate photo.	12
P-6	Miscellaneous Scenes	Wit could not identify cards on hamlets.	68
P-7	Miscellaneous Scene	Wit identified man with "Penn" card on helmet as WIDMER	68
P-8	Miscellaneous Scene	Wit identified himself in picture.	68
P-9	Miscellaneous Scene	Wit did not know man on CARTER's right.	69
P-10	Miscellaneous Scene	Wit could not identify persons in picture with CARTER.	69
P-11	Miscellaneous Scene	Showed CARTER's dustoff.	70
P-12	Miscellaneous Scene	Wit was not sure if this showed CARTER's dustoff.	70
P-13	Miscellaneous Scene	Wit identified as mortar platoon and identified personnel.	70
P-17	Miscellaneous Scene	Permanent structure destroyed by company.	71

EXHIBITS

EXHIBIT NUMBER	DESCRIPTION	NOTES	PAGES
P-18	Miscellaneous Scenes	Wit identified as Lt. ALAUX.	72
P-21	Miscellaneous Scene	Identified as LAGUNOY.	73
P-23	Miscellaneous Scene	Identified PHU.	73
P-25	Miscellaneous Scene	Identified FAGAN.	73
P-36	Miscellaneous Scene	Wit could not identify people with CARTER.	74
P-39	Miscellaneous Scene	Bodies along trail.	74
P-41	Miscellaneous Scene	Bodies shown on trail represented what he had seen. 15-20 bodies.	45, 74, 76
P-44	P-1 as annotated by MEDINA	Wit referred to spot on photo marked as "4" by MEDINA.	44, 45
P-56	Miscellaneous Scenes	Identified WIDMER.	76
P-57	Miscellaneous Scene	Identified LOPEZ.	77
P-60	Miscellaneous Scene	Could not name man but recognized.	78
P-64	Miscellaneous Scene	Identified DELPOME and SMITH.	78
P-66	Miscellaneous Scene	Identified as PHU and MARTIN.	80
p-67	Miscellaneous Scene	Wit could not identify.	81
p-69	Miscellaneous Scene	Wit identified DEPLOME with M-79	82
P-72	P-1 as annotated by PAUL	Admitted into evidence.	83

(The hearing reconvened at 0900 hours, 29 December 1969.)

MR WEST: The hearing will come to order.

RCDR: The following named persons are present: MR WEST, COL MILLER, COL WILSON, COL FRANKLIN, LTC PATTERSON, and MAJ COOP.

The next witness is Mr. John H. PAUL.

(MR John H. PAUL, Berkeley 19, Knobhill Apartments, Blackwood, New Jersey, was sworn and testified as follows:)

MR WEST: Mr. PAUL, before we get into any questions Colonel MILLER will give you some instructions concerning the nature of the hearing.

COL MILLER: Mr. PAUL, this investigation was directed jointly by the Secretary of the Army and the Chief of Staff of the Army to determine the facts and come up with findings and recommendations on two major areas:

(1) the adequacy of prior investigations and inquiries made into, and the subsequent reviews and reports within the chain of command, of what we now commonly call the My Lai incident of 16 March 1968, and

(2) the possible suppression or withholding of information by any persons who had a duty to report information on this same My Lai incident.

Although we do get into some of the facts and circumstances of what happened at My Lai, our main purpose is not to look into all of the details of what happened at My Lai, but is directed to those two main purposes which I just mentioned.

We have had made available to us and have read prior statements made by you and other witnesses in other investigations, such as the IG and CID investigations. You have already been sworn. We will take your testimony under oath. A verbatim record will be made in addition to the tape recording.

The general classification of our report will be confidential, however, there is a possibility that some or

all of the testimony that is taken here may at some later time become a matter of public knowledge.

I believe that you are under the order of the military judge in the case of the United States v. Calley. You received a notice concerning the Calley case, did you not?

A. Yes.

COL MILLER: With respect to your testimony to us, we do request that you not discuss the testimony that you give here today with others, including other witnesses for this investigation, except as you may be required to do so before a competent judicial, administrative, or legislative body or tribunal. An example for that would be, of course, an Article 32b pre-trial investigation of a case or before a court-martial or some government body. In addition, your testimony here in no way affects the order which you have been given in the Calley case by the trial counsel acting at the direction of the military judge. And further, your testimony here is permissible within the limits of the orders given by the military judge. If you had a concern whether you could testify here and violate that, the answer is no, you are not violating it.

Do you have any questions on any of these things?

A. No, sir.

MR WEST: Mr. PAUL, we very much appreciate your coming here to testify at this inquiry. As Colonel MILLER indicated, we are not looking into the criminal responsibility of any individual. That is not our problem. We are looking into the command aspects of this thing, to see whether there was adequate investigation at the time and see whether there was any coverup. You may recall that when the publicity first started in November on the My Lai incident that there was almost immediately an assertion, because the matter had not been known generally for over a year and a half, that there had been a coverup by the Army. This is one of the main reasons that General PEERS was appointed as investigating officer, to look into this. And that is one of our principal objectives, to determine whether there was a coverup.

At the same time, in order that we may do our job properly, we need to know exactly what happened at My Lai (4) on the morning of 16 March 1968. This has become a matter of great concern to the entire country. It has had international repercussions. So it is quite important that we determine as best we can what happened that morning. We know from your statement that you gave to Colonel WILSON in June of this year that you were there, and that you have significant information in determining what happened there. For that reason, also, we are very pleased that you could be here this morning to talk to us. I would like to ask you first about the briefing of the company on the day before the assault, on the 15th of March, 1968. Could you tell us about the briefing with Captain MEDINA?

A. Well, about dusk we were called together more or less in a company formation, and Captain MEDINA explained to us that this was VC-controlled area and that there was a VC battalion occupying and working out of this area; and that the civilian population living in this area were VC sympathizers or VC supporters, and we were to go into this area, and we were to expect almost anything, and we were to search and destroy the area.

Q. Did anybody else brief you besides Captain MEDINA?

A. No.

Q. He gave both the enemy situation and the plan of the assault?

A. Yes.

Q. In connection with his instructions to go in and search and destroy the area, did he go into detail about how this was to be carried out?

A. Not that I can remember. We were just told we would be airlifted in, and we were supposed to move through the hamlet in the general direction of the sea.

Q. Did he talk about burning the houses, killing the livestock, destroying food, for example?

A. I believe so.

Q. Well, I don't want to suggest anything to you. Do you recall this to your knowledge?

A. Not right off, but this had usually been the general procedure more or less. If we thought they had unusual storages of food, then portions of this would be destroyed.

Q. Was it customary to burn the hootches when you went through a hamlet or village?

A. In some instances.

Q. Sometimes?

A. Yes.

Q. What was your duty assignment at this time, Mr. PAUL?

A. RTO.

Q. Well, you were Captain MEDINA's RTO?

A. Company net.

Q. On the company net?

A. Yes.

Q. For Captain MEDINA?

A. Yes.

Q. What was your grade at the time?

A. SP4.

Q. To refresh your recollection, when you testified before Colonel WILSON back in June you made this statement in response to a question:

"Captain MEDINA briefed us at LZ Dottie. I think it was the evening prior to leaving. And what I remember him saying was, he had received orders to go into this area and that he was told all the personnel in this area were either

Viet Cong or Viet Cong sympathizers, and that we were to move through and level the village, destroy it."

I read this to you, Mr. PAUL, particularly because of that part of it which indicated that Captain MEDINA had received orders to go in and level the village and destroy it. Do you remember his making that statement?

A. Yes.

Q. Then Colonel WILSON asked you this question: "Did his briefing include--when he said 'destruction,' did it include just the village? Or did it include the inhabitants?"

And you answered: "Well, from what--from how I interpreted his briefing, when he said that there would be VC in the village. Viet Cong, I understood them to be annihilated, killed."

Did he say that?

A. He didn't come right out and say it in those words, but that's the interpretation I understood from what he said.

Q. This again is, of course, a very important point, whether Captain MEDINA conveyed the thought that everybody in the village should be killed. Was this your impression from the briefing?

A. No, just that there were Viet Cong in the village.

Q. Just VC?

A. Yes.

Q. You don't think that it extended to civilians or noncombatants?

A. No, I don't.

Q. Do you remember a memorial service held right around the time of this briefing for a member of the company who had been killed?

A. There was one earlier--it was not at this particular LZ--for an individual that had been killed.

Q. Could it have been WEBER?

A. Yes.

Q. We have been told that he was the first man of the company to be killed after the brigade came over to Vietnam. This was perhaps in February?

A. Yes.

Q. You don't recall any service right before the briefing then?

A. No.

Q. What was the mood of the men in the company at this time, after the briefing that evening and before the operation? Do you recall this?

A. I would say that they were in a good frame of mind, maybe a little bit worried as to what to expect the next day. I'd say, generally, that their morale was good.

Q. It had been indicated to us that this was perhaps the first time they expected to go up against a strong opposition. Does this fit in with your recollection?

A. Yes.

Q. Up to this time, had they been involved in a real fire fight with the VC?

A. No, not that I can recall.

COL FRANKLIN: Your company had taken a lot of mines and booby traps, yet they hadn't been in a real fire fight. What effect did this have on the attitude of the people of the company? I am talking about the attitude towards Vietnamese, toward the people who were setting up these booby traps. What kind of talk was going around the company? What were the soldiers saying?

A. Well, I guess you could say that they were a little bit disturbed about the incident. I imagine certain people might have been waiting for an opportunity to sort of equalize the situation.

Q. How did you feel? You were the one who took these reports over the company net. You were involved in all this. What were your personal feelings?

A. I was quite upset about the whole mess. I had lost a couple of friends.

COL WILSON: Mr. PAUL, let me ask you a question about previous operations. We have had a lot of references to burning villages. Now, I am trying to determine when you speak of burning villages, do you mean burning the entire village or are you talking about burning selective places in that village? In the past in any C Company operations, have there been entire villages burned?

A. If we would come across a village that was uninhabited, then we would burn it. They are the only incidents that I can remember.

Q. The whole village was burned?

A. Right.

Q. What percentage--in the sweeps and operations you participate in, what was the percentage of villages that were inhabited versus the percentage that were uninhabited?

A. I suppose it would be about maybe four to one, four villages inhabited to one uninhabited.

Q. And this area that we are referring is north of the Pinkville complex? North of the river, up in your normal operational area?

A. Well, when I say four to one, I was considering also the villages we had gone through in the Duc Pho area during our first few weeks in country.

Q. You know of no incidents in the past where C Company had leveled, and I mean leveled, a village where inhabitants had lived?

A. No.

Q. Your records show that you were hospitalized in Chu Lai, I believe that was 5 April 68. What was that for?

- A. Dysentery, I believe.
- Q. How long were you there?
- A. Three days at the most.
- Q. And that date was 5 April 1968?
- A. Well, actually, I was in Chu Lai twice.
- Q. I think that you told me before that you spoke Vietnamese, that you learned it in Hawaii before going over?
- A. That's right.
- Q. Did you have much of an opportunity to speak to Vietnamese in this area of operations?
- A. This particular incident, no.
- Q. Well, I don't want to get into the incident yet. I am trying to determine your attitude toward the Vietnamese since you spoke the language. Did you feel that your attitude toward the Vietnamese was any different than the other Americans in C Company?
- A. It might have been, yes. I was a little bit more close to them than other individuals would be.
- Q. Did you know Sergeant PHU?
- A. Yes, I did.
- Q. Did you talk to him very often?
- A. Yes.
- Q. Did you know Sergeant MINH?
- A. No, I didn't.

LTC PATTERSON: During what periods of time did you act as Captain MEDINA's radio operator? From the time you came to Vietnam?

A. Yes.

Q. Until approximately when?

A. Captain MEDINA assumed a position in the rear.

Q. Was that March, April, or May, do you know?

A. I would say probably the end of April or the beginning of May.

Q. Four or five months?

A. Yes.

Q. After the briefing that Captain MEDINA gave you on the 15th of March, do you recall whether the men were discussing the orders and the instructions that had been given during the evening?

A. Generally, we were talking about what we could expect the next day.

Q. Did this briefing seem to be any different than the usual briefings?

A. Not necessarily. Usually on big operations Captain MEDINA would pull the company together and give us a briefing, a general idea of what to expect the next day.

Q. Was this supposed to be a big operation?

A. Yes.

Q. How did you know that?

A. From what we were told to expect.

Q. What was that?

A. That most likely there would be a VC battalion in this area.

Q. What were the odds as far as numbers?

A. We were supposed to be outnumbered.

MR WEST: From the discussion that took place that evening, was anything said about what you were supposed to do the next day in the village?

A. First, to move through the village in the general direction of the sea.

Q. Can you recall anything that was said by any of the men to indicate that they thought they were supposed to kill all the inhabitants of the hamlet?

A. No, I don't recall anything of that nature being said the evening before.

Q. Now, on the next morning, were you in the same helicopter as Captain MEDINA?

A. I believe so. I couldn't say for sure.

Q. We have had testimony that the first lift hit the landing zone about 0730 in the morning. Would you please describe what you did from the time you landed there at the landing zone?

A. When we landed, there was a suppressive base of fire put down. The gunships were still putting down a fairly heavy volume of fire.

Q. Where was this fire going?

A. I suppose on the outskirts of the village.

Q. Mr. PAUL, you have in front of you an aerial photograph of the area of My Lai (Exhibit P-1) and the immediate vicinity and I show you here a 1:25,000 scale map (Exhibit MAP-4) which also shows the hamlet of My Lai. (MR WEST points out areas on both maps to the witness.) Does this look familiar to you?

A. Yes.

Q. Do you recognize the hamlet on the aerial photograph?

A. Yes.

Q. Now, our evidence has it that the landing zone for Charlie Company was immediately west of My Lai (4) in the rice paddy. When you spoke of suppressive fire, where the members of the 1st and 2d Platoon landed and moved into the village, did they also lay down some fire?

A. Yes, they did.

Q. Did you receive any fire at the time of landing or immediately thereafter, hostile fire?

A. Actually, I think it was kind of hard to tell because the volume of our base of fire was so great, it was kind of hard to distinguish.

Q. Do you recall who all was with you in this command group?

A. There was Captain MEDINA, myself, MURRAY, MARTIN, KERN I believe, and artillery FO....

Q. Is that Lieutenant ALAUX?

A. Right.

A. I believe Sergeant PHU was with us, and we had a medic....

Q. BAKER?

A. Yes. WIDMER was with us.

Q. Did you have an engineer with you at the time?

A. I think we had two engineers with us at this time.

Q. Do you remember their names?

A. No, I don't.

Q. How about somebody from the mortar platoon?

A. Not that I can recall.

Q. Does the name MARONEY mean anything to you?

A. Yes.

Q. Do you recall that a MARONEY was with you that morning?

A. He was in on the operation, but I don't recall him moving with the command group.

Q. Have you talked to anybody in the command group since the operation took place? Since you were in Vietnam? Have you talked to Captain MEDINA, for example?

A. No, I haven't.

Q. You haven't been in touch with the old bunch?

A. No.

Q. Could you describe the movements of the command group right after you landed?

A. Right after we landed, the command group assumed the position on the outskirts of the village.

Q. Could you mark on the aerial photograph (Exhibit P-1) where the command group took up its first position? Just mark a 1 on there with a circle around it.

A. It would probably be somewhere right here (marking on the aerial photo which was later admitted into evidence as Exhibit P-72).

Q. About what time would this be?

A. Eight o'clock--a quarter after eight.

Q. Just go ahead and tell us what occurred after that as you observed it.

A. We took a position on the outskirts of the village, while the 1st and 2d Platoon moved on into the village.

Q. We were told that the 1st Platoon was on the right and the 2d Platoon on the left. They were to sweep through the village, and the 3d Platoon was to move along and mop up afterwards.

A. Yes.

Q. How long did you remain at this position?

A. Approximately an hour.

Q. During this time, were you getting much traffic over the company net?

A. Yes, we were.

Q. Can you recall some of the messages that went back and forth? I take it that you were in communication with Lieutenant CALLEY and Lieutenant BROOKS?

A. Right.

Q. And Lieutenant LACROSS from the 3d Platoon?

A. Yes.

Q. Can you recall some of the messages that went back and forth?

A. Just generally the movement of the platoons through the village. They were reporting their progress in moving through the village.

Q. Can you recall some of the things that they reported?

A. No, I can't.

Q. Were there any reports of resistance, running into hostile fire?

A. Not that I can recall now.

Q. During this time while you were at this initial position, did Captain MEDINA leave the position to go out and

pick up a weapon? We have had some testimony to this effect. Do you recall this episode?

A. Right, the chopper pilots were dropping smoke grenades in position where they felt individuals may have been killed with weapons. We were moving through the rice paddies checking these out.

Q. Captain MEDINA has appeared here as a witness, and he told us that he received a report from the helicopters that there were two VC with weapons killed right outside the village. He sent some men over to recover the weapons and he subsequently sent two other parties out on about the same mission. A little later he stated that he got a message from Major CALHOUN of Task Force Barker, informing him that a helicopter was marking with smoke a location where some weapons could be picked up. Captain MEDINA went on to say that he had nobody else sent at that point so he decided to go himself. He said that this location where the weapons were supposed to be was about 400 to 500 meters from his position and that he did go over there and check for the weapons. Do you recall going with him on that particular little mission?

A. Yes.

Q. Would you describe what happened please?

A. We moved through the paddies until we came upon the bodies.

Q. Can you locate that spot on the photograph?

A. No, I can't. It is hard to say exactly where it would be.

Q. Was it back out in the rice paddies somewhere?

A. Yes, it was.

Q. Was it west of the village?

A. If I recall, I would probably say it was somewhere in this area (pointing to aerial photograph).

Q. The scale of the photograph is 1 inch equals about 100 meters. You indicated that this would have been about 150 to 200 meters south of the command group's position which has been marked as point 1. Would that be about right?

A. I think that we had moved around on the outskirts of the village to a small degree.

Q. By this time you had moved away from your initial position?

A. Yes. We had checked a few other incidents out also.

Q. I see. But this place where Captain MEDINA went was in the rice paddies to the west of the hamlet. Would you say it was generally on the southwest corner of the hamlet? Would you tell us what occurred there, please?

A. We came upon a small group of bodies lying face down in the rice paddies. I believe there were three or four.

Q. Could you describe them?

A. It appeared that they had been shot, not at close range. There was not real mutilation of the bodies, just regular wounds.

Q. By small arms fire you mean?

A. Yes.

Q. Were they all men, or men and women? Were there any children?

A. In this particular group, I think they were mostly women.

Q. But you don't recall exactly?

A. No.

Q. What happened after that?

A. We checked the bodies over and couldn't find any

weapons. After we were convinced that they didn't have any weapons we started to move on. Just as we had started turning our backs to the bodies lying on the ground, one of them moved. That is when Captain MEDINA wheeled around and put a couple of slugs into one of the bodies lying on the ground.

Q. I wish you would go back over this carefully, Mr. PAUL. Captain MEDINA told of this incident but his recollection was that--I got the impression that the person who moved and whom he shot later on was some distance removed from the three bodies. Now I may have misunderstood Captain MEDINA. You are sure that it was one of the three that you saw lying face down that moved and that he turned around and shot?

A. Yes.

Q. Captain MEDINA told us this was a woman. Does this fit in with your recollection?

A. Yes.

Q. How close were you to Captain MEDINA at this time?

A. I was standing right next to him.

Q. Could you see the movement of the person?

A. No, I didn't. I had my back toward the bodies on the ground. I turned around just as Captain MEDINA started yelling something.

Q. You don't remember what he said do you?

A. Something like, "Oh my God, the bastard has got a grenade!" or something to that effect.

Q. What occurred next, Mr. PAUL?

A. Well, the woman was killed, and from what I can recall, I didn't stoop down to check the body. What Captain MEDINA did, I don't recall either.

Q. Did you move back to the hamlet after this?

A. We may have checked a few other positions out before moving into the hamlet.

Q. When you say you checked out some other positions, what did you do?

A. Checked for weapons.

Q. Looking for weapons?

A. Yes.

Q. Were you checking bodies or just locations looking for weapons?

A. Checking bodies.

Q. Where was the 3d Platoon at this time? Had they started through the hamlet yet?

A. I don't believe so. I think that the 3d Platoon was in the rear. We would probably have been moving into the village with the 3d Platoon.

Q. Then initially, as I understand you, the command group took up a position at the edge of the hamlet. You moved around to several locations checking for weapons. You had this incident with the woman that Captain MEDINA shot. What occurred after this? This must have taken an hour, do you think?

A. I would say a good portion of an hour, yes.

Q. What happened after this?

A. After this, we moved into the village.

Q. Could you mark on the photograph, the point where you entered into the hamlet of My Lai? Just mark a 2 and circle it.

(Witness did as requested.)

Are you able to locate the place where the woman was shot? I got the impression a moment ago that you weren't very sure?

A. Not exactly, I don't think that I could actually pinpoint where the woman was shot.

Q. It was out in the rice paddies though?

A. Yes.

Q. We have marked point number 2. That is the point where you entered the village itself?

A. I believe so.

Q. Would you tell us what happened after this?

A. Generally, I don't think we went exactly through the center of the village. We more or less stayed on the--we moved through the village, but not through the center. And while we were going through the village, mostly guys were killing the livestock.

Q. Were any hootches burning?

A. Yes.

Q. Did you see any civilians in the hamlet?

A. I think most of the civilians that I saw killed were mostly on the outskirts of the hamlet.

Q. Well, will you tell us what you saw, please?

A. Most of the hootches at this time, I believe, were on fire. The ones that weren't, they were in the process of being checked out.

Q. Was the 3d Platoon moving in at this time, mopping up?

A. Yes, right.

Q. What did you see in the way of people killed in the hamlet? Did you see some dead bodies?

A. Yes, I guess I did.

Q. Would you tell us what you saw, please?

A. We were moving down a trail. This particular trail that we were moving down, there was one running perpendicular to it. And it was off to the front of us that there were quite a few bodies lying along this trail.

Q. What happened?

A. Well, this was about the time that CARTER shot himself in the foot accidentally. So we stopped for a while until a chopper came in and picked him up.

Q. Do you recall where that was?

A. Just right before we had gotten to this trail, the one I mentioned earlier, the one running perpendicular to the trail we were going down.

Q. Looking at the photograph, do you think that you can locate that for me?

A. No, sir.

Q. Going back to the bodies you saw lying along the trail, can you describe them, please? Were they men, women, children, so forth?

A. The bodies along this particular trail were older men, women, and children.

Q. Were they strung along the trail or in a bunch?

A. They were more or less strung along the trail, fairly close together, not lying on top of each other.

Q. How many were there?

A. I would say, possibly 15.

Q. Could you tell how they had been killed?

A. By gunshot.

- Q. And Captain MEDINA was with you at this time, was he?
- A. Yes, he was.
- Q. Were you getting much traffic over the company net?
- A. At this particular time, no. I think that just about the only traffic coming in was from the medevac for CARTER.
- Q. Do you recall whether by this time the 1st and 2d Platoons had gotten through the hamlet? I think this would have been after 9 o'clock.
- A. I would say for the most part they should have been just about through the hamlet, yes, sir.
- Q. Was the 3d Platoon moving through, mopping up afterwards?
- A. Yes.
- Q. Did you see anyone shot that day? I believe you testified earlier about seeing a 4 or 5-year old boy shot. I believe you told Colonel WILSON about that. Could you describe that for us?
- A. While we were going along this trail here, waiting for the chopper to come in after CARTER, there was a young boy running down this trail where the bodies had been lying, and one or two shots rang out, and the boy dropped.
- Q. Could you tell who fired the shots?
- A. No, I couldn't. The shots came from my rear.
- Q. Where was Captain MEDINA at this time?
- A. I believe he was up tending to CARTER or going through some of the hootches in the immediate area.
- Q. You weren't with him at the time then?

A. Not right next to him, no.

Q. Did you see any other people shot down like that?

A. No.

Q. Did you see anybody else actually killed by anybody other than this boy?

A. Not that I can recall.

Q. About how many bodies did you see altogether in the village that morning?

A. I believe most of the bodies that I saw in the village were just the ones along the trail.

Q. Well, to refresh your memory, when you talked to Colonel WILSON last June he asked you how many wounded or dead you saw in the village, and you responded that it was between 40 and 50 altogether. Is this correct?

A. I would say, counting the ones out in the rice paddies and the ones along the trail, yes.

Q. And you also said that the bodies were scattered around, some in groups, and there were some individual bodies.

A. Yes.

Q. What about these people. Could you tell if they were men, women, or children?

A. In the village, at the time, I can recall seeing older men, women, and children.

Q. In what proportions?

A. Mostly women and children.

Q. Did you see Lieutenant CALLEY that morning during the operation?

A. Not in the village, no.

Q. Did you have some traffic with him over the radio, over your company net?

A. Some traffic? Yes.

Q. Do you recall any of the messages that were sent? Anything you told him or he told you?

A. I believe in one instance that Captain MEDINA was inquiring what all the firing was, and I believe Lieutenant CALLEY said that he would go up and check it out and let us know what was happening.

Q. Did he ever report back?

A. Not that I can recall. I believe that Captain MEDINA a few more times after that inquired about the same thing.

Q. What was this firing? Was this firing that you could hear ahead of you someplace?

A. Yes.

Q. Do you recall the direction it came from?

A. Just about all across our front. I wouldn't say it was in any one particular spot.

Q. Where did you go after you left the spot where CARTER was dusted off?

A. We moved through the village, and we rung up for chow on the other side, on the outskirts of the village.

Q. What part of the village are you speaking of when you say the outskirts?

A. I guess it would be somewhere in this general area (pointing to aerial photograph).

Q. Let the record indicate that the witness pointed to the southeast corner of the hamlet. Did you take up a position along the eastern edge of the hamlet?

A. Right on the outskirts, that is where the command group broke for chow. Right on the edge of the rice paddies.

Q. Could you locate that point on the photograph?

A. It would have to be, if I recall correctly, somewhere in this general area (indicating).

Q. Could you mark the area? Just put a 3. (Witness did as requested.) Did you see anywhere in this general area a ditch with a number of bodies in it?

A. Not that I can recall, no.

Q. Did you hear anything about this from anyone, the bodies in the ditch?

A. I don't believe so.

Q. Where were the 1st and 2d Platoons at this time?

A. I think the 1st and 2d Platoons, some may have still been in the village, others out on the rice paddies.

Q. Had they established a perimeter out there?

A. I would say so, yes.

Q. Do you remember the story GRUVER told you about a little boy being shot?

A. No, I don't.

Q. Did anyone tell you that Lieutenant CALLEY had rounded up groups of civilians and machinegunned them?

A. I had heard of this being done, but I don't believe it was connected to any one individual.

Q. When you talked to Colonel WILSON in June, you told him that you heard this story from GRZESIK in the 1st Platoon. Do you recall that?

A. Yes.

Q. I will read the questions and answers from this portion of your testimony with Colonel WILSON:

"Q. Did you hear that Lieutenant CALLEY rounded up groups of civilians and machinegunned them.

"A. Yes.

"Q. Who told you this?

"A. GRZESIK from the 1st Platoon.

"Q. How many?

"A. Civilians killed?

"Q. Yes, like that.

"A. From hearsay, I heard groups as high as 30.

"Q. How many groups?

"A. Probably three or four groups.

"Q. Where did this happen?

"A. As we were moving through the village, I guess, within the center of the village.

"Q. When did GRZESIK tell you this?

"A. Shortly after the operation. After we had gotten together, and we had sat down and discussed some of the happening.

"Q. Back at Dottie?

"A. Back at Dottie."

Do you recall this testimony to Colonel WILSON?

A. Yes.

Q. And is this all correct?

A. Yes.

Q. But while you were still there at the hamlet, did anyone tell you of such things going on? Groups of civilians being shot? You didn't realize at the time what was happening?

A. No, at the time I don't think I had a full realization of exactly what had happened within the village.

Q. I take it this is the first time you had been in an action of this type where a lot of people had been killed. Is that right?

A. Yes.

Q. Did it strike you as unusual that so many civilians, apparent civilians, men, women, and children, had been killed?

A. It did raise a few questions in my mind, yes.

Q. During the assault, while the 1st, 2d, and 3d Platoons were moving through, did Captain MEDINA issue any orders, any operational orders, concerning, for example, burning of the hootches, destroying livestock, anything of that nature?

A. Not during the operation, I can't recall anything going over the company net as to this effect, but during the briefing the night before, I believe that he said the livestock should be killed and all food storages should be destroyed.

Q. When you broke for chow at the east edge of the hamlet, while you were there did you see a helicopter land? I am not talking about the dustoff, but another helicopter. Did you see a helicopter land?

A. If I am not mistaken, when we broke for chow we came across two little girls and while we were eating, they sat with us. We gave them some food, then I think they were evacuated in a chopper.

Q. Did you see any other choppers land at this time?

A. No.

Q. About this time, perhaps before you saw the two little girls, I wish you would think closely about traffic coming over the company net and perhaps the battalion net. We have had other evidence to indicate that Captain MEDINA at about this time, this would have been perhaps around 10 o'clock, received word probably from Task Force Barker, Colonel BARKER or perhaps Major CALHOUN, to stop the shooting, stop the burning, and that Captain MEDINA relayed this information to his platoon leaders. Do you recall this, these messages coming down and being sent out to the platoon leaders?

A. I believe that if they did come down, they would probably come down over the battalion net. I do recall that Captain MEDINA asked that the firing be stopped.

Q. Can you fix the time of this, approximately?

A. Midmorning.

Q. Would it have been somewhere around 10 or 1030?

A. Yes.

Q. Would you try to recall the exact words that were said at this time?

A. Captain MEDINA put out the message to the platoons that unnecessary firing should be stopped, conserve the ammunition because we would need it later on.

Q. Anything said about burning?

A. Not that I can recall.

Q. Can you recall whether this order was given after he had received the message from Task Force Barker or some other source?

A. I believe it was, because up until that point I think Captain MEDINA was inquiring as to what all the firing was about.

Q. Did he say anything about getting orders to stop the shooting?

A. Not that I can remember, no.

Q. Did he transmit this message himself using the radiotelephone, or did he have you do it?

A. I believe he transmitted the message himself.

Q. How did he work with you? Did he have you transmit messages frequently, or did he do most of it himself?

A. I would say that about half the time he would have me transmit messages to the platoon leaders.

Q. Did you talk to the RTO at the other end or would you talk to the platoon leader?

A. In some instance, to the RTO at the other end, and in others, I would talk right to the platoon leaders.

Q. Can you recall any other significant thing that happened during the morning there at My Lai (4)?

A. No, not right off.

Q. Let me ask you about the reporting of body counts. How did this work as a matter of routine? Did you receive body counts over the company net, for example, from the platoon leaders?

A. No, not over the company net.

Q. How was body count recorded in Charlie Company?

A. I believe, usually afterwards -- I don't believe that Captain MEDINA wanted information such as that to come over the radio, usually, I guess, as a security measure.

Q. We have had indications that rather early in the assault there was a report of 69 VC killed. Do you recall this being made over your net at all?

A. It sounds familiar. I believe they may have been referring to the number of kills the artillery had that morning.

MR WEST: There has been some information that this was reported as KIA by artillery fire.

COL MILLER: How close did you normally stay to Captain MEDINA on this operation?

A. The majority of the time I was right next to him, right with him.

Q. Do you recall any time that you were not with him?

A. Possibly the only time I was not right next to him would be when CARTER was being medevac'd.

Q. You carried the radio on your back, is that correct?

A. Yes.

Q. Who answered if there was an incoming call?

A. On the company net, I would.

Q. Then did you call Captain MEDINA right away?

A. I was usually standing right next to him and could hear him.

Q. Did you hear it on radio?

A. Unless I was given information.

Q. Did you hear any information?

A. I don't recall.

Q. Did you hear any information that would be reported to you?

Q. As I understand it, you just said you never got a body count over the radio from the platoons?

A. I don't recall. I can't recall any body counts coming over the radio from the platoons.

Q. Did they come in?

A. Only by direct correspondence between Captain MEDINA and the platoon leaders.

Q. Did you see the platoon leaders coming into the company CP?

A. In this particular incident, I believe so. Either the platoon leaders or individuals from the platoon.

Q. Do you remember any body counts being reported to Captain MEDINA during this operation?

A. The only one I can remember would be the artillery body count.

Q. When he wanted to pass this on to higher headquarters, say to task force, did the other RTO -- did that go over the other radio?

A. If he did report it to higher headquarters then it would go over the battalion net.

Q. Who was the RTO for the task force?

A. MURRAY was carrying battalion net at that time.

Q. Did he stick as close to Captain MEDINA as you did?

A. I don't believe so, no.

Q. Did you hear any of the transmissions that were made by Captain MEDINA over the radio to Task Force Barker?

A. None that I can recall.

Q. Could you hear the incoming transmission on the other radio?

A. Yes, the other radio also had a speaker attached to it.

Q. In other words, the operator of that radio could have heard all the transmissions that were coming in as well as the ones that were going out?

A. Yes.

Q. You don't recall hearing any?

A. No, I don't. None that I can remember.

Q. What was WIDMER's job on this particular day?

A. WIDMER was backup RTO. If anything happened to MURRAY or myself then WIDMER was on the radios.

Q. Was he carrying a radio, too?

A. He may have been. I don't recall seeing WIDMER with a radio. He may have been carrying the reserve radio.

Q. On your radio, I take it, you could communicate only with the elements in the company, the platoon. Is that correct?

A. The elements within the company or possibly if whoever was in the choppers about would come down to company net.

Q. Could they come over your radio, too?

A. Yes, the chopper pilots, I believe, that morning were operating on company net.

Q. Did any such transmissions come to you from the choppers?

A. Just as far as pointing out these bodies in the rice paddies.

Q. Did they say that they had marked them with smoke?

A. Yes.

Q. What was the purpose of this smoke as you understood it?

A. That would pinpoint where the bodies were in the rice paddies, make it easier for us to get to them and check them out.

Q. Was smoke also used to mark suspected live VC?

A. Not that I can recall, no, just the bodies.

Q. Did you ever hear Captain MEDINA tell anybody to burn any of the hootches?

A. Not right out, no, though he may have said it. Not to my recollection. He did say they were to be destroyed.

Q. On this day, or at the briefing the day before, or both?

A. The briefing the night before.

Q. Did you see anybody actually set fire to any hootches?

A. Yes.

Q. Do you recall who did that?

A. No, I can't recall any one individual. I would say the majority of the people in the company probably took part in the action.

Q. As you were coming in for your landing and immediately after you landed, there were, according to your testimony, some gunships firing suppressive fire or some kind of fire?

A. Yes.

Q. Do you recall how many gunships there were?

A. I would say three. Three actual gunships and possibly the chopper that took us to the area were still putting out a volume of fire.

Q. Do you recall how many bubble-type helicopters, H-23's, you saw?

A. Two, I believe.

MR WEST: There is one other point that I meant to ask you about. In your prior testimony to Colonel WILSON, you mention something else that GRZESIK told you that concerned people in root cellars. Do you recall that?

A. Yes, I had heard instances about people in root cellars.

Q. Would you relate this please? What he told you?

A. From what I heard, people were being rounded up and were being put in these root cellars and then individuals were throwing in hand grenades.

COL FRANKLIN: Mr. PAUL, we are having a hard time understanding this body count. Somewhere around 0930, 84 people were reported killed. That was reported over the battalion "push", MURRAY's radio. He was near you most of the time. He was with you. The most bodies that you saw throughout the village was 40. If the platoons are not giving you a body count, which I find very strange, where did this 84 come from?

A. I don't recall.

Q. Now, you are in the command group, and the people are pretty close. Do you mean to say that if somebody reported 84 that this wouldn't go through that command net, that everybody would not know that? C Company had never seen this many before; never had a contact of any magnitude. Do you think that 84 could go over MURRAY's radio and that you and everybody else in that command group would not know about it?

A. We would probably know about it if it went over MURRAY's radio. Yes, we would.

Q. But you don't recall any body counts coming in over your radio?

A. No.

Q. And you only saw about 40 bodies, and yet over the other radio right next to you, it goes back to battalion or task force that you have got an 84 body count. Can you explain this? How can this be? We know it was logged in at Task Force Barker.

A. The bodies that I saw were obviously different than what the other individuals in the company saw. I am relating how many bodies I saw.

Q. Yes, but somebody in the platoon called you to tell you how many they saw. How did this information get to the company command group? Where did this number come from?

A. There is a possibility that the body count was given over the radio, but I can't recall any instance where body count was coming over the radio, none that I can remember.

Q. Do you think you would normally remember something like this, particularly in large quantities, 20 or 30? Would this make an impression on you?

A. I believe so, yes.

Q. You don't recall, then, that any counts came into you over your radio, and as far as you are concerned, the command group had seen about how many by 9:30 in the morning? Were you even in the village by 9:30 in the morning?

A. I don't believe so. I think we were still checking out bodies in the rice paddies at about 9:30 in the morning.

Q. Did Captain MEDINA see any of the platoon leaders by 9:30 in the morning?

A. Probably Lieutenant LACROSS and maybe Lieutenant BROOKS, but I don't recall seeing Lieutenant CALLEY at any time that morning.

Q. When Captain MEDINA asked for the firing to be stopped, had there been a lot of firing all morning?

A. Yes, they had.

Q. Did this seem strange to you?

A. Yes, it was the heaviest volume of fire that I had heard the company put down up to that particular time.

Q. Was there continuous fire throughout the morning, weapons firing all the time?

A. Sporadic firing, most of it automatic weapons.

Q. What do you mean automatic weapon?

A. Machineguns. I imagine a lot of the individuals in the company had their M-16's on automatic.

Q. In other words, the people who were firing were firing on automatic?

A. Right.

Q. When Captain MEDINA put out word to get the firing stopped, am I correct in what you said, he wanted to save ammo, there was no implication to stop hurting anybody; this was to save ammunition. Is this correct?

A. Right.

Q. He was worried about running out of ammo. One statement you made was that you really didn't have a full realization of what was going on. At another time you made the statement that certain things you saw raised a few questions in your mind. Is there any doubt in your mind that a lot of people were being killed?

A. I knew that there was an unusual amount of bodies lying around as compared to other operations we had been on. I don't recall seeing that many bodies lying around in any operation to up that date.

Q. Did you have the impression at this time that anybody alive in that village was being shot?

A. Yes. Now as to who was being shot, whether they be men, women, or children, this I didn't know.

Q. Yes, but you knew that anybody that was moving was being shot?

A. Generally, yes.

Q. Was there any doubt in your mind that Captain MEDINA knew this also?

A. I suppose he did, but he never came right out and said that he had any doubts as to who was being killed. He drew his own conclusions and kept them to himself.

Q. What kind of company commander was Captain MEDINA? You were close to him?

A. I believe he was a good company commander. His men serving under him had a lot of confidence in him. He was respected by the majority of his company. There are a few individuals in the company that didn't particularly like Captain MEDINA. I suppose you have that in just about any company.

Q. Why didn't they like him?

A. A lot of them considered him hard, a very hard individual. He pushed quite a bit. He expected a lot out of his men.

COL WILSON: Do you remember if there were any information personnel with you, I mean PIO types, reporters, photographers, with the command group?

A. Yes, there was.

Q. They were with you on that day?

(Witness nods affirmative.)

Were they with the command group when you were checking these bodies, or did they go off with another element?

A. I believe that when we started running around in the rice paddies checking these bodies out, they moved on with another element.

Q. Do you know which element they went with?

A. Probably the 1st or 2d Platoon.

Q. How about military intelligence personnel?

A. I don't recall seeing them.

Q. Do you know the unit designation of the engineers that were with you?

A. No, I don't.

Q. You said you went in with Captain MEDINA which, I imagine, would be the first helicopter in?

A. The first lift, yes.

Q. Do you know the relationship of your ship to the vee column? Was it on the right, or the left, or was it the lead helicopter?

A. I can't recall.

Q. Do you remember at the time you were approaching the landing zone whether your doorgunner was firing or not?

A. I believe he was.

Q. Were you sitting close to him?

A. Fairly close, yes.

Q. Did you see him fire?

A. I didn't turn around and look. I heard a volume of fire.

Q. But you couldn't determine where he was firing?

A. No.

Q. Do you know how long out the doorgunners began firing before you landed?

A. We were fairly close when they first started firing because right up until the time we landed, that is just about when the artillery cut off.

Q. Did they start firing some distance from the village, or was it based on altitude or time? How long do you think it was, in seconds or minutes?

A. Possibly 10 seconds out.

Q. Ten seconds before landing?

A. Not exactly before landing. Ten seconds before we were over the position where we landed.

Q. Did they fire right up until the time you got out of the helicopter?

A. Yes.

Q. You mentioned before that progress was reported by the platoons as they went through the village. Do you recall how they reported this progress, by coordinates, or by rotation? Did they have phase lines, or anything like this, that would let you know, or the company commander know, where they were?

A. It wasn't by coordinates as we were going through the village. Just a general area within the village.

Q. Could you give me an idea of how they did this? How do they report such a thing?

A. Possibly they may have said, "We have reached the center of the village now," I suppose.

Q. In other words, it was based on where they estimated they were within the village?

A. Or possibly by certain landmarks within the village or around the village.

Q. Do you know of any, can you identify any landmarks in or around the village?

A. The only one I can recall that sticks out in my mind is the trail that I mentioned earlier.

Q. The trail that you mentioned earlier was on the outside of the village, right?

A. No, I wouldn't say it was on the outside of the village.

Q. This was the trail that went through the village?

A. It was in the village, yes.

Q. Were any reports, as the unit moved through the village, based on the location of this trail?

A. Not that I can recall. It is just that this is right in the area where CARTER shot himself and where we had stopped momentarily.

Q. This is the trail where CARTER was shot?

A. Right. Along the trail we were walking along. Not the trail running perpendicular, but the one that had the bodies.

Q. Was this progress recorded in any way? Did anybody write it down when they said they were in the center of the village?

A. No, not that I remember seeing.

Q. When you moved out to check these bodies, and you moved from what you described as a CP location, did the entire command group go with Captain MEDINA or did some of them stay back?

A. I don't think that the artillery moved with us. Just his radio operators and the medic.

Q. The girl or woman that MEDINA shot, do you know whether they found anything in her possession?

A. I don't recall seeing anything such as a weapon or anything, no.

Q. Did you hear at any other time later that she was in possession of some type of equipment?

A. No.

Q. No ammo box or medical equipment?

A. Not that I can recall. She had a few baskets laying next to her, that's all.

Q. Where was BERNHARDT? Was he with the command group?

A. I believe BERNHARDT was with either the 2d or 3d Platoon, I am not sure.

Q. You don't remember him tagging along with the command group, then?

A. No, I don't.

Q. I want to try to fix some times here. In the log of Task Force Barker, it indicates that CARTER was wounded at 10:30 or 10:20. I'm sorry. He was dusted-off at 10:45. Do you think it was that fast between the time he was wounded and the time the helicopters evacuated him?

A. I would say possibly 10 minutes had elapsed.

Q. He was bandaged and evacuated?

A. Yes.

Q. I gather by that, that the command group was very close to the point where he shot himself or was wounded?

A. Right, we had stopped there until CARTER was medevac'd.

Q. How did you know CARTER was wounded? How did Captain MEDINA know that CARTER was wounded?

A. Being almost at that position at the time, we were working right by that position. CARTER was right off the trail checking out the root cellars at the time he was wounded. I believe WIDMER was fairly close to CARTER. I think WIDMER was right there at the time.

Q. Would you say that you were somewhere in the center of the village at that time?

A. No, I don't believe we were at the center of the village.

Q. Where do you think you were in reference to the length of the village, east or west?

A. I think that we would have been east of the center.

Q. You would have been east of the center, okay, fine. You were east of the center of the village. But you

were going from east to west, so you were about halfway through the village at that time?

A. Yes, I would say that we were.

Q. Do you recall whether the leading platoons, 1st and 2d Platoons, had cleared the village? Were they on the outskirts or the western side of the village at that time? Had they reported this or--

A. (Interposing) I don't believe so, no. I think they were still within the village.

Q. Do you recall how soon after the helicopter evacuated CARTER that those two leading platoons reached the forward edge of the village, or the west side?

A. I would say a good half hour afterwards.

Q. We are talking about somewhere around 11 o'clock. Do you recall from the time CARTER was evacuated until your command group reached the point on the southeast corner which you describe, where you arrived and stopped--how long after the CARTER evacuation did this take place?

A. I would say possibly 25 minutes, 20 minutes afterwards.

Q. Then you got out of there about the same time the lead platoons got out.

A. I believe they were possibly beginning to ring up in the rice paddies in the outskirts of the village at this time.

(The hearing recessed at 1038 hours, 29 December 1969.)

(The hearing reconvened at 1054 hours, 29 December 1969.)

RCDR: All persons who were present when the hearing recessed are again present.

LTC PATTERSON: Did you ever turn your radio on to another frequency? Do you recall doing that?

A. No, I don't.

Q. Do you know who Charlie 81 call sign was? Does that mean anything to you?

A. Charlie 81, that was the mortar platoon. That was the call sign of the mortar platoon. That would probably be Sergeant MARONEY.

Q. Did you talk to any stations at LZ Uptight or Dottie? Did you talk directly to anyone that you recall?

A. I don't recall any communications made by myself back to LZ Uptight at all.

Q. Was there a station there that you could have talked to? Was there a company station, one on your net, that was open at that time?

A. At LZ Uptight it would most likely be an artillery net.

Q. Did you use a point of origin or a base point? Back on Colonel WILSON's question. Did you have any point of origin system or base point system?

A. Yes, we had a point of origin system.

Q. Where was your point of origin, do you remember?

A. No, I can't recall.

Q. But this was a means of identifying positions?

A. Yes.

Q. From this point of origin?

A. Yes.

Q. Would you describe for us what a point of origin system is, a base point system?

A. We would have certain designated positions, I believe, given by battalion, certain coordinates on the map,

that were our points of origin. Now we would give our position as so many coordinates to the right or left, up or down, of this position.

Q. Using what? Grid squares?

A. Yes.

Q. In other words, right 1.0 would be right from the base point of origin one complete grid square?

A. Yes.

Q. And up one would be then up one grid square?

A. Yes.

Q. Did the platoons use this system in reporting to the company? Did you use a same base point?

A. When both platoons operated at a fairly good distance from the command group, then they would give their positions using the point of origin.

Q. And this command group that you have referred to, did you all ride in the same helicopter?

A. No.

Q. About how many rode in your helicopter?

A. I believe that they had four or five to a helicopter.

Q. And where was the rest of the command group? In the helicopter behind you, or do you recall?

A. Well, possibly in the helicopter behind us. They were fairly close, so when we did land we all could all marry up.

Q. The second lift in--and I assume it took more than one lift to get the entire company on the ground, is that correct?

A. Yes.

Q. Do you recall whether or not the second lift in was firing their doorguns?

A. No, I don't recall.

Q. Would they have been? You folks are already on the ground and apparently out in the middle of the paddies moving toward the position to the east.

A. Right.

Q. I would think that perhaps you might have remembered whether they were firing into your position, or over your position, or short of your position?

A. Possibly the gunships were still laying down a volume of fire at this time.

Q. Did you talk to any Vietnamese in Vietnamese?

A. The only individuals that I can remember talking to on this particular day are the two young girls when we broke for chow.

Q. This boy running along the trail, was he running towards you or away from you at the time he was shot?

A. He was running across our front.

Q. In your mind he wasn't endangering you, or your positions, or the people around you?

A. No.

COL FRANKLIN: Let's get back to this Charlie 81. That was your mortar platoon, right?

A. Yes.

Q. Do you recall where your mortar platoon was during this operation?

A. During certain parts of the operation, the mortar platoon was moving with the command group. They were also

providing the command group with cover in case anything happened.

Q. So they were with you on the first day. They were not at Uptight. They were down with you in the operation.

A. Yes, they were with us that day.

Q. Do you recall any other stations coming in on the company net, higher headquarters stations calling for Charlie 6?

A. Not that I can recall, just possibly Major CALHOUN; he was in the general area.

Q. Can you remember what his voice sounded like?

A. Well, he had a southern drawl.

Q. Right. Do you recall what he might have said, it was a rather distinctive voice?

A. Nothing that would stand out in my mind, no.

Q. How about Colonel BARKER?

A. No.

Q. How about any other headquarters?

A. No, not that I can recall.

MR WEST: Mr. PAUL, I show you a duplicate of the aerial photograph which is in front of you. This had been admitted into evidence as Exhibit P-44. This photograph was marked by Captain MEDINA during his testimony. You will notice to the south of My Lai (4) and approximately centered is the figure 4 marked on the photograph, near a trail?

A. Yes.

Q. Captain MEDINA testified as follows: "In the vicinity of number 4--it appeared to be a trail between

two rice fields--there appeared to be a group of possibly 20 to 24 men, women, and children that had been killed on the pathway there." Do you remember seeing this same thing that morning?

A. I believe that would be the incident that I mentioned I saw 15 lying along the trail.

Q. I will show you a photograph which has been introduced into evidence as Exhibit P-41. This is a black and white print of a color photograph which was taken by Sergeant HAEBERLE. I will also show you a copy of Life magazine, which has been admitted into evidence as Exhibit M-1. This contains a color reproduction of the same photograph, P-41. Now, with reference to the group of bodies that Captain MEDINA spoke about when he marked point 4 on this photograph, do the figures in the photograph resemble those that you saw that day?

A. Yes, further along this trail there was a hootch in this area (pointing to photograph).

Q. Is that south?

A. It is hard to say what direction it would be really. We were coming along this trail that extends further down this way, and the trail we were walking along would be perpendicular to it. So it would be off to our right.

Q. So that trail would extend south from the village. The bodies were along that trail?

(Witness nods affirmatively.)

You spoke of Captain MEDINA, as I understood you, as an effective company commander. We have had some evidence that the men of the 1st and 2d Platoons had gone out of control in the morning, that this possibly had something to do with so many civilians being killed in My Lai (4). Could you comment on this? Was it your impression that the men of the 1st and 2d Platoons had gotten out of control that morning?

A. Could you explain a little bit more what you mean by "getting out of control"?

Q. Well, the testimony has not been too clear. Presumably what was meant by this was that some of the men of the platoons had done some indiscriminate shooting which was not according to orders, that was something personal on their part. They were not obeying the orders of the platoon leaders. Something of that nature. And perhaps they had gotten out of touch with the platoon leaders and were just acting on their own and killing civilians. Did you have any impression of such a thing going on? Or on the other hand, was it your impressions that Captain MEDINA was in control of the situation?

A. From what I had heard after this, it did appear that certain individuals were more or less operating on their own judgment as to what should be done. Possibly small groups had broken off within a platoon and went through certain portions of the village and did what they thought they were supposed to be doing.

Q. Could you explain this a little more? Is this what you heard had happened?

A. From hearsay. I had heard that individuals had gathered up groups of people and that they had shot them--outright, I guess you would call it, execution. And I had also heard about individuals being herded together in root cellars and having a hand grenade thrown in after them.

Q. Were any names mentioned of the persons who had done this kind of shooting or thrown hand grenades in on people in root cellars?

A. Not that I can recall. Just generally the people from the 1st Platoon, certain individuals from the 1st Platoon.

Q. I am going to switch subjects slightly now. At one time, 2 or 3 weeks ago, there were reports from the press that perhaps the men of Charlie Company had gone into this action under the influence of marijuana. Do you have any information on this?

A. No. I think that this is a misstatement.

Q. Was there a problem at all in the company on the use of marijuana?

A. At this particular time, no.

Q. Do you know of any instances where any member of Charlie Company had gone into action under the influence of marijuana?

A. Up until this time, no.

Q. At any time, did anyone ever come and talk to you at a later time in the course of making an investigation of what happened at My Lai (4) that morning of March 16th?

A. The only other time that anybody ever really inquired as to exactly what happened was when I met with Colonel WILSON in June.

Q. Did you know Colonel HENDERSON at the time, the brigade commander?

A. I knew of him, but I can't ever remember meeting him personally.

Q. Did you know Colonel BARKER, the task force commander?

A. Yes.

Q. Did either one of them ever talk to you afterwards about what happened at My Lai (4)?

A. No.

Q. Did anybody ever tell you to keep quiet about the incident?

A. Not that I can recall. No one ever came up to me and said, "Let's not say anything about this."

Q. Captain MEDINA testified that he got the company together afterwards and told them that there was an investigation going on and that it would be better, while the investigation was underway, not to talk about the incident. Were you present at such a meeting of the company?

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next to me, but he was in the general area, yes.

Q. We have had evidence that WIDMER finished off one of these wounded detainees. Do you know anything about that?

A. No, I don't.

Q. Do you recall what the company did on the 17th of March, the next day? We have had evidence that at least one platoon went up on Hill 85, and I think that was the 1st Platoon. That is where MEADLO stepped on a mine and lost a foot.

A. Right.

Q. Then the company moved down to the hamlets of My Khe (3), My Khe (2), and as far down as My Khe (1) to the south and then back up again, to an intermediate point where they laagered for the night. I direct your attention to the large map on the wall which has been admitted into evidence as Exhibit MAP-1. Do you recall enough about the movements on the 17th to trace them on the map for us and point them out?

A. Not really, just that one incident where MEADLO stepped on a booby trap.

Q. Do you remember moving down to these other hamlets to the south and then coming back?

A. Moving through hamlets and going through the paddies.

Q. Was there any particular action that day? Did you meet any VC?

A. Nothing that stands out in my mind, no.

Q. You didn't get into any fire fights or anything like this?

A. Not that I can recall, no. I don't remember any firing.

Q. Do you remember as you went through these hamlets of My Khe (2), My Khe (1), did you burn the hootches as you went along?

A. I don't think so. I don't remember.

Q. Now, on the 18th our information is that Charlie Company moved up to the north somewhere in the general vicinity of where they had laagered in the first night and was extracted from there during the afternoon to LZ Dottie.

A. Right.

Q. Is this right?

A. Yes.

Q. During that day and during the afternoon before you were extracted, do you remember Captain MEDINA being visited by Colonel HENDERSON?

A. I believe he was, but I can't remember anything that--

Q. (Interposing) Well, the incident has been described this way: Captain MEDINA was in a rice paddy with some members of the command group and Colonel HENDERSON arrived in a helicopter. He was accompanied by Colonel LUPER and perhaps one or more other persons. The helicopter let them out and then went immediately back up in the air. He came over and talked to Captain MEDINA for a while. Do you remember this incident?

A. I do remember Captain MEDINA talking to someone. However, I wasn't with him while he was.

Q. Did you see any insignia of rank on the visitors?

A. No, sir.

Q. Now, there has been some conflict in the testimony as to whether this occurred on the 17th or 18th. Could you help us with that? Whether this occurred on the second or third day of the operation?

A. I believe it happened on the second day.

Q. It was not the day that the company was extracted back to LZ Dottie?

A. I don't believe so, no. I couldn't say for sure though. I am not definite.

Q. How long did you stay with Charlie Company after the My Lai operation?

A. Until I left country.

Q. When was that?

A. Beginning of August.

Q. 1968?

A. Yes.

Q. Now, what kind of assignments did Charlie Company go on after this. Was it about the same? Were they put on about the same type operations or were they changed after this?

A. I don't think there was much of a change after this. In a lot of instances, we would just assume blocking positions and for the most part search and clear.

Q. Do you remember being on a rice denial operation?

A. Could you explain that?

COL FRANKLIN: Rice denial is to deny rice to VC who try to come into the village and take rice away. You normally protect people that are harvesting rice and then run patrols and ambushes around the area so that people can't take rice out to the VC and that VC can't get it.

A. Yes.

MR WEST: You were on such an operation?

A. Yes.

Q. Did you spend much time at that?

A. Possibly a week, but no more.

Q. Mr. PAUL, I am going to ask you some general questions that are sort of summing up and that we think are

quite important. We would like just to have your opinion on these. The first question is what really happened at My Lai (4) on 16 March 1968? How would you describe it?

A. We landed, we moved through a village. We leveled the village, destroyed most of the huts within the village, killed as much livestock as we could. Anything that the Viet Cong could use as food we destroyed. That would be about it aside from the killings that went on.

Q. Well, of course, that really is the focus of interest. What did Charlie Company do about the residents of the village, the people they found there, Vietnamese people they found?

A. It would appear from what I heard after the operation, possibly after we had gotten back to LZ Dottie, that a good majority of the village had been killed. We had never had a body count anywhere as near as large as this particular incident.

Q. Do you remember hearing what the total body count was that was reported?

A. I heard a figure of 360.

Q. Is this at a time right after the action?

A. Yes.

Q. Awhile ago we were discussing the figure of 84 as the body count. These were reported as VC killed. In your opinion, could this have included some of the women and children that you saw dead there?

A. There was a possibility, if they considered some of the women as VC nurses.

Q. But this, in your opinion, would not include little children?

A. No.

Q. Mr. PAUL, during the morning did you see any Vietnamese civilians rounded up and evacuated from the area?

A. No, I didn't.

Q. The next question is--and this is with reference to the killing of civilians, apparently noncombatants--why do you think this happened?

A. The killing of such a great number of civilians?

Q. Yes.

A. Some of the individuals within the company got carried away in what they were doing. As far as the orders we had received before we went into the village, it seems that they had maybe interpreted it a little bit different than some of the other individuals in the company.

Q. You mean they understood the orders to mean that they should kill all the inhabitants of the village?

A. There is a possibility they may have, and it seems as if the momentum got a little out of hand while we were in the village.

Q. In your opinion, were the men of the company worked up to a point where they were in the frame of mind that they could kill women and children?

A. I don't believe so, no. I can't remember hearing anybody the evening before saying like, "We are going to go in there and kill everyone." My own frame of mind was a little bit leary of what to expect the next day. I expected that this was going to be something a little bit different from what we had generally been accustomed to. I thought that we would have a fairly good fire fight the next day; meet a little bit more resistance than we had been accustomed to.

Q. As it turned out, there wasn't actually any resistance, was there?

A. Very little.

Q. Do you remember hearing during the morning that--during one of the interrogations, about 35-40 VC had left the village that morning about 7 o'clock?

A. Yes, I had heard afterwards that whatever VC were in the village had moved out earlier in the morning before we had arrived.

Q. As to the question of why it happened, did you hear or was it your impression that this killing of a large number of civilians had been directed by higher headquarters?

A. I don't believe so. I don't remember anything being said by higher headquarters as to the civilian population of the village being killed.

Q. My third question is, why wasn't this incident reported? All indications we have received are that it was not reported up the line in the usual way, task force to brigade and on up to division? Do you have an opinion on this? Why wasn't it talked about?

A. I really don't know, because as far as what Captain MEDINA had said about the situation afterwards, I never really heard anything, never really discussed what he had said afterwards.

Q. As we indicated at the outset, there was some investigation of the incident immediately afterwards in Vietnam. But no word ever got back to headquarters in Saigon, or Headquarters, Department of the Army, here in Washington, until a year later when a man named RIDENHOUR wrote a letter to the Secretary of Defense and many other people and told what he had heard about this incident. It was then that Colonel WILSON began his investigation. It began in April. He talked to you in June. During this period of about a year, it was rather remarkable silence on this whole affair. Evidently, the people that knew the facts didn't talk about it much themselves. This is really what I am getting at. Do you have an opinion of why the people that knew the facts didn't talk about it more?

A. Shortly after this operation, in a letter that I had received from my parents--approximately maybe 2 or 3 weeks later, my parents sent me a news clipping, and there was a small article in the newspaper about this incident. The figure given in the article is that 140 persons were killed that day. That is the only mention on the outside that I can recall.

Q. Did the story say whether they were civilians, noncombatants?

A. Just the count.

Q. Well, from reading that account, did it seem just like a combat action in which enemy soldiers were killed, Viet Cong? It didn't convey the impression that women and children had been killed, did it?

A. No, I can remember when I read the article thinking where would the newspaper pick up their information from. They were a little off in their body count.

Q. Did anyone ever speak to you about the killing of civilians at My Lai (4) as a war crime or an atrocity?

A. I had heard possibilities that what had been done that day could have been classified as a war crime, yes.

Q. Was this in discussions immediately following it?

A. This was in discussions with individuals within the company.

Q. While you were still in Vietnam?

A. Yes.

Q. Do you recall instructions or training that the company received in such matters as obligations under the Geneva Conventions and rules of land warfare for reporting crimes?

A. At that time, no, I wasn't familiar with it.

Q. Had you received instructions about how to handle prisoners of war and noncombatant civilians? We have had some evidence that the brigade received training in Hawaii on these subjects. Do you recall this training?

A. I was always led to believe that any prisoners were suspects, that should we run across any in the field, we should possibly interrogate them immediately at a company level, and, if we felt that they had significant information, we would get them back to the rear.

Q. What about civilian noncombatants? What were the orders as to what to do with them?

A. Generally, if we felt the civilian population had any information of any significance as to VC movements or what areas they were operating out of, then they would be handled the same way.

Q. When you rounded up civilians in the village, what would you normally do with them?

A. As far as interrogating them right at that particular time?

Q. Well, I am not thinking so much of interrogation. Let's suppose that you are going to move against a village. You know that there were residents in the village. Have you ever been on an operation that you went into the village and rounded up the civilians and took them off somewhere away from the action?

A. In several instances, men of the company would round up the individuals within the village and possibly bring them all together out on the edge of a rice paddy somewhere where we would possibly talk to them as a group or as individuals and then, after whatever was said, we would release them.

Q. Do you recall any instances where they were taken off to refugee camps?

A. No, I don't.

COL MILLER: Do you recall whether you wrote any letters to your parents, for example, about things that were going on at the time? What I am getting at is this: do you think that you may have written back to your parents about things that may have gone on in My Lai that you saw that might have been unusual? Then following that, might those letters still exist that would have some particular thoughts which would be your recollection at the time rather than looking back after 20 months?

A. I don't believe so. In most of the letters I wrote to my parents, I really didn't go into what we were doing over there. Mostly they were letters just telling them that things were okay and don't worry.

Q. Mr. WEST has already touched on it, and I want to come back to it, that is, the discussion or talks that there may have been in the company among the men after you got back from this operation. Do you recall specifically that you discussed this with other men in the company?

A. Yes.

Q. Do you recall with whom you discussed it and why?

A. I think most of the discussing I did was with GRZESIK afterwards. We had both gone to the language school in Hawaii, and we were fairly close.

Q. Was it your impression that there was a general feeling among men in the company that they shouldn't or did not want to talk about this?

A. No.

Q. In your prior statement, I believe you said that you thought you were the interpreter that day because Sergeant PHU was not there. Is that still your recollection?

A. Sergeant PHU was there. I believe he was there during this operation.

Q. Did you also do some interpreting?

A. The only persons that I can remember talking to that day were the two little girls when we broke for lunch.

COL PATTERSON: Did you have any training after you got back to Dottie in the subsequent weeks concerning handling of prisoners of war, detainees, or was there any emphasis directed to training programs on the handling of prisoners of war?

A. No.

Q. In other words, then the only thing you remember is what you received in Hawaii?

A. What we received in Hawaii and through experience.

Q. You mentioned previously the number of 360 as being

the body count for that day. Where did that figure come from, do you recall?

A. I believe I arrived at the figure from what I had heard from other individuals in the company.

Q. Did you total it up or was that the figure they were quoting?

A. That was a total figure after the platoons had reported how many people they had killed. They had arrived at a figure somewhere around 360.

Q. When did they report this? To you or the company?

A. No, this was not reported to me, it was just what I had heard back at LZ Dottie.

COL FRANKLIN: Were these people coming up to the CP and talking to the company commander?

A. No, this is in my discussions with individuals within the company.

Q. This wasn't any kind of official-type thing?

A. No, not that I can recall.

Q. Was any of this discussed in the CP?

A. No. I never heard from the command group or higher up exactly how many people had been killed in this operation.

Q. When you went back to Dottie, were you in the same CP as Captain MEDINA? Your radios; and were you sacked out yourself, was this all in the same bunker?

A. The radios were set off to the side from where Captain MEDINA slept.

Q. Did you ever hear Captain MEDINA talking to his platoon leaders and platoon sergeants about this operation afterwards?

A. No. Not that I can recall, no.

(PAUL)

MR WEST: When you were talking to your friends afterwards and at the time you came to the conclusion that some 360 people had been killed, did someone talk to you about having seen a large number of bodies in a ditch?

A. I had heard about it, but I had not actually seen it myself.

Q. That's what I was getting at. You did hear this from other members?

A. Yes.

Q. Do you remember what they said about it?

A. Just that there were quite a few bodies strung out in a ditch.

Q. Did they give you any explanation on how they got there?

A. No.

COL WILSON: This total figure that you referred to somewhere in excess of 300, is this figure based on the 16th of March or the 16th, 17th, and 18th of March?

A. It was probably based on the whole operation.

Q. For Task Force Barker or for C Company?

A. I believe this was just for C Company.

MR WEST: This concludes the principal interrogation, Mr. PAUL, and we are very grateful for your coming in today and talking to us and helping us. Colonel WILSON would like to ask you a few more questions in reference to the photographs and also, perhaps, ask you to look at some other documents. After you leave, if you should recall anything that you think would help us, if you find at home any documents, letters, maps, papers, or notes that you may have taken at the time that would throw some light onto the subject that we are looking into, we would appreciate you notifying us.

(The hearing recessed at 1145 hours, 29 December 1969.)

(The hearing reconvened at 1150 hours, 29 December 1969.)

COL WILSON: The hearing will come to order. The following named persons are present: COL WILSON and MAJ COOP.

Q. We will continue the interrogation of Mr. PAUL. Mr. PAUL, you are reminded that you are still under oath.

A. Yes, sir.

Q. First, I would like to ask you if you have seen the following document, Exhibit M-2, entitled "Nine Rules"?

A. No, sir.

Q. You have never seen that?

A. No, I haven't.

Q. M-3, entitled "Enemy in Your Hands"?

A. I don't recall seeing that either.

Q. You will note that some of the English is translated to Vietnamese on here?

A. Right.

Q. You don't remember seeing this?

A. I remember seeing something similar to this, but not on this particular document, no.

Q. With the MACV letterhead insignia on it?

A. I saw several MACV pamphlets or handbooks over there.

Q. These are really wallet-size cards. You don't remember ever being issued one of these?

A. No. Matter of fact, the only MACV handbook, piece of paper, that I ever had, I think a Vietnamese child gave it to me.

Q. What was that?

A. It was a foldout piece of paper. It folded out to about 15 inches, white in color.

Q. Do you know of anyone in the unit that had these cards?

A. Not that I can recall. I don't remember seeing it.

Q. When you came into the country, were you processed through a training facility, like at Chu Lai?

A. Right, at Duc Pho. We were introduced to various kinds of VC weapons, booby traps, what to look for, what precautions to take as far as trying to avoid these booby traps.

Q. But were you given any classroom instruction at all?

A. Well, what I just said. We received classroom instructions. Then they would take us out and run us through small obstacle courses where they would lay a series of booby traps and move us through, a squad at a time.

Q. Do you recall in Hawaii, just prior to arriving in Vietnam or at the Duc Pho area, ever receiving any training on how to treat POW's? Not you as an individual, but the entire company.

A. Just probably to the extent that if we thought they had any significant information, they should be returned to the rear as soon as possible to be interrogated further by the National Police.

Q. Was there any procedure about tagging them or anything like this?

A. Yes, I believe the platoon leaders had tags, and I believe Captain MEDINA had tags also.

Q. Do you recall what the tags look like?

A. I believe a manila tag, that's all.

Q. Did it have anything written on it?

A. Not that I can recall.

Q. Do you remember, I'm sure you would as a linguist, any time, not necessarily the 16th of March, any Vietnamese casualties being sent back on helicopters for medical treatment?

A. Yes, sir. In some instances we did send them to the rear.

Q. Were they tagged?

A. I believe they were.

Q. Was it a similar tag or a different-type tag?

A. It was a similar tag.

Q. But this was handled by the platoon leaders and the company commander?

A. To my knowledge, yes. I never placed a tag on anyone over there.

Q. When you interrogated for the company commander, did you talk directly to the Vietnamese or did you interrogate through someone else? Did you act as translator for anyone besides Captain MEDINA?

A. If I was moving with the platoon or on an operation with the platoon, then I would for the platoon leaders.

Q. Let's start back again on the aerial photograph (later admitted as Exhibit P-72) and see what we can recall. Can you work without a map? I can get a map. Do you think you can recall without a map?

A. Fairly good, but as far as that is concerned, it is very hard for me to distinguish. I never had any formal training.

Q. How about the photograph? Is it better?

A. I have a fairly good idea of the other map on the table.

Q. Have you ever been in this area?

A. Well, we operated in this area extensively. Not in My Lai (4) but between Uptight and Dottie extensively.

Q. Uptight and Dottie. North of this area?

A. Right. I guess the majority of operations would be in between. Several incidents were on the outskirts of My Lai (4), let's say a couple weeks before, when other companies operated in this area, and we would act as a blocking force.

Q. On the other side of the Diem Diem River, up north?

A. Right, they stretched on the other side of the causeway.

Q. That is correct, there was a causeway across the river. Now let's get into some detail on the aerial photograph. Let's attempt to figure out time and place as well as possible. We want to try again to go through here, and I'm going to try to indicate the incidents that happened at the locations which I have numbered. All right, at point number 1, what occurred there?

A. This is a position we assumed before the command group moved into the village. It is where 1st and 2d Platoons were in front of us. This is where we were while the 1st and 2d Platoons had started moving through the village.

Q. This is the initial CP?

A. This is the CP we established on the outskirts of the village.

Q. Now, point number 2?

A. Point number 2 is where I believe we came across some bodies. We were blocking out in the rice paddies where Captain MEDINA had shot that woman.

Q. Point number 3?

A. This is the position where I believe we broke for lunch.

Q. Can you tell me as well as you can remember whether the command group, Captain MEDINA's group, moved through the village or moved around the outskirts of the village on the south?

A. Generally, I think we moved around the outskirts of the village. I don't recall going through the center of the village at all.

Q. To the village's left?

A. Yes.

Q. You mentioned a couple times a trail, and I got the impression this trail was in the village?

A. A north-south trail through the center of the village where we found a group of bodies. We would be moving generally in this direction just within the limits of the village.

Q. If I draw a line from the initial CP location down to point 2 and then back up to point 3, the southern point of the village, would this be your route of march?

A. Yes.

Q. And after you go from point 1 to point 2, you would swing up this way. Is this the one you followed?

A. From what I can recall, yes.

Q. You would go about in this area here, just off this trail? You know, on the south portion of the village there is a trail along this hedge line. Is this the one you followed?

A. I believe this is it--one of the hedge lines we followed.

Q. Until you moved to point 3. Now, somewhere along this trail CARTER was evacuated?

A. Right.

28
24

Q. And the helicopter had to come in. He had to come in to your south, otherwise he'd be in the village.

A. Right.

Q. How far from point of contact 2 was the place where CARTER was evacuated?

A. CARTER was evacuated just about at the coordinates where these trails cross.

Q. The north-south and east-west trails?

A. Right. He was evacuated at approximately that spot.

Q. How far from the point of evacuation was the point he was wounded?

A. Since the chopper landed out in the rice paddies, maybe 30 to 50 meters.

Q. From where he was wounded to the chopper?

A. I'd say so.

Q. From what you describe, he would be wounded just a little bit north of this intersection or right in here, is that correct?

A. I'd say maybe a little different area.

Q. Just inside the village?

A. North of that trail.

Q. Let's put point 4 as the approximate location of where he was wounded. By the way, this is very close to some other descriptions, so apparently you are not far off. Now if he was wounded at that point and he was evacuated somewhere south of the trail in this general area, do you remember if it was west or east of the north-south trail?

A. No, I can't remember.

Q. This trail is the one where you said the bodies were. You can't remember where?

A. No, I can't remember.

Q. Well, let's put it here and make an approximate dust-off. Now do you remember where the bodies were? Can you recall that? What you said in Life magazine, was that near the area of dustoff? Was that near where CARTER was found?

A. Yes.

Q. Was it on the east-west trail or the north-south trail?

A. This trail.

Q. The north-south trail? It was on this trail?

A. Yes.

Q. And it was near where CARTER was wounded?

A. Yes, it was maybe 20 or 25 meters down the trail.

Q. Approximately here?

A. Approximately here (indicating on a map).

Q. You said 15 or 20, was that your figure?

A. Right.

Q. Now, we have taken you from your initial CP along the route of march up to the point where you had your lunch, marked the location where CARTER was wounded, the location of his dustoff, and the location of the bodies, and we have also indicated where Captain MEDINA shot the woman. Is there anything else that you can recall that is of significance in this area, anything within the village itself?

A. Just that right before lunch there was a permanent structure or building that we destroyed.

Q. Could you locate that?

A. I'd say right about here.

Q. On the east side of the village?

A. Right over here. We leveled that before we broke for lunch (indicating).

Q. How did you destroy that?

A. There was a charge put by the door. It was a fairly heavy wooden door, and we wanted to get the door open, but when the charge went off the entire building collapsed.

Q. Who placed the charge?

A. I can't recall whether the engineers were with us at that time. I can't recall who placed the charge.

Q. I want you to take these photographs, all of them. When you look through them, I'm not interested whether you saw them in Life magazine or not. Look at the photographs and when you recognize people or places set it aside. Set it over there on your left. The rest keep on your right. The ones on the left will be the only ones I will question you on.

(The witness looked through the entire stack of photographs.)

Q. All right, Mr. PAUL, we will go over the ones you selected as recognizing. I'd like to get them in numerical order. The following questions will concern Exhibits P-2 through P-70.

I'm going to skip over these photographs which pertain to CARTER. We already have that information with the exception of one or two.

A. Okay.

Q. Photo number 6: the question I have is what is the card on the helmet closest to the front of the photograph? Do you know who the individual is?

A. No, I don't.

Q. What is the rope for that he has?

A. Sometimes they used a rope, maybe to disarm a booby trap.

Q. Still referring to Exhibit P-6, what is the card on the helmet of the man to the extreme rear?

A. I don't know.

Q. Do you recognize him?

A. No, I don't.

Q. Photo number 7, the man standing over CARTER has something written on his helmet, can you read it?

A. P-E-N-N, the abbreviation for Pennsylvania.

Q. Do you know who it is?

A. Judging from the helmet, I'd say WIDMER.

Q. Once again we have the man with a rope on the extreme right. Can you see any better now for possible identification?

A. No.

Q. Photograph number 8 is CARTER again. I think we have identified all the people in the photograph. Were you in this photograph?

A. Possibly, that could be me.

Q. Sitting down?

A. Right.

Q. I know Captain MEDINA is at this location, and my question is based on your previous testimony. Is this the trail where CARTER was wounded or has he been moved to this location?

A. He has been moved to this location.

Q. Is he on the north-south trail near the dustoff place on this photograph?

A. I believe he is on the east-west trail.

Q. Where would you say the location is on the aerial map?

(Witness indicates.)

Back to Exhibit P-6. Did you ever see CARTER in this position? Either in the position of number 6 or number 7?

A. No.

Q. Do you think this is a different location from photo number 8?

A. This is probably right outside the root cellar where CARTER shot himself in the foot.

Q. Didn't you see this location?

A. No.

Q. Now here is photo number 9, showing WIDMER, on the right, assisting CARTER to the helicopter. Do you know who is on CARTER's right?

A. No, I don't.

Q. This is photo number 10 which shows CARTER again. Can you recognize any of the three individuals in the photograph?

A. No, I can't.

Q. Would you say this is in the area of number 8, or is this the photo on the trail, or would this be back where he was wounded, or could you say?

A. I couldn't say.

Q. Number 11 shows a helicopter with a man being carried to the helicopter?

A. Yes.

Q. I don't see any red cross on the helicopter. Was he evacuated in a red cross helicopter or one of the slicks?

A. I think one of the slicks.

Q. Now photo number 11 would be the same location as your number 5 where you stated before that the dust-off came in.

A. Right.

Q. And number 12 shows a helicopter with some people around it. Is that CARTER's dustoff.

A. It's hard to say if it was CARTER's dustoff or not.

Q. Photo number 13: could you describe what you recognize about that photograph?

A. It is the mortar platoon on a path along one of the trails.

Q. Is this in My Lai (4)?

A. Yes.

Q. Who do you recognize as being from the mortar platoon?

A. Sergeant MARONEY and a guy by the name of HOLLAND.

Q. HOLLAND is the third man in the photo? Do you recognize anyone else?

A. No.

Q. Let me ask you this: does MARONEY stay with the command group or does he stay down with the platoon?

A. He usually stays with the mortar platoon.

Q. Who is number 1?

A. Lieutenant ALAUX.

Q. Does he usually stay with the mortar platoon or the command group?

A. He is usually with the command group.

Q. Is there any possibility this is the command group?

A. No, sir.

Q. Do you know where this photograph is located?

A. No, I don't.

Q. Is it on the trail to the south of the village or could you identify it?

A. No, I couldn't say for certain.

Q. This is photo number 17. What do you recognize here?

A. That appears to be a permanent structure that we destroyed before we broke for lunch.

Q. You think this is the structure which is near your location 3?

A. I believe so, yes.

Q. Do you recognize anybody in the photograph?

A. No, I don't.

Q. The trail where the troops are lined up there, is that the one that led to the south of the village running east-west?

A. I believe so.

Q. And this looks like the building you destroyed at point 3, the one that caved in?

A. I think so.

Q. This was right about in here, wasn't it?

A. Yes.

Q. Number 18, what do you recognize there?

A. That appears to be Lieutenant ALAUX.

Q. How do you recognize him?

A. Mostly just by facial features.

Q. What is he carrying over his right shoulder?

A. That's a claymore bag.

Q. Does he usually carry a claymore bag?

A. On some instance, not always. He had a habit of carrying his maps and pencils in a claymore bag.

Q. In photo 13 he seems to be carrying a bag. Is that the same type bag?

A. Yes.

Q. Do you know where this photograph is located, number 18?

A. No, I don't.

Q. Do you recognize any of the South Vietnamese?

A. No.

Q. Number 21?

- A. This could probably be Sergeant LAGUNOY.
- Q. Do you know who that other soldier is in the photograph?
- A. No, I don't.
- Q. Have you ever seen him before?
- A. His face is familiar.
- Q. Do you know where it was taken?
- A. No.
- Q. Could it be Sergeant PHU?
- A. Could be.
- Q. Do you know him well enough to recognize him?
- A. It could be Sergeant MINH.
- Q. You don't know him?
- A. No, I don't.
- Q. Photo number 23, this appears to be Sergeant PHU, second from the right.
- A. Yes, sir.
- Q. Can you recognize anyone else?
- A. No.
- Q. Do you know where that photograph was taken?
- A. No, I don't.
- Q. Photo number 25?
- A. That could probably be SP5 FAGAN.

Q. F-A-G-A-N?

A. Right.

Q. Do you know where the photograph was taken?

A. No, I don't.

Q. You are not sure whether it is FAGAN or not?

A. Well, it looks like SP5 FAGAN.

Q. Number 36 is CARTER again. Can you identify the people with him?

A. No, I can't.

Q. Photo number 39, what do you recognize about that photograph?

A. This appears to be, it could be some of the bodies lying along the north-south trail.

Q. Can you identify that as being bodies along the trail?

A. It just appears to be a portion of the larger photo.

Q. Let me put these together, number 39 and number 41. Were these scenes related to your knowledge?

A. It appears to be, yes. I'd say they were. They could be along the same trail.

Q. Were these bodies in 39 part of the bodies in 41?

A. No, I can't say.

Q. Were they separated by any distance?

A. They could have been, yes.

Q. Would you relate the bodies in 39 to 41 as being part of the same group or farther apart?

A. I would say so.

Q. I don't want to put words in your mouth. I'm trying to determine if this scene in 39 could be in the opposite direction in 41?

A. They could be associated.

Q. I notice in photo number 41 there is a barbed wire fence alongside the road. Most of the bodies seem to be along that side. In photo number 39 there appears to be no fence. It could be on the other side of the road. Also note the basket which they carried things in. Is there anything unusual about this basket?

A. No.

Q. They normally carry those baskets over their shoulder?

A. Right, in quantities of two.

Q. One or two?

A. Usually two.

Q. This was probably one of two baskets?

A. Usually two.

Q. It looks in photo number 39 as if this basket was set down before these people were shot. Or do you think the basket could have fallen like that, in that position, and the man, or woman, or whatever it is could be that far away from it?

A. No, I don't really think so.

Q. Do you think the basket had already been put down before the shooting.

A. Since it is not overturned I would.

Q. Do you think it would have overturned or normally it would have fallen in the proper position?

A. It's hard to say.

Q. Now, photograph number 41, do you recognize that photograph?

A. Yes.

Q. Would you tell me the photograph, as I believe you testified before, is on the north-south trail?

A. Right.

Q. It is also indicated as item number 6 in your previous testimony. Is this the photograph which you relate to the 15 or 20 bodies along the trail?

A. Yes.

Q. That is number 41. Number 56, what do you recognize about that?

A. WIDMER.

Q. Where is WIDMER?

A. Standing.

Q. In the back?

A. Yes.

Q. What is he doing, can you tell?

A. No, I can't.

Q. What is the other man doing?

A. It's hard to say but it looks as if he is dropping something.

Q. Can you locate this particular site?

- A. No, I can't.
- Q. Was this typical of the structures over here on the right?
- A. Yes.
- Q. Temporary?
- A. Yes.
- Q. Is that a bed over on the left?
- A. Yes.
- Q. Do you know what it is?
- A. No, I can't recall.
- Q. Can you recall the location?
- A. No.
- Q. How can you tell it's WIDMER?
- A. Facial features.
- Q. Number 57?
- A. Sergeant LOPEZ, 3d Platoon.
- Q. Where is the location?
- A. I don't know.
- Q. Is it an area near My Lai (4)?
- A. Yes.
- Q. What is he doing, destroying them?
- A. Yes, with a machete.
- Q. It appears as if he is loaded with ammo. Is that normal?

- A. We varied for the operation.
- Q. Would you say each man had this much with him?
- A. Yes, I would. For this operation, yes.
- Q. Of course, you expected a lot of resistance.
- A. Guys usually carried as much as two or three bandoleers.
- Q. Photo number 60?
- A. The person in the photo is familiar, but I can't remember his name. He was in the 3d Platoon.
- Q. Is this by any chance Lieutenant LACROSS?
- A. No.
- Q. Do you know where that location is?
- A. No, I don't.
- Q. What is this object on the front part of the porch?
- A. A food container of some kind.
- Q. Was it normal to carry two canteens?
- A. More than two canteens.
- Q. All with water.
- A. Yes.
- Q. Number 64?
- A. It looks like DELPOME.
- Q. From what platoon?
- A. Second.

Q. Who is the other man?

A. DELPOME is in the center. The other man is Gerald SMITH.

Q. Gerald SMITH?

A. I think so.

Q. Do you know where that photograph was taken?

A. I remember moving through a rice paddy. I guess it was later on that day. This particular rice paddy we moved along, and we set up the mortars behind us to give us supporting fire, and the company moved on down the rice paddy ahead of the mortars. And when we reached the end, they disassembled their equipment and moved up with us.

Q. Did you see them set up?

A. Yes.

Q. Do you remember how many tubes you had set up?

A. Two or three.

Q. So this is not the landing zone?

A. I don't believe so. I don't think the rice was that high.

Q. It appears to be a helicopter back here, doesn't it?

A. You can't tell what kind of ship it is.

Q. This would be on the other side of My Lai (4) moving northeast?

A. I remember walking through a fairly large rice paddy.

Q. Where do you think it would be on the aerial photograph?

- A. In relation, this would be moving towards the sea.
- Q. About how far out from My Lai (4)?
- A. I'd say a fairly good distance outside the village.
- Q. It would be hard to identify on the photograph wouldn't it?
- A. Yes.
- Q. Number 66?
- A. Sergeant PHU.
- Q. The man on the extreme left is Sergeant PHU?
- A. And this is MARTIN.
- Q. Who is in the center?
- A. I can't say.
- Q. Does he appear to be Vietnamese?
- A. Yes, he does.
- Q. A Vietnamese soldier?
- A. Yes.
- Q. Does he have any distinguishing marks on his uniform or equipment. What is he armed with?
- A. He's armed with a 16.
- Q. Is that normal?
- A. No. It is very unusual for a Vietnamese soldier to carry a survival knife also.
- Q. Where is that knife, in his pants also?

- A. Right.
- Q. What is this thing on his pocket, can you tell?
- A. It's an insignia.
- Q. Can you determine what the rank is?
- A. No, I can't.
- Q. Can you recognize the two that appear to be Negro soldiers in the background?
- A. I can't associate them with any names. This could be WOOD, the one on the right, probably, yes.
- Q. Can you recall where this location is?
- A. No, I can't.
- Q. Do you recognize the Vietnamese?
- A. No.
- Q. Photo number 67?
- A. That appears to be Sergeant PHU.
- Q. I know whoever it is wears an Americal Division insignia on his helmet.
- A. Yes, sir.
- Q. Did Sergeant PHU wear that?
- A, Yes, sir.
- Q. Can you identify the location of 67 or the Vietnamese?
- A. No.
- Q. Number 69?

A. It appears to be DELPOME again.

Q. What is he carrying around his neck?

A. That's an M-79.

Q. Does he normally carry that weapon?

A. I don't believe so. There were certain individuals assigned to each platoon that would be required to carry one of these.

Q. Do you recognize the location?

A. No.

Q. Is there anything else that you can recall that might go on that photograph of significance?

A. No.

Q. There was a large shrine, pagoda, whatever you want to call it, in this general area. Do you ever remember seeing that?

A. No, I don't.

Q. Do you ever recall going south of the village to reach a fairly good road, number 521?

A. No, I don't.

Q. You don't remember going that far out?

A. No.

Q. Now, is there anything further that you could state that might assist us in this investigation?

A. No, sir.

Q. Do you have any further testimony?

A. No, sir.

Q. I remind you of what Mr. WEST said about not discussing the matter we discussed in the investigation with other persons.

A. Yes, sir.

Q. Especially with other witnesses who might be called in before this investigation.

A. Yes, sir.

(Exhibit P-72 entered on page 1, T-46.)

SUMMARY OF TESTIMONY

WITNESS: WIDMER, Frederick J.

DATE OF TESTIMONY: 29 December 1969

PLACE OF TESTIMONY: Pentagon

WITNESS SUSPECTED OF: Murder and aggravated assault.

COUNSEL: Gary R. MYERS, CPT, JAGC, OTJAG, Headquarters
Department of the Army, Washington, D.C.

DUTY ASSIGNMENT ON 16 MARCH 1968: RTO to Captain MEDINA,
C/1/20, Task Force Barker.

1. PREOPERATIONAL PLANS AND BRIEFINGS.

The witness was present at the briefing on 15 March when Captain MEDINA told them they were going into the My Lai area, by which he meant Pinkville and the general AO, on a search and destroy operation (pg. 7). He agreed with a statement that he made previously to the CID, in which he said that MEDINA told the company that during the mission "everyone was VC or VC sympathizers" and "everything was to be killed," meaning people and animals (pgs. 7, 8). The witness declined to answer a question on the mood of the members of the company after the briefing (pg. 8). He made mention of a memorial service being held for one of the soldiers of the company, named WEBER, which he stated took place several weeks before the incident (pg. 8).

2. ASSAULT ON MY LAI.

WIDMER stated that he was on the last lift, he thought it was the third, into the My Lai (4) area on 16 March. He was the spare RTO that day and was not operating (pg. 9). The command group originally was inside a hedgerow at the entrance of the village until a platoon had secured the village, then they moved up behind them and passed through the village and set up another CP on the outskirts. The movement of the company was from west to east (pg. 10). The

witness stated that while he was with MEDINA, he did not see him shoot a woman (pg. 10). He declined to answer a question as to the route through the hamlet of My Lai (4) (pg. 10). He stated that he saw 10 to 15 dead civilians in the hamlet and said that in his CID interview he gave the figure 15 not 50 (pg. 11). He saw hootches in My Lai burning (pg. 11), and MEDINA did not say anything about this (pg. 12). He recalled MEDINA saying to call CALLEY and tell him to stop shooting but could not give a definite time as to when this took place (pgs. 12, 13). The company laagered that night near a graveyard. The next day they moved to the south through My Khe (3), My Khe (1) and My Khe (2) towards the mouth of the Song Tra Khuc River (pg. 13). One platoon went up on Hill 85 (pg. 13). He stated while on the sweep south before coming to the sea, they saw three VC, possibly more, running near the base of a hill. The VC eluded them (pg. 14). On the 17th of March, they also picked up a party organizer, a nurse, and a few other prisoners (pg. 14). Sometime that day, Lieutenant Colonel BARKER visited Captain MEDINA but the witness was on the beach, 100 meters away, and could not hear what was discussed (pg. 14). MEDINA told them that BARKER congratulated the unit on capturing the party organizer (pg. 14).

3. INQUIRIES CONCERNING THE ASSAULT.

Witness stated that he knew who HENDERSON was but did not recall seeing him at LZ Dottie (pg. 15). He was never questioned by HENDERSON on what happened in My Lai (4) (pg. 15). At LZ Dottie, MEDINA called them together, informed them of an investigation, and told them to keep it to themselves and not to discuss it. MEDINA told them that he was going to take full blame for everything that went on, as they were just following his orders (pgs. 15,16). He made a statement to the CID in October of 1969 (pg. 7).

4. OTHER INFORMATION.

a. The witness stated that during the morning of 17 March, he could hear heavy fire coming from the area where Bravo company was located (pg. 18). This was an area to his left between him and the ocean (pg. 19). The villages of Co Lay and My Khe were pointed out to him on MAP-1 and he stated that he noticed smoke rising from the general coastal area. He did not actually see the fire which could mean that either the villages were on fire or that fields were burning (pg. 20).

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(The hearing reconvened at 1218 hours, 29 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, and MAJ COOP.

The next witness is Fredrick J. WIDMER.

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

Mr. WIDMER, will you state your full name, occupation, and residence, please?

A. My full name is Frederick Joseph WIDMER. My occupation is cement finisher, and I live at 221 Crescent Drive, Lower Burrell, Pennsylvania.

MR WEST: Mr. WIDMER, before we get into any questioning, Colonel MILLER has certain information for you about the nature of this inquiry and, also, some instructions concerning your legal rights.

COL MILLER: Mr. WIDMER, this investigation was directed jointly by the Secretary of the Army and the Chief of Staff of the Army for the purposes of determining facts and making findings and recommendations concerning two major matters:

(1) the adequacy of prior investigations and inquiries into, and subsequent reports and reviews within the chain of command, of what we have come to refer to commonly 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 and to furnish information concerning this incident.

It is not our primary purpose to determine all of the facts of exactly what may have happened at My Lai. Although we do get into them in some detail, our two main purposes are as I just stated.

(WIDMER)

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APP T-45

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We have had made available to us and we have reviewed your statements and the statements of others made in prior investigations, including the CID and the Inspector General's investigations into My Lai.

Today your testimony will be taken under oath. A verbatim record will be prepared and, in addition to the reporter, we also have a tape recorder.

The general classification of the report is confidential. However, there is a possibility that some or all of the testimony that is given here will become a matter of public knowledge at some later time.

Are you under the order of the military judge in the case of the United States v. Calley not to discuss your testimony in certain instances?

A. Yes, I did receive a letter.

COL MILLER: I would request that you not discuss your testimony in this investigation with others, including other witnesses in this case, except as you may be required to do so before a competent judicial, administrative, or legislative body.

The fact that you are subject to the order of the military judge in the case of the United States v. Calley does not preclude you from testifying here. This was determined by the military judge, and we have made the same decision. So you are not violating his order if you decide to testify today. At the same time, the fact that you appear here does not change the effect of the order from the military judge as far as talking at other places.

Mr. WIDMER, I just stated, that the purposes of the investigation were those two major things that I mentioned and that we have read your prior statements and the statements of others. At this time I advise you that you are suspected of having committed offenses of murder and of aggravated assault during this My Lai operation. These may be offenses which could be categorized as war crimes and are offenses for which there is a possibility you could or may be tried by either a general court-martial or a military commission.

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Before we proceed to ask questions I want to be sure that you understand what your testimonial rights are and your right to counsel:

First of all, you do have the right to remain silent, completely silent, and to answer no questions.

Second, any statement you do make may be used against you in a criminal trial.

You have the right to consult with a counsel and by this I mean a qualified legal counsel, a lawyer, and to have such counsel with you here at your questioning. You may retain such counsel at your own expense, or, in this case, since the offenses may be subject to military jurisdiction, you will have a right to have counsel appointed for you, military counsel, at no expense to you. If you have a particular counsel and he is reasonably available, we will make every effort to make him available. Otherwise an appointed counsel is available.

Now, do you understand what I have said so far? Do you have any questions about it?

A. No. I understand everything you told me, and I have no questions at the present time.

Q. If you do have any, please feel free to ask me. I will try to answer them to the best of my ability.

Next, would you desire to have counsel appointed for you, or do you wish alternatively to get civilian, or would you like to do both?

A. I think I would like to do both.

Q. And you prefer to do that before we continue asking you any questions?

A. This charge of assault and everything, will this be brought against me today or at a future date?

Q. I don't know whether you will ever be formally charged with it or not. I told you that you are suspected of the offenses of murder and aggravated assault at this time. In my opinion these are offenses for which there is at least a possibility you could still be tried.

We will ask many questions about My Lai, what happened before, during, and after. Many of these may have nothing to do specifically with what you were suspected of having committed yourself. On the other hand, some of our questions may get into that area. You do have, as I say, the right to either employ your own counsel or have military counsel, or both, and to have them here with you. You have the option of doing that now or at any time during the interrogation. If you do decide to go ahead and answer questions now you can stop at any time. You can refuse to answer any questions you wish. You can request counsel and seek counsel at any time.

A. I'll go ahead with the investigation at the present time.

Q. You mentioned a few minutes ago that you thought you would want counsel?

A. Yes.

Q. Do you want to seek counsel and discuss this with counsel at this time or not? I would like to be very sure of this before we go ahead.

A. Yes, I would like to consult with counsel right now.

MR WEST: The hearing will be recessed.

(The hearing recessed at 1228 hours, 29 December 1969.)

The hearing reconvened at 1610 hours, 29 December 1969.)

MR WEST: The hearing will come to order.

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

Sir, the next witness is Mr. Frederick J. WIDMER.

(MR WIDMER was recalled as a witness for the hearing, was reminded that he was still under oath, and testified as follows:)

RCDR: Are you represented by counsel?

A. Yes, sir.

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

IC: Captain Gary R. MYERS, 708 South Pitt Street, Alexandria, Virginia.

COL MILLER: Captain, you are a lawyer?

A. Yes, I am.

Q. Admitted to practice law?

A. In the State of Pennsylvania.

Q. This morning, before our recess, I had advised Mr. WIDMER of his testimonial rights and of the offenses concerning which he was suspected. At that point he decided he would like to seek counsel before he would answer any questions. I then got in touch with you, as you recall. He stated that he would like to have both civilian and military counsel. I notice there is no civilian counsel here at the time. Is this by choice Mr. WIDMER?

A. Yes.

Q. You don't intend to seek civilian counsel?

A. Not at the present time.

Q. Are you satisfied with your military counsel?

A. Yes, sir.

Q. Have you had an opportunity to talk to him all that you need to?

A. Yes, sir.

Q. Having talked to him, are you willing to have him represent you at this time?

A. Yes, sir.

Q. Are you willing to answer questions?

A. Yes, sir.

Q. Do you understand you may stop answering questions and you may refuse to answer questions, as I explained to you this morning? You are aware of this too?

IC: We would like to make that clear on the record, sir, that although my client wishes to be as cooperative as possible at this hearing, we reserve the right, of course, to not answer any questions at any time or of answering all questions, as the case may arise.

COL MILLER: I understand, and you may consult at any time. That's all I have.

MR WEST: I understand, Mr. WIDMER, you were a member of the Army on 16 March 1968?

A. Yes.

Q. What was your grade at that time?

A. At that time I was a specialist fourth class, sir.

Q. What was your assignment?

A. I was assigned as an RTO.

Q. What was your unit?

A. My unit was C/1/20, 11th Light Infantry Brigade.

Q. Was this at that time part of Task Force Barker?

A. Yes, it was.

Q. You were an RTO. Whose RTO were you?

A. I was the commanding officer's RTO, sir.

Q. Captain MEDINA's?

A. Captain MEDINA's.

Q. Charlie Company?

A. Yes, sir.

Q. Directing your attention to the 15th of March, 1968, were you present at a briefing at the company by Captain MEDINA on that day?

A. Yes, sir.

Q. Would you tell us what Captain MEDINA told the company?

A. At that time, Captain MEDINA briefed us on our operation which we were going into the following day, which was the operation in the MY Lai area. He briefed us on our objective and as to what we were to do.

Q. Did he tell you what kind of an operation it was?

A. Yes, sir. It was a search and destroy operation.

Q. When you said My Lai, are you referring to the hamlet of My Lai (4)?

A. In Pinkville and the general AO--general area.

Q. I see. Did he tell you anything more about how the operation was to be conducted, what the orders were?

A. As to orders, I don't recall offhand any actual orders, if there were any given.

Q. Do you recall talking to an investigator for the CID named Jack BYERS in October of this year?

A. Yes, I do, sir.

Q. Do you remember what you stated to him about what Captain MEDINA said during the briefing?

A. No, I don't, sir.

Q. To refresh your memory, Mr. WIDMER, didn't you tell Mr. BYERS that Captain MEDINA told the company that during the mission everyone was VC or VC sympathizers and supporters and everything was to be killed, meaning people and animals?

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A. Yes, sir, but I did not state that this was an order.

Q. Perhaps I used the wrong words, but he did say this to the company?

A. Yes, sir.

Q. What was the mood of the members of Charlie Company after the briefing? For example, were they apprehensive about the action on the following day? Were they ready to go?

A. I respectfully decline to answer that on the grounds that it may tend to incriminate me.

Q. Do you remember, still on that period prior to 16 March, do you remember a memorial service being held for one of the soldiers of the company?

A. Yes, sir.

Q. When did this occur?

A. This was several weeks before the incident.

Q. Was this service held for WEBER?

A. Yes, sir.

Q. If I'm not mistaken, he was the first man in the company to be killed. Is that right?

A. Yes, sir.

Q. What was the feeling of the men about this time? Did they take this pretty hard?

A. At the time I'd say that just about everyone in the company felt some grief because WEBER was lost and he was the first individual to be lost and everyone was close to him.

Q. Was he well liked?

A. Yes, sir.

Q. During the weeks preceding the operation against My Lai (4) we've had some evidence indicating the company had a pretty hard time. They lost men in the minefield, and they lost them to snipers, and they suffered casualties without really coming to grips with the VC. Is this the way you recall things? I don't want to put words in your mouth, but could you comment on this?

A I don't feel that I can sufficiently answer that question, sir, not at this particular time.

Q. I'm not sure of the reason for your not answering the question.

IC: We would rather avoid any questions which generally--

Q. (Interposing) You feel this might tend to incriminate--

IC: (Interposing) Look to the intent of the company as a mass which may reflect on any individual in that company.

Q. Let's move to the next day, the 16th of March, the actual combat assault on My Lai (4). Do you recall what lift you were in when the company was put in the vicinity--

A. (Interposing) I was on the last lift, sir. I believe it was the third.

Q. All right, were you actually operating a radio that day with Captain MEDINA?

A. No, sir.

Q. We've had some testimony, I believe from Mr. PAUL, John PAUL, that you were a spare RTO that day. Is that right, or did you have some other duty?

A. On that day I was the spare RTO.

Q. Nevertheless, did you join the command group with Captain MEDINA?

A. Yes, I did.

Q. All right. Can you describe the movements of the command group that morning as the operation progressed?

A. The command group stayed just inside the hedgerow to the entrance to the village until the one platoon had pretty well secured the village. Then we continued to move behind them. Once we had passed through the village, we set up another CP on the outskirts.

Q. The movement of the company, as I understand it, was from west to east to the hamlet of My Lai (4). Is that correct?

A. Yes, sir.

Q. Do you recall about what time it was when you took up a position on the east edge of the hamlet?

A. I cannot give a specific time. I don't remember, sir.

Q. Well, was it before noon?

A. Yes, sir.

Q. Captain MEDINA testified before us earlier this month and told about an incident which--this was fairly early in the morning before he started through My Lai (4)--in which he shot a Vietnamese woman. Were you present at this time?

A. At the time I was with Captain MEDINA, I did not see him shoot a woman.

Q. Can you recall how you moved through the hamlet of My Lai (4), the route you took?

IC: Sir, would you be referring to the command group, or to Mr. WIDMER?

Q. Yes, well, Mr. WIDMER rather than the command group.

A. I respectfully decline to answer that question on the grounds that it may tend to incriminate me.

Q. All right. That morning while you were in My Lai (4) did you see any dead civilians in the hamlet?

A. Yes, sir.

Q. How many did you see?

A. Approximately 10 to 15, sir.

Q. Well, I wonder if you recall telling Mr. BYERS that you saw an easy 50 dead civilians lying dead in and around My Lai (4) and that no one was alive when the unit left the village? Do you recall making that statement to him?

IC: If you are, in your inquiry, referring to the CID report by Jack T. BYERS, could you inform counsel what page you are looking to?

Q. Oh, it's on the first page.

IC: Fine.

Q. It's right in the middle.

A. In the interview with Mr. BYERS, I thought I said 15, not 50.

Q. You see it's 50 written here in the statement of Mr. BYERS, but you would say that you saw about 15 dead civilians? What about the rest of the statement that no one was alive when the unit left the village? Is that your statement?

A. Yes, sir.

Q. This is the way you saw things? Is this correct?

A. Yes, sir.

Q. What about the houses and the hootches in My Lai (4)? Did you see any burning taking place?

A. Yes, sir.

Q. What was Captain MEDINA's reaction to this, the fact that houses were being burned and people were being shot? Did he do anything about it?

A. Captain MEDINA did not say anything about the hootches being burned.

Q. Was he in a position to see the dead people that you saw there?

A. I don't remember, sir.

Q. In Mr. BYERS' statement there is an indication that you may have said to him something about Colonel BARKER visiting Captain MEDINA. Do you recall that?

A. I do believe Colonel BARKER visited Captain MEDINA, but I don't recall when or what location.

Q. We have asked several people as to whether, during the operation on the morning of the 16th of March, Colonel BARKER ever landed or visited the scene, and up to this point we haven't found anybody that said he was on the scene at My Lai (4) on the morning of 16 March. This is why I asked this particular question. Would you please think hard and see if you can recall whether it was at this time or perhaps at some later time that Colonel BARKER visited Captain MEDINA?

A. Sir, Colonel BARKER did visit Captain MEDINA, but it wasn't on the morning of the 16th. It was after we had been down by the sea, after we had finished our assault.

Q. Before we leave My Lai (4) were you present when Captain MEDINA issued the order to the platoon leaders to stop the shooting and burning? I'm not sure, perhaps he didn't say anything about burning?

A. I did recall something. Captain MEDINA did say to call Lieutenant CALLEY and tell him to stop shooting. As far as the other platoons, I do believe he did tell them to cease fire and also--

Q. (Interposing) Do you remember the exact words that he used in the message?

A. I don't know the exact words, sir.

Q. Could you fix a time in the morning when this occurred?

A. I can't give a definite time, sir.

Q. There is a line in Mr. BYERS' statement which indicates that you may have expressed the opinion to him that the company went into the village with instructions to kill everything and everybody, but the situation got out of hand. Does this correctly reflect something you said to Mr. BYERS?

A. I respectfully decline to answer that on the grounds that it may tend to incriminate me.

Q. Our information is that this operation lasted 3 days. After Charlie Company moved through My Lai (4) and continued to the east and laagered that night in or near a graveyard, near B/4/3, and then the next day Charlie Company moved to the south, one platoon went up on Hill 85, and rejoined, and the company moved south down through the hamlets of My Khe (3) and My Khe (1) and My Khe (2), towards the mouth of the Song Tra Khuc River. Does this fit in with your recollection?

A. Yes, sir.

Q. I believe it was this day that MEADLO stepped on a mine and lost his foot?

A. Yes, sir.

Q. Do you recall that incident?

A. Yes, sir.

Q. Do you recall anything else significant that took place during that day in the movement down south?

IC: Sir, I wonder, sir, if you could make your remark more specific to that question?

Q. All right. Did you encounter any VC that day?

A. Yes, sir.

Q. Could you describe what action there was?

A. We were coming through the rice paddies on a sweep to the south. I don't believe it was Hill 85 but one of the other hills to the south just before you come to the sea. There were three VC, I believe it was more than three, were running around the base of the hill, and we tried to catch them and they got away.

Q. Did anything else occur that day in the way of enemy action?

A. We picked up, I believe, a red party organizer that day and also a VC nurse and a couple other prisoners.

Q. Was this the day, you think, that Colonel BARKER visited Captain MEDINA?

A. Yes, sir.

Q. Were you in the group with Captain MEDINA when this visit took place?

A. I was about 100 meters away from Captain MEDINA. I was on the beach with the rest of the company when---

Q. (Interposing) I see, and you don't know what went on between the two?

A. I do not know what went on.

Q. Did you ever hear anybody say later on?

A. I did not hear anything about what went on, unless, I believe, Captain MEDINA told us that Colonel BARKER congratulated us on capturing that one party organizer because he was a valuable prisoner.

Q. It's been indicated to us that Charlie Company spent the night somewhere up in the vicinity of My Khe (1) and then the following day, the 18th, moved up north, up generally near Pinkville and was extracted in the afternoon and taken back to Landing Zone Dottie. Earlier in the afternoon before the extraction, do you remember seeing Colonel HENDERSON come to visit Captain MEDINA?

A. I don't recall seeing him, sir.

Q. Did you know Colonel HENDERSON?

A. I don't know him personally, but I know who he is, sir.

Q. He had taken command of the brigade on the 15th. This was just before the operation in My Lai (4). When you returned to Landing Zone Dottie in the helicopter did you see Colonel HENDERSON at that time?

A. Not that I remember, sir.

Q. Did he ever come to you in the course of an investigation and talk to you about what happened in My Lai (4) on the 16th?

A. No, sir.

Q. Did you ever hear that there was an investigation of that incident being carried on right about this time?

A. At that time we did find out, when we got back to Dottie, that there was an investigation being conducted and we were informed of this by Captain MEDINA who had called us all together and informed us of this.

Q. Did he say why there was an investigation underway?

A. No, sir.

Q. What I'm getting at is a report that a helicopter pilot had made a complaint about civilians being shot in My Lai (4). Did Captain MEDINA mention this as the reason for the investigation?

A. I cannot say exactly whether it was because of a helicopter pilot, but he did say that he was under an investigation and he told us what happened and what went on. We were to keep it to ourselves and not to discuss it further and that he was going to take the full blame for everything that went on. We were just following his orders.

Q. When he said that he was going to take the blame was he talking about the killing of civilians in the village and the burning of houses? Is that what was meant?

A. I don't know, sir, if that's what he meant exactly.

Q. Well, I'm really trying to bring out something that Mr. BYERS had in his statement that he understood from talking to you. This is that part of the statement where he said, "MEDINA stated that he was responsible; that the troops were following his orders by burning the buildings and killing everything." I think that's the end of the sentence. Did he correctly reflect something that you told him in saying this? Is this your recollection?

IC: Could you indicate to me, sir, where it is?

A. Sir, I'd say that is my correct interpretation of what Captain MEDINA said.

Q. Then he has correctly reflected what you said?

A. Yes, sir.

Q. I wanted to be sure of that. Apart from this meeting which Captain MEDINA called, did anyone else tell you to keep quiet about the happenings at My Lai (4) on the 16th of March, 1968?

A. No, sir.

Q. This is a general question, now. We've had a good deal of evidence that a substantial number of civilians, noncombatants, were killed in My Lai (4) on 16 March 1968. You at one place apparently indicated to Mr. BYERS that the situation got out of hand. Are you able to comment on this in any detail and explain perhaps what you meant by this?

A. I'd say I meant that by the extent that squads-- I believe one squad was firing into another squad when they were coming out of the village. In other words, friendlies were shooting friendlies.

Q. I see. Then you were not referring to soldiers killing civilians?

A. Yes, I would say that I was referring to that, too.

MR WEST: We'll have a short recess.

(The hearing recessed at 1645 hours, 29 December 1969).

(The hearing was called to order at 1656 hours,
29 December 1969)

MR WEST: The hearing will come to order.

RDCR: All persons who were present when the hearing recessed are again present.

MR WEST: I think we have no further questions, Mr. WIDMER. However, if you could think of anything which might help us here in our efforts to piece together what happened, in determining the adequacy of the investigation that was conducted at the time, and whether there was suppression or withholding of any information concerning this, we would appreciate anything you might tell us.

A. Sir, I'd say no one ever came around to the men in the company during the preliminary investigation. I believe Captain MEDINA was investigated; and if you check with some of the other men I believe we either received a statement of congratulations or a congratulatory letter from General WESTMORELAND on the operation, and I felt that this more or less killed the investigation.

MR WEST: That is true. There was a congratulatory message from General WESTMORELAND. I have thought of a couple other general matters. How long did you stay with Charlie Company after the 16th of March?

A. I stayed with Charlie Company until 4 July 1969.

Q. What kind of assignments did the company have after this? Were they about the same as before?

A. I'd say yes, they were the same. In fact, we even went up north to Tam Ky, which in my estimation was a lot rougher than down in the Son My area. We did run into more resistance up there than we did down south. It was more NVA than VC.

Q. I see. So, you saw some rather heavy action? How did the company acquit itself during this action?

IC: Would you rephrase the question, sir?

Q. Did the company do well in its combat actions up north which you referred to?

A. Yes, sir, I'd say the company did an outstanding job. We got our kills and a lot of people were combat hardened. I'd say we survived a lot better. Our casualty rate was a lot lower.

Q. We've received two or three reports, not really confirmed yet, that on the 16th or 17th of March, 1968, perhaps the 17th, that somewhere around 90 civilians, women and children, were killed in a little hamlet known as Co Lay (1). It is located right along the seacoast, directly east of Hill 85. Now, this is an area that B/4/3 moved through on the 17th of March. Did you ever hear anything about this? This didn't involve Charlie Company, apparently.

A. I do recall, as we moved on a sweep to the south, that we could hear a lot of fire coming from that area where Bravo Company was. There was a lot of firing going on, but as to whether civilians killed or what--I do believe the report came in that they did get a good number of VC kills.

Q. Do you have any recollection what time of day this was when you heard the firing?

A. It was sometime in the morning, because we were-- I'd say between morning and lunch--we were on our sweep.

Q. It was before lunch then?

A. Before lunch.

MR WEST: Thank you very much. Did you have any further statements to make, Mr. WIDMER?

(Witness gives no response.)

Well, we appreciate your coming here today, and if you should think of something later on that might help us, if you find any notes, photographs, or papers that would help us in getting at the facts, we would appreciate hearing from you.

A. Yes, sir.

MR WEST: Thank you very much. The hearing will recess.

(The hearing recessed at 1701 hours, 29 December 1969.)

(The hearing was called to order at 1714 hours, 29 December 1969.)

MR WEST: The hearing will come to order.

RCDR: All persons who were present when the hearing recessed are again present, except MAJ ZYCHOWSKI.

MR WEST: Mr. WIDMER, we've reopened the hearing just briefly to ask you a question or two about the little hamlet of Co Lay (1). Colonel MILLER.

COL MILLER: Near the end of your prior testimony you mentioned that on the date subsequent to the 16th of March when Charlie Company was going to the south of this peninsula you did hear a considerable amount of firing, rifle fire. Could you tell us which way that was coming from?

A. At the time, it was coming from my left, which would be along the ocean, along the beach.

Q. Between you and the ocean?

A. Between me and the ocean.

Q. Did it appear to be American gunfire, or could you tell?

A. It appeared to be American gunfire at the time.

Q. Based on your knowledge of this situation at that time, could you give an estimate or an opinion as to what military unit may have been doing the firing?

A. To my knowledge it was Bravo Company that was coming down along the ocean.

Q. I refer you to the wall map which is MAP-1. You will notice the villages of Co Lay (1), Co Lay (2), Co Lay (3), and a little further to the west are the villages of My Khe (1) and (2). Did you have any occasion to notice whether any of those villages appeared to be on fire on this date?

A. Yes, I did have an occasion to notice since there was a lot of smoke rising from the general coastal area along the beach.

Q. Did you see any of these villages actually on fire?

A. I did not see the actual fire myself, but I did see the smoke.

Q. Did you go through these villages within a day or so and perhaps see any?

A. Not to my knowledge. We did not come back up that way.

Q. What is this date, if you recall, that you went to the south? Was it the second day of the operation? Was it the 17th?

A. Yes, it was the 17th, the second day of the operation.

Q. And it appeared to you that several of these villages were on fire?

A. Either the villages were on fire or the fields were burning, one or the other. There was a lot of smoke.

COL MILLER: That's all I have.

MR WEST: Thank you very much. The hearing will be recessed.

(The hearing recessed at 1716 hours, 29 December 1969.)

SUMMARY OF TESTIMONY

WITNESS: BACON, L.G., SSG

DATE OF TESTIMONY: 16 December 1969

PLACE OF TESTIMONY: Pentagon

WITNESS SUSPECTED OF: N/A

COUNSEL: None

DUTY ASSIGNMENT ON 16 MARCH 1968: Squad Leader of the Second Squad, 1st Platoon, C/1/20.

1. PRIOR TRAINING IN RULES OF LAND WARFARE.

The company had received training regarding handling and treatment of PW's (pg. 55). They received no instructions on proper treatment of civilians (pg. 55). Sergeant BACON had never seen Exhibits M-2, M-3, and M-4, and he was sure that his squad members had not been issued these cards (pgs. 56, 57). BACON was of the opinion that C/1/20 was not well trained in the Geneva Conventions or rules of land warfare (pg. 58).

2. PREOPERATIONAL PLANS AND BRIEFINGS.

a. MEDINA's briefing.

Captain MEDINA assembled the entire company. He told them they were going into the My Lai area and that the 48th VC Battalion had established its headquarters there, utilizing My Lai as a base of operation. Their mission was to kill all VC, VC sympathizers and animals, destroy all food supplies, and burn the hamlets (pgs. 4,5). It was BACON's understanding that everyone was VC in My Lai. However, the term VC sympathizer did not mean women, children, and old men (pg. 5). MEDINA instructed that civilians be sent to the rear for interrogation (pg. 6).

b. BACON's expectations.

BACON expected to be outnumbered by two and one-half to one (pg. 6) and anticipated a real fight (pg. 7). He and his men were knowledgeable of the casualties that A/3/1 and B/4/3 had sustained previously. The word "Pinkville" instilled fear (pg. 10). Everyone, including himself, was frightened (pgs. 6, 10).

BACON did not like the idea of a fire fight in a village complex because he was apprehensive of women and children being killed. He did not want this on his conscience or his men's (pg. 8, 9)..

BACON's squad was to tie in with the second platoon's right flank. They were to go through the village, gather up the populace and send them to Lieutenant CALLEY (pgs. 10, 11). CALLEY did not give any orders regarding shooting VC or sympathizers (pg. 11). It was never suspected that CALLEY would execute the non-combatants (pg. 9).

3. ASSAULT ON MY LAI.

a. Location of the LZ.

The LZ was 100-125 meters west of the village. BACON's squad was on the first lift which had nine ships (pgs. 12, 13). The platoon had only two squads (pg. 6). As they approached the LZ, ground to air fire was thought to be heard (pg. 19).

b. Actions after disembarking.

He deployed his men on line in a ditch 50 to 75 meters from the village. They saw a VC with a helmet and rifle. He was engaged, but not hit (pg. 14). The squad stayed in position securing the LZ until the second lift came in (pg. 15).

The squad then moved through the village, but BACON lost contact with other units and even with some of his men because of the thick vegetation. In moving from the LZ into the village, they did not utilize assault fire or recon by fire (pg. 29). From about 100 meters away, Sergeant First Class MITCHELL, squad leader of the first squad, hollered at BACON to halt his squad and set up a defensive perimeter from their position 100 meters east of

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f. Body count.

Sometime during the sweep of My Lai (4), BACON heard it hollered out from an unknown source to stop the killing (pgs. 51, 52). BACON did not know of the large body count after the operation's completion (pg. 45). He did not report any enemy KIA during the operation (pgs. 42, 45). The platoon leader reported enemy kills to the CO (pg. 42). BACON and his men were not too concerned over numbers of enemy killed. Their concern was their own safety (pgs. 46-48).

4. INQUIRIES CONCERNING THE ASSAULT.

At My Lai (3), MEDINA assembled the company and said, "Don't repeat anything--say anything about what happened in My Lai because there is an investigation going on" (pgs. 37, 50).

A senior officer did not talk to BACON or his group at Dottie on their return (pg. 38). BACON was never interrogated and never gave a statement (pg. 52).

5. OTHER INFORMATION.

a. BACON had been in the unit for 26 months and remained assigned to the battalion until 26 November 1968.

b. On 17 March, they moved south to the Son Tra Khuc River. Then the unit turned and headed back to the north. On the 18th, they proceeded north and were extracted near My Lai (1) around 1400 or 1500 hours (pg. 36).

c. On the 17th or 18th, they captured four NVA including two officers in My Khe (2) (pgs. 38, 39). My Khe (3) and (1) were uninhabited and burned. My Khe (2) was also burned (pg. 40).

d. The troops were curious about the helicopter landing in front of the infantry because it was unusual (pgs. 43, 44).

e. BACON left the unit for R&R on 18 or 19 March. He returned on 1 April and shortly thereafter he was hospitalized with malaria (pg. 44). On returning, he worked in the battalion S4 section (pg. 50).

f. BACON did not talk with anyone from his unit (C/1/20) subsequent to his return to CONUS. He refrained from talking about it because of MEDINA's orders (pg. 50). (pg. 50).

(The hearing reconvened at 0917 hours, 16 December 1969.)

IO: The hearing will come to order.

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

Sir, I have some exhibits that need to be entered this morning. Pictorial Map number 6739, Roman numeral II, Scale 1:25,000 is received into evidence as MAP-4. A 1:50,000 scale map of the same number is received in evidence as Exhibit MAP-5. Three-by four-inch black and white photographs of individuals are received into evidence as follows:

Exhibit 49 is CALHOUN, Exhibit 50 is HENDERSON, Exhibit 51 is MCKNIGHT, Exhibit 52 is KOTOUC, Exhibit 53 is BLACKLEDGE. Let the record show that those exhibits are preceded by P. Do you have anything to add, sir?

IO: As a matter of record, I would like to state that as per a discussion Saturday evening, General YOUNG did have an opportunity overnight to see if he could recall any incidents or any activities which took place, based upon the information which had been called to his attention during the day on Saturday. He did report here in person on Sunday to Mr. WEST and me that he could add nothing to the testimony which he had given the previous day.

RCDR: Sir, the next witness is Staff Sergeant L.G. BACON.

(SSG BACON, , Company A, 4th Battalion, 1st Training Brigade, Fort Campbell, Kentucky, U.S. Army, was called as a witness, was sworn, and testified as follows:)

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

This investigation was directed jointly by the Secretary of the Army and the Chief of Staff, United States Army for the purpose of determining facts and making 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) possible suppression or withholding of information by any person who had a duty to report and to furnish information concerning this incident.

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

I have had made available to me and have reviewed prior official statements obtained in other official investigations of the My Lai incident. And I might add, we have also had made available to us a copy of your previous testimony.

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

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

There are several people in this room who may ask you questions. On my immediate right is Mr. WEST, who is an Assistant General Counsel of the Department of the Army. He has been designated as my deputy. The two officers on my right are Colonel WILSON from the Inspector General's Office and Colonel FRANKLIN from the Office of the Deputy Chief of Staff of Operations. All three of these individuals are my assistants, and they may direct questions to you in my behalf. On my left is Mr. MACCRATE, and on your left is Mr. WALSH. Mr. MACCRATE and Mr. WALSH have volunteered to serve as legal counsel to assist me and other members of this investigation team in the conducting of this investigation. They, too, may ask you questions. However, I have the responsibility of weighing the evidence and making the findings and recommendations.

You are ordered not to discuss your testimony in this investigation with others, including other witnesses for this investigation, except in the performance

of official duties or as you may be required so to do before a competent judicial, legislative, or administrative body. In addition, you are cautioned that if you are subject to the order issued by the military judge in the general court-martial case of the United States v. Calley, your appearance in no way changes the applicability and/or the effect of that order.

Do you have any questions at this time?

A. No, sir, I don't.

Q. Sergeant BACON, would you indicate your duty assignment on the 16th of March, 1968?

A. Sir, my duty assignment was squad leader, second squad, 1st Platoon, C/1/20, Americal Division.

Q. And how long had you been with this unit?

A. Sir, I had been with this unit approximately 26 months.

Q. You were evidently with it when it formed in Hawaii?

A. Just after it formed.

Q. And how long after the 16th of March did you stay with the unit?

A. I was in the unit until the 26th of November, 1968, sir.

Q. With Charlie Company?

A. Right, sir. I was assigned to Charlie Company but I worked in the headquarters, S4 section.

Q. Of the battalion?

A. Right, sir.

Q. Sergeant BACON, I would like to explain a little about our investigation in greater depth than I indicated in giving you the initial instructions. We are going to investigate these two matters to determine the adequacy of the investigation and the review, and we are also going to

check to see if there was any possible suppression of information concerning this incident as was indicated in the instructions that I had given to you. One of the things which we must also do is to determine what happened in order that we can have the basis for our investigation and our report. As a consequence, we have already talked to a great number of people. We have already read a large amount of previous testimony which had been taken by Colonel WILSON, and in subsequent CID investigations which are going on at the present time. We are going to talk to a vast number of other witnesses so that we can put together specifically what happened. I want to let you know the importance of this investigation. This is the investigation of the operational aspect of the My Lai incident and the reporting and reviews of it.

Would you explain the orders which were issued to you, starting from the highest unit to the lowest unit. That is, did you receive any direct orders, you yourself, from the task force or the brigade, from the company, from your platoon leader, in that order?

A. Well, sir, I never received any orders from task force or battalion level. It came from company level. On the 15th of March, the company commander told--

Q. (Interposing) Who did he tell this to?

A. Captain MEDINA told the entire company--

Q. (Interposing) He had the entire company assembled?

A. Right, sir. He told us we were going into the My Lai area and that the 48th VC Battalion had established headquarters there and was operating from this village; and that we were to kill all the VC and NVA, VC sympathizers, and the animals; destroy all the food; and burn the hamlets down to keep them from living in these quarters again.

Q. When he said to kill all the VC sympathizers, what did that mean to you?

A. At the time, sir, I understood that all the people there, or anyone that was there, was a VC because of the 48th VC Battalion being in there. To

my knowledge, they had been dropping leaflets and utilizing psychological warfare to notify the people of our coming, or something of this nature, and so everyone there was a VC.

Q. Had you been told that they had dropped leaflets?

A. I have seen leaflets dropped in this area.

Q. In the immediate preceding period, these leaflets gave information concerning the fact that we were coming in, or something to that effect?

A. Yes, sir. Because, prior to this, I know the 48th was there waiting for this order to be given to us. A Popular Forces lieutenant told us that the 48th was there, and he showed us the direction that they came into the village area.

Q. Now, when you say My Lai Village, what do you mean by My Lai Village?

A. My Lai (4) Village area, sir.

Q. You are just talking actually about the hamlets of My Lai (4), or could it have been the entire My Lai Village complex?

A. No, sir. At the time he showed us on the map it was not the My Lai complex area.

Q. In your interpretation of killing the VC sympathizers, would this have included old men? Would it have included women? Would it have included babies, young children?

A. No, sir.

Q. State again, specifically, just what you were told to do in the village, so I can have it firm in my mind and the other members as well.

A. We were told that we were going to the village and that the 48th VC Battalion was there, that we would kill all VC and NVA, VC sympathizers, animals such as cows and hogs, anything that produced food, and burn the hamlets.

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Q. What additional instructions were you given?

A. After this, the platoon leader and myself and the other squad leader, we only had two squads at the time--

Q. (Interposing) You only had two squads?

A. Right, sir.

Q. In the platoon?

A. Right, sir.

Q. And you were the second squad leader?

A. Right, sir. He told us that if there were any people there we would gather them up and send them to him, and he would send them to the rear as he did in other operations--to be interrogated by the interpreter that was in the company area--company headquarters.

Q. How did he state that?

A. He stated, sir, that we were to gather the people up, send them to him, and he would take care of them there as usual. And "as usual" would be to send them to the rear where the company commander had the interpreter to interrogate the people, sir.

Q. Now, specifically, with respect to the enemy, based upon what you were told, what did you expect to find when you arrived in the area of My Lai (4)?

A. Well, sir, I expected to find a larger unit than my company, with supporting units from the NVA Army, the North Vietnamese Army, there, and actually dug in to the area.

Q. How many people would you say that you are referring to?

A. Well, sir, the information that I was told when I first got to Vietnam was that a VC battalion carried 200 and some people. So there was the battalion and they were slightly reinforced. There was close to 300 people. That would be outnumbering our company approximately two and a half to one.

Q. So you were expecting that when you deployed from that helicopter you were immediately going to be in a first-class fire fight, is that correct?

A. That is correct, sir.

Q. Now, going back to the night when the instructions were issued to you. What was the attitude of the men?

A. The attitude of the men, sir, was that they were pretty scared just from the word Pinkville. This was the area we were operating close to. There were mines, and we had picked up a lot of casualties in that area. Our sister units, A/3/1 and B/4/3, had sustained a lot of casualties and killed personnel in this area, and you could see the fear in the men's eyes. I also was scared myself, because I was supposed to go on R&R in a few days. I was really scared.

Q. How was this fear shown by the men?

A. Through their expressions, and saying that they were going into the Pinkville area. They talked about the mines and how many times they had been shot at in that area.

Q. Was this a general feeling by your squad and by the other men the platoon? Were they sitting around talking about it that night?

A. At the time, sir, I went back to the bunker area and had my men draw ammunition, all the necessary ammunition for the next days' operation--and you could hear them talking and muttering about the situation.

Q. Your squad was on guard duty that night, as well?

A. All the platoons had areas of responsibility, perimeters, and later on that evening we were pulled off in a staging area to the rear of the perimeter. I went to a bunker just beyond the area where we had the briefing at, and I went in there and went to sleep because I understood what I had to do in the morning on the operation.

Q. You indicated, Sergeant BACON, that you only had two squads in the platoon. How many men did you have in your squad?

A. I had no more than nine or ten men, sir.

Q. Did you have them organized into the normal two fire teams?

A. Right, sir. I did.

Q. What were the names of your two fire team leaders?

A. One was Roy WOOD, sir, and one was HUNTER.

Q. Were they sergeants?

A. No, sir. They were spec 4's.

COL WILSON: Sergeant, you stated previously in the discussion with your platoon leader regarding the handling of the civilians: "I don't go for killing women and children myself, and I don't think that the people within my squad would go for killing women and children for no reason at all. So I told the platoon leader that we would round up all the people and I would send my people to you, sir, because I don't know who is VC and who is not VC." Do you remember that discussion with your platoon leader?

A. I remember some of it, sir, because I know in this village area, and all villages over in Vietnam, that they just have women and children in the village. And the idea, I didn't like the idea--I imagine as much as anyone else would like--of shooting any children or women, because I have a wife and sons myself. This is the reason why I stated what I did about going into this village.

Q. Then you were suspicious that there would be this type of action and that these people might be shot?

A. There would be women and children in the village, and I did not want my men to shoot women and children and old people, whether they were VC or not VC, sir.

Q. Specifically, what was your interpretation of what your platoon leader meant when he said: "You round them up and send them to me, and I will take care of them"?

A. There, sir, I was under the impression that he was going to operate this operation like we usually operated before. We would pick up civilians and send them to him with an escort, and he would also send them to the company commander for interrogation.

Q. Why did you, then, raise this question about killing women and children at this time?

A. Because, sir, I know there is women and children in the villages and in the area, and I did not know if they had any kind of arrangements to move the people out of there--civilians out of there, such as women and children. And I did not want to have it on my conscience, or on the conscience of any of the men in my squad, that we had killed some innocent child or women by going through there in a fire fight between us and the VC or NVA.

Q. You would say, then, that you were not making this statement to your platoon leader because of any suspicions that may have been created, that when you sent them to him he was going to execute them?

A. No, sir. To my understanding, I did not say it to him in that manner.

MR MACCRATE: When did you say it, Sergeant BACON? Was it the night before or during the operation on 16 March?

A. No, sir. The night before, sir. March 15th.

Q. What difference did you find, as you listened to the men muttering and talking about tomorrow, between their attitude that night and their attitude going into any other combat engagement? There is a certain scare or fright, expectation, about what is coming the next day. Was anything really different this particular night from other nights when you went into other combat assaults?

A. The majority of the people were scared, and the idea of the word Pinkville itself put fear in these peoples' hearts and in their minds because of a possibility of them getting killed and wounded real bad, and they have to go home. This is one of the things they talked about, that they might get killed like their other friends did.

Q. Was it different this night from other nights? Isn't this the kind of thing that would be talked about before any engagement?

A. Not necessarily, sir, because we have never had any experience in going against a battalion with overwhelming strength against our company before. In fact, this was the first time.

Q. This was the largest force you had ever gone up against, in strength?

A. Right, sir.

IO: Had your platoon, your squad, or your company been involved in any major activity, aside from mines and booby traps, prior to this time?

A. Sir, we had been utilized as a blocking force and in search and clear operations in this area, to see if we could search and find the VC in these hamlet areas around My Lai and Quang Ngai and the Pinkville area. This is the only operations that we actually went on, sir.

Q. What were your instructions, Sergeant BACON, concerning what your squad was supposed to do? Was it the right squad, the left squad, was it to be a rear squad? And also, what was the action you were supposed to take when in the village?

A. Sir, we were supposed to go into the village and be the left flank squad of the platoon, and tie in with the 2d Platoon--

Q. (Interposing) Your platoon was what, the right platoon?

A. Left flank platoon, sir. We were supposed to tie in with the squad on our immediate left, of 2d Platoon, sir. We were supposed to go through the village searching the houses in the village and bring out all the people and move them over to Lieutenant CALLEY and continue on through the village until we got further word on lines, sir.

Q. Were you told to push rapidly through the village, push the VC out on the other side?

A. No, sir.

COL FRANKLIN: Captain MEDINA talked to the whole company, and when Lieutenant CALLEY got you squad leaders together, did you get your squad together and give them an order?

A. Right, sir. I talked to my squad, sir, in regard to the operation itself. And I talked to my men and told them that they would gather the people up and move them--I would have some people move them to Lieutenant CALLEY if we came in contact with any civilians, and this is exactly what I did.

Q. What did Lieutenant CALLEY say about shooting the VC and the VC sympathizers? Did he repeat anything about that, sergeant?

A. No, sir. He didn't.

Q. How about you when you were talking to your squad?

A. No, sir. I didn't say anything too much about shooting the VC's or NVA or anything like that.

Q. Did your squad ask you any questions at that time? Did they ask you about certain things?

A. Not that I recall, sir.

Q. You mentioned that you had been down in that area before. Had C Company ever been around My Lai, or were you just at a blocking position to the north of Pinkville?

A. We were working the area close to My Lai (4), sir.

Q. How close?

A. Approximately 200 to 300 meters, sir, and we had a man killed close to that area by the name of Specialist WEBER, and we also were pinned down in that area, sir, close to the village of My Lai (4).

Q. How many operations did you run down there in the My Lai (4) area?

A. I can't say, sir, exactly how many. It was quite a few down through that area.

Q. Did you always get in a fight when you were down there, or just sometimes?

A. The majority of the time we were down in this area, sir, we were getting VC sniper rounds or something would happen of this nature.

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IO: Sergeant BACON, you focused on the instructions you gave your squad on the handling of civilians. Is that all you told your squad?

A. That is all, sir, that I had to tell the squad. I told them that we would be operating under similar procedures that we had operated under before. This had been a standard operating procedure, going through the village and having teams search it, and the other squad stay on the line and have one or two men, approximately one man, secure the area for the men that are searching the hamlets while the remainder of the squad moved up to a certain point, until the other two people moved up in line with them.

Q. Did you give any instructions concerning the deployment of your M-60's?

A. Right, sir. I told the M-60 man, the gunner, that he would stay with me, sir, at all times during this operation so that I could have more control over him.

(IO requested copies of Exhibits P-1 and MAP-4.)

Q. Sergeant BACON, I have here an aerial photo of My Lai (4). Locating it on the map--here it is on your 1:25,000--and here it is on the aerial photo. One inch on the photo equals about 100 meters. You can see the village of My Lai (4) here and see the road coming alongside of the village--another road with the houses alongside of it leading from the south central side of the village down to Highway 521. There is another road coming off to the east and going into 521--another road across the north flank of the village, east and west; also, a north-south road which joins with 521. Highway 521, which you can see on the air photo and on the map, and down to the south Hill 85. You can notice where it starts going up by the start of the terraces in the area. Do you recognize that as My Lai (4)?

A. Yes, I do, sir.

Q. It is our understanding, Sergeant BACON, that the air assault took place somewhere to the west of My Lai (4) and the operation proceeded through the village and then subsequently on up toward My Lai (1) or the Pinkville area.

A. Correct, sir.

Q. Now, for the sake of the people present, I would like for you to give a verbal description of your activities from the time you landed until such time as you moved out of the My Lai (4) area, generally in the afternoon, toward the area where Charlie Company married up with Bravo Company to laager for the night. Now, subsequent to this interrogation here, I am going to ask that you sit down with Colonel WILSON or another officer so that you will be able to take one of these photos and annotate it properly to indicate the spots on the aerial photo where these various incidents took place, and so identify them. This would be comparable to the sketch map which you made as part of the testimony which you gave to Colonel WILSON. Do you understand, now, what I have indicated?

(Exhibit P-1 as annotated by the witness was later admitted into evidence as Exhibit P-173.)

A. Right, sir.

Q. Now, would you proceed, please?

A. Sir, where we landed to the west of My Lai(4), there is a ditch line that runs pretty close, approximately 50 to 75 feet from the village. Once the helicopters moved off the LZ, my squad deployed along this line just to the west of this area--

Q. (Interposing) To the west or to the east-- east of the LZ, but on the west side of the village?

A. Right, sir. We then stayed there, and I noticed, my machinegunner noticed an individual running with a rifle and a steel pot on--

Q. (Interposing) Let me ask you a question. In your judgment, how far was the LZ from the edge of the village?

A. It was no more than 100 to 125 meters, sir.

Q. And you were on the first flight?

A. Yes, sir, I was on the first lift to the LZ, sir.

Q. The first lift?

A. Right, sir.

Q. And what was included on the first lift?

A. Well, sir, there were nine helicopters on the first lift, and they consisted of both my platoon and the 2d Platoon.

Q. Did the company command group come in with your lift?

A. I don't remember--I don't believe so. Once we landed on the LZ--before we landed on the LZ, we were coming to a short final approach to the LZ, and I heard something that sounded like fire coming up towards the helicopter. At this time all the helicopters commenced firing. I heard gunships firing their rockets and also their miniguns, and it came to my mind that this was a "hot LZ" that we were coming in on. So, once we landed, I got my men out, four on one side and three on the other side. The helicopters moved left to the LZ, and I moved my men up on a line along a ditch approximately 50 to 75 meters from the village, and this is where I deployed my men on line, securing the LZ for the rest of the company coming into the LZ, or until word was given to us to move out. At this time, just after my machinegunner hollered: "There goes one with a steel pot and a rifle." As I looked around, facing him, I noticed an individual go around the right side of a hut. He had a steel pot and a rifle, as he went around to the right of the hut. The machinegunner at the same time was opening up, but his rounds never hit the individual because they were too high. They went over the huts. I fired a few rounds, and they also went over the hut. I hollered back to the platoon leader: "I see a VC with a steel pot and a rifle running toward the right corner of the village." We waited there for a short period of time, and the word was given to move out.

Q. At that time you were still along, more or less, the hedgerow and the ditch on the west side of the village?

A. Right, sir.

Q. Would you just make a mark there to indicate this, about the area you were located in--that is, where your squad was deployed then?

A. Right, sir.

Q. How long did you stay in that position?

A. I can't say by the time, sir. It was not too

long of a time, sir.

Q. Did you stay there until the second lift came in?

A. We stayed there until the second lift came in, sir. Then the word was to move out. We moved straight into the village area, sir, until we got approximately about center of this area right in here, where we located some people. There was one old lady who was shot in her left side. There was an old man. He was shot in the leg, side, and in the shoulder. We collected the people up; I had two men move the people to the right.

Q. How many people did you have at this time?

A. Nine or ten, sir. I had the people move to the right where Lieutenant CALLEY was. I could not see him at the time because of the thick vegetation in the village.

Q. Do you recall who it was, who took those people and moved them to the right?

A. I believe, sir, one was PFC SIMONE. I don't remember the other man's name, sir. And at the time we continued to move on, and I lost contact with the 2d Platoon, which was on my left, and the first squad of the 1st Platoon on my right. For a while, because of the vegetation, I could not see them. I lost contact with some of my men also because of the vegetation, for a couple of seconds. Then I made my men move in closer to me, and we continued to go through the village. We got together there in this area right here (pointing to map) and moved out in two lines from the village--

Q. (Interposing) What time was it when you arrived at this point, approximately?

A. I don't know exactly, sir. At least 2 to 3 hours, approximately.

Q. To go through the village?

A. Right, sir.

Q. So that could put it up to--

A. (Interposing) Close to 1000 or 1030, sir. And then we moved from the village toward a tree line, approximately 100 meters out front of the village, and I got the

word from Sergeant MITCHELL, who was on my left--on the right-hand side--to hold my squad up and set up a perimeter, and this is what I did. I stopped there--

Q. (Interposing) Indicate that on the map, if you will. Can you definitely identify the area--

A. (Interposing) No, sir.

Q. But it was out about 100 meters to the east of the village, as you recall it?

A. Right, sir. And this is where I stopped my squad, in this area. I was located from the left end of the squad itself, and I was wondering what happened to the 2d Platoon at the time that we got there. I couldn't see them, and I wondered where these guys were. At the same time I noticed individuals running down a trail to my front. There were six men running down a trail to my front--

Q. (Interposing) What kind of men? Friendly or civilians, or what were they?

A. I could not see them too good, sir.

Q. Were they part of your own combat organization?

A. No, sir. They were Vietnamese; they had black pajamas on. Some of them did, as far as I could see, sir. And I had my M-79 man shoot at them, but he missed them, and they continued to run. Also, at the same time, I noticed approximately five men running on the left-hand side.

Q. Now, about where would they be. Indicate where you saw the six people running and where you saw the other five running. You were at this point at that time. Again, 1 inch is about 100 meters.

A. I would say in this area right here, sir (pointing to map) were the group of six of them, and over in this area--

Q. (Interposing) Put a mark there, if you will, to assist Colonel WILSON later on in talking to you. And which group was it that was taken under fire?

A. The group right here, sir (pointing to map).

The other one ran into a hedgeline, sir, and they disappeared. This was where we stayed at until we had further word to move out.

Q. Now, did you stay--where did you have lunch?

A. This is the area right here where we ate. The men opened up their C-rations, and this was where we ate at.

Q. Now, up until this time, how many people had you sent to your platoon leader?

A. I would say approximately 30, but I don't know. It could have been less and it could--maybe 15 at the most--I don't know, sir.

Q. At this point, in the middle of the village--by that time you said you had picked up about nine or ten which you sent over to your platoon leader--

A. (Interposing) At the time, sir, in the middle of the village I picked up some. I don't know exactly how many. Quite a few of them, old women, young ladies, kids, and also some young men and a couple of old men that I picked up--that is where I sent them over to the platoon leader from there.

Q. Well, where did you pick up the other people up to this time? You said you had picked up about 30. Where did you pick up the others, and when did you send them to your platoon leader?

A. The only thing I can remember, sir, is the first group that I picked up.

Q. Just one group.

A. That is right, sir.

Q. How many was that again, as far as you remember?

A. Between 16 and possibly 30. I don't just exactly remember, sir.

Q. When you reached the edge of the village, or when you were on the perimeter about 100 meters east of the village, you indicated that you had a conversation with Sergeant MITCHELL?

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A. He hollered to me, sir, to hold my squad up, sir.

Q. Where was he?

A. He was standing by the two huts near the edge of the village, on the right-hand side, sir.

Q. Out in front of the village or back to the rear?

A. It was just on the edge of the village, sir, by two old huts. I can't say exactly on this map. And he hollered for me to hold up my squad and to set up a perimeter there. I said okay. And I turned around and held my squad up, and we got in a line; and I told them that we would wait there for a while, and we would alternate eating chow.

Q. When you were on the edge of the village there, on the east end, Sergeant BACON, or when you were out on your perimeter defense that you indicated, did you see a helicopter, an H-23, land anyplace in this area?

A. I saw a helicopter to my left front, directly to my front, sir.

Q. Where did he land?

A. He landed in a tree line. It is hard to say on this map.

Q. How far from you was he?

A. Approximately 50 meters. Maybe less, maybe more. And he landed there between the trees, got out of the helicopter, went in, and came back out. He got in his helicopter and flew off--the pilot did--he came back about 15 to 20 minutes later, sir, and landed in the same spot; he brought two men and three women and I believe two children out of this hut. At the time he must have called a gunship in, sir. The gunship picked the people up, and they both flew off to my right rear.

Q. Where was this spot to the best of your recollection and orientation? Were you here or here at the time (pointing to map)?

A. It was--I was here at this point, so it had to be within that area. It would be here, closest to my knowledge. He moved in this direction--off this way--both helicopters. I continued to watch the front and the flanks because I could hear shooting. I heard shooting in this area up here, sir (pointing to map), and I did not exactly know what was going on up there.

Q. Did you see this H-23 land at any spot other than the one that you have indicated?

A. No, sir. I didn't.

Q. Did he come back and land anywhere near where you were--where you had lunch?

A. No, sir. Not as I recall.

Q. Sergeant BACON, in your statement that you prepared, you indicated that you saw a ditch that had approximately 20 KIA in it. Would you locate that ditch for us?

A. I said that?

Q. Approximately 20 KIA in the ditch.

A. No, sir, I did not make that statement, sir.

Q. In this area where you were, when you reached the east edge of the village and where you set up your perimeter defense, did you see any bodies of noncombatants?

A. No, sir. I didn't.

Q. I want you to think real hard, now--

A. (Interposing) I am thinking hard, sir. I remember that I did not see any, sir.

Q. In passing through the village, had you seen any noncombatants or civilians that were being killed?

A. I did not see any killed, sir. I only saw one individual shot by an M-79. After we searched the village we were moving forward and he saw this individual out of the right of side of his eye and he fired. We continued to move on--that is the only person I saw shot in that village, sir.

Q. Was he killed?

A. I don't really know, sir.

Q. But you, as a squad leader, did not see any noncombatants killed?

A. No, sir. I did not.

Q. Did you hear--after you turned these civilians over to the platoon leader--did you hear any rapid firing, or automatic or semiautomatic?

A. At the time, before we had turned the civilians over, I had been hearing fire, also in the village on both sides, left and right, so I cannot say exactly if it continued after the time I turned them over or not--I can't say, sir.

Q. Would this be the killing of the animals and livestock around the village?

A. It is a possibility, and also a possibility that the gunships were shooting around the village area.

Q. Did you encounter any opposition whatsoever with your squad?

A. No, sir. I didn't.

Q. Did your squad carry out the instructions to burn the village, burn the hootches--

A. (Interposing) No, sir, we did not burn any hootches at all.

Q. Why didn't you?

A. Because, sir, at the time we were too concerned with moving--trying to move through the village, and I was afraid that if we had tried to burn the village--it would have been impossible for the men in the 3d Platoon to go through the village and make a thorough search of the hootches before they came out of the other side. And this is what their mission was: to search the village and thoroughly check it out.

Q. So, your squad, to your knowledge, burned no hootches?

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A. Right, sir.

Q. Or houses. Did they kill any animals?

A. They killed--they shot a water buffalo, but he did not die, and they shot some hogs. That is all, sir.

Q. How is it the water buffalo didn't die?

A. I don't know, sir.

Q. You did not see the H-23 land anywhere near you?

A. No place except to my front, sir. That is all.

Q. In that one location that you are talking about?

A. Right, sir.

Q. Did you at any time see Sergeant MITCHELL or anybody firing into a ditch?

A. No, sir. I did not.

Q. Did you see the people to your front that had run into the buildings or bunker or whatever it was--a cave--that the helicopter pilot landed to extricate them?

A. I did not see them at first, sir. There are a few buildings in the area where he had landed, approximately maybe three or four in that area, and I guess he spotted the people or something outside the hut, and he landed down there and checked and found out if they were in there and took off and came back again, sir.

Q. Do you know where your platoon leader was at this time?

A. No, sir. I don't.

Q. Did you hear of any conversation between the pilot of the helicopter and your platoon leader or anybody else in the company?

A. I did not hear any conversation between the pilot and my platoon leader. There was one time. We got the word that a mortar had been knocked out on a hill to our right flank. That is the only thing that I can remember, sir.

Q. Did you see anything else in the village that you feel would be helpful in our investigation to determine what happened in My Lai (4), and/or the investigation of it?

A. No, sir. I did not see anything that could be helpful at all, sir.

MR MACCRATE: Sergeant BACON, can you estimate the number of rounds that you yourself fired during the course of moving through the village, from the time of the landing until you reached the far side. About 100 meters you indicated, beyond the village?

A. It was not even a magazine, sir. I had the same magazine in my weapon when I reached the end of the village, so no more than nine or ten rounds at the most, sir.

Q. What about the other members of your squad?

A. I can't say, sir, because some of them fired at the animals trying to kill them, so I can't exactly say, sir.

Q. Were you, at any time, from the time of the landing when you took your position just short of the village, to the time you arrived on the far side of the village--this was the point you indicated in the vicinity of anyone who was in radio communication--did you hear a radio operator at any time?

A. Well, no, sir. The only thing that I had at the time was communication with my platoon leader through a small regular radio set that we had that was issued to us from the company.

Q. You are talking about a PRC-8 helmet radio?

A. Right, sir.

Q. And did you also have a transmitter?

A. Right, sir, I had a transmitter.

Q. And you had the helmet radio?

A. Yes, sir.

Q. And during the time of your movement, which is a matter of 2 or 3 hours, you crossed the village, were you in communication with the platoon leader?

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A. Right, sir. I was in communication with the platoon leader, but I did not get any calls from him.

Q. You had no communication at all with the platoon leader?

A. Not over the radio. No, sir, that I can remember, sir.

Q. He did not speak to you and you did not speak to him?

A. No, sir. I hollered one time, sir, out loud, to hold it up because the remainder of the platoon was getting ahead of me, and I also talked to the 2d Platoon because they were getting ahead of me, too. That is the only time I even hollered towards them, sir.

Q. Well, this was when you were in the village, you hollered this way--in view of the vegetation, how did you know where the other part of the units were?

A. Because, sir, I actually hollered to my point man to see if they could locate the other portion of the platoon from our left flank, and they said to me that they can't locate them, they must be ahead of us--so at the time I hollered.

Q. When you hollered did you get any response?

A. I don't remember, sir. There was quite a bit of noise going on.

Q. I just wonder what a holler could produce at that point?

A. I actually don't remember if I got a response or not, sir.

Q. Now, when you saw the helicopters land, first the H-23 then the gunship, did you observe the pilot or someone from either of the helicopters getting out of the helicopter?

A. Right, sir. I saw either the pilot or the copilot of the helicopter walk with the people to the gunship, sir, and talk to the individual on the left-hand side of the ship and tell him something and put the people on the helicopter itself.

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Q. Could you at that time see any of the other units, the ground forces, either another squad or--

A. (Interposing) I could see portions of the first squad to my right flank.

Q. How far away from you were they?

A. That would be hard to estimate, sir. I can't say exactly, offhand.

Q. Fifty meters or five hundred meters? What is the relative--I am not trying to be exact, but just how much you could see is what I am trying to find out.

A. Actually, I'd say about 10 maybe 15 meters. Maybe a little bit more from where my men could actually see them.

Q. You'd say that the other squad was within 100 feet of you?

A. Right, sir.

Q. What did you observe as to what that squad was doing at that time?

A. At the time I noticed them, sir, they were getting ready to sit down, getting in position where they could observe the front.

Q. Had they actually taken up a position? Were they on a perimeter, too? Were they still moving at this time?

A. No, sir. They weren't moving. The ones I could see were getting down. The rice paddies stalks were pretty tall.

Q. Was Sergeant MITCHELL with this group to your right?

A. The one time I noticed him, sir, was the time he was beside these two old huts. There was an individual beside him. That was the only time that I noticed him because I turned around and started talking to one of my men about the helicopters picking up the people.

Q. When Sergeant MITCHELL called you, about how far away from you was he?

A. I would say 100 meters, maybe a little more, sir.

Q. About the length of a football field away from you?

A. About the length of a football field, sir.

IO: I have a couple of things that I would like to get clarified. Who normally was with your platoon leader in operations?

A. Sir, the RTO would usually be with the platoon leader.

Q. He had the radio operator, then?

A. Right, sir.

Q. So, you wouldn't normally be talking with the platoon leader, but you would be passing information through the RTO, is that right?

A. No, sir. What happened is that the platoon leader carried a small radio, with a hand receiver--

Q. (Interposing) He carried the 8 and the 9, then, and the other one carried the 25, is that right, to communicate with the company?

A. Yes, sir, and this is the way I communicated with the platoon leader.

Q. You had no communication with Lieutenant CALLEY that morning?

A. Not that I recall, sir.

Q. Who else was with him? What was the position of Sergeant MITCHELL within the platoon?

A. He was a squad leader, sir.

Q. Of what squad?

A. First squad.

Q. He was a squad leader of the first squad, right squad then?

A. Right, sir.

Q. Who was the platoon sergeant?

A. Sergeant COWAN, sir.

Q. Where was COWAN?

A. I don't exactly know, sir. He was someplace to the rear of the platoon at that time, I believe, but I cannot say for sure.

Q. Was he on that operation that day?

A. Yes, he was, sir.

Q. So, you and MITCHELL were the two squad leaders?

A. Right, sir.

MR WALSH: I think you said that during the course of moving through the village you at some time got separated from some of your men. Do you recall if the fire team leaders were sending personnel that they would round up to you and you would send them on to Lieutenant CALLEY? Were they sending people they would round up directly to Lieutenant CALLEY?

A. No, sir. The people were put in a group where I would have to just send two men with these people, instead of in small groups, because this would put me in a situation where I would have to send one man at a time with the people. In a case like this here, in this village we ran into one group as I remember. I sent two people with them because they were only old men, women, and children and a couple of young men.

Q. So, you are clear that any people sent by your squad to Lieutenant CALLEY were those that you collected in one group and sent on with someone you directed.

A. Right, sir.

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Q. Did your squad receive any fire from any direction when you were moving through the village?

A. I did not receive any coming directly towards me, sir. I did not know if there was any at all in the village.

Q. Did you see any helicopters land behind you at any time when you were passing through the village to the point where you got to the tree line and had lunch?

A. No, sir, I didn't.

COL WILSON: This tree line, 100 meters to the east of the village, was that a tree line covering a ditch?

A. I did not see any ditch, sir, at that tree line.

Q. To clarify these measurements, what was your squad's frontage? Were your two fire teams abreast, approximately, as you moved through the village?

A. It wasn't exactly two fire teams. I had to pull my squad in pretty close so I could try and control them. It was no more than approximately 10 to 15 meters. They were really pretty close. In fact, some of the people were walking behind each other in the village itself, sir.

Q. About 10 to 15 meters was your squad's frontage as you went through the village?

A. Right, sir.

IO: Did you encounter in the village or outside the village--did you encounter much fortification material, bunkers--

A. (Interposing) Sir, inside the village, there were bunkers and regular shelters. Structures were made out of solid concrete--some of the buildings. And outside the village the only place that I could see--

Q. (Interposing) Were these buildings that you are speaking of behind the bunkers, or were they just some of the old houses?

A. Old houses, sir.

Q. Pretty much shelled at the time, weren't they?

A. Some of them wasn't, sir. Beyond the village, the only thing I noticed was the regular straw huts and some buildings made of concrete in the same manner as the ones in the village, sir.

COL FRANKLIN: Would you describe how you moved through? It took you a long time to get through this village. It is not a very big village. What were you guys doing down there that it took so long?

A. Well, sir, in checking out the buildings according to the way you are supposed to check them, it takes time to check out the village, sir. If you try to run through a village, you might end up getting blown up, sir. I wanted my people to take their time, and I didn't want anybody to get hurt in this village, at all. I was scared of the fact that there was VC in the village and they had booby traps in the hamlets, knowing that we were coming into the village. Also, the vegetation--at times we could not move too fast at all, sir, and we had to walk behind each other, and at times we had to walk over the brush itself, sir. And by moving this way, slow and cautiously, this is probably the main reason why it took us time to go through the village.

Q. You were moving slowly then--some moving and some covering, is this correct?

A. Yes, sir. All of us were moving at one time, sir, but we were all moving slowly.

Q. Did your men use fire grenades at all--throw them inside the hootches or these little bunkers?

A. I did not see any used inside the hootches or the bunkers, sir. We dropped a couple of them down the wells in case the VC or someone were down the wells. The concussion would either knock them out or out of the hole where they were hidden in the well.

Q. Did you hear a lot of M-79 and frags throughout on your flanks?

A. With the noise, you couldn't really tell if it was coming from the gunships or coming from the people. You could hear machineguns shooting, grenades going off.

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Q. You were 2 or 3 hours in the village. Did you hear fire and grenades at all after 2 or 3 hours?

A. You hear them pretty well, constantly.

Q. Didn't this strike you as funny that there was no opposition? Is this the way you guys normally went through a village--2 or 3 hours of firing?

A. I was worried about my men's safety and my safety and the accomplishment of the mission within my area and my squad. I was worried where the fire was coming from. I thought it was incoming. I didn't know for sure if it was incoming or outgoing; and after the word had come that the mortar had been knocked off this one hill, it really made me think there was a possibility that the unit on the right, B/4/3, was receiving fire or something. I didn't exactly know, sir.

Q. When you moved from the initial tree line into the village, you moved with assault fire. Were you firing?

A. No, sir, we weren't.

Q. Then when you moved through the village, you didn't move in a recon by fire, or did you?

A. No, sir.

Q. When you were east of the village, where you saw those choppers, were your people firing or did anyone fire out there?

A. None of my people.

Q. Did anyone ever call a medevac? Did you see any medevacs come in?

A. No, sir, I didn't.

Q. When you saw civilians that were wounded, what would you do for them--an old man or women? What would you normally do?

A. Well, sir, whether they are wounded or not, we usually send them to the platoon leader. He would take care

of the matter from there. I don't know exactly what they did from there because in most operations my concern was the operation being accomplished.

Q. Did you have an ammo resupply? When did you get a resupply of your ammo that day?

A. The ammo resupply. I can't exactly say what time or how much ammunition--

Q. (Interposing) Do you remember giving your squad a lot, or drawing a lot?

A. Prior to this operation, sir?

Q. No, after. Do you remember when you were resupplied by that laager. Did it make any impression on you how much ammunition you gave your people--M-79, M-60?

A. The M-60, sir, I don't believe he got any, but I am not so sure. The M-79 man--I had two M-79 men in the squad, sir. I don't recall offhand whether they got any or not. The men with the M-16, I don't think they got any ammunition at all, sir.

Q. Then they hadn't fired much at all?

A. No, sir.

IO: How many rounds did your men normally carry into combat? M-16's?

A. After the first time we were pinned down, we regularly carried seven magazines, but then after that a man ran out of ammunition, and I had my men carry as many magazines as possible on them, approximately 37 or so. And my M-79 man would carry up to 50-60 rounds, sir.

Q. You had those men loaded down pretty heavily then.

A. No, sir. They wanted to carry them because of the situation that we had been into before.

Q. If they had 37 magazines with 18 rounds apiece, that is 666 rounds?

A. Right, sir.

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Q. That's quite a bit of ammunition to be lugging around?

A. Well, sir, if it was going to protect my life, I think I would lug it around, and the situation I was in before--like I said, my men ran out of ammunition. They were more than willing to carry this much ammunition around, sir.

Q. Was this a normal thing in Charlie Company, that the men would carry this amount of ammunition?

A. After this situation that we had run into, sir, the people could determine within themselves and their squads that they should carry more ammunition in order to protect themselves, sir.

Q. Could you recognize enemy fire if you heard it?

A. Right, sir. I believe I could, sir.

Q. You could recognize the distinctive crack of an AK-47 or an SKS or the RPG and so forth?

A. Right, sir. I could.

Q. Did you hear any of that going on that day?

A. The only time I heard firing, incoming firing, sir, was the time I was in the chopper, sir.

Q. Other than that to your recollection--

A. (Interposing) I didn't hear any more firing.

Q. Do you remember any additional units or people that came along with the company that day? Either U.S. or Vietnamese.

A. I recall someone saying that there was National Police with us, and an engineer unit, sir.

Q. How many people were in the engineer unit?

A. I can't say offhand, sir. I saw some of them that night when we stopped. It was with Bravo Company, sir, and I believe I saw eight or nine at that time.

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Q. You probably had an engineer squad with the company?

A. Possibly.

Q. When you were in the village, did you see any National Police personnel, in the village, now, only the village?

a. No, the only people I saw in the village were the few Vietnamese I picked up, sir, and my squad, sir.

Q. Did you see any photographers?

A. No, sir. I did not see any photographers.

Q. Would you explain what you did for the remainder of the afternoon. I take it we are down to about noontime?

A. Just around then, sir.

Q. Would you explain your actions for the remainder of the day?

A. Well, sir, we proceeded on a little bit further, and then we came to a tree line. I don't exactly remember on this map where it was, and we held up for a while because of Bravo coming up to our right flank. I went into a village to my left, sir, and I checked the village, and I noticed people in there moving around and running, sir. So I had two men with me, sir, and we went into this area and collected all the male personnel in there and we brought them over to the platoon leader. I sent them over to the platoon leader, and he sent them to the company commander, and then I rejoined my squad, sir, and my men came back and rejoined the squad.

Q. How many of these people did you round up at that time?

A. Approximately nine or eleven, as far as I can remember.

Q. Nine or eleven, all military-age males?

A. Right, sir, they were.

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(NOT USED)

(BACON)

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- Q. Did you see anybody else there in the laager area?
- A. I saw some more prisoners; that's all. They were classified as VC's.
- Q. How many did they have, all told?
- A. I don't exactly know, sir. Close to 17, but I cannot say if it was exactly 17, sir.
- Q. On the order of 17 men?
- A. Right, sir.
- Q. How do you arrive at a figure of 17?
- A. I started counting them at first, sir, then they would start moving around, setting them up for the night. I just figured from there after I had counted so far, close to 17 there in that area, sir.
- Q. Did anything else happen in the laager area that may have a bearing on the situation that took place on My Lai (4)?
- A. Not that I can recall, sir.
- Q. Sergeant BACON, we are familiar with the fact that Charlie Company, the next day, moved to the south, generally to the east of My Lai (5) and then south to the Song Tra Khuc River, and then sometime in the afternoon again turned back to the north, laagered maybe somewhere to the east of Hill 85, and on the 18th proceeded to the north, generally to the area of My Lai (1), and then later in the afternoon, sometime around 2 to 3 o'clock, the company was airlifted out to Fire Support Base Dottie.
- A. Right, sir.
- Q. Is that in accordance with your recollections?
- A. Right, sir. It was close to My Lai (3) that we crossed a causeway--
- Q. (Interposing) But you did go into this area up here. Was this the area from which you were extracted (pointing to map)?

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- A. Right, sir, right in here (pointing to map).
- Q. Did you see any people there from A/3/1?
- A. No, sir. I did not see anyone there from A/3/1, sir.
- Q. Were you in the first group that was extracted?
- A. I don't exactly remember, sir.
- Q. What kind of aircraft were you extracted in, do you recall?
- A. It was a Huey, sir.
- Q. A Huey?
- A. Right, sir. It was actually a troop carrier, as I can remember, I believe so. I believe there were only one or two of them.
- Q. Could you have possibly been lifted out by a CH-47?
- A. No, sir, not a Chinook.
- Q. You arrived back at the fire base. Did anybody talk to you?
- A. At the time when we got back there, I remember someone saying: "Don't repeat anything--say anything about what happened at My Lai because there was an investigation going on."
- Q. Who told you this?
- A. Our commander, sir. Captain MEDINA, sir.
- Q. And he said there was an investigation going on and not to talk about what happened at My Lai?
- A. Right, sir. I didn't exactly know what he was talking about. I just kept my mouth closed anyway. As far as I know, there was an investigation going on, and it wasn't my concern to tell anyone else about the situation at that time.
- Q. When you returned to Fire Support Base Dottie, was there a senior officer there that talked to a group of you?

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A. I don't remember sir, because the main thing that was on my mind at that time, sir, was going on R&R, sir.

Q. Well, if a senior officer had talked to a group of people and you were amongst them, you--even though you were going on R&R--you probably would have recalled it, wouldn't you?

A. I would have, sir.

Q. So, did you ever have a senior officer commend you for the operation, saying that it was a good operation, and asking if you had seen anything unusual or if anybody was killing civilians?

A. I don't remember, sir.

Q. Did anything happen, Sergeant BACON, on the movement down to the Song Tra Khuc River on the 17th and on the 18th which had a bearing on what happened on My Lai (4) on the 16th?

A. Sir, we moved down toward this river. We came to the last village just next to the river, My Khe (2), and the company went through the village and my platoon leader left me to the left rear of the village. This area is where one man came running out of a bunker. He had red pants on and a blue shirt, and one of my riflemen hollered "Dung lai" to him and he just kept on running. So, he opened up fire on the guy and missed him. So I told another man to go ahead and see if he could catch him without shooting him to see who in the world this man is, because everyone else was out of the village as far as we knew. And all of a sudden, four people ran out of a bomb shelter--artillery shelters, and they ran straight toward my machinegunner. So about five or six of the men in my squad, plus myself, grabbed them and we found medicine on the lady--all kinds of medicine--morphine, aspirin, bandages, and stuff like that. This one man we found, he had the black pajamas but underneath the pajamas were a gray and a red uniform, so I called up to the platoon leader to try and get information from him. I couldn't get in contact with him because my radio batteries were pretty weak, sir. So, I sent the people up to the platoon leader, the three men and the one lady, and I was informed once my man came back that the lady was a nurse in the NVA Army, equal to a platoon sergeant, and that the one old fellow that we captured was a colonel in the VC Army,

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and also that the 15-year-old kid that we captured was a cadre from the NVA working with the 48th. And the other guy was a lieutenant in the 48th and the information people told us that these individuals did work around the My Lai area and that they were in the My Lai area when we came in, sir.

Q. So you felt that you made a pretty good capture, then?

A. Right, sir.

Q. Did you see anybody--were these individuals evacuated?

A. Sir, I don't know exactly, but once we got down to the area after the three men came back, we moved back to where the company was assembled, close to the beach. They had interrogated some of the people, and I moved back up, after talking to Lieutenant CALLEY, back up to my squad and set out a perimeter line. Then, I believe, the lady was evacuated, sir, by a helicopter. I don't know exactly how long he stayed there, sir, and I don't know what happened to the men, unless they were with the group of men that we moved back into the next village with us, sir.

Q. With respect to the villages of My Khe (3), My Khe (1), My Lai (1), My Khe (2), as you went through these hamlets, were these burned as well?

A. My Khe (3) and (1), if I remember, when we first went there was not burned, but once we started moving away, they were burned.

Q. Were any people in those villages?

A. No, sir. We did not see any in there at all.

Q. What kind of construction was it? Solid or temporary hootches?

A. It was temporary hootches, sir, and solid construction. We saw in one village, which was told to us by the platoon leader, they saw 50 "Bouncing Betty" mines in that area, and I believe this was in My Khe (1), sir. They blew them, and you could hear the shrapnel flying, and we moved on down to the My Khe (2) and also in the area where we found those three men and one lady that came out of the bunker, plus the one that got away, sir.

Q. Was the village of My Khe (2) also burned?

A. Yes, sir. It was burned.

Q. This one down on the river.

A. Yes, sir. The rear of it was burned. Most of it wasn't burned because some of the structures were permanent structures, and this was also where we received two rounds of fire while we were in the village. I don't know exactly where it came from or anything, but I heard them. It came over our heads.

Q. I understand that as Charlie Company moved to the south that there was a patrol which had moved to the west toward the slopes of Hill 85 and that this patrol ran into some mines. Does this fit your recollection?

A. Right, sir. I was patrol leader at that time, sir.

Q. You were?

A. Right, sir.

Q. Who was in this squad with you?

A. Sir, in the squad at the time with me was PFC BERGTHOLD, SP4 COX, PFC SIMONE, SP4 CONTI, SP4 MAPLES, and leading the patrol was Lieutenant KELLY.

Q. Lieutenant KELLY?

A. Right, sir.

Q. Who is Lieutenant KELLY?

A. He is my platoon leader.

Q. CALLEY?

A. CALLEY, sir. He was going to show me the place exactly where I was supposed to set up, sir--an observation post that I was supposed to set up on the hill along with PFC MEADLO, who had a mine detector, sir, and SP4 SLEDGE, who was the RTO.

Q. Were those people with Lieutenant CALLEY from your squad?

A. No, sir. None of them were from my squad, sir.

Q. Where were they from--MEADLO and SLEDGE--what were they assigned to?

A. SP4 SLEDGE was assigned as RTO. He was working with the headquarters group of the platoon, and PFC MEADLO was out of the 1st Platoon, sir, the first squad, sir, and he was acting as minesweeper man for the platoon leader. We proceeded up the hill, sir, and we came to a fenced area. He told me to keep observation to the rear of the company and to let him know exactly what was going on to the rear so no one would sneak up on the company's rear. So, as he was going down the hill, just before I sent in my men, I heard an explosion. What had happened, Lieutenant CALLEY did not go down the same way that he came up. He went down a different way to try to avoid some of the terrain that he had to go up at first, and he had--PFC MEADLO had the minesweeper to the front of Lieutenant CALLEY, and when I looked down the hill PFC MEADLO was lying on the ground, hollering and saying: "Why did you do it? Why did you do it?" Lieutenant CALLEY told me to send a couple of men over to him to assist him in getting PFC MEADLO in the helicopter, medevac'd. At the time, the men had not gotten loads off yet, and I called to him: "Sir, I don't want to send the men down there, because their loads would be too heavy and they might touch something, a mine or something of this same nature." So I told my other two men, PFC LLOYD, and PFC KYE to assist Lieutenant CALLEY in getting PFC MEADLO on the medevac because it could not land because of the vegetation. PFC MEADLO said, "I'll get even with you, sir. I'll get even with you if it is the last thing that I do." He was saying that as he was getting on the helicopter to get medevac'd out.

Q. What do you think he meant by that?

A. I don't know, sir. The only thing--impression--I can get by hearing people utilize the same terminology is something like he was going to either do something to him or say something against him or something. This is the impression that I got.

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Q. Was he going to get even with him for what had just transpired or perhaps--

A. (Interposing) For what had just transpired, sir. He felt Lieutenant CALLEY was the cause of him getting blown up. This is the idea of war, sir, itself.

MR MACCRATE: As a squad leader in the 1st Platoon, did you have to make the report in respect to KIA?

A. No, sir. This would come from the platoon leader to the company commander.

Q. How did the platoon leader get the information for his KIA report?

A. Well, most of the time he would be moving around, sir. The platoon being as small as it was, it would not take much for him to move around the platoon area, to see or observe someone shooting an enemy soldier or something.

Q. Did you in the course of any part of this 3-day operation have any KIA's that you knew about yourself?

A. No, sir. I didn't that I can remember, sir.

Q. In the movements subsequent to your passing through My Lai (4), did you yourself use any of your ammunition?

A. I don't think that I actually did, sir.

Q. This is right as you went south, then back north, then lifted out on the 18th?

A. Right, sir.

Q. Would that also have been true of members of your squad?

A. Except for the one time the man fired at this individual at My Khe (2)--he expended very few rounds--that is the only time besides another man had discharged one round. That is the only time that I can remember, sir.

Q. Do you recall any interpreters moving with your company that day?

A. We had an interpreter that is assigned to the company by the name of PHU and he is a sergeant in the Vietnamese Army. This is the only one that I actually know of, sir.

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Q. At any time was he moving in your vicinity during this operation?

A. No, sir. He stayed usually with the command group; that would be with the company commander and the company commander's RTO and the forward observers, sir.

Q. Did you know a Lieutenant JOHNSON who was with your unit that day?

A. No, sir.

Q. When you got back to Dottie, was there any discussion that you can recall about helicopters landing on the 16th or anything about the aviators? Doesn't the infantry have a certain attitude about the fellow upstairs? Don't they?

A. Well, sir. They were speaking in regards of the helicopters landing in front of us, because they wondered why in the world the helicopters landed in front of us, sir. There could have been VC in there, and it is our job to check out areas to our front, not helicopters to land and check out areas to the front. If there had been a fire between, coming from in front of the helicopters, it would have been totally impossible for us to fire at this helicopter to engage the enemy.

Q. Was there any fire coming from the other side of the helicopter?

A. At the time, no, sir.

Q. There was no crossfire going on at all?

A. No, sir.

Q. So they just came down into an area where there was no firing?

A. Right, sir. It was just a way of speaking--in military tactics you don't usually find this. I don't know the exact reason why he came down. I know it was most peculiar for him to land in a place such as that there. It is not reasonable. It don't make any sense.

Q. Did--were you aware of anyone being angry about it? Or just curious about it?

A. Some people were just curious about it, sir, and wondered why the helicopter landed. That's all, sir.

Q. Did the discussion of that go on for quite a while?

A. Not as I remember, sir, because I left the unit the next morning or that evening, that day.

Q. The 18th or 19th you left for R&R?

A. Right, sir.

Q. When did you return to the unit?

A. I came back, sir, in March--I mean in April, and I caught malaria after we went on an operation for 1 day, and I was in a hospital. I actually never rejoined the unit as a part of the unit except for one other time I worked up there at LZ Ross for a while with the unit.

IO: How is it you didn't return until April when you went on R&R?

A. It was March when I left the unit, sir.

Q. But you left on the 18th or 19th--

A. (Interposing) Right, sir.

Q. And your R&R was how many days?

A. I didn't leave to go on R&R until the 22nd, sir. There was a mixup, and they rescheduled me on R&R, and what happened was that I was scheduled to go--instead of the 22nd, I was going to go on the 1st of April and a captain from the division was going to go on the 22nd--what happened was they had reversed it around and had put me on the 22nd and the captain on the 1st of April, sir, and I had to stay up there until the 22nd. I left Vietnam going to Hawaii. I came back, and I had a little problem in Danang, the flights getting off because of shelling the airport and stuff, and I finally got out a few days after the 1st of April.

MR MACCRATE: At fire base Dottie, did you ever recall seeing chaplains or visiting them? Did you yourself talk to the chaplains when they came through?

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A. Well, sir, I knew one of the chaplains--but I don't remember his name--that came to fire base Dottie, and I remember going to services at fire base Dottie: some for my own unit and some for the company, but I don't remember exactly when the company was there, sir.

Q. What faith was the chaplain?

A. The chaplain was of the Protestant faith, I believe, sir.

Q. Did you know where he came from? Did he come down from Chu Lai?

A. Yes, he came down from Chu Lai, sir.

Q. About how often would he come down?

A. I couldn't say for sure, sir. A lot of times we would be out in the field when he would be coming down there. I don't exactly know.

IO: Would he have been the division chaplain, or would he--

A. (Interposing) Brigade, sir.

Q. From the brigade? Would he have come from Chu Lai or--

A. (Interposing) Right, sir. We had a--in Chu Lai--LZ Bayonet, and this was where he was staying. He was working in conjunction with the 4/3 and individuals from the task force, also, sir.

COL FRANKLIN: Sergeant BACON, did you ever give a body count for the 16th to Lieutenant CALLEY?

A. No, sir. I did not.

Q. When did you find out about all the body count that C Company picked up in this operation?

A. Well, sir, I read the paper when I was in the hospital, on this operation, and it said 128 VC were killed. I usually tried to keep track, during the time I was in the hospital, with the units' movements and where they were at, and this is where I actually read this amount of body count that we got for this operation.

Q. Did you believe it?

A. I don't know, sir. It is hard to say, because I could not actually see everything that was going on over there, and I didn't know definitely for sure.

Q. Did C Company turn in a straight body count, Sergeant BACON?

A. I don't know, sir.

Q. How about when you got in this laager position for the night of the 16th? You saw a lot of people in the first squad. What were people talking about? What was the conversation? What was the subject matter?

A. Well, sir. I didn't talk at all to the people in the first squad, because my people usually kept pretty close together, and I talked to them quite a bit. In most of the operations, I like to talk to my people after we get through. What we were talking about was me going on R&R, and everybody was telling me to take it easy, don't get hurt--and portions of the operation itself. We talked about the Vietnamese National Policeman who was in the 4/3. We discussed the problems we had back in the States.

Q. Was anyone talking about a lot of shooting and how we really fixed the VC and the 48th didn't hurt us? Were they happy? You mean nobody was talking about what happened there that day?

A. I don't remember anybody speaking of that there, sir.

Q. Wasn't there a lot of relief after you felt that this was going to be a big engagement, the largest enemy force you had ever faced?

A. Right, sir. There would be a lot of relief. This would be natural.

Q. Wasn't anybody talking about the difference between what happened and what they expected?

A. No, sir, because we didn't know what we were going to encounter. As far as we knew, they hadn't left the area, sir. They were still to our front, and that was exactly where we were going towards--to encounter the 48th, still.

MR MACCRATE: What about when you got back to fire base Dottie? Then you were looking forward to R&R and you still hadn't encountered all that you had expected. Wasn't there talk at that point?

A. Well, sir, I wasn't paying too much attention to the talk. The only thing I was doing was thanking God I was alive to go on R&R, sir.

IO: Sergeant BACON, you have indicated that there wasn't any talking going on or anything else.

A. No, sir, not to my recall.

Q. I have been pretty familiar with the organization and functioning in companies and how they work and how close and intimate they are and the discussions that go on in this area. And also down where Colonel FRANKLIN was, down in Binh Dinh, which is an area quite comparable to this, generally speaking, the company will be well informed about body counts and this, that, and the other thing. They will know how many were turned in, particularly the squad leader within the company. And you are telling me right now that you didn't know anything, that you kept all by yourself, and you didn't have the feeling about what went on in that company--that the company was turning in something, that they had killed in excess of 100 VC that day, and this sort of thing, and that you did not know that within the company?

A. I did not know the amount of body count that was turned in at all, sir. I am telling the exact truth, as I can remember it from the time I was in Vietnam to now, sir. I do not remember it, sir. I don't remember any amount of body count. I don't remember any bodies discussed or anything of this nature because truthfully, sir, this was not on my mind at the time. I was thanking God I was alive and I was going home to see my wife and my sons. That was my main thought.

Q. Did you ever find another situation, in all the time you were in Vietnam, wherein you did not know what was going on or get an account of the number of VC that were killed, the number of prisoners that were captured, and the results, the operational results?

A. I believe that there was a time before, sir, that this took place. Primarily, the reason that I wouldn't ask if a body count was taken, and these other things, was because this was not my concern. My concern was the welfare of my men after the operation was over.

MR MACCRATE: Is there any bulletin board that is kept by the company commanders on which there were notices posted? A blackboard? I have heard that some units had KIA shown on a blackboard--the result of operations. Any of that sort of thing for Charlie Company?

A. Well, sir, during this time we were Task Force Barker, I really didn't have no exact home--

Q. (Interposing) You rotated around.

A. I rotated around, LZ to LZ.

Q. But LZ Dottie was sort of a home base, wasn't it?

A. Well, originally it was a home base for the task force but not for any exact company, because when we first got into the operational area we would stay on Dottie the night before we moved out into the field. From there, we would stay out in the field for several days. We went to work on LZ Uptight, and then back out into the field. It was a continuous rotation, clockwise rotation, sir. The only actual bulletin board in the task force would be at our rear fire support base, which would be LZ Bronco. This is the only place we would actually have a bulletin board, sir.

Q. Did you get reports there on such things, KIA, weapons captured, and so on?

A. Well, they might have got them back there, sir.

Q. Were they available to the company generally, personnel of the company?

A. At some times they would tell us about the amount killed, but then again, sir, a lot of people didn't really care about the amount of people killed. The majority of people just wanted to get back to the area. They were concerned whether anybody got hurt or killed, from what company, and this is my main concern about my men.

IO: Did you ever, while you were in South Vietnam, hear any rumors or hear anything which would cause you to suspect that something unusual had taken place in My Lai(4)?

A. I did, sir, but I did not know if it was exactly true or not. I didn't see it, and I cannot go on speculation and rumor, sir.

Q. What did you hear?

A. I had people tell me that there were civilians killed in My Lai(4). I didn't see it. What I actually could go by, as far as I know, is what I could see--

Q. (Interposing) When they said they were killed, how did they tell you they were killed?

A. They said there was a whole bunch of them killed, as far as I know, sir--as I can remember it sir. They might have said more, but I don't remember it, sir.

Q. Did you get an idea that it was a sizable body? Did they tell you how they were killed or anything?

A. I heard words in regard to a whole bunch of people shot up at My Lai(4).

Q. Did you ever hear of lining up a group of people and mowing them down with a machinegun and an M-16? Anything of this category?

A. I heard something in regard to this once, sir, down in the hospital in Qui Nhon, sir.

Q. Were you evacuated from Qui Nhon to Cam Ranh?

A. Yes, I was, sir.

Q. To the convalescent center there?

A. Right, sir. I heard the same when we got down there, sir. The part I knew about this was to keep my mouth closed, and whatever took place.

Q. But to your knowledge, that was what they were investigating?

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A. Right, sir. And I tried to keep up with the news as much as possible while--and nothing came up, as far as I knew.

Q. When you returned from the hospital to the unit, as I recall, you didn't stay with the unit. You went to another task?

A. What had happened was that I was still assigned to the company itself, sir, but I was working with headquarters company of the battalion, in the S4 section, sir.

Q. Where was this located?

A. We were located up in Chu Lai, then they were located at LZ Dottie for awhile.

Q. Was this while it was still Task Force Barker, or had you rejoined the unit?

A. We had rejoined the unit then.

Q. About what time had you rejoined the unit or do you know?

A. I don't exactly know, but it was after I went on R&R, sir.

Q. Did you ever hear any more talking about this situation?

A. I heard it once in a while, sir, but I never did say anything about it. Because, like I say, I don't like to discuss something when someone tells me, especially the unit commander, that I will not discuss anything, because there was some investigation going on. I never heard any more about it until the day I left Vietnam.

MR WALSH: Where and when did Captain MEDINA tell you that investigations were being conducted and that you weren't to talk about it?

A. Sir, he told us this here in the area of My Lai (3), that there was an investigation going on and we would not discuss it or say anything that had taken place in My Lai (4).

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Q. That was before you were lifted back. That would be right at the end of the operation?

A. Right, sir, at the end of the operation.

Q. About what time of day did you get to your laager area at the conclusion of the move through the village? Do you recall that?

A. It was late in the afternoon. The sun was pretty close to going down.

Q. At any time of that day do you recall being given any orders or hearing any word that you should prepare to turn around and move back through the village?

A. No, sir. I don't recall that.

Q. Do you recall anything like that happening any-time during the operation?

A. No, sir. I don't recall that either.

MR MACCRATE: Do you remember any instructions during the day from Lieutenant CALLEY to stop any indiscriminate shooting of animals or civilians, or anything on that order?

A. I heard the word hollered out to the guys to stop the killing, that is all.

Q. When would that have been? Where would you have been in your movements to the village?

A. Outside the village, sir.

Q. You say it was hollered out. On your radio head set or--

A. (Interposing) As I was outside the edge of the village, right at the edge of it, I heard a voice holler, verbally holler out.

Q. Who was hollering it?

A. I don't exactly know, sir. From where I was at, I could not see anybody except for the men in my squad, and they were pretty close. The rest of the people, I didn't know where they were at.

Q. Well, this wasn't hollered at you, was it?

A. I couldn't say exactly, sir. They did not call my name--say, "Sergeant BACON" or--

Q. (Interposing) As you have described it, you weren't doing any shooting at the time, so if they are going to holler, "Stop the killing," they must be talking to somebody else.

A. Well, sir, this would concern me, too, sir, as part of the unit, sir. They could be hollering at the entire unit.

Q. What I am trying to find out is where the fellow was, who was doing the hollering, and who he was hollering at?

A. I didn't see him, and it is hard to tell exactly where--the voice was coming from the rear as far as I know.

Q. But do you remember someone to your rear hollering out--you were on the east side of the village--to stop the killing?

A. Right, sir.

IO: Sergeant BACON, when you were notified that there would be no talking, or not to talk about this thing because there was an investigation underway, were you ever interrogated by anybody concerning the events of My Lai(4) on the 16th of March?

A. No, sir.

Q. You never gave a statement?

A. No, sir, I didn't.

Q. You never wrote out a statement?

A. No, sir, I didn't.

Q. Never gave any testimony under oath?

A. No, sir, not until I got back here in the States, sir.

Q. From the time the My Lai incident broke into the news in September or thereabouts, have you talked to anybody from the unit about this situation?

A. No, sir. I tried to keep from talking about it to anyone.

Q. Has anybody talked to you?

A. No, sir. I am not stationed near anybody, sir, although I have some individuals from my unit that I was with at Fort Benning. We were together, but I never had a conversation with them or wrote to anybody.

Q. You had no contact with them?

A. No, sir.

Q. No, between the time--when did you leave Vietnam again?

A. I left Vietnam on the 29th of November, 1968, sir.

Q. From the time you left Vietnam until such time as this came out in the press, had you talked to anybody about this situation?

A. No, sir, I didn't.

Q. Or had anybody talked to you about it?

A. No, sir. They hadn't.

Q. From the time you rejoined your unit, then, you were working in the headquarters portion of the battalion. Did anybody--did you talk to anybody about this?

A. I don't recall talking to anybody about this, sir. I have had people come to me and try to talk to me about it, sir, but I tried to refrain from talking about it at that time.

Q. To the best of your recollection you did not talk to anybody about this?

A. Right, sir.

Q. Now, at the time that Captain MEDINA put out the word that there shouldn't be any unnecessary talking about this because it was being investigated--how was this word passed out?

A. It was passed out verbally to the personnel there. He got everybody around and told them himself.

Q. He assembled the company?

A. Right, sir.

Q. And told them that there would be no talking about this. Can you recall his exact words?

A. I can't recall his exact words, sir. All I know was that he said that no one will discuss this with no one or talk to no one about this My Lai situation, because it was under investigation.

Q. Your impression was that he was just telling you this because the investigation was being conducted?

A. Right, sir.

IO: The hearing will be recessed.

(The hearing recessed at 1125 hours, 16 December 1969.)

(The hearing reconvened at 1126 hours, 16 December 1969.)

COL WILSON: The hearing will be in order.

RCDR: The following persons are present: COL WILSON, COL FRANKLIN, and MAJ LYNN.

(The witness was reminded he was still under oath, and he testified as follows:)

COL FRANKLIN: Sergeant BACON, when you saw that VC that you thought to be shot by the police--these other Vietnamese--what were your feelings then?

A. The only thing that I could think of at the time was, I said to myself that he must have killed a Viet Cong, or he must have captured one. That is the only thing that I could really think of, because I have nothing against those people over there. I have nothing against anyone. War is not the best thing in the world, and I feel that we have

(BACON)

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Q. Who told you that they wouldn't be mistreated? Was this a class, or what?

A. No, sir, by me. I would tell my people this. Under the type of training we had, the Code of Conduct and things like that, they would explain to us and show us pictures of how to handle prisoners of war--separating them and segregating them and moving them to the rear as fast as possible.

Q. When you got the word that you were going to Vietnam, shipping out, did you get classes or instructions on the treatment of civilians?

A. Not that I recall, sir.

Q. Do you ever recall anybody ever getting up and saying: "We've really got to take care and not hurt these civilians more than necessary." Was that stressed? Did Captain MEDINA ever talk about it? Did CALLEY talk about it? Did anybody, any company or task force or your 1/20 talk about it?

A. I don't remember exactly, sir, offhand.

(COL FRANKLIN requested Exhibits M-2 through M-4.)

Q. I am going to show you some cards here, Sergeant BACON, and ask you if you have ever seen them. The first one I would like to show you is what is marked as Exhibit M-3. Have you ever seen that card before?

A. No, sir, I haven't.

Q. Was anybody in your squad given those cards?

A. I don't believe so, sir, because they had to come through me, and I didn't have one.

Q. I am going to show you Exhibit M-4. Have you ever seen that card?

A. No, sir, I have not seen this card, either.

Q. I have a card here marked Exhibit M-2, "Nine Rules," for personnel of U.S. Military Assistance Command, Vietnam. Have you ever seen this card? Look at the front and back of it.

A. No, sir.

Q. What did the people in your squad think about the Vietnamese in general when they talked about them?

A. Sir, we would talk about Vietnam in general, but the people themselves--the majority of us liked the Vietnamese because when we got in brigade operations, we would give candy and food to the children, and we would always have kids around my squad. In fact, there is one kid in the area that--at Task Force Barker--that I would usually bring candy to myself--in fact, him and maybe five or six more of his friends. Our C-rations we would split with the kids. I enjoyed the people over there. I used to go down and work around the villages. Some of the villagers speak Korean, and I speak Korean pretty well, and I used to talk to them, to the ones that couldn't speak English.

Q. How about your soldiers, were they the same way?

A. Right, sir.

Q. How about the Vietnamese people around Pinkville? What did you and your squad think about them?

A. Sir, the men were scared of that area, and as far as they know those people were Viet Cong. They had never really been in there to talk to the people. If we go in there, we get people blown up or shot, so actually you couldn't really get into the area. From the My Lai area up to Pinkville--it is hard to get in that area, sir.

Q. Did you or your squad consider those people in there, no matter who they were, enemy?

A. No, sir. We know that the civilians were being held by the Viet Cong and NVA in this area, especially women to maintain families. And taking into consideration all the facts, all people are not Viet Cong. And you can't just say, "Well, I look at you, and I am telling you that you are Viet Cong," sir. This would be wrong. This is the way I thought and I hope my men thought.

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Q. What are you supposed to do if you see what you think is a war atrocity, Sergeant BACON? You as a squad leader, what was required of you?

A. What is required of me in a war atrocity is to report it if it hasn't been reported. If it has been reported, to follow all the instructions given to me by the reporting individual and to keep it to myself in case others are not involved in the situation itself.

Q. This VC you saw get shot and pushed down the hole, did you think that was a war atrocity?

A. Well, sir, at the time, I didn't know exactly what the situation was, and I didn't know if it was a war atrocity or not, because I didn't know the situation--because numerous situations revolved around us there which made them people actually be shooting.

Q. You have been in the Army at least 9 years, Sergeant BACON--

A. (Interposing) Ten years, 3 months, 20 and some days.

Q. And you have been doing a lot of training, and you are a drill instructor, now.

A. Right, sir.

Q. In your opinion, as a sergeant in the United States Army, do you consider that C Company got good training? I mean really good training, so that all the soldiers knew what to do and how to treat civilians and what to do on war atrocities?

A. I don't think so, sir.

Q. Why not?

A. In a way of speaking, sir, I say no, because of the information that you showed me before, the exhibits. They should have been given to the people, and the people could understand the situation much better, and this situation, it possibly could never have happened. I don't know. But I think it would have given a man a better understanding as to what a war atrocity was and the situation of what crimes were during war, which half the people didn't really know.

Q. You say this might never have happened. What might never have happened?

A. This information that has been gathered up and spoken about all over the news media and the investigations.

Q. Do you believe in your heart, Sergeant BACON, that there were war atrocities, massacres at My Lai (4)?

A. Sir, in my heart, I'd say that it is a question whether there was or wasn't, because really, I didn't see anything, and I can't blame a man for something I didn't see, sir. People will talk because they are disgusted towards a person--that they have a dislike for this person and I don't know. I am wondering myself, because I would like to see this straightened out, sir.

COL WILSON: Do you reasonably believe that the men in your squad also did not have cards or had not seen these cards?

A. None of my men in my squad seen those cards.

Q. Are you sure of that?

A. As far as I know. I am positive of it, because the cards themselves or anything of this nature had to be passed out to the squads. It should normally come through the platoon leader to the squad leader, or platoon sergeant to squad leader to be passed out to the men within the squad.

Q. How long were you the squad leader of that squad?

A. Sir, I have been a squad leader for that squad since prior to going to Vietnam.

Q. You mentioned that WEBER had been killed in this area?

A. Right, sir.

Q. The morning reports show that WEBER was killed the 12th of February. Could you point out the location where he was killed?

A. Right, sir (pointing to map). WEBER was killed in this area right here.

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(NOT USED)

(BACON)

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Q. Would you give me the coordinate of that?

A. 7380.

Q. You are pointing north of the Song Diem Diem River?

A. Right, sir.

COL FRANKLIN: Stay up at the map, Sergeant BACON. You have already said this but I would like you to repeat it. C Company had already been down in the Pinkville and My Lai (4) area, you had conducted operations down there before.

A. That is right, sir.

Q. Within how many meters had you gotten to My Lai before?

A. Sir, we had gotten in the area in here (pointing to map). We had one platoon come across the bridge right here, sir, and set up a blocking force for one platoon of A/3/1, which got pretty well mauled in this area before my platoon set up here, and we had another platoon set up around this area (pointing to map).

Q. In other words, you had come south across that river, the Song Diem Diem, but that is about the furthest that anybody in your company had ever gotten south of that river?

A. We came across this river and went down in this direction this way, down this way, moving down toward a blocking position. Once in February, sir, for the 2d ARVN Division, for the Tet offensive, we were close to this area. I'd say that about the closest we came to this area was right here, sir.

Q. In the northern part of what is called the My Lai complex.

A. From where you were up north you could see to the south and see all those areas.

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A. Right, sir. In spots, you could usually see where the villages were, sir, by the large amounts of vegetation. Vegetation existed usually around large villages or around the edges of hills, and we got reports from other units that operated in this area, like one platoon of B Company, 1st Cavalry, that operated with the task force that was in this area also. We used to get reports from them and other people who had been in the area, sir, that Viet Cong were shooting at them or something like this here.

Q. Did you get a lot of reports from these other companies about fighting down there and how tough it was? Did you hear that throughout the task force?

A. Right, sir.

Q. You did hear that?

A. Right, sir.

Q. Sergeant BACON, do you have anything that you would like to say, now, about anything concerning this operation or any feeling that you have--anything that you might want to add to this?

A. Well, sir, one thing that I would like to say is that I feel, regardless of the situation, that there have been a few derogatory statements made toward--defacing the Government's name or the Army's name, about certain individuals. And some of the individuals were not even part of the platoon that actually went through the village itself. They were part of other platoons within this operation--that made derogatory statements towards others in the platoon that didn't know exactly what they were talking about. The only one that I can remember who made a statement that was actually in the platoon was PFC MEADLO. The other people were in the 2d Platoon, which was adjacent to the left side of the 1st Platoon, and the 3d Platoon which was the trailing platoon--to include the cameraman who was with the company headquarters and around the area of the 3d Platoon. The information put out through these people reflects--I don't know the word,

but that uncouth stuff was taking place and was done by one individual platoon, and one sector of the platoon. It was a good possibility--but I think this individual reflects on the troops.

COL WILSON: We appreciate your feelings, Sergeant BACON. I would like to inform you, now, that you are ordered not to discuss your testimony with others, including other witnesses for this investigation, except in the performance of official duties or as you may be required so to do before a competent judicial, legislative, or administrative body. You cannot discuss what you have told us here today with any other witnesses--you don't want to do this Sergeant BACON, because it is going to cause you a lot of heartaches if you do. But you can only discuss this if you are in front of an official board or a court-martial or something of that nature. Do not discuss it with anybody you might see around here or anybody that should telephone you. You cannot discuss it.

A. Right, sir.

(Aerial photo, Exhibit P-1, as annotated by SSG BACON was received and admitted into evidence as Exhibit P-173.)

COL WILSON: The hearing will be recessed.

(The hearing recessed at 1153 hours, 16 December 1969.)

SUMMARY OF TESTIMONY

WITNESS: BERGTHOLD, James R.

DATE OF TESTIMONY: 2 January 1970

PLACE OF TESTIMONY: Pentagon

WITNESS SUSPECTED OF: Murder

COUNSEL: None

DUTY ASSIGNMENT ON 16 MARCH 1968: Assistant Machinegunner, Second Squad, First Platoon, C/1/20.

1. PRIOR TRAINING IN RULES OF LAND WARFARE.

BERGTHOLD had received classroom training on the techniques of properly handling of PW's (pg. 21). He knew the Vietnamese phrases for "halt" and "come with me." (pgs. 22, 23). The witness had never seen Exhibits M-2 and M-3 (pgs. 23, 24). He recalled being issued a card with instructions on proper treatment of PW's in accordance with the Geneva Conventions (pg. 24). BERGTHOLD apparently had received no training with regard to illegal orders as he espoused "blind obedience" to his superiors (pg. 25).

2. PREOPERATIONAL PLANS AND BRIEFINGS.

a. Memorial service.

BERGTHOLD expressed uncertainty with regard to dates of a memorial service (pg. 5).

b. MEDINA's briefing C/1/20.

Captain MEDINA assembled C/1/20 on 15 March and briefed them on the My Lai (4) operation (pg. 4). He told them that they were going into Pinkville and the 48th VC Battalion was suspected to be there. They were told to be careful and to regard all visible persons as probably carrying a pack or a weapon (pg. 5). They were not given orders to shoot people (pg. 5). No mention was made of burning the

village or killing the livestock (pg. 5).

c. Attitude of C/1/20.

The men of C/1/20 did not really know what to expect (pg. 5). They were mad after taking casualties in a minefield only a few days previously (pg. 6).

3. ASSAULT ON MY LAI.

a. BERGTHOLD was on a machinegun team as an assistant gunner and ammo bearer with the second squad, first platoon. His squad leader was Sergeant BACON and his platoon leader was Lieutenant CALLEY. MAPLES was the gunner (pgs. 4, 6).

b. The platoon moved through the village in line (pg. 18). Everyone was firing (pg. 7). They never received any enemy fire (pg. 8). Because of the vegetation it was hard to see in My Lai (4) (pg. 16). It appeared to BERGTHOLD that the residents of My Lai (4) were being pushed through the village to his front (pg. 8). He did not know what happened to them (pg. 8).

c. During the sweep, someone shot into a nearby hootch. There were seven or eight Vietnamese inside. He chased them out except for a man shot in both legs. BERGTHOLD shot and killed him to put him out of his misery (pg. 7). He also saw an unknown soldier murder a Vietnamese family in front of their home (Mark #4 on Exhibit P-132) (pgs. 9, 31). His team then moved to the company's left flank and set up flank security (pg. 7). The Vietnamese he chased out of the hootch he assumed were taken in for questioning (pg. 10). He did not see any bodies other than the ones he saw being shot (six) (pgs. 10, 15, 31).

d. C/1/20 was not visited by any senior officer on the morning of 16 March to BERGTHOLD's knowledge (pg. 11). He saw MEDINA enter the village. He did not see any National Police with C/1/20 on 16 March (pg. 11). They never received any orders to stop firing (pg. 16). BERGTHOLD was not present when CARTER was evacuated (pg. 38).

4. INQUIRIES CONCERNING THE ASSAULT.

BERGTHOLD did not recall Colonel HENDERSON questioning anyone at LZ Dottie after the extraction on 18 March (pg. 13). No investigator ever spoke with him until he met with the CID agent in CONUS during 1969 (pg. 13). He did not remember MEDINA telling them to be quiet during the course of

the investigation. No one ever told him to be quiet about what happened in My Lai (pg. 14).

5. OTHER INFORMATION.

a. On 17 March, the first platoon went on a mission near Hill 85 where MEADLO was wounded by a mine (pg. 12). The company then moved on down to the Song Tra Khuc River where the witness helped capture a NVA nurse along with three other prisoners. My Khe (3) and My Khe (1) were burned (pg. 12).

b. BERGTHOLD never heard of a massacre in Co Lay (pg. 14).

c. The witness did not remember much discussion about My Lai (4) (pg. 17).

d. He knew of no one under the influence of marijuana in My Lai (4) or at any other time while in combat (pg. 14).

e. The witness annotated Exhibit P-1, an aerial photo of My Lai (4). This exhibit was entered into the record at page 26, App T-56 CONTI.

EXHIBITS

EXHIBIT NUMBER	DESCRIPTION	NOTES	PAGES
M-2	MACV Card "Nine Rules"	Wit had never seen.	23, 24
M-3	MACV Card "Enemy in Your Hands"	Wit had never seen.	23, 24
P-3	Miscellaneous Scenes	Identified PHU.	32
P-6	" "	Identified CARTER, FLORES and BOYCE.	32, 33
P-7	" "	Identified CARTER.	34
P-8	" "	Identified PHU, MURRAY, and MEDINA	34
P-9	" "	Identified CARTER, MARLOW and WIDMER.	35, 36
P-10	" "	Identified CARTER.	36
P-11	" "	Identified CARTER.	37
P-12	" "	Identified CARTER.	37
P-13	" "	Identified ALAUX, MARONEY, and PHU.	
		Taken on west side of village.	38
P-16	" "	Near where a VN family was murdered by an American soldier.	39
P-17	" "	Identified MEDINA, MURRAY, ALAUX and PHU.	40
P-22	" "	Identified PHU and MEADLO.	40
P-23	" "	Identified PHU.	41
P-26	" "	Identified as pick up point for CA into My Lai (4).	42

(The hearing reconvened at 0926 hours, 2 January 1970.)

MR WEST: The hearing will come to order.

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

The next witness is Mr. James R. BERGTHOLD.

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

Will you please state your full name, occupation, and residence.

A. My name is James Robert BERGTHOLD, I am unemployed at this time. I live at 624 6th Street, Niagara Falls, New York.

MR WEST: Mr. BERGTHOLD, before we get into any questions, Colonel MILLER will give you some information about the nature and purpose of this inquiry and about your testimonial rights.

COL MILLER: I'm going through several things. I won't go too fast. If you have any questions feel free to ask them. I hope you will if you have any. I'll try to answer them for you.

This investigation was directed jointly by the Chief of Staff of the Army and the Secretary of the Army for the purpose of investigating to determine facts and make findings and recommendations concerning two major areas:

(1) the adequacy of previous investigations and inquiries into, and the subsequent reports and reviews within the military chain of command, of what we now commonly refer to as the My Lai incident of March 1968.

(2) possible suppression or withholding of information by any person who had a duty to report known facts concerning this same My Lai incident.

It is not our primary purpose to investigate everything that occurred in My Lai on about 16 to 18 March 1968, although we do get quite a bit into this as part of our inquiry.

We have made available to us, and we have read statements made by many witnesses, including your prior statement in the investigation conducted by the Inspector General and by the CID.

Your testimony today is being taken under oath. We will make a verbatim transcript. In addition to the reporter we have a tape recorder.

The overall classification of our report is confidential. However, there is at least a possibility that the testimony here, either some of it or all of it, will later be made a matter of public record.

Now, you are, according to my records, subject to the order issued by the military judge in the general court-martial case of the United States v. Calley. I believe you got a letter from the trial counsel. Did you not?

A. Yes, sir.

Q. We request that you do not discuss the testimony that you give in this investigation with others, including other witnesses who either have been called or who may be called, except as you may be required so to do before a competent legislative, or administrative, or judicial body or forum. An example of this would be testimony in a general court-martial case or an Article 32 pretrial investigation. Those are some examples. If you have questions, you can always ask them at any time.

In addition, you are cautioned that since you are under the orders of the military judge in the general court-martial case of United States v. Calley, the fact that you appear here today does not in any way change that order, and for your information, your testimony here is not prohibited by that order. The order is broad enough so that you can testify here without violating that order, in case you wondered.

Have you any questions so far?

A. No, sir, you just covered it there about the orders.

Q. Fine. I have one other thing that I want to advise you about and that is your testimonial right and your right to counsel. I told you that we had read prior statements, and also the purpose of the investigation. Based upon your prior testimony and testimony by other witnesses we have some suspicion that you may have committed the offense of murder which is an offense in violation of the laws of war and therefore I want you to understand fully your right to testify or not to testify and your right to counsel. I'll go through that now.

You do have the right to remain silent and not to answer any questions whatsoever.

Any statement that you do make could be used as evidence against you in a criminal trial.

You have at all times the right to consult with counsel, and by this I mean a qualified lawyer, and to have such counsel with you here if you wish to have him. This counsel can be civilian counsel that you retain at your own expense. Alternatively, military counsel would be provided for you. We have such counsel available. If you have a particular counsel in mind we will make him available if he is reasonably available. Knowing that you do not have to make a statement, and of your right to counsel, you may nevertheless decide that you wish to testify today and to answer questions. You may do this without counsel if you wish. Now, if you decide to testify without counsel and then you decide that you want counsel you may at any time stop and request such counsel. If you decide to testify, whether counsel is here or not, you may decline to answer any question, any questions. You may be willing to answer others or you can tell us if you wish to have the questions stopped completely at any time.

Do you understand these things that I have covered so far?

A. Yes, sir.

Q. Would you like to have me go into them any more?

A. There is only one point that has got me scared. I'll just make a statement like I did before. That's all. I'll tell the truth what happened and keep on going down.

Q. I have two questions I want to ask you before we do go on. First of all, do you want counsel?

A. No.

Q. And secondly, are you willing to make a statement at this time?

A. Yes, I am.

COL MILLER: We shall start asking questions and I want to remind you if there is any particular question or series of questions that you feel that you can't answer, tell us. If at some time you decide that you want counsel, please let us know. That's all, unless you have further questions.

MR WEST: We'll take a short recess.

(The hearing recessed at 0935 hours, 2 January 1970.)

(The hearing reconvened at 0940 hours, 2 January 1970.)

MR WEST: The hearing will come to order.

RCDR: All present when the hearing recessed are again present with the exception of Colonel MILLER.

MR WEST: Mr. BERGTHOLD, when did you first hear of the planned assault upon My Lai (4)?

A. It was approximately the day before, when we were called together and given the operations order.

Q. Was this Captain MEDINA's briefing with C Company?

A. Yes, it was.

Q. What was your assignment at this time?

A. I was assistant machinegunner at this time.

Q. You were in 1st Platoon, C/1/20?

A. Yes.

Q. Who was your platoon leader?

A. Lieutenant CALLEY.

Q. Who was your squad leader?

A. At this time I was attached to Sergeant BACON's squad, but my original squad leader was Sergeant MITCHELL.

Q. I see. Sergeant BACON had the second squad?

A. Yes.

Q. Before we get into Captain MEDINA's briefing, do you remember a memorial service being held for the company about this time?

A. I'm not too sure, sir.

Q. Can you tell us what Captain MEDINA told the company during the briefing?

A. We were told that we were going into what we called Pinkville and it was suspected that we would run into a battalion, the 48th VC Battalion, that had been in that area quite a while. We were told to be careful, and that if we seen anyone they would more than likely be carrying a pack or a weapon. We were not given no orders to shoot people.

Q. What do you mean by that? Are you talking about civilians, or noncombatants?

A. Yes. Well naturally, when you see anyone in the field with a weapon and they don't stop and they start running, you try to stop them.

Q. Anything said about killing livestock or burning the village?

A. Not that I can remember.

Q. As you know, there were a lot of Vietnamese residents in My Lai (4) killed during this operation. This is one reason for asking about the orders. Is it your recollection that Captain MEDINA said nothing about this in his orders?

A. He didn't say nothing about civilians being in this area.

Q. Did he say what kind of an operation it was?

A. I am not positive.

Q. What was the impression that the men carried away from the briefing?

A. That it might be a pretty bad day, the next day. They really didn't know what to expect.

Q. What kind of mood was the company in at this time?

A. Everybody was mad, because we had just lost a few guys in a minefield a few days or a week before.

Q. Well, what was the general impression about whether they ought to kill people when they went into the village?

A. Well, nobody said anything about this, sir, about going into the village and killing people, that I can remember.

Q. You talked to Mr. THOMPSON from the CID about this on 3 November and you signed a sworn statement. The statement reads in part as follows: "Although Captain MEDINA didn't say to kill everyone in the village, I heard guys talking and they were of the opinion that everyone in the village was to be killed."

Is that a fair statement of what you told Mr. THOMPSON?

A. If it's down there I guess it is. I can't remember though, you know. It was a while ago.

Q. Well, we want to be sure it is your testimony. If this is not right, then say so. The testimony on this point has been in conflict. What were your particular duties, now, in the 1st Platoon, in the second squad?

A. At this time?

Q. Yes.

A. I was assistant machinegunner and ammo bearer.

Q. I believe you told Mr. THOMPSON that Robert MAPLES was the gunner?

A. Yes, sir

Q. Were there just two of you in the weapons team?

A. Yes, sir.

Q. All right. Can you tell us just what occurred the next morning when you moved into the assault on My Lai (4)?

A. I'm not too sure, sir.

Q. Can you tell us what Captain MEDINA told the company during the briefing?

A. We were told that we were going into what we called Pinkville and it was suspected that we would run into a battalion, the 48th VC Battalion, that had been in that area quite a while. We were told to be careful, and that if we seen anyone they would more than likely be carrying a pack or a weapon. We were not given no orders to shoot people.

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Q. Did he say what kind of an operation it was?

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Q. Yes.

A. I was assistant machinegunner and ammo bearer.

Q. I believe you told Mr. THOMPSON that Robert MAPLES was the gunner?

A. Yes, sir

Q. Were there just two of you in the weapons team?

A. Yes, sir.

Q. All right. Can you tell us just what occurred the next morning when you moved into the assault on My Lai (4)?

A. We came out of the helicopters and formed up, and started going through the village, and that's where, a little while after we entered the village, I encountered this man who had been shot. Someone had shot into the hootch beside us--they were firing all over. Everybody was firing. I don't know why they were firing so much. I walked up to this hootch and there were seven or eight people in there. I chased them all out and I seen this man lying there. He was shot in both legs and that's when I shot him, to put him out of his misery, and then we pushed off to the left flank, I think it was, to set up flank security. There was still quite a bit of firing going on.

Q. Mr. BERGTHOLD, I show you an aerial photograph of the area around My Lai (4), and here is a map 1:25,000 scale which has been introduced into evidence as MAP-4. If you'll notice in the center of the photograph, this is the hamlet of My Lai (4). Here it is on the map. You'll notice this stream running here; it's the same one you see here on the photograph. This is north, in this direction. This is the China Sea over here, to the east. The landing zone was in the rice paddy, here. The 1st Platoon had this lower sector, or the southern half of the hamlet. The movement was east through the hamlet. Does this all fit in with your recollection?

A. Yes.

Q. Let's go back a bit to when your platoon moved into the hamlet. You said everyone was firing?

A. Everyone but MAPLES. The only time I seen him fire was when we seen someone running and he was running out to a clearing, out to a house out by itself. He wouldn't stop, he just kept on running.

Q. As the platoon moved forward, did they fire continuously, a sort of reconnaissance by fire?

A. It wasn't a continuous fire. Somebody, it seemed, was firing all the time. There wasn't that much firing, but there was shooting going on all the time, it seemed like, on both sides.

Q. Had you received any enemy fire up to this point?

A. Not that I recall, sir.

Q. Throughout the morning do you recall any enemy fire at all?

A. No, sir.

Q. The scale of this aerial photograph, now, is approximately 1 inch equals 150 meters. Are you oriented now, do you recognize the area from looking at this photograph?

(MR WEST indicated Exhibit P-1.)

A. I think when we came in, we came in about in here. I couldn't say exactly how far that I moved in with Sergeant BACON's squad before we went out to pull left-flank security.

Q. Could you locate the little hootch there where you found the old man who had been shot in the legs? Could you locate the approximate place of that?

A. It's hard to tell; possibly right in here.

Q. All right, if you would mark that place. Just mark a 2 and put a circle around it. Actually, if you are not sure of these places, it's all right. Just to the best of your recollection.

Was that about the first thing that happened of any significance--when you ran into this hootch with the people in it--that you recall?

A. What do you mean "significant," sir?

Q. Well, we are primarily interested here in finding out what happened to the Vietnamese residents of this hamlet. There wasn't any enemy resistance. There was a lot of shooting, and a lot of Vietnamese people who lived in the hamlet were killed. This is the main thing that happened that morning, except for the livestock being killed and the hootches being burned, so if you would please just describe to us what you saw when you moved through.

A. It was right after this incident here that all the people were pushed through the village, from what I could see.

The people that I chased out along--somebody was behind us, I think, from the 2d Platoon, pushing them on. I don't know where they went to from there. That is the last time I seen them, just before we went on flank security.

Q. Where was the point where you went on flank security?

A. I can't be positive by the map. There was a small stream. We went across a small stream. There was a big house and an embankment where we set up our flank security at. (Witness indicated point 3.)

Q. Was this after you pushed through the hamlet to the east?

A. I couldn't be positive if we pushed all the way through or not.

Q. Had you come out in a rice paddy?

A. We were facing the rice paddy when we set up flank security, yes.

Q. All right, I direct your attention to the east edge of My Lai (4). Would it have been along somewhere in there?

A. It could have been, sir.

Q. When you talked to Mr. THOMPSON of the CID, you told him how you joined up with MAPLES, and then you came across four men from the 2d Platoon, and you told about an incident in which a Vietnamese man, perhaps in his fifties, was shot. Do you recall that incident?

A. Yes, I do.

Q. Would you tell us about it?

A. This man was standing out in front of his hootch and one man from the 2d Platoon told someone to shoot him and he told him he wouldn't do it. The man took this other man's M-16 and gave him his M-79 and shot this man in the head and shot him a couple of other times and the rest of the family came out. There was a woman and a couple of children and he shot the woman and children too.

Q. Could you describe this man who did the shooting?

A. He was about my build, blond hair. I couldn't say exactly how tall he was or anything.

Q. A pretty strongly built man?

A. Yes.

Q. Could you locate on the photograph the approximate location where this hootch was, where the shooting took place?

A. I would say approximately right here.

MR WEST: All right, would you mark that with a 4.

Q. Now, when you saw people being gathered up and pushed on through the hamlet, could you tell us the number of people you saw gathered up?

A. There were the ones that were in this hootch that I had chased out of the hootch and there were a few more, four or five more, that I can remember seeing going down the path with the men behind them.

Q. All right. How many altogether?

A. About 10 or 12.

Q. You don't know what happened to these people?

A. No, I thought they were being taken in for questioning.

Q. As you moved through the hamlet, did you see any dead people lying around?

A. Only those ones that I seen shot.

Q. How long do you estimate it took to move through the hamlet? From your account, it seems like your squad moved through the village rather quickly.

A. Yes, we did. I know we ate lunch when we set up for flank security -- a little while after we set up flank security we broke for lunch. I can't remember exactly how long after that it was before we moved out.

Q. Along about this time, after you had set up flank security, did you hear any orders come down to stop the killing? Stop the shooting?

A. No, sir.

Q. Were you visited at My Lai (4) by any officers from Task Force Barker or brigade or division, in the morning of 16 March?

A. Not that I seen, sir.

Q. Did you see any officers during the morning?

A. I caught a glimpse of Captain MEDINA when we-- they were in the village or just going into the village. I think they were just going into the village.

Q. That was early?

A. Yes, I seen a lot of the officers at the LZ before we took off, but after we landed I'm pretty sure I only seen Captain MEDINA once and that was it, the whole time in the village.

Q. Do you remember the operations of C Company that afternoon, the afternoon of the 16th, after you got through the hamlet of My Lai (4)?

A. We went down a little bit further and hooked up with another company from Task Force Barker and set up for the night.

Q. During the afternoon did you see members of the National Police shoot anyone?

A. No.

Q. Do you remember seeing any National Police?

A. Not that day. I think that they were from the National Police, about 2 or 3 days later. I think I seen them.

Q. Do you remember the operations of C Company the next day and the following day, the 17th and 18th?

A. The next day was when the 1st Platoon was sent off to the right, the right-hand direction from where we took off at in the morning, and set up at a hill.

Q. Was that Hill 85 you're speaking of?

A. I can't remember the number of it. That's where MEADLO stepped on the booby trap.

Q. That's the incident where MEADLO lost his foot?

A. Yes, sir.

Q. What about the rest of the day, now, with C Company? Do you remember what they did? What the company did?

A. After we left the hill, it was a little while and we went on down to the Quang Ngai River, I believe it was.

Q. It is the Song Tra Khuc River, but it is south.

A. Then I captured an NVA nurse, and we captured, I guess it was, an NVA recruiter--someone recruiting troops down there, and a couple of other people. I just turned the nurse over to someone else, and they took them up to Captain MEDINA.

Q. Okay. This was down pretty close to the river?

A. Yes, it was.

Q. As you moved south that day, I believe you moved through some little hamlets such as My Khe (3) and My Khe (1). Did you encounter any VC, any resistance in these places? Did the company burn the hootches?

A. Yes, they did.

Q. How about the next day now, the 18th? Our information is that you moved back up to the north.

A. We started back north the same day. After we went down to the river, we started pulling back north again.

Q. Okay. Do you remember where you laagered in for the night?

A. It appeared to be in--what appeared to be an abandoned village.

Q. Was that back close to the hill where MEADLO lost his foot?

A. It was approximately halfway.

Q. How about the following day, the 18th? Do you recall what the company did that day?

A. No.

Q. Our information is that the company was extracted in the afternoon on the 18th and taken back to Landing Zone Dottie. Do you recall this?

A. I can't remember if we were or not. When you get out there you spend so much time out there you don't know, sometimes, one day from the next.

Q. All right, I'll mention something to you that happened there at the landing zone, and perhaps you will recall this.

Did you know the brigade commander, Colonel HENDERSON?

A. No, I didn't.

Q. Colonel HENDERSON testified that he met a number of the men as they came back to Landing Zone Dottie. He met them right after they had gotten out of the helicopters and he talked to a group of them. He asked them if they knew anything about the killing of civilian noncombatants at My Lai (4), and singled out individual members of the company and questioned them. Do you recall that happening? Were you present?

A. Not that I remember.

Q. Did anyone tell you that the events of My Lai (4) on the morning of 16 March 1968 were being investigated?

A. I heard what we call a rumor. The person that we heard it from was pretty good at starting rumors, and it went so far, and then it was just dropped.

Q. Anybody ever talk to you in connection with any investigation of the My Lai (4) incident?

A. Only Mr. THOMPSON, from the CID.

Q. I mean back at this time, say in March, April, or May 1968.

A. No.

Q. Captain MEDINA has been here, and he told us that soon after the incident in My Lai (4) he got the company together and told them the incident was being investigated and that it would be better just to keep quiet about it

while the investigation was going on. Do you remember anything about this?

A. Not to my recollection.

Q. Did anyone ever tell you to keep quiet about what had happened at My Lai (4)?

A. Not that I can remember.

Q. Did you ever hear anything about a number of Vietnamese civilians being killed in a little place called Co Lay (2) below Pinkville, along the coast. We have had a report--

A. (Interposing) I'm not too familiar with the area.

Q. Actually C Company didn't go into that area, but B Company did, B/4/3, and we have had a report from Vietnamese sources that perhaps 90 civilians were killed in and around this little hamlet on the 16th or 17th of March. Did you ever hear of this?

A. No, sir.

Q. Along in November there were some newspaper reports that perhaps the men in C Company, when they went into My Lai (4), were under the influence of marijuana. Do you know anything about such a thing?

A. No, sir.

Q. Was there a marijuana problem in the company?

A. There was a few people, One person I remember got picked up for having marijuana by one of the lieutenants. I believe this here was before My Lai (4).

Q. Do you know anything about men of the company going into combat under the influence of marijuana?

A. No, I do not.

Q. How about the assignments that C Company drew after My Lai (4). Were they about the same, or were they different?

A. Well, most of the assignments that we went on after that were search and clear.

Q. Now, this operation against My Lai (4) has been characterized as a search and destroy mission. We have had a good bit of evidence that the company was told to go in and destroy the hamlet. I take it the company had no more-- it didn't have any missions like that, from what you said.

A. (Witness indicates in the negative.)

Q. I gather from your testimony that you didn't see many Vietnamese residents of My Lai (4) killed that morning, on 16 March. There is one place in your statement to Mr. THOMPSON where you apparently told him that you had seen about six people dead.

A. Yes.

Q. We have had other witnesses here who saw a great many more dead Vietnamese in the hamlet and told us that the men of the company, as they went through, were just shooting everybody they saw, everybody they came across. Did you get that impression as you moved through the hamlet?

A. No, sir, because by the time we got through I was-- I couldn't say exactly how to put it, but by the time we came through there, most of the people were already gone. They had pushed them all out.

Q. Well, Sergeant BACON told us that--he testified about the movements of the second squad in and through the hamlet and he said, as the squad moved through, they gathered up perhaps 30 people. He sent them off under guard of two of the men to Lieutenant CALLEY, and they came back, and he didn't know what happened to them. Do you think this is perhaps what you had in mind when you said about 15 were gathered up?

A. It could have been, sir. I saw all these people moving through. I can't remember who was guarding them, or anything -- what squad, what platoon they were from or anything. When we went through, we were on line and I looked across there and I couldn't hardly see anybody really, except MAPLES, and I forget who else was right by there.

Q. My Lai is heavily wooded and it is hard to see any distance.

A. Right, sir.

Q. It would help us, Mr. BERGTHOLD, if you would tell us what your impression was of what happened that morning at My Lai (4). We know you have read the papers and they talk about a massacre. How does this strike you as to what happened?

A. Now?

Q. No, your impressions at the time.

A. I didn't really realize what was going on until later when I found out about it. I didn't really think too much of it at the time.

Q. We have had witnesses who told us of indiscriminate killing, the troops moving through and killing everyone they saw, and that they thought the men of the company had gotten out of control. I gather from your statement that you didn't have that impression at all, at the time?

A. At the time I didn't, but when I think back about it, all the firing that was going on and I didn't hear no orders to stop or nothing.

Q. You did hear a lot of firing, and there was no enemy resistance?

A. There was no enemy resistance.

Q. Did you wonder about that at the time? Why they were firing and what they were shooting at?

A. Yes, I did. I was kind of scared, too. I figured that maybe they had found something and maybe there was somebody over there, but as far as I can recall, myself or anybody in the second squad, we didn't receive no fire.

Q. Now, later on, did you talk to your buddies about what happened that day? That night, for example, or later on when

you got back to Landing Zone Dottie, did you discuss the events of the morning?

A. Not too much that I can remember.

Q. Do you remember any particular reaction to the events of that morning?

A. Just one. CARTER. I couldn't say that he shot himself on purpose or that it was an accident. I had heard later on that day that he was wounded in the foot and they had to take him out by helicopter.

Q. There was some talk about that?

A. Yes.

Q. I think you are aware of the fact that this event, where quite a number of Vietnamese people were killed, was not the subject of an official report that reached Saigon or reached the Department of the Army, at the time. It wasn't until a year afterwards that the Headquarters of the Army and the Department of Defense received a report containing any information about this incident. Do you have any idea why this matter was not reported at the time?

A. No, I do not.

Q. Did you get the impression that the men of the company didn't want to talk about it, maybe felt ashamed of it?

A. Not too many people did talk about it, from what I can remember. I went to, I believe it was after that, I went to the hospital for an operation, then I went to Cam Ranh Bay, and came back, and went to the hospital again when I went on R&R, and went home.

Q. Have you kept in touch with any of your friends in the company?

A. I wrote a couple of letters, but never received any answers, and I talked to Allen BOYCE from New Jersey one time.

Q. Did you talk about that morning at My Lai (4)?

A. No, just, "How are you doing?"

Q. Oh, that kind of thing.

COL FRANKLIN: Do you have any recollection of the morning of 16 March? Were you sitting for a long time at any one place, to your recollection, or just moving along and looking around?

A. Well, we sat at one place there for quite a while when we were on flank security.

Q. What I'm getting at, you landed about 0730 in the morning. You waited for your second lift to come in, let's say at 0800. You started through the village and you estimate 30 to 60 minutes to go through the village. That would put us at 0900, at the latest. You went to your flank security position and ate lunch probably around 1130. You think you were in that flank security position for 2 hours, sitting around, or do you think you took longer to go through the village?

A. It might have taken longer to go through the village. I can't be positive, exactly, of the time.

Q. How were you moving when you went through the village?

A. We were on line, sir.

Q. You were on line, you and MAPLES with the machinegun?

A. Yes, but I was walking right behind him.

Q. Were you stopping? Were you looking into the hootches? Were you looking in these root cellars, these bunkers?

A. The machinegunner and the assistant machinegunner do not do this, sir. It's just mainly the riflemen that do this, because I had so much weight on me, the machinegun ammo and stuff.

Q. So what were you doing? These other guys -- are they doing that?

A. Yes, they were.

Q. What did you do? What did you do with the machinegun?

A. I was just to be there with MAPLES.

Q. Just waiting for them to search out stuff? Were you covering?

A. We waited around for them to check everything out and moved on a little farther with them. We came to a clearing, it wasn't exactly a clearing. There was a clearing out in front of us where we stopped for, I can't say how long, but that's when we seen a man running across the rice paddy to another hut. Everybody that was there was firing at him, because he wouldn't stop.

MR WEST: Mr. BERGTHOLD, can you think of anything that you would like to tell us? Do you have any statement that you would like to make before we complete the interrogation? Anything at all that might help us in our inquiry?

A. I have told Mr. THOMPSON from the CID everything I know.

MR WEST: After leaving here, if you do think of anything that you think might help us, if you run across any letters that you wrote home, any photographs or documents, we would appreciate hearing from you.

We are going to recess here in a moment. Afterwards we would like to have you talk to either Colonel PATTERSON or Colonel WILSON, who will show you some photographs and some documents and ask you a few more questions.

The hearing will be recessed.

(The hearing recessed at 1020 hours, 2
January 1970.)

(The hearing reconvened at 1045 hours, 2
January 1970.)

LTC PATTERSON: I would like to remind you that you are still under oath and the provisions and the instructions received earlier still apply. Do you have any questions about your rights or what you are doing here?

A. No, sir.

Q. What I would like to do is ask you a few questions and then show you a few photographs and see if possibly we can identify the locations, individuals, or places where you might have seen events on the morning of 16 March 1968.

First, I would like to ask you a couple of administrative questions.

When were you assigned to C/1/20 Infantry?

A. Approximately the end of April 1967.

Q. And that was in?

A. Hawaii, Schofield Barracks.

Q. Did you go through a training program with C Company?

A. Yes, I did.

Q. Do you remember approximately how long that training period was?

A. The whole time that I was in Hawaii was approximately 8 months.

Q. The unit deployed to Vietnam on 1 December, is that right?

A. It was 1 December.

Q. And you were in a training program for the whole period you joined until the time you arrived in Vietnam?

A. Yes, except for the time I was in the hospital.

Q. I would like for you to try and recall that training if you can. What was going on in C Company between April and December 67? Who were the people that were involved in the training? If you can think back on this, specifically, do you remember a lot of people coming in and being assigned to your company and departing and leaving your company for other assignments?

A. Yes, there was. We had got quite a few replacements and some of the people there were ready to leave the service and didn't have enough time left to go to Vietnam.

Q. So they were transferred out?

A. Yes, they were.

Q. Do you recall any of your buddies that you got to know in the April to July time frame reassigned to Vietnam? Levied out?

A. No.

Q. Most of the people that you started to train with then continued on with you and went to Vietnam with you?

A. Yes.

Q. In other words you might say there was a lot of turbulence as far as people in C Company?

A. No, there wasn't.

Q. In reference to training, I'm interested primarily in any training that was given concerning the Geneva Convention, rules of engagement, handling of prisoners of war, civilians, and detainees. Do you recall any of this training and could you elaborate on it?

A. Yes, I do. It was mainly classroom training, a lot of films. I'm not too sure if we did any prisoner handling out in the field or not during the training.

Q. Do you recall approximately when this training was conducted? Can you pinpoint it to a month during that period?

A. No, I can't.

Q. Based on your own recollection, what are the procedures for handling detainees or capturing suspects or handling prisoners of war.

A. When we run across somebody that looked of military age, we asked them for ID's, and if they do not have it, we will take them to the officer-in-charge who will in turn take him to the company commander where there will be an interpreter.

Q. Are the procedures different for personnel that are not of military age?

A. Sometimes, yes. It all depends on the situation. If you find somebody out in the field all by themselves, sometimes you can't really tell how old a person is. If they do have ID, sometimes you still take them in for questioning.

Q. If you put yourself in a hostile environment and you see someone at some distance, what actions do you as a soldier take to apprehend or capture or get this man under your custody? Not only men, but anybody under your custody?

A. Start out by telling somebody that he is out there, the squad leader or the fire team leader, and get it organized where you can have security. Then a couple of people would go out to pick this person up.

Q. Okay, suppose you and the people were going to pick him up. How are you going to get him under your control?

A. Walk out there and ask him for identification and tell him to come along.

Q. How do you do this with a foreign national or somebody who doesn't speak your language?

A. The Vietnamese language--it was "lai day," I believe.

Q. Which meant what?

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A. Walk out there and ask him for identification and tell him to come along.

Q. How do you do this with a foreign national or somebody who doesn't speak your language?

A. The Vietnamese language--it was "lai day," I believe.

Q. Which meant what?

A. Come with me.

Q. Okay, suppose the individual was moving away from you?

A. The first thing I would do is fire a shot over the person's head to see if this person will stop. If the person started running I probably would shoot him.

Q. To kill?

A. No, I would shoot him in the legs to stop him.

Q. Why?

A. He might be person with a lot of information, enemy caches and things like this.

Q. In other words, you're saying a live suspect is better than a dead one?

A. Yes.

Q. Do you recall what the Vietnamese words are to indicate to an individual to halt?

A. "Dung lai."

Q. Do you recall any training that you received on these subjects that we have just discussed after your arrival in Vietnam?

A. No, I do not.

Q. You don't recall receiving any instruction on these things at any time in Vietnam?

A. Not that I can recall.

Q. I would like to show you two exhibits and ask you for identification. The first is Exhibit M-2. A card entitled "Nine Rules." Have you ever seen this card?

A. Not that I can remember, sir.

Q. Does the term "Nine Rules" mean anything to you?

A. No, sir.

Q. You do not recall ever being issued or seeing that card?

A. No, sir.

Q. Exhibit M-3 is another card entitled "Enemy in Your Hands." Have you ever seen or been issued that card?

A. No, sir.

Q. Do you recall any such cards or any cards?

A. The Geneva Convention card.

Q. Which is what? Do you remember that?

A. No, I don't sir.

Q. Do you remember what it's used for?

A. The Geneva Conventions are used for prisoners of war, how they should be treated. I can't recall any more.

Q. Is it a colored card with writing on it such as the two I have shown you?

A. I think it was gold and white, sir.

Q. Do you recall being issued a Geneva Convention identification card which has nothing but your name, rank, and serial number on it?

A. There was some people that had them, but I did not have one.

Q. This card, which you referred to as gold with some writing on how to treat prisoners of war, was separate and distinct from the ID card?

A. Yes, sir.

Q. And it is separate and distinct from these cards?

A. Yes, sir.

Q. Do you still retain a copy of that in your wallet or in your files?

A. I don't think so, sir.

Q. Do you recall receiving any training on these subjects during your military service other than in Hawaii? I'm speaking now of your basic training or individual training?

A. I might have, sir, but I don't remember.

Q. How about training on the legality of orders, as to whether you, as an enlisted man, have to obey all orders from officers or noncommissioned officers regardless of whether or not you feel that they are legally justified.

A. Yes, sir, we were told to do what we were ordered to do, and if we thought it was wrong, to go through the chain of command to the proper authority.

Q. Then you understood in your own mind that blind allegiance or blind obeying of orders was not required?

A. Do you mean that you don't have to do it?

Q. In other words, when an officer gave you an order that you knew was in violation of some large order or law of war or in violation of the principles of America, would you blindly obey that order?

A. I believe I would, sir.

Q. Do you recall receiving any training along these lines?

A. I don't know if it was training or not, sir, but we were told that whenever an officer or a noncommissioned officer told us what to do, gave us an order, to do it and if we thought it was wrong, to just go right through the chain of command and tell them.

Q. Where would be the first stop in the chain of command that you as an individual would go to?

A. It would be my fire team leader.

Q. What other chain of command did you have access to as a soldier other than through the normal chain of command?

A. None that I can remember. I was always told to go through my fire team leader. If I didn't have a fire team leader, I would go right to the squad leader who in turn would go through the platoon leader and the company commander.

Q. What about the IG?

A. We still would have to go through the chain of command.

Q. But you did have access to the IG?

A. Yes, sir.

Q. Did you have access to the chaplain?

A. Yes, sir.

Q. Are there any other individuals that you knew of that you could have access to without explaining each and every thing to the fire team leader, the squad leader, the platoon leader and so on?

A. No, sir.

Q. Do you remember -- I don't know if it got on the record -- receiving any training along the lines of the Geneva Conventions, prisoners of war, detainees, in your basic training?

A. Not that I can remember, sir.

Q. The first time you recall receiving it then is in Hawaii?

A. Yes, sir.

LTC PATTERSON: I would like to turn your attention now to the aerial photo (Exhibit P-1, later received in evidence with annotations as Exhibit P-132) which will be subsequently entered into the record as an exhibit for these proceedings. I would like to orient you at this time on this aerial photo using MAP-4. We will recess at this time for the orientation.

(The hearing recessed at 1100 hours, 2 January 1970.)

(The hearing reconvened at 1105 hours, 2 January 1970.)

LTC PATTERSON: I would like to remind you that you are still under oath.

Now, I would like to give you some photographs, Exhibits P-2 through P-25 and P-56 through P-70 and ask you if you can identify people, places, or things on this aerial photograph which I'm going to introduce as an exhibit.

Do you feel that you are oriented on the photograph placed before you?

A. Yes.

Q. Do you recognize the area that is on the photograph?

A. Yes, sir.

Q. What do you recognize it as?

A. My Lai (4).

LTC PATTERSON: If you will take these photographs and look at them and study them, the ones that don't mean anything to you or if you can't identify people, places, or things, put them to one side. The ones that you do recognize something or someone put them in another stack and then we will go through them after you have done all of this for the record.

At this time we will recess and give you a chance to study these photographs and we will reconvene when you have accomplished this task.

The hearing will recess at this time.

(The hearing recessed at 1107 hours, 2
January 1970.)

(The hearing reconvened at 1117 hours, 2
January 1970.)

LTC PATTERSON: The hearing will come to order.

I would like to remind you that you are still
under oath. Do you understand the legal provisions as
previously discussed?

A. Yes, sir.

Q. Okay. Let's go to 16 March 1968 and try to
trace your individual movement through My Lai (4) during
the morning hours. First, would you point out on the
aerial photograph where you landed, where you got off
of your chopper on the morning of 16 March?

A. I would say the approximate location is right in
here.

Q. The witness is pointing to an area due west
of the village approximately 50 meters away. Is that
correct?

A. I would say between 50 and 100 meters.

Q. I'll mark this position 1. Does that agree
with you where I marked it?

A. Yes, sir.

Q. We will call this the approximate land-
ing position on 16 March. Is that correct?

A. Yes, sir.

Q. From that position, do you recall where you
went from there after your landing?

A. We moved up a little bit and formed up.

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Q. Moved up in which direction?

A. Toward the village.

Q. Just indicate where on the map and, if possible, rather than up or down or this way or that way, if you could use east and west in reference, it would help.

You say you moved up towards the village. Can you recognize where you went from position 1 and point it out?

A. We started moving east through the village. That's when I encountered this man who was shot in both legs.

Q. Can you pick out or remember anything about the buildings or the hedgerows or the general configuration of the compartments within the village?

(The witness indicated the location on the enlarged sketch of the village.)

When you entered the village, did you get on a trail almost immediately, or did you go across compartments?

A. Just a trail that was on the outside of the village, yes, then we crossed that trail into the village -- south.

Q. This was a trail on the north side of the village and you crossed that trail and went into the village south across compartments somewhere in this area here?

A. Yes.

LTC PATTERSON: Let's mark that as position 2. The area that you pointed to is right here. What is that position?

A. That is where I encountered a man who had been shot in both legs.

Q. Was this a Vietnamese or an American?

A. Vietnamese.

Q. Encountered Vietnamese man shot in both legs. Is that correct?

A. Yes, sir.

Q. This is marked as position 2. Then from there where did you go?

A. Moved on through the village some more to the east. I think it was somewhere in here (indicating the far western edge outside of the village) and set up flank security. We could see the rice paddies out in front of us.

Q. And what was this flank security set up for?

A. They told us to set up flank security while, I didn't know exactly why, but from what I could figure out, they wanted to interrogate some people.

Q. Do you know approximately what time this was?

A. It was just before lunchtime, sir.

Q. In other words, you moved from position 2 to position 3 in a generally easterly direction?

A. Yes, sir.

Q. And you didn't go back and forth north and south but you moved right straight through. So, if we drew an arrow from point 2 to point 3, would that be approximately your route of movement?

A. Yes, sir.

Q. Is there anything between point 2 and 3 that you recall? Were there any instances?

A. Yes, there was one, sir. I'd say about 100 meters east of point 2 where I'd first seen a man get shot, then a woman and a couple of kids.

Q. At position 4. Is that the right location?

A. Approximately.

Q. You saw a man -- Vietnamese?

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A. Yes. A man was shot and brought out, and a woman and two or three children. They were also shot.

Q. By whom?

A. An American soldier.

Q. Do you know who that American soldier was?

A. I can't recall, sir.

Q. Would you recognize him?

A. I think I would, sir.

Q. Have you seen him in any of the pictures?

A. No, sir.

Q. We will mark this position 4. Okay, do you recall anything else there?

A. No, sir.

Q. Do you recall where you ate lunch?

A. It was at position 3, sir.

Q. From the best I can determine, all you can recall is these two instances here, position 2 and 4 and lunch at position 3?

A. Yes, sir.

Q. Is that correct?

A. Yes, sir.

Q. Did you see any concentration of bodies or dead Vietnamese anywhere else in the village that you can pinpoint?

A. No, sir.

Q. Let's take these photos that you have laid aside as having been able to recognize in some manner and let's see if we can identify any of those people or the positions on that photograph.

What do you recognize in photo 3 (Exhibit P-3)?

A. I think this is Sergeant PHU, an interpreter.

Q. The man on the left in the soldier's garb is Sergeant PHU. What were his duties? Do you recall?

A. He was an interpreter for C Company.

Q. Do you recognize the Vietnamese on the right?

A. No, sir.

Q. The area of the hootch? Do you remember seeing that scene?

A. I don't believe so, sir.

Q. The next photo is Exhibit P-6.

A. I recognize CARTER.

Q. Lying on his back with his foot injured?

A. Yes, sir.

Q. And who else?

A. I can tell by the headband on this helmet here that this is the company's medic, FLORES.

Q. Can you read what it says on the headband of the person leaning over CARTER?

A. F-L-O-R-E-S.

Q. And that jibes with your recollection as being FLORES?

A. The company medic.

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- Q. How about the other individuals in the photo?
- A. This one here looks like Allen BOYCE.
- Q. Can you read what it says on his helmet?
- A. Jersey.
- Q. Do you remember his helmet having that on?
- A. I think so, but I am not positive.
- Q. What is that in his headband?
- A. It's possibly a mirror turned around.
- Q. The man on the far right, upper rear right corner, is identified as BOYCE. How about anyone else?
- A. This could possibly be Sergeant MITCHELL, but I cannot say for sure from the back.
- Q. Do you recognize what is in his headband?
- A. It is a card of a joker.
- Q. Do you recall if he used to have that in his helmet?
- A. No, sir.
- Q. Can you recognize anyone else?
- A. No, sir.
- Q. About the nametag on that flak vest? Can you read anything on there?
- A. That is a place for three bullets.
- Q. Did you see this scene on the morning of 16 March 1968?
- A. I did not.
- Q. Who do you recognize in Exhibit P-7?

A. CARTER.

Q. On the left?

A. Yes. That is all.

Q. What is that on the helmet of the man holding CARTER's leg?

A. R-E-N-N-A.

Q. Could that R be a P?

A. Yes, sir.

Q. What does P-E-N-N-A stand for?

A. Pennsylvania?

Q. Do you know who used to have that on his helmet?

(Witness shakes head in the negative).

How about this man?

A. That could be Sergeant MITCHELL, sir, but I am not positive.

Q. Do you know WIDMER?

A. I believe he was an RTO for the company.

Q. Would you know him if you saw him?

A. Yes, I would, sir.

Q. Does this look like WIDMER?

A. A little bit, sir.

Q. Exhibit P-8 again shows CARTER being treated. Do you recognize anyone in that picture?

A. Yes, I believe this is Sergeant PHU.

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Q. The man standing?

A. Yes. He was the company interpreter. This is CARTER sitting with a wounded foot.

Q. Who is attending him?

A. The company medic.

Q. Do you recognize that medic?

A. FLORES, I'm pretty sure his name was. This was MURRAY. He was RTO, the company commander's RTO.

Q. Standing to the right of Captain MEDINA in the rear?

A. Yes.

Q. Who was standing to the right of MURRAY?

A. I don't recognize him, sir.

Q. Would you know MARTIN if you saw him, or STANLEY?

A. STANLEY I would.

Q. Who is this here?

A. I believe he was RTO for the forward observer for artillery.

Q. Anyone else?

A. I can't remember who the other RTO is.

Q. Do you remember seeing that scene with buildings on the right?

A. No.

Q. Exhibit P-9 showing CARTER being carried by two soldiers.

A. This soldier on the left is MAURO.

Q. And who is in the center?

- A. CARTER.
- Q. And on the right of the photo?
- A. WIDMER.
- Q. How about any of the individuals in the background?
- A. No.
- Q. What is MAURO carrying in his right hand?
- A. An M-79 grenade launcher.
- Q. Do you recognize that scene?
- A. No, sir.
- Q. Exhibit P-10 showing CARTER wounded.
- A. CARTER lying down. Right next to him is the company medic.
- Q. Is that the same medic as before?
- A. I'm pretty sure it is.
- Q. You think that is FLORES?
- A. Yes.
- Q. Or CAPEZZA?
- A. Now, I am not too sure.
- Q. Did you know CAPEZZA?
- A. We changed company medics a couple of times.
- Q. That's all right. Who is standing on the left?
Do you recognize that individual?
- A. No, I do not.
- Q. Do you know BERNHARDT?
- A. Yes.

- Q. Would you know him if you saw him?
- A. I believe so, sir.
- Q. Does that look like BERNHARDT to you?
- A. A little bit.
- Q. Why?
- A. When I look at it, it does look a little bit like him.
- Q. Do you recognize the man in the background leaning over CARTER?
- A. No, I don't, sir.
- Q. Exhibit P-11. This is a photo of CARTER being carried to the helicopter. What was the purpose of the helicopter?
- A. To evacuate him to the hospital.
- Q. Did you see this scene?
- A. No, I did not.
- Q. Do you recognize any individuals there?
- A. Just CARTER.
- Q. You can identify him how?
- A. By being carried away. There is no boot on his left foot.
- Q. Exhibit P-12?
- A. This second person from the left looks like the company medic and the person sitting up in the helicopter is CARTER.
- Q. Do you recognize anybody else?
- A. No.
- Q. Did you see this scene?

A. No, I did not.

Q. You did not see CARTER being evacuated?

A. No.

Q. Exhibit P-13 showing a group of individuals seated on the ground.

A. I'm trying to think of this sergeant's name.

Q. How about the first individual. Do you recognize him?

A. That is a lieutenant who was the forward observer for the artillery.

Q. Was his name ALAUX?

A. Yes.

Q. And the person sitting next to him on Lieutenant ALAUX's right is Sergeant MARONEY?

A. Yes, he was head of the weapons squad.

Q. Weapons squad or was he mortar platoon?

A. Mortar or weapons platoon.

Q. All right. The man on Sergeant MARONEY's right?

A. That is Sergeant PHU, the company interpreter.

Q. And to Sergeant PHU's right?

A. No, I don't recognize him.

Q. Is there anybody else in the picture?

A. No.

Q. How about the man seated way in the rear. There is something in front of his legs?

A. I can't remember his name.

Q. Sergeant FAGAN?

A. It looks a little bit like him. The picture is too small.

Q. Do you know where this picture was taken? Do you recognize the surrounding terrain?

A. I believe this was on the west edge of the village.

Q. Were you present when these people were gathered up there?

A. No, I was not.

Q. Do you think you could point it out on the area photo where that picture was taken?

A. It is approximately where the trail comes in up through the middle of the village on the edge of the village.

Q. On the west edge of the village?

A. Yes.

Q. Are you positive about this, or are you just guessing?

A. I am not positive, sir.

Q. Maybe you better not put it down there, then, unless you can identify it.

Q. Exhibit P-16?

A. This looks like the area in which the man and woman and two or three children were killed.

Q. Did you see that scene?

A. Yes, I did.

Q. Can you point that out on the map?

A. That was approximately right in here, point 4.

Q. Near position 4?

A. Yes.

Q. I'm going to label this 5 in green and indicate Exhibit P-16. Is that about right?

A. Yes, sir.

Q. Did you see these people shot?

A. Yes, I did, sir.

Q. But you don't know who shot them?

A. No, sir, it was another platoon.

Q. Did you see the building set afire?

A. No, I did not, because right after the people were shot, we left.

Q. Exhibit P-17?

A. The person standing up is Captain MEDINA.

Q. Indicating the person about sixth from the right standing on a trail of some sort as Captain MEDINA.

A. From the right the eighth person standing is MURRAY, I believe the RTO. This ninth person over is the medic.

Q. Who is?

A. I'm pretty sure it was FLORES. This is Lieutenant ALAUX sitting down on the far right. Sergeant MARONEY next to him, and there is Sergeant PHU, the company interpreter. Those are the only ones that I recognize.

Q. Do you recognize that scene?

A. No, sir.

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- Q. Exhibit P-22 showing two soldiers and a Vietnamese man.
- A. The soldier on the left-hand side of the photograph is Sergeant PHU, the interpreter.
- Q. Was there just one interpreter?
- A. At this time that's all I believe there was.
- Q. How about Sergeant MINH?
- A. I don't remember him.
- Q. The second from the left?
- A. That looks like MEADLO, sir.
- Q. How about the Vietnamese man? Do you recognize him or the area?
- A. No, sir.
- Q. Did you know Lieutenant JOHNSON?
- A. No, sir.
- Q. Exhibit P-23 showing three soldiers and a group of Vietnamese seated?
- A. The soldier in the middle, I believe, was Sergeant PHU. That is the only one that I recognize in this photograph.
- Q. Do you recognize any of those Vietnamese civilians? Did you see any of them that day?
- A. I can't remember if I did or not, sir.
- Q. How about the location?
- A. No, sir.
- Q. Exhibit P-25?
- A. I can't remember this guy's name here. I believe he was in the 2d Platoon.
- Q. Do you recognize the location?

- A. No, sir.
- Q. Do you recognize Exhibit P-27?
- A. No, sir.
- Q. Do you recognize Exhibit P-26?
- A. Sir, I believe this is the landing zone that we took off from on March 16.
- Q. Which is called what?
- A. LZ Dottie.
- Q. And how can you identify it as being LZ Dottie?
- A. Because of the area, it was used as a landing zone.
- Q. Do you recognize the color of the soil?
- A. Yes, sir. It looks like a lot of tire tracks across it.
- Q. Exhibit P-29?
- A. Where we came in on the helicopters.
- Q. How do you recognize that?
- A. I remember this place because of the high rice paddy. As I remember, it was quite high that day we came in.
- Q. Was the rice ripe?
- A. I don't really know, sir.
- Q. Do you recognize anything else other than the high rice and helicopters to indicate that it would in fact be March 16, or would in fact be in the vicinity of My Lai (4)?
- A. No, sir.
- Q. It could, I suppose, be any rice paddy with tall rice then?

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A. Yes, sir.

Q. Exhibit P-33?

A. This photograph is the one where the men, women and children were shot.

Q. Which you previously identified as position 5 on the aerial photo and P-16. We'll indicate P-33 as well. Is that correct?

A. Yes, sir.

Q. Exhibit P-36?

A. This again is CARTER. He is lying down. He is the only one that I recognize in this photograph.

Q. Exhibit P-61 shows a group of soldiers crossing a rice paddy. Do you recognize any of the individuals?

A. I cannot say for sure, sir.

Q. Do you recognize the terrain or any terrain features?

A. It looks like the area where we left My Lai from in the afternoon.

Q. Can you positively identify it?

A. No, sir.

Q. Exhibit P-64?

A. The person in the middle of the photograph is DELPOME.

Q. What is he carrying there?

A. An M-16 rifle. He is carrying machinegun ammo and a LAW. I knew this guy, but I can't think of his name.

Q. SMITH?

A. I think it is, sir.

Q. Do you remember his first name?

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- A. No, sir.
- Q. Do you recognize the terrain?
- A. No, sir.
- Q. Exhibit P-66?
- A. The one on the left-hand side closest is Sergeant PHU. The one on the left-hand side in the rear is Sergeant BACON. The far right-hand side is MURRAY.
- Q. Carrying the radio?
- A. Yes, sir. I don't know who the rest of them are.
- Q. How about the man in the rear?
- A. No, sir.
- Q. Did you know STANLEY?
- A. Yes, sir.
- Q. Is that STANLEY?
- A. It could be, sir, but I couldn't say for sure.
- Q. How about the Vietnamese?
- A. No, sir.
- Q. Do you recognize the terrain?
- A. No, sir.
- Q. Exhibit P-68?
- A. This is DELPOME.
- Q. DELPOME on the right?
- A. Right-center of the photograph.
- Q. Setting the hootch on fire?

A. Yes, sir, he is the only one I recognize in there.

Q. Do you recognize where they are?

A. No.

Q. Exhibit P-69?

A. This again is a picture of DELPOME setting the hootch on fire.

Q. Do you recognize the tatoo on DELPOME's right arm?

A. Yes, that is a tatoo of a devil.

Q. Are there any other photos that you recognize?

A. No, sir.

Q. Are there any other photos that we have not previously indicated that you can identify on the aerial photograph?

A. No, sir.

Q. Is there anything that you can recall about 16 March 1968 that you could identify on the aerial photograph that we have not previously done?

A. No, sir.

Q. Do you object to signing this photograph as being prepared from your memory?

A. I'll sign it, sir.

Q. If you would sign it right under the date where I have indicated "From memory, prepared at Washington, D.C., 2 January 1970, signed James R. BERGTHOLD."

(The witness signed the document. Photo later received in evidence as Exhibit P-132; see page 26, APP T-56.)

Is there anything you wish to add at this time?

A. No, sir.

Q. You are reminded of the instructions regarding discussing what you have told the inquiry group here, either myself or Mr. WEST, with any individual, and we request that you honor it.

Do you have anything to add?

A. No, sir.

LTC PATTERSON: The hearing will be recessed at this time.

(The hearing recessed at 1200 hours, 2 January 1970.)

SUMMARY OF TESTIMONY

WITNESS: BOYCE, Allen J.

DATE OF TESTIMONY: 3 January 1970

PLACE OF TESTIMONY: Pentagon

WITNESS SUSPECTED OF: Murder and Assault with intent to kill.

COUNSEL: John P. McMAHON, CPT, JAGC, stationed with the office of the Judge Advocate General, Washington, D.C.

DUTY ASSIGNMENT ON 16 MARCH 1968: Rifleman, First Platoon, C/1/20.

1. ASSAULT ON MY LAI.

The witness refused to answer questions concerning the assault (pg. 5).

2. INQUIRIES AFTER THE ASSAULT.

On returning to LZ Dottie after the assault, BOYCE's helicopter, which contained five or six men, was approached by an officer who ranked above captain (pg. 5). The officer asked the group if anything out of the ordinary had occurred on the mission (pg. 5). A sergeant, the ranking man present, shook his head but did not answer either way (pgs. 5,6). The officer then waited for other groups to arrive (pg. 6).

The incident was not discussed within the company and nothing was said by MEDINA about an investigation (pg. 6). BOYCE was not asked to make a statement to anyone (pg. 6). He had no knowledge from any means that an investigation was being conducted (pgs. 6,7).

(The hearing recovened at 1112 hours, 3 January 1970.)

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

The next witness is Mr. Allen Joseph BOYCE.

(MR BOYCE, apprentice mason, 502 Brinkey Avenue, Bradley Beach, New Jersey, was sworn and testified as follows.)

MR WEST: Mr. BOYCE, before we get into any questions, Colonel MILLER will advise you concerning the nature and purpose of this inquiry and also as to your testimonial rights.

COL MILLER: This investigation was directed jointly by the Chief of Staff of the Army and the Secretary of the Army to investigate and make findings of fact and recommendations concerning two major matters:

(1) the adequacy of prior investigations and inquiries into and subsequent reports and reviews within the chain of command of what we now call, commonly, the My Lai incident of March 1968, and

(2) if there was possible suppression or withholding of information by any person who had a duty to furnish information known to them concerning the My Lai incident.

The investigation is not being conducted to investigate all the facts and circumstances of what happened at My Lai, although we do get into them to some extent. Our purpose is as I just stated.

We have had made available to us and we have reviewed statements made by many witnesses in other official investigations into the My Lai incident. I refer to such things as the IG investigations and the CID investigation.

Your testimony here today will be under oath and a verbatim record will be prepared. In addition to that, we do have a tape recorder and all of this will be on tape.

The general classification of our report is confidential. However, there is a possibility at least that some or all of the testimony given 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 may have or may in the future appear as witnesses, except as you may be required to give such testimony before a competent legislative, judicial, or administrative forum. This is an example of administrative hearing or body. A court-martial would be an example of a judicial hearing. I understand that you are subject to the order issued by the military judge in the general court-martial case of the United States v. Calley. Do you know what I am referring to here?

A. Could you make that a little clearer?

Q. Did you receive a letter from a Captain DANIEL telling you not to discuss testimony?

A. Yes.

Q. That order or that letter followed from an order given by the military judge in the case of the United States v. Calley. That order still stands, and your testimony in here today in no way changes the effect of that order. Your testimony here is within the permissible limits of the military judge's order. That is, if you testify you are not violating his order, in case you have any questions about that.

I told you what the purposes of the investigation were and I have also mentioned that we have reviewed not only your statement but statements of others and as a result of that review I now have some additional information and warnings to give you. I want to have you listen very carefully.

At this time we do suspect you of the offenses of killing and assault with intent to kill civilians in the village of My Lai. These are violations of the Uniform Code of Military Justice and may also be violations of the laws of war. This is based on testimony by other witnesses either before this or other investigations. This being the case, you have certain rights and privileges which I want to explain to you.

First of all, you have the right to remain silent, that is the right to answer no questions whatsoever.

Any statement that you do make could be used against you as evidence in a criminal trial.

You have the right to consult with counsel, and by counsel I mean a qualified lawyer. This

can be a civilian lawyer that you employ at your own expense or it can be a military lawyer whom we would appoint for you. You could have both if you wish. This counsel could be with you at this hearing. They could consult with you and you could consult with them at any time. Appointed counsel would be made available or, if you have counsel of choice, we would try to make him available if he were reasonably available to us.

Even if you decide to testify now without having counsel present you may stop answering questions at any time or you may decline to answer any particular questions. You would also have the right at any time to request that counsel be made available, either now or later on. If counsel were present, you would have the right to refuse to answer any or all questions or to stop the questioning. Do you understand what I have told you so far?

A. Yes, I do.

Q. Do you want me to explain it any further?

A. No, I don't think you need to.

Q. All right. I have two more questions that I would like to ask you now. First of all, do you want counsel?

A. Yes, I'd like counsel.

Q. Military counsel or do you intend to seek civilian counsel at your own expense, or both?

A. I think I would like military counsel.

Q. Would you like to have that counsel before you answer any questions?

A. I don't understand that.

Q. We will make counsel available to you immediately. It will take a few minutes, a half an hour or so. I take it you would rather talk to counsel before we ask you any questions in here?

A. Yes.

Q. All right.

MR WEST: The hearing will be recessed.

(The hearing recessed at 1121 hours, 3 January 1970.)

(The hearing reconvened at 1330 hours, 3 January 1970.)

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

The hearing recalls Mr. BOYCE.

Mr. BOYCE, you are reminded that you are still under oath.

Are you represented by counsel?

A. Yes.

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

IC: Captain John P. MCMAHON, International Affairs Division, Office of the Judge Advocate General, Washington, D.C.

COL MILLER: This morning I advised you of certain offenses of which you were suspected by reason of testimony of other witnesses and advised you of your right to counsel. At that time you requested that military counsel be made available to you and we recessed. Thereafter, Captain MCMAHON was made available. Incidentally, you are a lawyer permitted to practice?

IC: Yes, sir, I am a member of the New York State Bar.

COL MILLER: Have you now had ample time to consult with your counsel, Mr. BOYCE?

A. Yes.

Q. Do you have any further questions to ask me at this point about your rights?

A. No, I haven't.

(BOYCE)

Q. Captain MCMAHON, do you need any further information concerning the purpose of this hearing or information of the warning given to Mr. BOYCE?

IC: No, sir. All the information I needed was made available.

Q. As I understand it, you are willing to answer some questions concerning what transpired at LZ Dottie after this operation was over and with respect to any subsequent investigations that were conducted. Is this the correct understanding?

A. Yes, it is.

Q. On about the 18th of March, Company C was air-lifted by helicopter back to LZ Dottie. Could you tell us what transpired as the helicopters landed at LZ Dottie?

A. Well, our helicopter landed and I don't know how many people were in it, I guess maybe five, six, or seven. I don't know. And we were asked by an officer, I don't recall what rank he was, I think he was above a captain, but he asked if anything wrong or out of the ordinary went on during this mission. I did not answer him but a sergeant, like me, he wasn't in charge but he was like the senior man at this time, he just shook his head. He did not say either way. After that, I never heard any more about it until this summer.

Q. About how many men from Company C were standing around when this officer came up?

A. It was everyone in the helicopter. I don't know how many people it was.

Q. Just one helicopter?

A. The amount of people that was in the helicopter. I don't know how many it was.

Q. Did he ask this question generally?

A. Yes.

Q. Then did he pick out individuals to which he put the same or similiar question to?

A. No, he looked toward the sergeant because he was the ranking man.

Q. Then what happened?

A. Then the sergeant just like shook his head. He did not say either way, he did not want to point the finger maybe, I guess, I don't know.

Q. After that, what happened?

A. After that, nothing that I can recall, I mean just --

Q. (Interposing) Did this officer leave?

A. Well, I guess he maybe stayed around for the rest of the landing party.

Q. You were dismissed?

A. Yes.

Q. After you had returned to LZ Dottie, did you during the next few days or next few weeks have anyone come to you for the purpose of taking your statement or getting any information whatsoever concerning the My Lai incident?

A. No, I didn't.

Q. Did Captain MEDINA or anyone else tell you that the matter was under investigation?

A. No.

Q. Was this incident discussed at all within the company?

A. This unpleasant incident, nobody discussed it really.

Q. Were you in any way ever informed that the matter was being investigated or might be investigated?

A. Not until it started being investigated now.

Q. Are you talking about recently this year?

A. Yes, last year to get technical.

Q. Right. Within the company while you were in Vietnam you heard nothing more about this though, is that right?

A. No, I mean I think it was written up in the papers as a victory but it was really a defeat, I guess.

Q. I told you earlier today what the scope of our investigation was. Do you have any other matters relevant to this investigation which you are now willing to give as testimony?

A. (Conferring with counsel) No, sir, none.

MR WEST: Thank you, Mr. BOYCE, we appreciate your coming and testifying to the extent which you feel that you can. If you should in the future decide that you can give us some further information within the scope of our inquiry we would appreciate hearing from you. Thank you very much.

(The hearing recessed at 1337 hours, 3 January 1970.)

SUMMARY OF TESTIMONY

WITNESS: CALLEY, William L., 1LT

DATE OF TESTIMONY: 5 December 1969

PLACE OF TESTIMONY: Pentagon

WITNESS SUSPECTED OF: Murder, disobedience of orders and regulations, dereliction of duty, and misprison of felonies.

COUNSEL: Kenneth A. RABY, Major, JAGC, appointed military counsel, stationed at United States Infantry School, Fort Benning, Georgia.

DUTY ASSIGNMENT ON 16 MARCH 1968: Platoon leader, 1st Platoon, C Company, 1st Battalion, 20th Infantry, attached to Task Force Barker.

1. INQUIRIES CONCERNING THE ASSAULT.

Lieutenant CALLEY was never asked any questions concerning the My Lai operation by either Colonel HENDERSON or Lieutenant Colonel BARKER (pg. 6). He declined to answer any further questions (pg. 6).

(The hearing reconvened at 1435 hours,
5 December 1969.)

IO: The hearing will come to order.

RCDR: Mr. WALSH and Mr. MACCRATE will be sworn.

(MR Robert MACCRATE and MR Jerome K. WALSH,
Jr., were sworn.)

The following named person are also present:
LTG PEERS, MR WEST, COL MILLER, COL WILSON, and MAJ
LYNN.

The next witness is Lieutenant William
L. CALLEY.

(1LT CALLEY, was sworn and testified as follows:)

Lieutenant CALLEY, are you represented
by counsel?

A. Yes, sir.

RCDR: Will counsel please state his name and
organization?

IC: Major Kenneth A. RABY. I am assigned as Legal
Team Chief, Personnel Committee Staff Group, Brigade
and Battalion Operations Department, United States
Infantry School, Fort Benning, Georgia.

RCDR: Lieutenant CALLEY, would you please state
your full name, grade, Social Security number, branch
of service, organization, and station.

A. William Laws CALLEY, Jr., First Lieutenant,
United States Army, Infantry, assigned
to Headquarters and Headquarters Company, Fort Benning,
Georgia.

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

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

(2) possible suppression or withholding of information by any person who had a duty to report and to 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 for those purposes which I have just stated.

I have had made available to me transcripts of official statements concerning the My Lai incident including your statement which you gave to Colonel WILSON from The Inspector General's office.

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

The general classification of the report will be confidential. It is possible that the testimony or parts of it may later become a matter of public knowledge.

There are several people in this room who may ask you questions. These individuals are my assistants and are authorized to ask questions in my behalf. However, I have the responsibility of weighing the evidence and making the findings and recommendations.

You are ordered not to discuss your testimony with others, including other witnesses, except in the performance of official duties or as you may be required to do so before a competent judicial or administrative body. In addition, if ever there is an order issued by the military judge of a general court-martial in the case of the United States v. Calley, your appearance in no way changes the effect of that order.

Do you have any questions concerning the instructions which I have issued?

A. No, sir, I understand.

COL MILLER: Major RABY, do you have any questions?

IC: Do I understand that all witnesses' testimony is being taken verbatim and also that a tape recording is being made of his testimony?

COL MILLER: Yes, sir.

IC: The reason that I ask this, for your information, of course, is that the defense will subsequently elect to exercise his right under the Jencks Act and the United States v. Heinal for scriptory release information.

COL MILLER: The investigating officer, General PEERS, has just stated to you the scope and purpose of this investigation. I will read this in part:

One aspect of it is to investigate the adequacy of the investigation in depth and the reporting within the chain of command immediately after the My Lai (4) incident and whether there was any improper suppression of information.

You were a platoon leader of the infantry company which conducted the assault on My Lai on 16 March 1968, and this investigation might disclose facts tending to establish that you failed to comply with applicable regulations concerning the investigation and reporting of war crimes or that you were guilty of dereliction of duty in this regard. We are not directly concerned with whether war crimes or crimes against the laws of war or offenses in violation of the Uniform Code of Military Justice were committed at My Lai (4) on 16 March 1968. However, we must necessarily inquire into the events of March 1968 at My Lai in order to conduct the investigation ordered by the Secretary of the Army and the Army Chief of Staff.

On the basis of information available to us to date, we have reason to believe that our inquiries into the My Lai (4) incident for background purposes might disclose facts tending to establish that you may have committed the following offenses on or about 16 March 1968. I will

state these only generally: murder, disobedience of orders and regulations, dereliction of duty, and misprision of felonies. Furthermore, we are now aware of the fact that you are accused and charged with six specifications--with the murder of more than 100 people at My Lai (4) on or about 16 March 1968. We are also aware that you are awaiting trial by general court-martial for at least the first six specifications. I want to make certain that you understand what your rights are before--of course, you have the right to remain silent. Any statement that you may make can be used against you in criminal trial.

You have the right to consult with counsel. Counsel may be a qualified lawyer and you have the right to have this counsel at your own expense or counsel will be appointed for you at no expense to you. I know that you have counsel, Major RABY, already. For example, it may be military counsel of your own selection or another if he is reasonably available.

Is Major RABY the counsel you wish to have represent you?

A. Yes, sir, he is.

Q. Do you wish other counsel?

A. No, sir.

Q. You may consult with your counsel at any time during this hearing. Do you understand the things that I have said to you so far, Lieutenant CALLEY?

A. Yes, sir.

Q. Do you wish that I explain them further?

A. No, sir.

Q. Major RABY, do you have anything further?

IC: No, sir.

IO: Lieutenant CALLEY, what was your assignment--

IC: (Interposing) May I speed this up? It is with deepest regret that I must inform this fact-finding committee

that I have advised Lieutenant CALLEY of his right to remain silent and answer no questions whatever and to request permission to be excused from further questioning. The charges in this case are so serious as to be capital. We feel that we cannot make any statement whatever. I hope that you understand our position, sir.

IO: I would like to again point out the purpose of this investigation which is divided into two parts:

The adequacy of the prior investigations and inquiries and reviews and reports within the chain of command of what is now commonly referred to as the My Lai incident of 16 March 1968.

The second part has to do with possible suppression or withholding of information by any person who had a duty to report and to furnish any information concerning this incident.

With the respect to the second point--Lieutenant CALLEY, I would like you to consider the possibility of taking no action on that one but considering and discussing the investigative process which took place subsequent to the My Lai (4) operation and starting about the time 16 March, when the unit had passed the My Lai (4) hamlet and had arrived in a laager area along with B/4/3. As a matter of fact, I would like you to take time to consult with your counsel as to the desirability of responding to questions concerning the investigation which may have followed after that time.

We will recess to provide you the opportunity to discuss the matter.

(The hearing recessed at 1445 hours, 5 December 1969.)

(The hearing reconvened at 1451 hours, 5 December 1969.)

IO: The hearing will come to order.

RCDR: All persons who were present when the hearing recessed are again present.

A. After conferring with counsel, I will make one statement and only one statement here concerning this. That is that, to the best of my knowledge and recollection, I was never asked any questions concerning the My Lai operations by either Colonel HENDERSON or Lieutenant Colonel BARKER.

IO: Would you be willing to go beyond that?

A. No, sir.

Q. I am pleased to receive that statement. I would like to indicate to you and to your counsel the kind of questions that we would be asking so that if at any time in the future--within a reasonable period of a week or so--you feel you could and would answer questions of this nature, we would be very happy to bring you back as a witness for this hearing. The questions would be channeled along these lines: Were you interviewed by any superior officer? On what date? Where? Were there any notes taken? Was a statement prepared? And questions of this variety in order to ascertain the adequacy of an investigation and review of such an investigation. Beyond that, if that is the limit, this, I think, is as far as we can go. Do you have anything further you would like to bring out?

A. No, sir, I do not.

IO: The investigation will recess for approximately 1 hour.

(The hearing recessed at 1458 hours, 5 December 1969.)

SUMMARY OF TESTIMONY

WITNESS: CARTER, Herbert L.

DATE OF TESTIMONY: 2 January 1970

PLACE OF TESTIMONY: Pentagon

WITNESS SUSPECTED OF: N/A

COUNSEL: None

DUTY ASSIGNMENT ON 16 MARCH 1968: Tunnel Rat, 1st Squad,
1st Platoon, C/1/20.

1. PRIOR TRAINING IN RULES OF LAND WARFARE.

The witness testified that he had joined the 11th Brigade in Hawaii and had gone to Vietnam with the advance party (pg. 2). He recalled no special training in Hawaii (pg. 3). He related that while in Duc Pho he received some training in land mines and boobytraps. Also, he stated, there was some training in the handling of prisoners given by an enlisted man to the members of C Company (pgs. 3,4). The witness stated that the instruction was that when a prisoner was seized he was to be held until interrogated by personnel from an intelligence unit. He noted further that the intimation was that they could be treated in any manner wished (pg. 3). He recalled no special instructions on the treatment of noncombatants (pg. 4). Although the witness recognized Exhibit M-2, "Nine Rules", as having been distributed at Duc Pho, he stated that he glanced at it and threw it away (pgs. 4, 5). He did not recall ever seeing the card "Enemy in Your Hands", Exhibit M-3 (pg. 5).

2. PREOPERATIONAL PLANS AND BRIEFINGS.

a. Subject of the briefing.

The witness recounted Captain MEDINA's briefing as saying that there were no civilians in the area, only Viet Cong or their sympathizers (pg. 23). Nothing was to be left standing in the village according to MEDINA's orders (pgs. 23,

26). The witness stated that Lieutenant Colonel BARKER was in the area and that he believed that BARKER heard the briefing (pgs. 26, 48).

b. Morale of the company.

The witness stated that the opinion of the men of the company was that they would have a tough fight from the 48th VC Battalion and that they would have to fight their way through My Lai (pgs. 24, 25). He noted that the men in the company did want to see the village destroyed because of the prior casualties the company had suffered; the mine-field incident was still on their minds (pgs. 25, 28). He added that a friend of his in the company, a man named STANLEY, had a premonition that civilians would be killed during the operation (pg. 27). He opined that considering the losses of the company and the lack of a direct confrontation with the enemy, along with the briefing by MEDINA, the idea developed that there was open season on the Vietnamese (pg. 49).

3. THE ASSAULT ON MY LAI.

a. The landing.

The witness testified that he was on the first lift into the landing area (pg. 15). The landing zone was about 25 meters from the village (pg. 15). He stated that when they landed there was an old man in a field standing and waving to them in a friendly manner. He was shot (pg. 29). The troops then proceeded into the village and started killing and burning (pg. 29).

b. Action seen by the witness.

The witness stated that the men from the company went through the village shooting people, throwing bodies into wells, and burning hootches (pg. 31), although no hostile fire was received from the time they landed (pg. 31). The people were rounded up like cattle and then shot (pg. 36).

c. Observations of MEDINA.

He stated that he saw MEDINA shoot a woman who seemed to be trying to say something to him about her child being shot. She was 50 to 60 feet away when he fired at her (pg. 30). He added that he saw MEDINA shoot a teenage

boy, although he did not know whether or not the boy was killed by that shot. The boy was later killed (pg. 34). He testified that he was certain that MEDINA saw the bodies and knew of the killing, since MEDINA and the witness took primarily the same route through the village (pg. 33). The witness noted that he does not believe that MEDINA could have stopped the killings once they had begun (pg. 48). The witness added that the impression he received was that the order for the killing came from higher up (pg. 48).

d. Observations of CALLEY.

The witness stated that he saw Lieutenant CALLEY shoot a woman as she came out of a hootch with a baby in her arms (pg. 38). He also saw CALLEY grab a woman by her hair and shoot her with his .45 (pg. 39). He added that CALLEY was involved in shooting a group of people in a ditch (pgs. 36, 37).

e. Observations of MITCHELL and WIDMER.

The witness stated that he saw MITCHELL and WIDMER shoot a group of some 15 people who had been gathered up by the troops. He noted that WIDMER seemed to derive enjoyment from this (pg. 32). He testified that both MITCHELL and WIDMER were involved in shooting several people in a ditch (pgs. 36, 37). He related instances where WIDMER shot a woman with a child and then the child, and where MITCHELL shot a young child in front of HAEBERLE, the photographer (pgs. 38-40). He noted that WIDMER was like MEDINA's "pet cat" and added that he seemed to enjoy taking pictures of bodies (pgs. 37, 38).

f. The wounding of the witness.

The witness stated that he accidentally shot himself with his .45. WIDMER had borrowed it, but returned it saying that it had jammed. In trying to clear the weapon he discharged it, shooting himself in the leg (pgs. 7, 41). He related that CAPEZZA, the medic, had given him a shot of morphine, and STANLEY had cut off his combat boot. He added that one of his buddies had given him a marijuana cigarette to help ease the pain (pgs. 41, 42). He was ultimately medevac'd to Japan and never returned to the war (pg. 43).

4. INQUIRIES CONCERNING THE ASSAULT.

The witness testified that he did not recall anyone from either the brigade or the task force visiting the company in the field on the morning of the operation (pg. 43). He related how some of his buddies had come to visit him in the hospital and told him that MEDINA had told the company to tell anyone who might question them that they were fired on by snipers at My Lai. The impression the witness gained was that they were to cover up the real events (pg.44). He stated that everyone in the company who might have reported the happenings to the task force commander did not since they were fairly certain that the commander was aware of MEDINA's order (pg. 48).

5. OTHER INFORMATION.

a. Exhibits.

The exhibits recognized by the witness are listed below.

b. Use of marijuana in the company.

The witness testified that half the company used marijuana (pgs. 44, 45). He averred that most of the members of the unit had smoked marijuana the night before and believed that it was a definite factor in the events which occurred on the morning of 16 March 1968 (pgs. 45, 46).

EXHIBITS

EXHIBIT NUMBER	DESCRIPTION	NOTES	PAGES
M-2	MACV Card "Nine Rules"	Issued in Vietnam.	4
M-3	MACV Card "Enemy in Your Hands"	Did not recall .	5
P-6	Miscellaneous Scene	Wit wounded with STANLEY.	6
P-7	Miscellaneous Scene	Wit wounded.	8
P-8	Miscellaneous Scene	Medic with witness.	8
P-9	Miscellaneous Scene	MAURO, WIDMER, wit.	10
P-10	Miscellaneous Scene	Wit wounded.	10
P-11	Miscellaneous Scene	Wit being carried to hospital.	11,18
P-12	Miscellaneous Scene	Wit being carried to hospital.	11
P-13	Miscellaneous Scene	Wit recognized ALAUX, MARONEY, and CALLEY.	12
P-16	Miscellaneous Scene	In My Lai (4).	12
P-23	Miscellaneous Scene	Did not recognize LZ where troops landed.	13
P-29	Miscellaneous Scene	Path on southern edge of village.	13
P-31	Miscellaneous Scene	Wit recognized.	18,18
P-32	Miscellaneous Scene	In My Lai (4).	13, 19
P-33	Miscellaneous Scene	Wit wounded.	13
P-36	Miscellaneous Scene	Wit recognized.	14,19

(The hearing reconvened at 0850 hours, 2 January 1970.)

MR WEST: The hearing will come to order.

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

The next witness is Mr. Herbert L. CARTER.

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

Mr. CARTER, state your full name, occupation, and residence?

A. Herbert Lewis CARTER. I'm unemployed right now. Houston, Texas.

MR WEST: Mr. CARTER, before we proceed with any questions, I want to give you some information about the nature and purpose of this inquiry.

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:

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

(2) possible suppression or withholding of information by any person who had a duty to report and to furnish information concerning this incident.

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

I have had made available, and we have reviewed prior official statements obtained in other official investigations of the My Lai incident.

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

(CARTER)

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APP T-53

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

I request that you not discuss your testimony in this investigation with others, including other witnesses for this investigation, except as you may be so required to do before a competent judicial, legislative, or administrative body.

I understand that you are subject to the orders of the military judge, Colonel KENNEDY, in regard to the case of the United States v. Calley. Did you receive an order from him?

A. Yes, sir.

Q. In addition, you are cautioned that, being subject to the order by the military judge in the general court-martial case of the United States v. Calley, your appearance here in no way changes the applicability in respect to that order. He has ruled that being here and testifying is within the scope of that order. You may testify here.

Do you have any questions about what I have just gone over?

A. No, sir.

MR WEST: The hearing will recess.

(The hearing recessed at 0858 hours, 2 January 1970.)

(The hearing reconvened at 0902 hours, 2 January 1970.)

RCDR: The following persons are present: COL WILSON and MAJ COOP.

COL WILSON: Mr. CARTER, I remind you that you are still under oath.

I have some questions regarding training prior to going to Vietnam. Were you with the brigade?

A. No, sir.

Q. Did you go with C Company?

A. I went with the advance party.

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Q. Did you receive any specific advanced training prior to leaving for Vietnam?

A. Right. I went to Fort Polk for training, sir.

Q. You went through basic and advanced individual training there?

A. Yes, sir.

Q. When you got to Hawaii and you joined C Company, did you receive any special training at that time?

A. No, sir.

Q. Do you recall receiving any training when you arrived in Vietnam.

A. Yes, sir, we did. For about 2 weeks they showed us land mines and booby traps and tried to get us ready for it.

Q. During this period, do you remember where this training was located?

A. Duc Pho.

Q. Carantan?

A. Yes, sir.

Q. Do you recall getting any instructions on how to handle prisoners of war during this time?

A. We had a little instruction on that.

Q. Do you recall what they told you?

A. They told us that if we get a prisoner to hold them until someone, intelligence, was actually supposed to interrogate them. The instructor sort of laughed about this.

Q. Why did they, or he, laugh about this? Do you know?

A. It was just the way they said it, like you do what you want to do with them actually.

- Q. Was this instruction for the whole company?
- A. Right.
- Q. Do you remember who the instructor was?
- A. No, I don't.
- Q. Was he an officer or an enlisted man?
- A. He was an enlisted man.
- Q. How about handling noncombatants? Did you get any instruction on that, non-military personnel?
- A. I don't remember too much about it or how to control them or anything. I don't recall any on it.
- Q. You had no instruction on handling noncombatants?
- A. I don't recall any.
- Q. Let me show you Exhibit M-2 which is a pocket-sized card entitled "Nine Rules". Have you ever seen that (handing Exhibit M-2 to the witness)?
- A. Yes, sir. I have seen it. In fact, they issued us one of these.
- Q. Where did they issue it to you?
- A. At Duc Pho.
- Q. Did they issue everybody one?
- A. I know I had one. I can't say everybody did.
- Q. What did you do with yours?
- A. I threw it away.
- Q. It is actually a wallet-sized card?
- A. Right, but I never carried a wallet in Vietnam, sir.

Q. Did you read the card at all?

A. Yes, I did. I glanced over it.

Q. Do you recall what it said?

A. No, I don't. I wasn't that much interested in it.

Q. Do you remember how this was issued? Was it issued during a class?

A. Yes, sir. It was issued in a class.

Q. This is Exhibit M-3, which is entitled "The Enemy In Your Hands." Have you ever seen that card? (Hands Exhibit M-3 to the witness.)

A. No.

Q. You'll note that it has the translations from Vietnamese to English on it?

A. I don't remember it.

Q. You don't remember that one?

A. No, sir.

Q. Did you receive any instructions at any time on what we call the rules of engagement? By that I mean what to do in a combat situation with Vietnamese, for instance, if they run from you?

A. If somebody is running from me, they are automatically guilty.

Q. Do you know what the phrase is for stop in Vietnamese?

A. I did know. It was like "la" something.

Q. Why did you happen to know that particular word?

A. You know, people talk about it and things like that. The word, I think, is "lai day".

Q. The word is not important. I am just wondering why you happen to know this particular word?

A. You know, you hear it all the time. We would say to a "gook", "lai day," and tell them to stop or come here or something like that, to get something.

Q. So you were never given instructions as to the sequence of actions to take in case somebody ran from you?

A. No. I don't remember any.

Q. Mr. CARTER, I am going to have you run through a group of photographs, and ask you if you remember any of the locations or individuals in the photographs. I will give you the photographs, and I want you to set them in two piles; one pile will be that photo or photos that you remember something about, and the other will be those where you recognize nothing.

(The witness goes through a group of numbered photographs and selects 20 of these as those recognized by him.)

Q. Mr. CARTER, you have selected a group of photographs which you can identify. I'd like to ask you a few questions about each photograph.

(COL WILSON hands Exhibit P-6 to the witness.)

A. That's when I got hit.

Q. That's when you were wounded?

A. Right.

Q. Is that the place where you were wounded, or had you been moved?

A. No, I hadn't been moved.

Q. That big wall behind you there, is that a house?

- A. No. It used to be an old temple of some sort.
- Q. But you were wounded there?
- A. Yes, sir.
- Q. Did you wound yourself?
- A. No, sir. A lot of people say I did, but I didn't. It was a complete accident.
- Q. It was not intentional, but it was your gun?
- A. Right.
- Q. You didn't do it on purpose?
- A. Right.
- Q. How long after you were wounded was this photograph taken?
- A. A very short time.
- Q. Five minutes?
- A. It could be.
- Q. More or less?
- A. Around that time.
- Q. Do you remember who these people are here?
- A. No, sir.
- Q. The man with the joker in his helmet?
- A. STANLEY, sir.
- Q. Why were you carrying ropes?
- A. We carried ropes a lot of times for going into tunnels. We would use the ropes for going down into tunnels.
- Q. What's this in your mouth?

A. A piece of cotton.

Q. To bite on?

A. Yes.

Q. Can you identify this man?

A. No, sir. I can't see his face.

Q. This is photograph number P-7. Is that the same place?

A. Yes, sir.

Q. I notice in photo P-6 you have your helmet off, and in this photo you have your helmet on?

A. Right. That's when they laid me down. This is when I actually got hit, and they laid me down.

Q. All right. So this photo number P-7 was taken before number P-6?

A. Right.

Q. This was when? This was immediately after you got wounded?

A. Yes, sir.

Q. Now, when they laid you down how far from this spot did they lay you down in photo number P-7?

A. A few feet.

Q. Photo number P-8, I believe that is CAPEZZA, isn't it?

A. I don't remember his name.

Q. He was the medic?

A. Yes.

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Q. Is this the same location?

A. Yes, sir.

Q. You still have your helmet on?

A. Yes, sir.

Q. Is this the same location?

A. Yes, sir.

Q. This is still the same location?

A. Yes, sir.

Q. Captain MEDINA hadn't arrived there at that time?

A. Not yet, sir.

Q. Do you remember how long after you were wounded that Captain MEDINA got there?

A. About 2 or 3 minutes.

Q. That fast?

A. Yes, sir.

Q. He must have been close by?

A. Yes, sir.

Q. Do you remember the time when you were wounded? Did you look at your watch?

A. About 11:30 or 12 o'clock. It was somewhere around there.

Q. The log of Task Force Barker says that you were wounded at 1020.

A. I don't know. I could be off in the time.

Q. It says you were evacuated at 1030.

A. Like I said, I could be off on the time.

Q. You don't disagree with that time?

A. I couldn't, because I don't know exactly what time it was.

Q. Your foot seems to be pretty well bandaged at this point. You must have gone through the entire first aid?

A. They did, and also gave me morphine. We had some good medics in that outfit.

Q. This is photo number 9 and it shows you being carried by two men. Who is the man on your right?

(Exhibit P-9 was shown to the witness.)

A. MAURO.

Q. And WIDMER on your left?

A. Right.

Q. Is this when you were carried to the helicopter?

A. Right.

Q. How far was this photograph taken from the location where you were wounded?

A. I'd say about 25 or 30 feet.

Q. Here's photo number 10, and once again you were on the ground?

(Exhibit P-10 was shown to the witness.)

A. This picture was taken right after that one, and I can't say which was exactly first, but--

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Q. (Interposing) What I am trying to do is tie these locations down. This photo shows you lying flat on the ground with two men bent over you. I can't tell if this was the location of the first photograph or if you have been moved to a new location.

A. They didn't move me. They only moved me about 2 or 3 feet at the most.

Q. Except when you were brought to the helicopter?

A. Right.

Q. So all of these photographs of you lying down with the bandage on were taken within 5 or 6 feet of each other?

A. Right.

Q. From the time that they picked you up from that spot where you were wounded, and the time that you were moved to go to the helicopter, they didn't put you down anywhere, did they?

A. No, sir.

Q. You went straight from the place that you were wounded to the helicopter?

A. Yes, sir.

Q. I show you photos P-11 and P-12?

A. That is when I was being taken to it, and that is when I was boarding it.

Q. The log indicates that this was 1030 in the morning. By using the two logs we determined if this is accurate, and it could be that the logs are in error, that you were wounded and then evacuated within 10 minutes. Was it that fast?

A. It was definitely fast.

Q. The helicopter doesn't seem to be marked with Red Cross markings. Was it a slick?

A. Yes.

Q. It wasn't an evacuation ship?

A. No.

(Exhibit P-13 was shown to witness.)

I'm not sure about this one.

Q. You mean the location?

A. No.

Q. You can't verify the place?

A. No, sir.

Q. We have the first two people; Lieutenant ALAUX and Sergeant MARONEY.

A. That's Lieutenant CALLEY.

Q. You think that's Lieutenant CALLEY? You think the third one is Lieutenant CALLEY?

A. That's CALLEY.

Q. We had figured that that was part of the command group.

A. That is Lieutenant CALLEY, sir. I'd know him anywhere in the world.

(Exhibit P-16 was shown to witness.)

Q. Do you know where that was located?

A. It was in the heart of the village I would say.

Q. How far was this point from where you were wounded?

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A. About 100 feet I guess.

(Exhibit P-23 was shown to witness.)

Q. Do you remember this Vietnamese? Have you ever seen his face?

A. No.

(Exhibit P-29 was shown to witness.)

Q. Do you recognize that scene?

A. That looks like where we landed.

Q. That's where you think the landing zone was?

A. Right.

(Exhibit P-31 was shown to witness.)

Q. Can you locate that path on the photograph I showed you?

A. I don't know, sir.

Q. Let's put it aside and come back to it.

(Exhibit P-32 was shown to witness.)

How about this woman in P-32?

A. I don't know, sir.

(Exhibit P-33 was shown to witness.)

Q. This is the same photograph as P-16, but it is just closer?

A. Right.

(Exhibit P-36 was shown to witness.)

Q. This shows you are wounded again.

(Exhibit P-39 was shown to witness.)

Q. How about that one?

A. I saw it.

(Exhibit P-40 was shown to witness.)

Q. How about P-40?

A. I saw that scene too.

Q. You're sure you saw it?

A. I'm sure I saw it.

Q. We'll see if we can locate it later.

(Exhibit P-60 was shown to witness.)

How about P-60?

A. I'm not sure. I saw a guy lighting a cigarette lighter.

Q. What about this? Have you seen that?

A. I'd have to see a better picture. You can't tell much about that.

(Exhibit P-125 was shown to witness.)

Q. How about that?

A. I can't say I saw this exact building burning. We saw a lot of buildings burning.

Q. You can't locate this exact one?

A. No.

(COL WILSON orients the witness with Exhibit P-1.)

Q. Do you recall what you did when you got off the helicopter?

A. Yes, sir. As soon as the helicopters took off we got up and started for the village.

Q. How far did you have to go from your helicopter to the edge of the village?

A. Not very far.

Q. How far is that?

A. About 25 meters.

Q. Were you in the first lift?

A. Yes, sir.

Q. Did you move immediately into the village or did you group on a certain terrain feature?

A. No, we started right into the village.

Q. You didn't stop and secure until the other helicopters came in?

A. Not that I recall.

Q. But you were with the first lift?

A. Yes, sir.

Q. Which squad were you in?

A. The first squad.

Q. Who was your squad leader?

A. Sergeant MITCHELL.

Q. When you moved into the village do you recall whether you moved through the village or whether you moved on the south side of it? When you got off the helicopter, did you go into a group of hootches or did you keep the hootches on your left?

A. I believe the huts were on the left.

Q. What was on your right?

A. There was some hedgerows and a few huts scattered in there.

Q. Do you know how far you were from the edge of the village? Could you see the rice paddies to the right?

A. Yes. You could see the rice paddies.

Q. Through the vegetation?

A. You could look between the houses and see the rice paddies.

Q. What you see in front of you is a blowup which includes the area where the landing zone was. You were somewhere in the south end of the village. What I am trying to determine is whether you were in this village or whether you moved along the trail that went along the edge of the village?

A. We moved along that trail. I remember that big trail that went along the side of the village.

Q. If you moved along this trail, there was very little to your right?

A. There was some hootches on both sides of this trail.

Q. You could have been a little further inside the village, but you could see these open fields out here?

A. Yes.

Q. How far was it to the point, from where you were, where these fields began? Was it 25, 50, 100 meters?

A. I'd say about 75 meters.

Q. So you were about 75 meters into the village from the south edge?

A. Right.

Q. Now, we have been able to determine from other witnesses that you were wounded somewhere around the center of the village on the southern part of it. In other words, your platoon had moved almost 200 meters into the village when you were wounded. Do you remember about how far you had gone in?

A. We were quite a ways in there, but I couldn't say how much further we had in front of us because I left.

Q. I don't understand this. Is there a hill in this village?

A. No. When I was first wounded, I was facing like this and there was a rice paddy off to the right and there was a hill between the rice paddy and the village. We were between a hill and the village.

Q. You were between a hill and the village?

A. That's right. The company that went in or the bunch that was with us. It wasn't a very big hill.

Q. Could you see on the other side of it?

A. No.

Q. As I understand it, to your right there was a hill?

A. Yes.

Q. Do you know which direction you were facing?

A. No, sir.

Q. Were you moving in the same direction that you marched?

A. I am not sure.

(The witness points to a point on Exhibit P-11.)

There was a hill right about here.

(The witness points to a point on the other side of the helicopter appearing on Exhibit P-11.)

The hill was right beyond this chopper. I remember a helicopter was shooting on the hill.

Q. How far away was the hill?

A. About 150 to 175 meters.

Q. That was probably Hill 85. Were the helicopters firing into it?

A. Yes.

Q. The main thing that we have been able to pin down, and the main thing that we have established is that you don't recognize this area in here as being the area where you were wounded and evacuated?

A. No, sir.

Q. I think the main thing we have established is that from the point where you were wounded to the point where you were evacuated was about 50 to 75 meters. Is that correct?

A. Yes.

Q. In other words, they just moved you from that building which you were lying against, the big wall in the picture, to the helicopter?

A. Yes, sir.

(Exhibit P-31 was shown to witness.)

Q. Do you remember where that was? Was that on the trail where you were moving?

A. Yes, sir. Further up this way and coming back towards me is where I was wounded.

Q. So this would be the trail on the southern edge of the village?

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A. We were in the village and then we came back out on this trail. I remember that.

Q. And that is the trail on the south edge of the village?

A. Yes.

Q. And this was before you were wounded?

A. Yes, sir.

Q. How far up the road were you wounded?

A. It wasn't no mile or nothing like that.

Q. Was it 50, 100 meters?

A. Around that. We called it the "bloody trail".

(Exhibit P-32 was shown to witness.)

Q. What about number P-32?

A. I passed by this sight here. I remember it, sir.

Q. Do you know where that was?

A. No.

Q. Was that on the same trail?

A. I don't recall it.

Q. Did you ever get down to the main road about 300 meters south of the village? I don't think you did because you were wounded up here.

A. No.

(Exhibit P-39 was shown to witness.)

Q. Here is number P-39.

A. I saw this too, sir.

Q. Was that on the same trail?

A. Yes, sir.

Q. How far is it from photo number P-31?

A. In my opinion I would say about 25 to 30 meters.

Q. When did you see this?

A. I saw this further down the trail where I was wounded.

(Exhibit P-40 was shown to witness.)

Q. Where was P-40 taken?

A. That was taken - - there were more people.

Q. Was this taken in about the same area as where you identified those other two photographs?

A. A little further into the village.

Q. This was closer to where you were wounded?

A. Right.

Q. Were you with the group that rounded these people up?

A. Yes, sir.

Q. Did you see what happened to them?

A. Yes, sir. In fact, when they shot these people, there were still some living. Here is how I got wounded. They shot them and there were still some alive, and this man right here, WIDMER, used my .45 and it jammed.

Q. Your .45 jammed?

A. Right. The .45 jammed on him, and he came back and said, "The damn thing jammed." I was just about like this. (Motions that he was bending over.) I pulled the thing back and the damn thing went off.

Q. Is this group of people here related in any way to the ones in P-41?

A. I don't believe they were.

Q. Did you see these people after they were shot?

A. Yes.

Q. Exhibit P-41 was on a trail. Was this photo on a trail or was it in further?

A. Photograph number P-40 was inside.

Q. How far in from the trail, which you called the "bloody trail" was this taken (number P-40)?

A. It wasn't that far in.

Q. What was the purpose for shooting these people? Do you know?

A. I don't personally know.

COL WILSON: I think that completes what we wanted to get from the photos, and you have helped a lot by your identification of where you were and how far you were moved.

Thank you.

(The hearing recessed at 0944 hours, 2 January 1970.)

(The hearing reconvened at 1120 hours, 2 January 1970.)

MR WEST: The hearing will come to order.

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

The hearing recalls Mr. Herbert L. CARTER.

(MR CARTER, was recalled as a witness, was advised that he was still under oath, and testified as follows:)

MR WEST: Mr. CARTER, I understand you are a former member of the Army?

A. Yes, sir.

Q. When were you discharged?

A. April 11, 1969.

Q. What was your duty assignment on 16 March 1968?

A. Tunnel rat.

Q. How about your outfit and where you were stationed?

A. During the alleged massacre?

Q. Yes?

A. Tunnel rat.

Q. What was your company?

A. C/1/20.

Q. What platoon were you in?

A. The 1st Platoon, first squad.

Q. Who was your squad leader?

A. Lieutenant CALLEY.

Q. Well, I think he was your platoon leader?

A. Right.

Q. How about squad leader?

A. Sergeant COWAN.

Q. Are you sure he wasn't your platoon sergeant?

A. He was. Sergeant MITCHELL was my squad leader.

Q. Sergeant MITCHELL was your squad leader and Sergeant COWAN was your platoon sergeant?

A. And Lieutenant CALLEY was my platoon leader.

Q. Do you remember the briefing that Captain MEDINA gave the company on the 15th of March, 1968, the day before the operation against My Lai (4)?

A. Yes.

Q. Could you tell us what Captain MEDINA told the company at that time?

A. I don't believe I could say exactly.

Q. That's all right. Just what you recall?

A. We had steak and beer and had a strip movie, and after that we went to the briefing. Captain MEDINA told us we were going to get our revenge back for, you know, what happened in the past. He said that, you know. He also told us that there were no civilians in that area. He said that there were no civilians in that area. He said that everybody, you know, if they were not VC they were VC sympathizers. He said that nothing would be left standing.

Q. Was this the usual sort of briefing that he gave, or was this one a little different?

A. This one was a little different. He usually gave us our briefings for our missions, but this one was a little different.

Q. What else did he say about the village?

A. He didn't have to say too much about the village. We already knew what was in there. We thought we knew what was in there, to put it that way.

Q. What kind of mood was the company in at this time?

A. They were scared and undecided and a little shook up at the same time. You think you know what to expect, but you still don't know.

Q. They had the idea that it was liable to be a tough fight the next day?

A. Yes. We didn't know, but then we had a good idea because we knew what was in the area. We come in contact with that bunch before.

Q. Do you recall the company getting into a minefield some 2 or 3 weeks before that?

A. Yes. That was before that. That was when WILSON was killed, wasn't it? Bobby WILSON was killed then.

Q. We've had evidence to that effect.

A. In fact, if I had beat Bobby to that path it probably would have been me, because we both were walking point.

Q. He was just ahead of you?

A. Yes.

Q. Do you remember what the casualties were in that incident?

A. There were about 15 in the whole company. You could hear booby traps going off all around.

Q. You know, we have one statement that this minefield was what you call a command-detonated minefield. Somebody watched it, and when people got in it they set the mines off?

A. It couldn't be. If that minefield was command-detonated then all those people - - can I show you on this paper?

Q. Go ahead.

(The witness illustrates the minefield on a piece of paper.)

A. There was a little hill like this and a little hedgerow. There was a wood line. We come in here next to the hedge line. When the element got in here and if this minefield was command-detonated - - one mine went off and then another went off. WILSON kind of beat me to it and I went up on the hill. I went one way and WILSON and a bunch of guys went the other way. If this minefield was command-detonated, it would have got the whole bunch of guys with WILSON and also could have got us up here. This way it only got three people. If it was command-detonated, it would have had to get some more people.

Q. So, he must have stepped on something to set it off?

A. It was a "Bouncing Betty", and a "Bouncing Betty" can't be command detonated like that.

Q. This helps. Was this pretty much on everybody's minds on the night of the 15th, when you were to go into My Lai (4)?

A. Yes, sir.

Q. Did Captain MEDINA say anything about this when he briefed you?

A. I don't remember him saying anything like this.

Q. What was your impression, after this briefing, about what the company was to do when they went into My Lai (4)?

A. Well, personally I thought we were going to have to fight our way in there. I'm sure this went through a lot of people's minds.

Q. Do you remember talking to a Mr. CASH, an investigator for the CID, down in Houston?

A. Right.

Q. He discussed this briefing with you and you have, in your sworn statement, which was made before Mr. CASH, this statement. "The night before the operation Captain MEDINA gave the unit a pep talk and a briefing. The briefing was the usual; equipment to take and what orders we would go in. The pep talk was unusual. He said, 'Well, boy, this is your chance to get revenge on these people. When we go into My Lai(4), it's open season. When we leave, nothing will be living. Everthing is going to go.' He also said to level the village." Is this about what you told Mr. CASH?

A. Right, sir. He said to leave nothing standing while I am thinking about it, and I tried to get in contact with Mr. CASH. Now, Colonel BARKER, he was outside the CP when this happened and when Captain MEDINA was talking to us.

Q. At the time of the briefing?

A. Yes, he was. Now, I didn't think about it until later on, but he was there.

Q. So he could hear what was going on.

A. Yes, he could. Him and a couple majors. I know there was a lot of brass there. They were outside there.

Q. Do you know Major CALHOUN?

A. The name sounds familiar.

Q. Major CALHOUN was the S3 of Task Force Barker?

A. I'm not really sure. You know, a lot of guys I know their faces and I don't know their names.

Q. You remember a Lieutenant KOTOUC, the S2 of Task Force Barker?

A. You know, I mean, it's been a long time.

Q. Sure. 21 or 22 months.

A. A lot of things slipped my mind. Like those pictures. I've seen them, but I don't know exactly where it all happened. I couldn't put it together and say it happened here or it happened there because I don't know.

Q. But, this that I read pretty well represents what he told you?

A. Yes.

Q. After Captain MEDINA's briefing, did Lieutenant CALLEY brief the platoon, the 1st Platoon?

A. No. He didn't actually brief us. You know, we had to get our equipment together and this sort of thing. He always wanted to get the equipment and things ready. He was that way.

Q. What did he tell you about your equipment and supplies?

A. We had to double up on everything and the equipment. We doubled up on ammunition and things like that.

Q. Do you remember having a conversation with STANLEY along about this time or that evening about what was going to happen in My Lai (4)?

A. STANLEY and I were, you know, we talked about things like this all the time. STANLEY actually knew, you know, STANLEY was a pretty sharp dude. STANLEY kind of felt it was going to happen. This was a weird deal.

Q. He felt like it was going to happen? What do you mean?

A. He kind of felt like something like this was going to happen.

Q. Are you talking about the killing of civilians?

A. Right. STANLEY was always very sympathetic toward the civilians. He always was trying to be a big brother to them.

Q. What was it that made you think this was going to happen before it did?

A. Made me think?

Q. Yes? You and STANLEY?

A. Now I didn't say I thought it was going to happen.

Q. You said that STANLEY did?

A. Right. I mean, actually at this point I didn't know what was going to happen. I was as confused as everybody else.

Q. STANLEY had the idea that the people living in the village were going to be killed?

A. Right. You know, like I said, at this time everybody was pretty upset about the whole mess anyway. Everybody would like to see old Pinkville just down, you know, just can't move.

Q. This was because of the casualties that the company had?

A. Right.

COL FRANKLIN: Did STANLEY say anything to you about the fact that he thought some women were going to get killed and why he thought that?

A. He never said actually why he thought it. You know, you can talk to a person, you know, and gather something. It might not be exactly what he is thinking, but you know that it--after all, you know it's there. It's weird.

It's just like you get thinking and you know, I really don't think--I get thinking sometimes there and those people want to know why they got killed. Why I got to die, you know. They want to know why they got to die. At the same time the guys that shot them don't know why they shot them. They don't know why they shot them, and the people don't know why they died. It's just the misfortunes of war. It's bad, but it happened, you know.

MR WEST: Mr. CARTER, I am going to show you photographs of four officers that have been admitted into evidence as Exhibits P-49 through P-52.

Now, we're going to block off their names so that you can't see their names, and I'll ask you if you remember seeing any of those officers that night at the briefing?

(MR WEST hands the witness Exhibits P-49 through P-52.)

A. Like I said it's been 22 months, but I believe it was this one, sir. As far as remembering - - I can't really say. I'm not sure so I'm not going to say. I think this one here.

Q. That was Major MCKNIGHT.

Do you remember the name MCKNIGHT?

A. No, sir. The name don't mean nothing to me.

Q. Let's go to the next day, Mr. CARTER, the 16th, and after you hit the landing zone west of My Lai (4). Could you just tell us in your own words what happened?

A. We come into the LZ and got off the choppers, and there was this old man standing out in the field off to my left.

Q. Were you facing the village?

A. Yes. To my left. It seemed like he was waving his hands in a friendly sort of way, and he was shot. By whom I don't know.

Q. Was that the first person you saw killed?

A. Yes, sir. That one at My Lai (4).

Q. This was a Vietnamese man?

A. Yes.

Q. What happened next?

A. Well, that's when all hell broke loose. They went in the village and started killing and burning.

Q. Well, before this, do you remember an incident involving a woman who came out of the village?

A. That was the one that Captain MEDINA shot.

Q. That was your testimony when you talked to Mr. CASH. Would you relate that incident to us?

A. He just shot this woman.

Q. Where did she come from?

A. I don't recall exactly. Like I say, I don't know exactly where she came from. I can't say she came out of a house. I can't say she was getting some water. I don't know where she came from.

Q. How far away from her were you?

A. It wasn't far.

Q. I believe you told Mr. CASH you were about 50 or 60 feet away. Is that right?

A. Right.

Q. What happened?

A. He shot the woman.

Q. Who is this?

A. Captain MEDINA.

Q. What did he shoot her with?

A. An M-16.

Q. Did you see her threaten him in any way?

A. Threaten him? She was saying something.

Q. Yes?

A. I think what happened is someone shot her kid or something like that. I don't speak Vietnamese or anything like that and I couldn't say exactly what. There was a discussion or something like that.

Q. She was saying something?

A. You know, she was excited and upset.

Q. I don't think I understood you just then. Did you say something about a child?

A. Yes. There was a kid involved.

Q. Now, this incident that happened outside the village when Captain MEDINA killed the woman. Our evidence is that there was no child around. There was a girl or a young woman and she was by herself?

A. Like I say, as far as I could gather there was a child involved.

Q. Okay. Would you start then when your squad started into the village and tell us what happened?

A. They just went through shooting people, burning houses, putting people in the well, shooting them, heaving dead bodies in the water to keep them from drinking it. You know, the Vietnamese are very superstitious that way.

Q. Now, did you ever receive any hostile fire from the time you landed?

A. No.

Q. Nobody ever shot at you?

A. It was just like I told Mr. CASH. Now, there was shooting. There was so much shooting in that village. I don't believe a man there could actually say that there wasn't or was actually firing. There was so much shooting by our side, you know. None of our men got hit and they were bound to hit somebody.

Q. Nobody got hit and nobody got killed?

A. Right.

Q. Our evidence is that you were the only person hurt that morning?

A. Right. MEADLO was hurt that night.

Q. No, it was the next day.

A. It was that night, wasn't it?

Q. The next day, but we'll get into that a little later. You told Mr. CASH that your squad started into the village, and you said: "We were making sure no one escaped from the village."

A. Right.

Q. Now, you told him about an incident 75 or 100 yards inside the village where the soldiers directed 15 or more men, women, and children into a group. Do you remember that incident?

A. Yes.

Q. Can you tell us what happened there?

A. They collected them in a group and, you know. They made a few wisecracks like GI's will do, and they shot them.

Q. Now, you told Mr. CASH that WOOD was there and had an M-60 machinegun. What did he do?

A. He mowed them down.

Q. Anybody else shoot at them?

A. There was a number of people shooting at them, but as far as the names or recalling everybody....

Q. You told Mr. CASH that Sergeant MITCHELL fired into the people with his M-16, and WIDMER was there and fired into the people?

A. WIDMER kind of liked that, I think. He kind of enjoyed that.

Q. He was there and fired into them?

A. Yes.

Q. You also said that WIDMER passed among them and finished them off with his M-16 rifle?

A. Right. WIDMER also took my .45 and this was later on.

Q. Now, at this particular point, was MEDINA there at this time?

A. Well MEDINA, he was passing through all the time, just like I told this other CID agent. Now, I have nothing against Captain MEDINA, you know, but he said he didn't see nothing, and I passed by the same places he did and I saw it. I couldn't forget it and he couldn't forget what he saw.

Q. He saw this group of people killed?

A. Yes.

Q. Did he put out any orders at this time as to killing people or anything?

A. Well, he didn't give me no orders like that. I can't speak for the others.

Q. He didn't pass any orders on to other people?

A. Like I say, I wouldn't know what he actually said to the others.

Q. I want to get one thing cleared up. In your statement to Mr. CASH, he has you say, "MEDINA said kill everybody and leave no one standing"?

A. I thought you were talking about in the village.

Q. He's got it in here as if he might have said this in the village?

A. No.

Q. I see. Well, did you mean by that this was a prior order or orders?

A. Yes.

Q. On that point, Mr. CARTER, when we were speaking of the briefing the day before, I didn't get the impression you said that MEDINA said to kill everybody.

A. It's like I say. He said, "Leave no one standing." If that don't mean kill everyone, I don't know what does.

Q. Can you recall what happened after this group of people were killed?

A. This went on all day, you know, all that morning.

Q. Now, you told Mr. CASH about an incident where Captain MEDINA stopped a 17 or 18-year-old man and tried to get him to run?

A. That was the - - I think that is what they do. They ask them, you know, to run and then shoot them. Just like they said--I let some people go, I did.

Q. What happened to this 17 or 18-year-old boy?

A. He was killed?

Q. Who killed him?

A. Captain MEDINA shot him. I'm not sure he killed him because the kid was still--he was killed eventually.

Q. You told Mr. CASH - - you said, "So MEDINA shot him with his M-16 rifle and killed him." You're not actually sure that MEDINA's shot killed the man?

A. Right. Like Mr. CASH was asking me questions, you know. He would bring something up and you would remember it, you know. It was a weird deal.

Q. You mentioned also to Mr. CASH that there were some demolition men there too?

A. Yes, there was.

Q. Did you know any of them by name?

- A. No. I drank beer with them at Dottie all that day before and that night.
- Q. They were engineers, were they not?
- A. Right.
- Q. We've been trying to find out who those men were?
- A. They were with the - - I can tell you the outfit. I just can't recall the outfit right now.
- Q. If you can think of it later on, that would be a help. Do you remember an incident about MEADLO and a Vietnamese man who was thrown in a well?
- A. Yes, I remember it. It did happen.
- Q. You told Mr. CASH that MEADLO shot a Vietnamese and asked you to help throw the man in the well. Could you tell us about this incident?
- A. He shot the man and wanted to throw him in the well.
- Q. Well, did you help him?
- A. No.
- Q. Who did?
- A. I don't know.
- Q. Did CONTI help him?
- A. CONTI was around there, but I can't say that he helped him.
- Q. You don't recall?
- A. You know, that day I tried my best to stay out of that whole mess. It might, you know - - some people may say that it was a cowardly act, but I just tried to stay out of it. It's not my bag.
- Q. Was the man dead when he was put in the well?
- A. As far as I could see.

Q. Did you see groups of Vietnamese people being rounded up?

A. Right.

Q. Could you tell us about this?

A. They was rounding them up like cattle, you know, laughing and joking and pushing them around.

Q. What happened to them?

A. They shot them. They put them in big groups - - I know this one incident, I got kind of sick. I really got sick to my stomach. Sergeant MITCHELL, and I can't remember who exactly was with them, but I remember Sergeant MITCHELL just looked at me when I saw. There was a little ditch and the people was right there and they just mowed them down.

Q. Where were the people? On the edge of the ditch?

A. Right.

Q. Who did the shooting?

A. Sergeant MITCHELL was involved with it. Like I said, I don't know - - I don't remember all the names.

Q. What about MEADLO and CALLEY?

A. They were there.

Q. You told Mr. CASH about an incident where there was a group of about 25 people gathered together and Lieutenant CALLEY said, "When I walk away I want them all killed," and "MEADLO and WIDMER fired into the group with M-16's on automatic fire", and "COWAN was there and fired into the group too."

A. Yes.

Q. Now, was this at the ditch or was this an earlier time?

A. This was at the ditch.

Q. Did CALLEY fire into any of these people?

A. Yes, he did.

Q. I think you mentioned, then: MITCHELL, CALLEY, MEADLO, WIDMER, and COWAN?

A. As far as this WIDMER, like I said, WIDMER enjoyed that mess. He was Captain MEDINA's pet. Like a pet cat.

Q. We have heard that WIDMER took a lot of photographs of the bodies and things of this nature. Did you know that?

A. Right. Like I said, WIDMER was a blood-thirsty little ol' joker. He must have had a bad home life or something.

Q. Did you see him use his camera at all that day at My Lai?

A. Yes, I saw him.

Q. Did he take photographs there?

A. Yes. In fact I think he took a picture of me when I was wounded.

Q. If you remember, there was a photographer there, HAEBERLE?

A. I'm not talking about HAEBERLE.

Q. I see. WIDMER took the photographs when you were hurt?

A. Right.

Q. These people that were standing on the edge of the ditch that were shot, could you describe them as to their, you know, their ages and sex?

A. Most of them were females, young kids, and a couple of old men.

Q. How were they dressed?

A. Regular VC garments. Vietnamese garments I should say.

Q. Were they offering any resistance?

A. No. They never did show their fear too much. You know, you could tell it was there, but they never showed it. You know, hollering and screaming, you know, crying.

Q. What about after they were shot and wounded?

A. They never did show too much.

Q. Were they standing down in the ditch when they were shot or on the edge?

A. There were a few of them in the ditch, but the majority of them was up on the edge.

Q. Were they thrown into the ditch later, do you know?

A. No. I didn't even stick around to find out.

Q. You told Mr. CASH about another incident when a woman came out of a hut with a baby in her arms. Do you recall that? Would you tell us about that?

A. She came out of a hootch and she was shot down by Lieutenant CALLEY.

Q. In fact, you talked about two instances like that. One, a woman came out with a baby in her arms and she was shot by WIDMER?

A. WIDMER shot that one first.

Q. Is that the instance where she came out with the little boy that had already been shot and she was crying?

A. She wasn't hollering and screaming, but she was crying, you know. Any woman would do that.

Q. Was that because her little boy had been shot?

A. Right.

Q. You told Mr. CASH that she came out of the hut with her baby and WIDMER shot her with an M-16. And when she fell, she dropped the baby, and WIDMER opened up on the baby with his M-16. Is that correct?

A. Yes. In fact, I almost jumped on WIDMER about that.

Q. You also told Mr. CASH that you saw another woman come out of the hut and CALLEY grabbed her by the hair and shot her with a caliber .45 pistol?

A. He did. That's what I was mentioning about, when CALLEY shot her. You know, I imagine it's hard to believe that CALLEY was that cold-blooded and WIDMER was that cold-blooded.

Q. Well, we've been hearing testimony like this.

A. I don't know how those guys sleep. I can't hardly sleep now and I didn't even participate in any of this mess.

Q. You recall these instances pretty clearly then?

A. Something like that is just hard to forget. You know, it's like it comes and goes. Sometimes I think about it and sometimes I don't. You know, I will be so glad when this mess is all over and I can try to forget it.

Q. Do you remember whether other people saw Lieutenant CALLEY kill this woman, for example, and the other shooting of the woman with the baby?

A. Did you say did anybody else see it?

Q. Yes?

A. Yes, people saw it. Now, if they will admit to it is another thing.

Q. You mentioned that maybe STANLEY was there?

A. Yes. STANLEY would say, you know. I know he would.

Q. Now, we had a Mr. ROBERTS in here. I think he was a spec 4. He was assigned to a PIO detachment with the 11th Brigade, and he came along on the mission that day with HAEBERLE, a photographer. Mr. ROBERTS testified about an instance where HAEBERLE was about to take a photograph of a little boy and the boy was right in front of him, and he was about to take the photograph when someone shot the boy and just blew him over backwards?

A. That was just before my little accident happened.

Q. Do you remember seeing that little boy shot?

A. Yes.

Q. You told Mr. CASH about an instance which sounded like it might have been the same one.

A. It's the same one. That was just before I got hit. It was just before my little accident happened.

Q. You said, "I also saw a Vietnamese boy about 8 years old that had been wounded, I think in the leg. One of the photographers attached to the company patted the kid on the head and then MITCHELL shot the kid right in front of the photographer and me. I'm sure the boy died from the fire of MITCHELL." Mr. ROBERTS didn't know. He didn't see who shot the boy. His back was turned at the time. Is it your recollection that MITCHELL shot the boy?

A. Right, he did.

Q. I want to get into the time when you were hurt. I think maybe this has something to do with WIDMER. Can you tell us what WIDMER's activities were?

A. There was a group of people lying on the ground which were just shot. Some of them still living. You know, when you shoot somebody, they may not die quickly. So I was sitting down and STANLEY was to my back and BERNHARDT

was to my right. We was feeling pretty rough by then, you know. So these people were still moving and WIDMER got my .45 and went over there and he was shooting them. It was a funny thing about that. He ran over there like I got me a treat. He did it and the gun jammed on him. The .45 jammed on him. He brought it back and he said, "The damned thing jammed." I cocked it back like that, and it came back like that, and the trigger went back on it. That's when I got hit. I know there was a lot of rumors that I shot myself, and that isn't true. But I'll say this, if I had went through the other part and they had done the same thing, I am afraid I might have done something like that. I didn't think fast enough at the time.

Q. Well, we've had other evidence that the shooting was accidental and happened like you said it happened.

A. I don't care what the people say. I just want to forget the whole mess.

Q. Just before you were hurt, do you recall WIDMER shooting a little boy with a pistol?

A. Yes. That was a little ways from that stack. You know, they had a stack of people strung out over there.

Q. About how many people were there?

A. I would say, roughly speaking, about 65.

Q. That many?

A. They just herded them up. It looked like cattle just coming and going.

Q. Can you tell us about what happened to you after you were shot?

A. After I was shot, the guys came over. STANLEY cut the boot off me with his survival knife. The doctor came around and gave me a shot of morphine.

Q. Was this CAPEZZA?

A. Yes, the Italian. One guy gave me a stick of marijuana out there and said, "Hey, man, this is for your pain." There is one picture that shows it, I think. I had a cigarette there, but it wasn't a cigarette. If you were to see it, there was no name on it. They were taking care of me, and it is when they took that cotton stuff out of my mouth. I was smoking this "joint". In just a few minutes the helicopter came in and took me away. WIDMER and MAURO took me out to board the helicopter, and I went to a hospital in Vietnam. Then they put me in a mental hospital in Japan.

Q. What did they put in a mental hospital for?

A. I was just gone.

Q. You kind of went all to pieces after this, did you?

A. Right.

Q. About how many dead people do you think you saw there in My Lai (4)?

A. That's a hard question, you know. I could estimate, but as far as being correct, I don't know. There was a great deal of them, you know.

Q. I think you did give Mr. CASH a figure. I believe you said to him, "There were more than 100, but I couldn't tell you accurately how many were killed."

A. Right.

Q. "I don't believe there were any people alive."

A. Just the ones that was turned loose, and they might have got caught anyway. BERNHARDT and I and STANLEY, we did kind of--you know, we would catch one. Like this one kid, I told him to just lie down and act dead.

Q. Did you ever go back to Vietnam?

A. No, sir.

Q. You were evacuated home from Japan?

A. Yes. I went to Fort Polk and I started fighting again, got back in the ring again.

Q. I understand you didn't shoot anybody in My Lai (4)?

A. No, sir.

Q. As far as I know we don't have any statement by anybody that you did?

A. Nobody could actually say that I shot anybody and be honest with themselves, because I didn't. I mean, if they had weapons it would have been a different deal. If I had saw somebody trying to shoot me, it would have been a different thing. I wouldn't have thought twice about it. Like those guys will say, I would go in a tunnel in a minute and it doesn't bother me at all or something like that, but as far as this, you know, it's not my bag.

Q. Up to the time that you got hurt, did--I believe you saw Captain MEDINA and Lieutenant CALLEY and then Sergeant MITCHELL. Did you see any other officers there on that morning?

A. In the village?

Q. Yes?

A. I saw them, but I can't--like I said, it's hard to say.

Q. Do you know if anybody visited the company that morning from Task Force Barker or the brigade?

A. In the field?

Q. Yes.

A. Not to my knowledge.

Q. Did you ever hear anything about an investigation into the My Lai incident?

A. Yes.

Q. What did you hear?

A. I heard that they said if anybody asks around or any questions about what happened at My Lai, to tell them that we were fired upon and say that a sniper round had come in or something.

Q. Whom did you hear this from?

A. I was in the hospital at this time at Qui Nhon, and a couple of guys from the company came over. I'm not bragging, but most of the guys in that company liked me. I didn't bother nobody. I did my job and they did their job. We drank together.

Q. They came to see you in the hospital?

A. Yes. A lot of guys came over. You know, when they came back through, they would come over.

Q. Captain MEDINA told us that soon after this operation he got the company together and told them that there was an investigation and it would be better if nobody talked about it while the investigation was underway. Did your friends say anything about this?

A. No. The way they ran it down to me was like somebody was trying to cover something up or something, which I knew they were. They had to cover up something like that.

Q. I'm sort of glad you brought it up about the marijuana because I've been asking people questions about this in the company. There was something in the newspapers, about November of this year, to the effect that perhaps the men of Charlie Company on that day in My Lai were under the influence of marijuana. Do you know anything about any of this?

A. Like I say, I don't have anything against none of those guys, but half the company was hopped up, I would say. I mean, you couldn't go in that--I'll bet there wasn't

one guy in that company that didn't have a stash of the stuff. You get it--you've been to Vietnam (refers to COL FRANKLIN). You can get it just like that (snaps fingers).

Q. You mean that you think that when they went into My Lai on the assault they had been smoking marijuana, or were under the influence of it?

A. Most guys were smoking it all that night. You go up there, you know, we had that show up there, you know. You walk past that show and you would get "contact high."

Q. Well, you're the first one that has told us that the men of the company were perhaps under the influence of marijuana when they went into My Lai.

A. Like I say, I got nothing to hide. I didn't do anything and I didn't break no laws.

Q. One man made a statement that he didn't believe they were under the influence of marijuana. He thought if they had been, they wouldn't have killed so many people. Now, this is just one man's opinion.

A. Marijuana will make a lot of people very violent. In a case like that, you have the opportunity to do it. Like WIDMER, now. A lot of people say I am going to kill somebody, but they know they can go to jail for this and that stops them right there, right. Now, when you give them the opportunity to do it and--I am going to try it just to see if I can do it, you know.

Q. There is one witness who stated that WIDMER said something about he wanted to see if he could kill somebody?

A. That's exactly what I am trying to say. After he found out he could do it, and it would be so easy, well, man, I got me a good thing going here.

Q. Going back a little bit where the people were grouped along the edge of the ditch; MEADLO and CALLEY and the others shot them. Do you remember where this ditch was in the village?

A. It was on the outskirts of the village about like this here and on the road like this. The hootches were out here and on the road like this. The hootches were out here and the ditch was right along here. It was on the other side, excuse me, and down in there. I think it was on the sidelines, you know.

MR WEST: The hearing will be recessed.

(The hearing recessed at 1210 hours, 2 January 1970.)

(The hearing reconvened at 1215 hours, 2 January 1970.)

MR WEST: The hearing will come to order.

RCDR: All persons present when the hearing recessed are again present.

MR WEST: Mr. CARTER, this is the same photograph that Colonel WILSON showed you awhile ago. I direct your attention to the hamlet of My Lai and the center of it and the southern edge of that group of trees in the hamlet.

(MR WEST shows the witness Exhibit P-1.)

A. I can't make any sense out of this map.

Q. I want to be sure that you are describing the location of the ditch, but you can't place it in regard to this photograph?

A. No. Maps look all the same to me; city map, country map, jungle map. They all look the same.

Q. Have you seen the sketch of the village of My Lai?

A. Yes, I have.

Q. You've seen that too? The big yellow sketch of My Lai?

A. I can't make no sense out of that.

Q. Let me ask you this? Was this ditch anywhere near the point where you shot yourself accidentally?

A. Down further.

Q. It was some distance away?

A. I got hit down further.

Q. It was in the direction that the platoon had been moving through the hamlet?

A. Yes.

Q. Had you moved up towards the end of the village and all the way through, perhaps to the end of the village, and come back again?

A. We went in a roundabout way, you know. We might have gone this way and come back like this, you know.

Q. Is it fair to say that you went through the village and doubled back before you got hurt?

A. Yes.

Q. I know you have thought about this incident a whole lot, but what is your opinion as to just what happened there that morning, on 16 March. This is most unusual thing with so many Vietnamese civilians killed, shot down like this. How do you account for it?

A. I just think it's the misfortune of war. Any time you had a--say this country had a war on its own soil. You have to expect those things. I mean, it's unfortunate for a lot of people, but you know, like some of these people's families, they suffer a lot from it and even more than the guy himself. A lot of these guys that actually did the killing are hurting on the inside, but you'll never know about it. They'll probably suffer more than anybody dreamed of suffering. They won't say it. They will try to be a big man and "it don't bother me," but it does. I haven't even participated in it and I can't sleep at night a lot of times.

Q. We've had some people tell us that a lot of this killing was done because they were ordered to do it?

A. Right. I also believe that Captain MEDINA and Lieutenant CALLEY, sure, they did some killing. I believe the order definitely came from higher up.

Q. Well, this was one thing that we are trying to find out and--

A. (Interposing) Colonel BARKER was right there.

Q. I understand this is your opinion, but can you tell us or point out just why you think this?

A. Well, Colonel BARKER was right there and some of the people I seen with him a lot of times was running around there too.

Q. Was this at the briefing?

A. Right. Okay. Now, if they took the briefing like most guys in that company did, and if Colonel BARKER didn't have any knowledge of it, they would have went back and told him. You don't be the head of something and don't know what's going on.

Q. How about STANLEY? Did he think the same way?

A. Right.

Q. We haven't talked to STANLEY yet.

A. A sharp cat.

Q. In you opinion, did Captain MEDINA have the company under control and was the company carrying out his orders do you think?

A. Yes, but a lot of people wondered, reading a newspaper article, they wondered if he could have stopped it. I don't believe he could have stopped it once it got started. I don't believe there was no way in the world he could have stopped it. It got too out of hand then.

Q. The men of the company apparently were in the frame of mind to do this?

A. Right.

Q. In your opinion, was this the result of the briefing and the things that happened?

A. Everything that led up to it, you know. All the people that got wounded and killed and this little talk he gave us definitely put it all together. And they felt like oh, boy, we've got it now. It's open season.

Q. You mentioned marijuana awhile ago. Do you think that was a factor in it?

A. I do.

Q. In what way? That maybe it released their inhibitions?

A. It made them more or less at ease at what they were doing. It made them enjoy it a little more. Look at MEADLO when he was in the hospital after he got his leg blown off. Now, that day nothing bothered him. MEADLO wasn't that type of joker, and the next day he was in the hospital. He told me: "I don't know if God is making me suffer for what I did yesterday or not." That's just what he told me. It all came back to him.

Q. But he had no qualms or conscience that day in My Lai?

A. Right.

Q. I think you know that it took a long time for the story of My Lai to get out. What is your opinion as to why this wasn't reported right at the time? You did mention about some of your friends coming and telling you to keep quiet. Do you know anything else?

A. Like a lot of people wondered how come I didn't say something. Now, who would believe me. I go up to you with a story like that and you would call me a nut. You would tell me I am a nut and that there was nothing like this going on. You would think that nothing like this goes on in the United States. Just like I was in a bar a couple of weeks ago, and there was a drunk in there. He was standing there reading a paper and he was asking me if I believed that things like that actually went on, and I said, "I wouldn't know, pal." It was kind of weird. This happened three different times. One time I was sitting up there with a friend of mine, and my partner told me to be quiet about the whole mess. Some people want to talk that talk all day long, and they just don't know this and that about what they are talking about.

Q. Did you or the other members of the company ever think about these killings as a war crime?

A. Not at that time. No. I didn't want to think about anything at the time.

Q. In your statement to Mr. CASH you spoke of it as murder?

A. Yes.

Q. You looked at it as being murder, but you didn't think about it as being a war crime?

A. That's right. I thought it was just the poor misfortunes of war.

Q. Mr. CARTER, can you think of anything you would like to add to your testimony that might help us in our inquiry here?

A. No.

Q. We very much appreciate your coming here and you certainly have been a great deal of help. If you should think of something later on, we would certainly appreciate hearing from you.

A. Yes, sir.

MR WEST: The hearing will be recessed.

(The hearing recessed at 1230 hours, 2 January 1970.)

SUMMARY OF TESTIMONY

WITNESS: CONTI, Dennis I.

DATE OF TESTIMONY: 2 January 1970

PLACE OF TESTIMONY: Pentagon

WITNESS SUSPECTED OF: Murder and aggravated assault.

COUNSEL: None

DUTY ASSIGNMENT ON 16 MARCH 1968: Minesweeper, First Platoon, C/1/20.

1. PRIOR TRAINING IN RULES OF LAND WARFARE.

Before embarking for Vietnam, the witness received little if any training on the Rules of Land Warfare (pg. 5). He had seen Exhibit M-2, but not Exhibit M-3 (pg. 6). Mr. CONTI claimed to have received no training on the Rules of Engagement (pg. 6), but he knew to yell "Dung Lai" (halt) and fire warning shots if Vietnamese ran from him (pg. 7). This training was probably received in Vietnam (pg. 7).

2. PREOPERATIONAL PLANS AND BRIEFINGS.

a. MEDINA's briefing.

C/1/20 was briefed first by Captain MEDINA on 15 March 1968. In essence, he told them to expect strong resistance and that the area was boobytrapped (pg. 27). MEDINA did not imply that everyone was to be killed (pg. 37).

b. CALLEY's briefing.

Lieutenant CALLEY assembled the first platoon and briefed them (pgs. 27, 30). He told them that all the men would have weapons and the women packs. The cattle were to be killed (pg. 27). He also said that the children were future VC (pg. 28). The witness interpreted this to mean that the men were armed and that the women supported the men (pg. 27). CONTI did not think that CALLEY was ordering the

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populace massacred (pg. 29). The platoon became even more "psyched up" after CALLEY's speech (pg. 28).

c. Memorial service.

A chaplain conducted a memorial service for ROCKER, BELL, and WILSON, all killed in a minefield, just prior to the briefings (pgs. 29, 30).

3. ASSAULT ON MY LAI.

CONTI flew in on the same ship with CALLEY since he was attached to the first platoon CP (pg. 9). They landed on the west side of the village (pg. 8). The LZ was 100 to 150 meters from the village (pg. 9). The doorgunners were firing (pg. 9). The witness carried an M-79 and a mine-sweeper into the operation (pg. 4).

It did not seem to CONTI as if the company moved into the village on line (pg. 9). They met no resistance whatsoever on 16 March 1968 (pgs. 22, 36). CONTI became separated from the CP group momentarily while he talked with members of Sergeant BACON's squad (pg. 31). BACON ordered CONTI to rejoin CALLEY. The witness caught up with the CP. CALLEY ordered them to round up the villagers and take them to the rice paddy (pgs. 31). CALLEY told CONTI and MEADLO to, "Take care of them." They thought CALLEY meant for them to guard the Vietnamese.

CALLEY returned and said, "I thought I told you to take care of them." CONTI replied, "We're taking care of them." CALLEY then ordered CONTI and MEADLO to kill the people. CONTI claimed that he told CALLEY that he would watch the treeline. CALLEY and MEADLO lined the people up and started firing. MEADLO began to cry and gave his M-16 to CONTI to finish the job. CONTI refused to comply. At this time, only the children were left. CALLEY killed them despite the fact that CONTI was swearing at him. CALLEY appeared to be enjoying himself. After they were all dead, CALLEY turned and said, "Okay, let's go" (pg. 32).

After witnessing the mass execution, CONTI separated himself from CALLEY and began to wander around (pg. 33). Subsequently, he walked upon CALLEY and Sergeant MITCHELL shooting into a ditch (pgs. 13, 14, 16). "Everybody was going crazy" (pg. 15). CONTI saw 150-200 bodies. Many were huddled in their hootches and bunkers (pg. 36).

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f. The witness did not know of any rapes committed by C/1/20.

g. CONTI blamed the massacre on CALLEY's poor leadership and the psychological effect of the minefield casualties (pg. 44).

h. The incident was not reported by the men because they felt that it had been discovered. Also, they felt shame for what they had done. They thought that division and brigade were aware of what had happened (pgs. 45, 46).

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EXHIBITS

EXHIBIT NUMBER	DESCRIPTION	NOTES	PAGES
M-2	MACV Card "Nine Rules"	Wit had seen	6
M-3	MACV Card "Enemy in Your Hands"	Wit had not seen.	6
P-26	Miscellaneous Scene	Loaded here at LZ Dottie for CA into My Lai (4).	8
P-32	Miscellaneous Scene	Trail where MEADLO and CALLEY shot people.	8
P-41	Miscellaneous Scene	Could not identify as the trail they had used.	34
P-61	Photo of My Lai operation	A scene after sweeping through My Lai (4).	17
P-64	Photo of My Lai operation	Identified as third platoon and SMITH.	17
P-68 & P-69	Photo of My Lai operation	Identified "Pete"	18
P-74	Black and White photo taken on 16 November 1969	My Lai (4) is on the left.	19
P-79	Black and White photo taken on 16 November 1969	Scene south of My Lai (4).	19
P-80	Black and White photo taken on 16 November 1969	Identified trail and Hill 85.	20
P-81, 82	Black and White photos taken on 16 November 1969	Taken at the trail.	21
P-84	Black and White photo taken on 16 November 1969	Two Vietnamese survivors at My Lai (4).	21

(The hearing reconvened at 1102 hours, 2 January 1970.)

MR WEST: The hearing will come to order.

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

The next witness is Mr. Dennis I. CONTI.

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

Would you state your full name, occupation, and residence.

A. Dennis Irving CONTI, right now I'm unemployed, and I live at 400 West Avenue, Pawtucket, Rhode Island.

MR WEST: Mr. CONTI, before we get into any questions, Colonel MILLER will give you some information about the nature and purpose of this inquiry, and also advise you of your testimonial rights.

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 recommendations and findings in two major areas:

(1) the adequacy of prior, that is immediately after the incident, investigations and inquiries into and subsequent reports and reviews within the chain of command, the military chain of command, of what we commonly refer to now as the My Lai incident of March 1968, and

(2) possible suppression or withholding of information by any person who had a duty to report and to furnish information concerning this My Lai incident.

We are not primarily concerned with everything that happened at the village of My Lai, although we do go into it to some extent. Our two purposes are the ones I just mentioned.

We have had made available to us and we have read the statements made by many of the witnesses in prior investigations. This includes the CID investigation and

the IG investigation. We do have your statement. Your testimony today will be under oath. A verbatim record will be made. We have a reporter and, in addition, we have a tape recorder.

The general classification of our report is confidential. However, there is at least the possibility that some or all of the testimony taken may become a matter of public knowledge at some later time.

General PEERS, the Investigating Officer, will have the final responsibility for making findings and recommendations in this case. We request that you not discuss your testimony here with others, to include other witnesses who may have been before or may come before this investigation, except as you may be required to do so before a competent legislative, administrative, or judicial body or forum. If you have counsel, of course, you certainly have the right to discuss it with counsel. If you are called as a witness in a case, that certainly is within the permissible limits. You can testify, of course.

I understand that you are subject to the order issued by the military judge in the general court-martial case of the United States v. Calley. You have received a notice from the trial counsel?

A. Yes.

Q. Now, your appearance here in no way changes the effect of that order. Further, your appearance and your testimony here is permissible within the limits of that order. You're not in violation of it by coming here and testifying. Have you any questions about what I've covered so far?

A. I think I understand.

Q. If you have at any time, feel free to ask. In reviewing your testimony and the testimony of others, there are some statements which raise the suspicion that you may have committed some aggravated assaults with a weapon, or unlawful killings, at My Lai (4) on about the 16th of March. At a later time I can go into this in a little more detail, but at this point I do want you to be sure that you understand your right to counsel, and your right to testify or refuse to testify.

First of all, since you are suspect, you have a right to remain silent, to

(CONTI)

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answer no questions whatsoever.

Second, any statement that you do make could be used as evidence against you in a criminal trial.

Third, you have a right to consult with counsel and to have counsel present here if you wish. This counsel can be civilian counsel employed by you at your own expense, or, if you desire, military counsel will be made available to you. We will appoint one, or, if you have a military counsel of choice, if he is reasonably available, he would be made available. You may request military counsel and also retain civilian counsel if you wish. If you do decide to have counsel and you are willing to testify, the counsel can be here in the hearing and you can consult with him at any time.

If you decide to go ahead and answer questions without having counsel, you also have the right at any time to request counsel or to request termination of the hearings so that you can obtain counsel. If you decide to testify whether with or without counsel, you can answer questions on a selective basis, that is, refuse to answer some, answer others as you may decide, or to decline to answer further questions. You have all of these rights. Do you understand all of them?

A. I understand.

Q. Would you like me to explain them any further?

A. No, I think I understand.

Q. My next question is, do you want counsel?

A. I don't think so, not at this time.

Q. Are you willing to make a statement and answer questions?

A. Yes, I am.

MR WEST: Mr. CONTI, I understand you were formerly a member of the Army?

A. Yes, I was.

Q. When were you discharged?

A. 22nd of October.

Q. 1969?

A. Yes, 1969.

Q. What was your duty assignment on the 16th of March, 1968?

A. I was assigned to the 1st Platoon command post. I was carrying a mine sweeper and an M-79.

Q. Now you're talking about C/1/20?

A. Right.

Q. At this time, Charlie Company was assigned to Task Force Barker under the 11th Brigade, Americal Division?

A. Yes.

MR WEST: As a preliminary matter, Mr. CONTI, we would appreciate it if you would go with Colonel WILSON, and look at some photographs and some other papers and documents with him. And then, after that, we'll get back together and go through the assault of Charlie Company on My Lai (4). We'd like to ask you some questions about that. We'll recess at this time.

(The hearing recessed at 1110 hours, 2 January 1970.)

(The hearing reconvened at 1120 hours, 2 January 1970.)

COL WILSON: The hearing will come to order.

RCDR: The following person is present: COL WILSON.

(MR CONTI was recalled as a witness.)

COL WILSON: I remind you that you are still under o

(A stack of photos marked as exhibits were shown to the witness.)

Just divide these photographs into piles you recognize and don't recognize. Take these you recognize and put them over there on your right.

But, before we proceed with the photography, you were with Charlie Company in Hawaii, weren't you?

A. Yes, sir, about 2 weeks.

Q. Before leaving Hawaii, were you given any special training for Vietnam?

A. No, I was not. I was a clerk, and then I was promoted to PFC and put in the infantry.

Q. What were you, company clerk when you joined the unit?

A. No, I was in the LRRP detachment. I was a company clerk. Then, when it was disbanded, the CO recommended I be put in the infantry, made an 11B10, put in Charlie Company.

Q. You went with Charlie Company to Vietnam?

A. Right.

Q. When you got to Vietnam, did you receive any special training?

A. No, I did not.

Q. You weren't given any training on helicopters or booby traps?

A. Just with the rest of the company.

Q. Where did you take this training?

A. Duc Pho.

Q. Do you remember who gave you this training?

A. No.

Q. Were you ever given any training on how to handle prisoners of war?

A. No, I was not.

Q. Were you ever given any training on how to handle noncombatants?

A. No, I was not.

Q. I show you Exhibit M-2, entitled, "Nine Rules." Have you ever seen that card?

A. Yes, I have.

Q. Where did you see it?

A. I believe I was given it.

Q. Where?

A. I don't know. In Hawaii or Vietnam. I don't know.

Q. You don't remember where you were given the card?

A. No. I've seen it before.

Q. What did you do with it?

A. I think I just stuck it in my wallet.

Q. Do you have it now?

A. No, it was destroyed when I was over there along with the rest of my wallet.

Q. But you did get a copy of this card?

A. I think so. I couldn't say for positive.

Q. I show you Exhibit M-3, entitled, "The Enemy in Your Hands." Have you ever seen that card?

A. I don't think I have.

Q. You notice it's got Vietnamese translated into English on there. Does that bring it back to you?

A. No. I couldn't say. I don't remember.

Q. Did you ever receive any training on rules of engagement?

A. No, I did not.

Q. Were you ever told what to do in a combat situation such as My Lai (4)? What to do if Vietnamese, either combatants or noncombatants, were to run from you?

A. We were told to yell "dung lai", "halt", and fire warning shots.

Q. "Halt", fire warning shots, and then what?

A. Stop them.

Q. Where were you told to do this?

A. I think it was somewhere during the training at Duc Pho.

Q. Do you remember whether you got this in your basic training or advanced individual training?

A. No, I don't think I ever received it in basic.

Q. How about advanced individual?

A. I had a clerk's school. I had no need for it.

Q. But you got it somewhere in the process of Hawaii or going to Vietnam?

A. Yes, somewhere. It was pretty cramped up. I don't remember.

Q. Do you ever remember the company commander bringing the company together and bringing these things out?

A. I couldn't say yes, and I couldn't say no, because, like I say, the first month we were there, everything was pretty jumbled up.

Q. The geography on this map should be clear to you, since you've recently been in there. This is a 1:25,000 sheet. (The witness was shown a map.) Now, I want to take the photographs that you recall, keeping in mind for the record that Mr. CONTI accompanied the task force that went into

My Lai (4) on the 16th of November, 1969, and has probably seen it more recently than any witness we have had or will have. The photographs that you've selected, I want you to start through them now. P-26, what do you recall about that?

A. That looks like Dottie when the ships were landing.

Q. Was that on the 16th of March?

A. I think so. I couldn't tell. It could be the 16th, it could be any day. But it looks like the assault on which we were.

Q. P-32?

A. That looks like on the trail, there, where CALLEY and MEADLO shot those people. That looks like one of the women who was on the trail.

Q. We're going to have to try to figure out which trail this was.

A. Right here. (Pointing to a spot on the aerial photograph, P-1.) I came up here, and I searched these houses for people.

Q. Let me start you through the village. You landed on the west side of the village somewhere in here. This is what we have been able to determine. Do you remember where your helicopter set down?

A. Let me see that other photograph, please.

Q. I'm talking about March now, on the 16th.

A. I know I came in by a house. I think we came in around here (Pointing to the aerial photo, P-1).

Q. That's somewhere in the vicinity of those two fields, those two cultivated fields by the village?

A. Right about here, because I remember there were trees over here, and a farmer and cattle over here. When I went in, I went up a little path. There should be a path up here somewhere.

Q. Okay, from the time you got off your helicopter until the time you moved into the village, how far was it?

A. How far?

Q. Yes.

A. One hundred, one hundred and fifty meters, I guess.

Q. That would put your helicopter landing back over in here?

A. I think so.

Q. Do you remember whether your doorgunners were firing?

A. Yes.

Q. Prior to the landing?

A. Yes.

Q. How many minutes or seconds prior to the landing?

A. A couple of minutes.

Q. But they were firing?

A. They were firing. At least the ship on which I was firing, because I saw the doorgunners open up.

Q. Do you know if you were in the right or the left ship?

A. I was with the CP group. It should have been the first ship. I was with Lieutenant CALLEY. I think it was the first ship, if I'm not mistaken.

Q. Do you think you went into village about right here?

A. Yes. There was a trail, I think, about right in here. I think it was right about there.

Q. And your helicopter set down about right here? We'll make that point 1. Point 1 is the approximate location where the helicopter landed. Then you moved into the village approximately here.

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A. Yes.

Q. Did you stop on a hedgerow or a line to build up, and wait for the 2d Platoon?

A. No, I think we just moved in.

Q. You didn't stop?

A. No, I don't think so. When we came off the helicopters there was a farmer and cattle over here. We fired at them, and then we started moving into the village. To me it didn't look like everybody was on line. I don't know, I was with the CP group, behind everybody.

Q. Where were the farmer and the cattle?

A. Right about here.

Q. North of the tree line?

A. Yes, in that open space.

Q. This was a farmer and some cattle?

A. Maybe about 10 or 12 head of cattle.

Q. And then you moved in about right here?

A. Yes, I think so.

Q. This is the CP group you're talking about, Lieutenant CALLEY and his group?

A. I think we came in about right here.

Q. This is the CP group. You stayed with them the whole time?

A. Yes. Well, I moved into the village just ahead of them. I walked into the village just ahead of them.

Q. But you stayed with the CP group the whole time?

A. Yes, until we got to the other end of the village. I broke off once in a while, but for the most part I was with them, or under their orders, anyway.

Q. When you moved into the village you were this far north?

A. Yes. When I moved in I moved in to where there were houses. I don't remember these here, because you can see these are right on -- I don't remember crossing the clearing.

Q. Did you head south?

A. No, we come in like this. It was all zigzagged. We started heading like this. There was no formation.

Q. But the CP group --

A. (Interposing) I came in here. They could have come in here, farther down from me.

Q. The CP group moved into this village at point 3. Did you move in a southerly direction?

A. Yes, because when I stopped here, I think, the CP group went past me. I saw Sergeant BACON, and I was talking with him, and he told me to catch up to the CP because I had the mine sweeper.

Q. Where do you think you saw Sergeant BACON?

A. Right about here, because he was in the village before me, and then I ran into him.

Q. That was at point 3?

A. Right.

Q. At point 3 he also saw Sergeant BACON. Then you moved in a southerly direction?

A. Yes, it was more or less zigzagging through here.

Q. Do you remember coming out at the extreme southern part of the village?

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A. Not until I got to this thing.

Q. The north-south road?

A. No, this trail. I didn't come out of the village until I got to that trail. I came out right about here, where this little opening is.

Q. Where was CARTER wounded, do you remember? Did you see CARTER?

A. I saw him, but I didn't see him when he got wounded. I saw him just prior to it. When I saw him, there was a house up here.

Q. He was wounded back here?

A. I could have sworn I saw him up here. I might be wrong. I know I saw him prior to it.

Q. We could be wrong in fixing the location of where he was wounded.

A. What am I saying, over here?

Q. You're talking about the east side of the village.

A. Excuse me, I'm wrong.

Q. This is halfway through the village.

A. I got misoriented. It's that ditch, right here, and that ditch facing this way. Back here, there's a house back here somewhere, right about here. I think I saw him about here. Because I know I saw him. I saw him, and then I came up to this house, and I was talking to a couple of other guys. There was a shot, and somebody said: "CARTER got hit."

Q. That was behind you, then?

A. Yes. I was wrong. This is where I went after I saw him.

Q. When you moved from this location here, that north-south trail, let's see, that's where you came to the south edge of the village, right?

A. Right. Right there.

Q. We'll make that point 4. And this was the CP group of the 1st Platoon. You came to the south end of the village. You don't have any idea what time that was?

A. No.

Q. Did you move along the south side of the village after that, or did you go back in here?

A. No, this is where we grouped the first group.

Q. Of villagers?

A. Yes.

Q. Where you rounded up the first group?

A. That was where the first group was killed, right there on that trail.

Q. At point 4?

A. Right.

Q. The first group of villagers was killed?

A. Yes. The first ones I saw, let's put it that way.

Q. That's point 4. Then what happened, did you move on?

A. After they were killed, yes. The CP left, and then I was all alone and I started up this trail here.

Q. By yourself?

A. Yes. I kind of waded in and out of here. I got to this house, and came up like this, and got around to this house, and I saw them firing over here. So I walked over there to see what was up. They were shooting into the ditch, and I went back again.

Q. I'm not going to get involved in the criminal aspects of the thing. But you did leave the CP group after you left point 4. Why did you leave them?

A. Because I was wandering around after I saw those people killed. I didn't go in right away. I was just trying to orientate myself again, and they moved out without me.

Q. The CP group went off down here?

A. Yes.

Q. Left the village?

A. As far as I know. All I know is I was wandering along in here. How they got there, I don't have any idea. All I know is I came up around this house, I came over here, I saw them shooting in the ditch, and then I went back.

Q. Let me show you something here. The ditch that was identified in the photograph was right here. This ditch right here.

A. I can orientate myself better from this. Here's the ditch, right?

Q. Yes.

A. Here's the house I was telling about right here. I left the CP group here at 4, and they were off by themselves, I don't know where they were. All I know is I just wandered around until I got about to this house here. I came up here. I was talking to somebody, I don't remember who. There were two guys to whom I was talking. I saw them firing over there, so I said that I wanted to go over and look. And I went over here, and up there they were shooting in the ditch. I stood long enough to look, and went down, and left, and came back.

Q. You went up into the 2d Platoon area then?

A. This is where the CP was. I don't remember to whom I was talking. It might have been the 2d Platoon. All I know is that this is where they left me. I stayed around,

wandering around in circles, for a couple of minutes. Then they left, and I followed up afterwards. I think I took the trail a little bit.

Q. Did anything of importance happen between 3 and 4 that you can recall?

A. No. A few people got killed, that's about it. I don't remember who did it or why. Everybody was going crazy.

Q. When you left 4, was there anything of any significance that happened before you got there?

A. No, everybody had been through. I think I was one of the last ones, if not the last one, because everybody had already pushed through past there. Almost the whole platoon was up around here somewhere. I think I was the last one up there. They left me. CALLEY said: "Let's go." And I wandered around, stayed behind the CP.

Q. You didn't see anything happen in this area?

A. Just a few bodies.

Q. Okay, so you started moving in a northeasterly direction--

A. (Interposing) Then I cut back into the village and I ended up about here.

Q. You stopped here?

A. Yes.

Q. What for?

A. There were a couple of guys to whom I was talking.

Q. At point 5, you stopped.

A. For a break, more or less.

Q. You left the CP group at point 4?

A. Yes.

Q. You moved by yourself?

A. Yes.

Q. You moved by yourself to point 5. Did you see Captain MEDINA between 4 and 5?

A. No, I don't think I saw him the whole time I was there. Just before we left the landing zone.

Q. And you moved from point 5 to over here where the ditch was?

A. And then I went back in this general direction.

Q. You went to the ditch, and then turned around and went back?

A. Yes.

Q. Back to point 5?

A. I think I headed out some way. All I know is, I met up with some of the other guys from the platoon.

Q. This was the 2d Platoon up here?

A. Well, I met up with somebody around here. I know I headed back toward the village. Where, exactly, I don't know.

Q. At point 6 you moved to the ditch. What happened at point 6?

A. I walked up to the ditch to see what was happening. They were shooting into the ditch. I turned around and I left.

Q. Who was shooting into the ditch?

A. CALLEY and MITCHELL.

Q. Now, you couldn't identify P-32 well enough to say for sure it was one of these groups?

A. It looks familiar, but I couldn't definitely say.

Q. Do you know P-61?

A. That looks like the general direction in which we headed out.

Q. This is on the other side of My Lai (4), the east side?

A. Yes.

Q. It was out in that open field there?

A. Out there somewhere. I can't be certain. I know we headed out into the paddy.

Q. Was this a platoon movement, was this your platoon, or do you know for sure?

A. No, I don't think it was. It looks like an advance element, but I don't think it was our platoon.

Q. Photo P-61, elements of Charlie Company. Do you think that was Charlie Company?

A. I don't know, everybody looks the same in gear. If that's Charlie Company, I think it might have been 2d or 3d Platoon. I was in the front. At the time we had prisoners. We got them somewhere, and I was walking up front with one.

Q. Now P-64, what do you recognize about that photograph?

A. That's the 3rd Platoon. I know two of the guys there.

Q. Who's the first one?

A. G. A. SMITH. The second guy is Pete, but I can't remember his last name.

Q. One was SMITH?

A. G. A. SMITH, right there.

Q. P-68?

A. I think that's Pete again. I can't remember his last name.

Q. That was the man in the center you're talking about?

A. Yes.

Q. Do you know where this location is?

A. No, I have no idea. It could be anywhere in the village.

Q. This is P-69.

A. That's he again.

Q. You don't know who he is?

A. No.

Q. We'll show you a list of witnesses whom we have, and maybe his name might come back to you. P-73. Do you know where this point is on this aerial photograph? Is this where you left to begin that 16 November reconnaissance?

A. Yes, when I went back in November.

Q. Is this the village from which you left? Is this where you started?

A. I think that's where we started. It was just outside the village.

Q. That's where you started, from the resettlement village?

A. Yes. I know we had to come down the road, and I know it was before here.

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Q. Was it over here?

A. No, I don't think so. It was near another hill, I know that.

Q. Another hill in the background?

A. Well, I know we came in like this. I think it was around here, around the base of this hill right here.

Q. How far did you go from the resettlement village to My Lai (4)?

A. I think they told me 400 meters.

Q. That could have been at the base of Hill 85. All right. P-73 is where you started out, but we're not real sure where that is, so let's put that aside. This is P-74. We're looking in the direction of what? Is that My Lai (4) there?

A. Over here, off to the side here.

Q. Off to the left?

A. Yes.

Q. This is where you're going in, right?

A. We cut off the road and then like this here, you see, because they were moving back and forth.

Q. Do you know where that is?

A. No.

Q. Do you know where this is? These are: P-75, P-76, P-77, P-78, and P-79?

A. I think that was a picture from over here, right in this section here.

Q. You think P-79 was taken south of My Lai (4), before you got into the village?

A. I think so, because they took a lot of pictures.

Q. I want to go back to P-74 for a minute. When this photograph was taken, had you left the main road, and were you moving into My Lai (4)? Or were you moving out?

A. We were still going down the main road toward it.

Q. Is this the main road?

A. Yes, I think so, because we took pictures going down it, I don't think we took any pictures coming back. I think that's it. I think that's heading toward it.

Q. This was going down the main road?

A. Yes, this trail right here.

Q. You zigzagged into the village from Highway 521?

A. Yes.

Q. Well, I don't guess we can locate this photograph. Do you remember where that one, P-80 was taken?

A. I think that was taken on the trail, right here. This trail right about here.

Q. Is that Hill 85 back there in the background of this photo?

A. Yes, I think it is.

Q. About right here?

A. On the trail, right about here.

Q. What happened at that point? At what are they pointing, anything in particular?

A. That's where the bodies were, where the first group of people were killed.

Q. P-81, do you remember where that was taken? If you don't, we'll get another one.

A. I think that was taken at the trail, too.

Q. Was this one taken there too?

A. Yes, I think it was taken at the trail, too.

Q. So it looks like P-81 and P-82 were both taken at that location.

A. Yes.

Q. Photos P-80, P-81, and P-82 were all taken at the same location.

A. Yes. I think that was taken inside the village.

Q. You don't know where in the village this was located?

A. No, because we kept going around inside it.

Q. Did you go into the village? I thought you didn't go in there because of the mines?

A. We went in on the tracks.

Q. Just on the trails then?

A. Yes, on the tracks.

Q. How much of the village did you see? Did you go through the whole village?

A. No, just little parts. They wanted me to show them where their houses were at the time.

Q. What's photo P-84? What happened there, do you know?

A. I don't remember. They took a couple when I wasn't with them.

Q. In photo P-84, are these two Vietnamese supposed to be survivors?

A. That's what I'm told.

Q. How much credibility do you give to that testimony?

A. I couldn't say.

Q. P-85 is the ditch?

A. Yes.

Q. Who says this is the ditch? Did they say this was the ditch? Do you say this is the ditch?

A. Well, from what I can remember, that is.

Q. You say this is the ditch?

A. Yes.

Q. And they agreed. In other words, the Vietnamese and you believe this is the ditch where those people were shot?

A. Yes.

Q. P-85 is this ditch right here?

A. Yes.

Q. P-85 and P-86 are the same location. P-88, do you know where that photo was taken?

A. No, I don't remember.

Q. Did you hit any resistance at all when you went into the village?

A. No.

Q. On the day in November when you went back in there?

A. No.

Q. There was nobody in there?

A. No.

Q. Did you detonate any mines or booby traps?

A. No.

Q. P-87?

A. That's the ditch again.

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Q. P-87 is the same location as P-85. P-90?

A. If I'm not mistaken, I think that's the tree line. There's a tree line somewhere around here.

Q. You're talking about back in the vicinity of P-80, P-81, and P-82?

A. Right. There is a tree line back there.

Q. That's back there on the trail?

A. Right. Back near point 4.

Q. How about photo P-91, does that look familiar? If it doesn't say so.

A. No.

Q. Photo P-92?

A. That's Hill 85.

Q. Hill 85 in the background?

A. Yes.

Q. You don't know where it was taken?

A. No.

Q. P-93?

A. I think that was the trail I told you about.

Q. P-94?

A. I think that's supposed to be the ditch too.

Q. P-94 is the location of P-85?

A. Same location.

Q. P-95?

A. I can't be sure.

- Q. P-96 is the same as P-95. P-99?
- A. No. I think it was just a grave.
- Q. P-98? Do you think these are graves?
- A. That's what I was told. I don't know.
- Q. Were these there when you were there in 1968?
- A. A lot of things changed. I wouldn't say yes.
- Q. On photo P-102 the tracks indicate, in this photograph, that there was quite a bit of movement outside of My Lai (4), but I don't see any tracks going into the village.
- A. Right here.
- Q. So you went into the village at the southern point?
- A. Yes, we went in. Like I said, the Vietnamese were going to show houses to Mr. THAYER.
- Q. Who is Mr. THAYER.
- A. The man from the CID to whom I talked.
- Q. P-103. Here's another November photograph of the village. Is there anything specific about this photograph that you can recall?
- A. No.
- Q. Anything about P-105?
- A. No.
- Q. P-106?
- A. No. They were all aerial shots.
- Q. P-109?
- A. No.
- Q. P-112 is another aerial shot.

- A. The aerial shots mean nothing to me.
- Q. P-114, aerial shot. P-115 is a close-up aerial shot of a destroyed house. Do you recall this house?
- A. No, like I say, everything changed. I can't be sure.
- Q. P-120, does this look familiar to you?
- A. It looks like the ditch again.
- Q. P-120 would be the same location as P-85. P-126?
- A. I think that's when we set up that night.
- Q. Are they Charlie Company personnel?
- A. Yes.
- Q. This is where you laagered the first night?
- A. Right.
- Q. Were these personnel of the 1st Platoon?
- A. No, 3d or 2d.
- Q. Is there anything that you can recall as happening that isn't in the testimony yet?
- A. No, I can't recall.
- Q. Is there anything else that happened in the village or immediately to the other side?
- A. Some things I remember I saw, but I can't picture who did it or anything, so I won't even mention it. The only ones I remember, like I said, are this one here and that one. And I only remember that because of the great amount of people who were killed.
- Q. You pointed to locations 5 and 6?
- A. Right here and here.

Q. Points 6 and 4.

A. The biggest groups killed that I saw.

Q. And you didn't identify any of the photographs showing bodies as those which you saw in the vicinity of location 4?

A. No. To me the trails were too wide. It didn't look like enough people to me.

Q. Do you want to sign this, Mr. CONTI?

A. (The witness signed the aerial photograph which he had marked. It was later entered as Exhibit P-133.)

COL WILSON: That will terminate this portion of the hearing.

(The hearing recessed at 1235 hours, 2 January 1970.)

(The hearing reconvened at 1425 hours, 2 January 1970.)

MR WEST: The hearing will come to order.

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

I have two exhibits to be introduced for the record. The first is P-132, an aerial photograph annotated by Mr. BERGTHOLD. And the second is identified by P-133. It is an aerial photograph by Mr. CONTI.

The next witness is a recall of Mr. CONTI.

(MR CONTI was recalled as a witness.)

RCDR: Mr. CONTI, you're reminded that you're still under oath.

MR WEST: Mr. CONTI, when did you first hear of the planned assault on My Lai (4)?

A. I think it was the day before. I'm not sure.

Q. Were you present when Captain MEDINA briefed the company?

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A. Yes, I was.

Q. Could you tell us what he said that day?

A. That he expected strong resistance, that we should be careful because he expected strong resistance, and that the area was booby trapped. And I think that's about all I can remember.

Q. What kind of a company commander was Captain MEDINA?

A. A good company commander.

Q. Did he take care of his men?

A. Yes, he watched out for his men. I believe he did the best for his men and the job we had to do.

Q. Did anybody else join in the briefing of the company that night?

A. We had one by Lieutenant CALLEY.

Q. What did Lieutenant CALLEY say to you?

A. He told us relatively the same thing. He said that when we go in, any men there, or something to the effect that any men found there will have a weapon, any women will have a pack, any cattle is VC food, and to destroy it.

Q. What did you understand from this with regard to the Vietnamese residents of the village?

A. From what he said, there were no if's, and's or but's. They will have a weapon. Whether they did or not, his tone of voice, the way he said it, that's the way I interpreted it. Usually they'll say, from my experience: "If they have a weapon," not, "They will," in a strong tone of voice.

Q. What do you think he meant by this?

A. I figured he was going in and, I don't know, at the time I figured myself that there was going to be strong resistance. I figured there would be men in the village, but I figured the men would be armed, and I figured that they

would be supported by the women. That's the only thing I interpreted from it. Like I said, I interpreted that there would be strong resistance.

Q. At the time of the briefing, did you see any other officers present such as Colonel BARKER, the task force commander?

A. I can't say.

Q. What was the mood of the men after the briefing?

A. I think we were "psyched up", ready for battle more or less. But, like I say, we were ready to meet a foe of equal military strength, if not greater. And we prepared to give our best.

Q. How about Lieutenant CALLEY?

A. He seemed the same way but a little more, from the speech he gave, a little more "psyched up".

Q. Did he say anything about the children?

A. He said something to the effect that they would be future VC, or something like that. He said something about the children, something like that, but I can't remember his exact words.

Q. What do you think he meant by that?

A. I assume he meant the children were the same as the mothers and fathers, they were VC. That's it, no two ways about it.

Q. Do you think he meant by that that they would be shot, men, women, and children?

A. I don't know. I think, at the time, that's the way I interpreted it.

Q. Did the other men in the platoon get the same impression?

A. I don't know. I couldn't speak for anybody else.

Q. Do you recall a memorial service being held before the briefing?

A. Yes.

Q. Could you tell us about that?

A. They had a memorial service for three of the men who were killed in the minefield. One was ROCKER, I think there was a BELL, and the other kid was in my squad and I can't think of his name.

Q. WILSON?

A. Bobby WILSON.

Q. When was the memorial service held with reference to the briefing?

A. I think just prior to it.

Q. The same afternoon?

A. Yes.

COL FRANKLIN: When you say every man has a weapon, every woman has a pack, and the children will grow up to be VC, your impression was, and I want to make sure I'm correct in this, you're going to go in there and you're going to kill everybody. Is there any other possible interpretation?

A. Like I said, at the time we believed we were going to hit a foe. We figured we were going to hit the village, and the village was going to be heavily armed. The way I interpreted it was, if they were in the way, kill them. You know, like, if you're pinned down, and there's four or five heavily armed men, and they have a woman in front of them, that's the way I interpreted it. But I didn't believe he meant just to go in and massacre them. That's the way I interpreted it.

COL FRANKLIN: That's all, sir.

COL WILSON: Do you know who held the service back there, the memorial service?

A. I believe it was a major, but I don't remember his name.

Q. Chaplain?

A. A chaplain, yes, but I don't remember his name.

MR WEST: Would you remember it if you heard it?

A. The name?

Q. The name of the chaplain. We have several names.

A. I couldn't be sure. I never went to visit him myself.

COL FRANKLIN: You were in CALLEY's command group?

A. Yes.

Q. As what?

A. I was carrying the mine sweeper for the platoon.

Q. Who was around when he said all this?

A. The platoon, as far as I know.

Q. He got the whole platoon together?

A. During the briefing.

Q. Or after the briefing?

A. When we had our platoon meeting.

Q. CALLEY used to brief the whole platoon, not just the squad leaders?

A. At this time, he did.

Q. So, in other words, everybody in that 1st Platoon, most of them, should remember hearing this briefing?

A. They should.

COL WILSON: Wasn't MEADLO carrying a mine sweeper too?

A. No. We switched off. I gave him the mine sweeper after we came out of the village. I think the next day he took it. We were switching off, one day apiece.

MR WEST: Let's move to the next day, the 16th of March, after you landed there in the landing zone west of My Lai (4). Could you tell us what you saw there, what happened?

A. When we landed that day?

Q. Afterwards?

A. When we got on the other side of the village?

Q. No.

A. During the day?

Q. You got to the landing zone early in the morning?

A. We hit the landing zone and I had the mine sweeper. We jumped off---

Q. (Interposing) You were with MEADLO?

A. Yes, I was in the first chopper. And I think I found Lieutenant CALLEY, and joined up with him. And at the time there was, to the right, along the tree line, a villager with cattle moving out. And I heard somebody yelling: "They're running away; they're running away." And they opened up with a M-60. So I was in the open, and it was in my line of fire, and I fired at the cattle. I missed the cattle, they were too far out of my range. Then, after that, we got up, and we moved into the village, caught a trail and went into the village. I saw Sergeant BACON and his squad, and I stopped and talked to them for a while.

Q. Sergeant BACON was on the left, was he?

A. I couldn't tell you. All I know is I met up with him, and then he chewed me out for not being with the CP, and told me to get back with them. I moved up through the village. On the way, I guess, there was a few people killed there, there were bodies there. I moved up, and I met Lieutenant CALLEY again in the CP group. When I got there, we were told to round the people up. So myself and MEADLO, I had the mine sweeper and I couldn't do anything, so most of the guys were rounding them up, and bringing them to me and MEADLO. We herded them all together, pushed them out. He said: "Bring them out into the rice paddy."

Q. Mr. CONTI, I show you the aerial photograph that

you annotated this morning, which was admitted into evidence as Exhibit P-133. Could you indicate to us on the photograph the part of the village where you were gathering the people together?

A.. Around in here.

Q. Just north of point 4?

A. Yes, right around there. They were bringing people out, and then we pushed them out into the rice paddy, onto the dike there. And, like I said, we pushed them out there. MEADLO and myself, we watched them. While we were watching, a little kid came running out up here, and I went up to investigate. I told him to watch the people. There were a woman and a baby about 4 years old, who were walking, and an older woman, who I assumed to be a grandmother or something. I rounded them up, brought them back down to MEADLO, and we stood around them for a couple of minutes talking. Lieutenant CALLEY came back, and said: "Take care of them." So we said: "Okay." And we sat there and watched them like we usually do. And he came back again, and he said: "I thought I told you to take care of them." I said: "We're taking care of them." And he said: "I mean kill them." So I looked at MEADLO, and he looked at me, and I didn't want to do it. And he didn't want to do it. So we just kept looking at the people, and CALLEY calls over and says: "Come here, come here." People were right around here, where this P-80 is, and we were on the other side. Then he said: "Come on, we'll line them up here, we'll kill them." So I told him: "I'll watch the tree line. There's a tree line over here." I had the M-79, I figured that was a good excuse. I had the M-79. I didn't want to waste my ammo. I'll watch the tree line. So I watched the tree line. Myself and MEADLO were over here, and I think he told them: "When I say fire, fire at them." Then they opened up, and started firing. MEADLO fired a while. I don't know how much he fired, a clip, I think. It might have been more. He started to cry, and he gave me his weapon. I took it, and he told me to kill them. And I said I wasn't going to kill them. At the time, when we were talking, the only thing left was children. I told MEADLO, I said: "I'm not going to kill them. He looks like he's enjoying it. I'm going to let him do it." So, like I said, the only thing left was children. He started killing the children. I swore at him. It didn't do any good. And that was it. They were all dead. He turned around, and said: "Okay, let's go." We turned around, and walked away.

(CONTI)

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Somebody yelled: "They're getting away." I turned around and looked, and there was a group of people running over here toward the tree line which was my responsibility. Lieutenant CALLEY yelled: "Get them; kill them." So I gave them a chance to get in the tree line, and I opened up with four rounds. We didn't bother to investigate. We left. When we started to leave they took off ahead of me, because I didn't want to go with them.

Q. Did this occur in the vicinity of point 4?

A. Yes, this is all right here on the trail. Like I said, I didn't want to walk with them. I was walking around in a circle myself. They went away, they went up the trail. I walked up the trail, and then I wandered back to the village. I don't know exactly where I went. And I ended up here at point 5, by this house here. I stopped, I talked to a couple of guys who were there. I don't remember who they were. At the time I saw somebody over here firing into the ditch, this ditch over here. So I thought maybe we have been hit. I didn't know, so I went over to investigate, to see if anybody needed help. I walked over there. I walked over to the ditch. As I walked up to it, Lieutenant CALLEY and Sergeant MITCHELL were firing into the ditch. I looked into the ditch, and I saw women, children, and a couple of old men, just regular civilians. I saw a woman get up, and CALLEY shot her in the head. She went back down. I didn't feel like watching any more, so I turned around and walked away.

Q. About how many do you think were in that ditch, this last one, at point 6?

A. They were all along the ditch. It could have been 40, maybe more, maybe less. I don't know. I figure around 40.

Q. How about the first group you saw killed near point 4.

A. About 40.

Q. Have you looked at the photographs that appeared in Life magazine, with dead people along the trail?

A. No. I haven't even seen Life. Everybody keeps telling me about it. I haven't even seen it.

Q. Did you have reason to see Sergeant HAEBERLE, a photographer who was attached to the company, that day?

A. No.

Q. He followed Captain MEDINA's command group around most of the time. He took some photographs.

A. Yes, I know.

Q. And we have some black and white prints and some color photos. Here's photo P-41, and the same thing appears in Life magazine, 5th December, 1969, which has been admitted into evidence as Exhibit M-1. We've had some testimony that puts this scene on the trail leading south from the village near point 4.

A. The colonel showed me the picture. To me it doesn't look like the same group, it just doesn't seem as many to me as there were. It's been a long time. Maybe it's a little less than I thought it was, it might be that. To me, it doesn't look like it. The trail looks familiar, but it looks a little too wide since the last time I saw it.

Q. I notice in this picture there are quite a few young children. I can see four or five readily here. Was it the same way with the group of people you saw killed?

A. As I say, there were quite a few children. I don't remember them being scattered out as much, either, because, like I said, when they were killed, there was a group like this.

Q. They were on a trail, they weren't on a ditch?

A. No, no. This group that I saw was on the trail because we pushed them along the trail. We pushed them in together, and made them sit down. This way they couldn't move or run. And like, I said, it could be, it's been a long time, but the trail seems a little wide.

Q. What did you do after leaving the ditch where you saw Lieutenant CALLEY and MITCHELL?

A. I met up with some more guys from the platoon, and waited until somebody came and told us what to do at that time.

Q. Did the platoon set up a perimeter along in there somewhere?

A. I think we set up a perimeter back here, back over here where this section is if I'm not mistaken. I could be wrong. I know we set up a perimeter, and in front of me were a few houses and stuff.

(Witness points to a location just north of point 7 on the aerial photograph.)

MR WEST: The hearing will be recessed.

(The hearing recessed at 1446 hours, 2 January 1970.)

(The hearing reconvened at 1448 hours, 2 January 1970.)

MR WEST: The hearing will come to order.

RCDR: All persons present when the hearing recessed are present.

MR WEST: Mr. CONTI, in your testimony we moved pretty rapidly through the village. I'd like to go back and just trace your steps a little. I notice in your statement given to Mr. THAYER on the 30th of October, 1969, you were then at Qui Nhon?

A. Qui Nhon.

Q. Could you describe to some extent what you saw as you moved through the hamlet. You spoke of seeing six to ten dead people, both men and women, before you started rounding up people. Then, in the course of rounding up people, you saw some other people killed. Can you describe that for us?

A. Like I said, when we first came in, we came in through that trail. And when I left Sergeant BACON, there were people who were killed because other GI's had gotten in before I had, and I had seen other people killed.

Q. Let me read a part of this statement if it will help refresh your memory. I want to check to see if this is accurate. You said "While I was herding people, I went through the houses in the village. I saw families in the houses that were huddled together, and had already been shot. I only brought the live ones back to the trail. I went through a lot of houses, and I saw many people lying in yards and houses shot. Almost of all of them were women and children. They ranged from infants to old women and old men. I also know that some people had been crammed into bunkers, and grenades dumped in on them. I saw the soldiers pushing the women and children in, and throwing the grenades in after them. There were bodies everywhere, and I would say that, I would estimate that I saw 150 to 200 dead bodies consisting of women and children. I would say this based upon what I had been able to see so far in the west half of the village." Does this agree with your recollection?

A. Yes.

Q. Up to this time, had you received any enemy fire at all?

A. No, not to my knowledge. We had been told, some guys said they had been shot at, had seen men with packs and weapons. I hadn't seen any.

Q. To your knowledge, was anybody in the company killed or wounded?

A. Only CARTER.

Q. After you left the group of bodies around point 4, MEADLO and CALLEY had gone ahead of you. You moved through the village by yourself, as I recall. Did you see anybody else killed at this time?

A. I had seen a few other bodies lying around, but nothing to the proportion of either of these.

Q. Can you explain why all these women and children were killed?

A. No, I can't.

Q. In one instance, at least, we know you told us that Lieutenant CALLEY ordered that it be done.

A. No, I don't know why, because I didn't participate in it. The only thing I can do is speculate. Like I said, like you said, Lieutenant CALLEY ordered that done.

Q. So far we haven't spoken about any hootches being burned. Was this done, too?

A. Hootches were burned. When I was there, to my knowledge, I don't think any were burned. But when we got to the other side, they were all burned. When I was over here, on this side, here by point 5.

Q. When you were in the east end?

A. Yes.

Q. We had some testimony that the 1st and 2d Platoons moved rapidly through the hamlet. The 3d Platoon would come along and mop up behind, with the mission of burning hootches. But you didn't hear orders to shoot all the livestock, destroy food, and burn the houses?

A. From Captain MEDINA?

Q. Yes.

A. No. As far as I knew, what I got from his briefing, we were supposed to get heavy resistance. That's all, not to do any more than we normally would if we hit resistance.

Q. During the morning, perhaps late morning, did you hear an order passed down to stop shooting, stop the killing, or words to that effect?

A. I don't know. I know a helicopter landed, and a warrant officer was complaining about it. At least that's the word I got, because I was about 150 meters from the helicopter when it landed. I think Lieutenant CALLEY and somebody else were over there, and the word came back through the grapevine that he was complaining about the killing or something.

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Q. Do you remember the operations of Charlie Company after they left My Lai (4)? You know you moved down to the east and met up with Bravo Company, laagered for the night. Do you remember what you did the next day, the 17th?

A. I think it was the day we went to Hill 85.

Q. Yes, I think you platoon went to Hill 85. After that, the company moved south, down through some little hamlets, do you recall that?

A. Yes.

Q. Did you meet any enemy resistance that day?

A. At the end of the day, I think, my platoon was pulling up last, and when we got there, there was one village on fire. My platoon set up, my squad set up, and when we set up I walked away from the rest of the group, and four people came out of a burning hootch. I called to a couple of other guys. I think BERGTHOLD and somebody else came over, and BERGTHOLD grabbed our weapons and chased one. He ran into a fire. He was a young guy, about 19, 20 years old. We chased him into the fire but we couldn't find him, and we don't know if he had a weapon or not. And we found the other three. There were a woman and two men. We searched them, tied the men up, and took them to the CP where they interrogated them. And we were told they were supposed to be VC. She was supposed to be a nurse, and they were supposed to be VC.

Q. Do you recall the events of the next day, the 18th? Our information is that during the afternoon you were extracted and taken back to LZ Dottie. Do you remember that?

A. I don't remember.

Q. There's nothing about the day of the 19th that sticks in your mind?

A. Nothing particular, no. Like I said, one day seemed like the next to me.

Q. I take it the two days following My Lai (4) were comparatively quiet days?

A. Yes, you know, you go out, and the 4th seems like the 6th you're gone so long.

Q. My Lai (4) was different because of the things that happened?

A. Yes, it was different than any operations we had been on before or after.

Q. Did you know Colonel HENDERSON?

A. No, I do not.

Q. He told us that he talked to several members of the company after they were lifted out, back to LZ Dottie, so this must have been the afternoon of the 18th. He assembled quite a few of them and talked to them, because he had, by this time, been told to look into what happened at My Lai (4). He said he asked them about any killing of non-combatant civilians. Nobody said anything much. He questioned two or three men but didn't learn anything. Were you present when he questioned any men?

A. I don't think so because I don't remember it. I was probably in a bunker trying to get some rest.

Q. Did anybody ever talk to you about an investigation?

A. Like I said, through the grapevine we heard that the warrant officer had gone back and complained to division, and we heard there was an investigation underway. That supposedly--you know, how supposedly everybody was supposed to be going to jail, and Captain MEDINA and all the officers were getting hung, and we were all going away for 150 years apiece. And then, later on, we were told that the investigation was dropped, and they told us we had a citation for it, because in the paper it read 128 VC killed.

Q. Could you put any times on these things you heard, for example, that the investigation had been dropped? How long was that, do you think, after My Lai (4)?

A. I don't know. Like I say, maybe a week or 10 days. I couldn't pinpoint it for you.

Q. Captain MEDINA told us that soon after the operation at My Lai(4) he called the company together, and told them that there was an investigation going on, and that it might be better not to talk about what happened at My Lai(4) while the investigation was underway. Do you remember that?

A. No, I don't remember that either.

Q. Did anybody ever tell you to keep quiet about what happened at My Lai(4)?

A. I think there was something circulated through the company about that, too, about not saying anything. But like I said, the stuff you get it through the grapevine. Like I might not know, and somebody else tells me, and then I tell somebody else. I think I remember vaguely something being said. Whether it was said by an officer, an NCO, or a private, I don't remember. I know there was something said to that effect.

Q. In November of this year, there was a story in the paper about the possibility that the men of Charlie Company were under the influence of marijuana the morning they went into My Lai(4). Is there anything to that in your opinion?

A. No, not at all. That's a bad accusation.

Q. Was there a marijuana problem in the company?

A. No, not to my knowledge. I knew just about everybody, at least to talk to them.

Q. I'm not really inquiring whether any men of the company smoked marijuana or had it, just whether any members of the company went into the battle under the influence?

A. Like I say, not to my knowledge. The people I knew, associated with, no.

Q. After My Lai(4), how long did you stay with Charlie Company?

A. Until the end of June, and then I got out of the field.

Q. Were the assignments that Charlie Company drew about the same after My Lai(4), or were they different?

A. You mean on the same aspect? Well, let's put it this way, there was just normal--

Q. (Interposing) Search and clear, and that type of thing?

A. Yes, for our company anyway.

Q. You didn't notice anything different, after that, from what there had been before?

A. No. It had been relatively the same after that, as far as I was concerned.

COL FRANKLIN: You left the company in June?

A. Yes, at the end of June.

Q. Where did you go?

A. 198th Support Group. I had a profile, went to the doctors and got a profile for my right eye. I couldn't see.

Q. Is that why you went to see the doctor and the medic in My Lai?

A. In My Lai(4)?

Q. You told them this in My Lai(4)?

A. No, not in My Lai(4). Afterwards.

Q. You say you went to a medic. What did you talk to him about?

A. Oh, well, I went to get my clap shots.

Q. In My Lai(4), did they carry penicillin around with them in the field?

A. Yes. When we'd go in, what the medics would do if you were going out or were out, they'd give you the syringes and the penicillin and send you back out. And you'd give them to your senior aidman. I used to give them to the senior aidman. And he'd carry them, and give the shots to whoever had them. Or you would carry them, and the aidman would give you the shots.

MR WEST: Was this CAPEZZA?

A. Yes.

COL FRANKLIN: What was the attitude of the company towards the Vietnamese people, particularly in this area down here. What did the soldiers think about them?

A. I don't know.

Q. Was it common practice in Charlie Company, for example, to have civilians carry packs of soldiers?

A. Yes, if they were VC or suspected.

Q. If you thought they were VC, you would let them carry packs.

A. Let them carry your gear, nothing of any military importance such as weapons, grenades, logs or anything, but packs. It wasn't authorized by the CO or the platoon leader, but what they didn't know--it's as simple as that.

Q. Was it customary to strip women down when you searched them?

A. In certain instances.

Q. Was it fairly customary to rape women in Charlie Company?

A. Not to my knowledge.

MR WEST: Mr. CONTI, what happened at My Lai(4), of course, is a most unusual thing, and I'd like to ask you some questions which really call for your opinion. And one is, what, in your opinion, really caused all the killing of Vietnamese civilians here in My Lai(4)?

A. I think it was poor leadership on the part of Lieutenant CALLEY, for example, his orders at point 4, his attitude toward the men, and their attitude toward him. All these points, plus beforehand we hit a minefield and lost a lot of people. A lot of guys were still shook up and scared from it. Everybody was on edge, just at a psychological point. You could go one way or the other way. And Lieutenant CALLEY was a spark for the fire. The orders he gave, and the way he presented himself.

Q. Do you think the men were out to get revenge for--

A. (Interposing) Yes, but only on a combat unit. Like I say, we talked about it. If there was a combat unit there, there would have been a fight and, in my opinion, most of the company wouldn't have made it because everybody was that much "psyched up". It would have been close fighting, and that's what everybody was waiting for. What he did, like I say, the way he presented himself to the company at that time, that's what made it in my opinion.

Q. We spoke somewhat of orders to kill people, and you indicated, of course, that CALLEY gave the order to kill these people down around point 4. Did you have any orders from MEDINA to kill people in the village?

A. Not to my knowledge. As far as I knew, it was just another combat mission like all combat missions. If you're fired on, you will take action. I never received any order as far as myself to kill civilians. Like I made in my statement before, if somebody burned a pile of hay, Captain MEDINA would make a stink, yell, scream, jump up and down, and stuff like that, so I don't really think Captain MEDINA had given the word.

Q. We've had some witnesses express the opinion that the company just got out of control.

A. I don't know about the company. As I said, the platoon at the time, the way we went in, everybody was on a spot, it was either one way or another. And in my opinion, he wasn't exercising his leadership. He wasn't there. He was off by himself. He was doing his own thing, as they say. He was over here when the rest of his platoon was in there. That's all it took.

Q. Do you know where Sergeant COWAN was the first morning as the 1st Platoon moved through My Lai (4)?

A. I don't think I can place it, no. He might have been over here when they started rounding up people, but I couldn't say for sure.

Q. He testified before us, and indicated that the squads moved out ahead with Lieutenant CALLEY and he brought up the rear. So perhaps you wouldn't have seen him anyway.

A. No, like I said, I had a mine sweeper, and was trying to stick close to Lieutenant CALLEY and his radio-telephone operator as much as possible in case we were needed in the area. Because, like I said, we had already run into the minefield, and I figured it was my responsibility, and I couldn't take a chance of anybody getting hurt because I wasn't there.

Q. Now, you're aware, I think, that this incident went unknown for a long time. It was over a year before Sergeant RIDENHOUR wrote his letter to the Secretary of Defense as well as several members of the Congress. And it was only then that the word really got out in Washington, and Colonel WILSON started his investigation. Could you give your opinion as to why this incident was not reported?

A. At our level, company level?

Q. Well, anything that you might think about why it wasn't?

A. Well, what I figured, I looked at it this way. We were on an operation from the standpoint that it was just plain, ordinary, ground operation. An operation had to come from somewhere; division, or brigade, or battalion. Somebody had gone to division and put in a complaint. It was supposed to be taken care of, and so I guess myself and most people figured that they would take care of it. As a soldier I was not to question. I was just to do, and that's it.

Q. Was there any tendency on the part of the men to keep quiet about it because it was something they'd rather forget. They were ashamed, maybe, of what happened?

A. I think it was a little of each. You know, a lot of them were upset about it. They didn't think it was right. They bitched among each other. But I guess it's more or less a shame. You couldn't want to participate in it, not even to watch it. I think maybe that was a factor plus, like I said, we figured either division or brigade had to know about it. Because they had to give us our assignments, or Colonel BARKER, or whoever was in charge of it. So we figured they would take care of it.

Q. Mr. CONTI, you've been very helpful to us today. Can you think of anything else you'd like to tell us that may come to mind that might help us in our investigation here?

A. No, I can't think of anything else.

Q. After you go home, if you do think of anything, find any notes, photographs, maps, or anything of that nature--

A. (Interposing) I don't think I'll have any at home--

Q. (Interposing) That you think might help us, we'd like to hear from you.

A. Okay.

Q. We do appreciate you coming in. You've been a real help.

COL WILSON: This is a general question. You went back to My Lai (4) several months ago, November. Actually, 2 months ago.

A. October.

Q. October was it?

A. Yes.

Q. Did you, as an individual going through at this time, after you went through it on the combat assault one time, really remember the places that you had been through there?

A. Like I said, the small ones I can't, as far as the exact route where I came in and the exact route where I came out. But, like I said, I never saw the ditch or anything like the trail before, and that's why they do stick out in my mind. Certain things I remember. These houses were pertinent to it.

Q. Houses south of the village?

A. Right. And I described it to Mr. THAYER who was in charge, and he described it to the track commander, and he drove us right to the point, just from my description, because he had been through there. I took my time, oriented myself, and I tried to remember. And I think I remembered pretty well, at least here and there anyway. Like I said, I don't think there's any way possible I could retrace my route through here, through the village itself, because if you have seen one house you've seen them all. It's as simple as that.

Q. And how sure are you that the ditch that you pointed to was the ditch where all those bodies were? Ninety percent sure?

A. I'd say about 80 percent.

Q. Eighty percent sure. And the support of the Vietnamese that were there?

A. I didn't try to pay any attention to them at all, I tried to do it on my own. Like I said, I had been to a house up here. I remember the house. And when I was on the track, I used it as a reference point. I'm pretty sure that was the ditch. About nine-tenths positive.

MR WEST: Thank you, Mr. CONTI. The hearing will be recessed.

(The hearing recessed at 1521 hours, 2 January 1970.)

SUMMARY OF TESTIMONY

WITNESS: COWAN, Isaiah, SFC

DATE OF TESTIMONY: 18 December 1969

PLACE OF TESTIMONY: Pentagon

WITNESS SUSPECTED OF: (1) Murder; (2) Misprison of a felony

COUNSEL: Mitchell D. FRANKS, CPT, JAGC, appointed military counsel, stationed with Office of the Judge Advocate General, Headquarters Department of the Army.

DUTY ASSIGNMENT ON 16 MARCH 1968: Platoon Sergeant, First Platoon, C/1/20.

1. PRIOR TRAINING IN RULES OF LAND WARFARE.

From Sergeant First Class COWAN's prior training, he knew that Captain MEDINA's operation order did not include killing women and children (pgs. 15, 16).

2. PREOPERATIONAL PLANS AND BRIEFINGS.

a. MEDINA's briefing at Dottie.

Immediately after a memorial service for Staff Sergeant COX, a well liked soldier in C/1/20, attended by the entire company at LZ Dottie, MEDINA briefed C/1/20 on the My Lai (4) operation. He told them they were going into Pinkville and that their objective was My Lai (4). They were told all women and children would be out of the village and only VC or VC suspects would be there. A hot LZ was expected as elements of the 48th VC Battalion were in the area (pgs. 10,11). MEDINA told them to destroy everything living and burn the village (pg. 14). The food supply was to be destroyed (pg. 15).

b. Operation plan.

The first platoon was to take the right flank and the second the left. The third platoon would be to

the rear. The CP would be located with the third platoon. The third platoon's mission was to search and destroy possible fortifications, e.g., tunnels (pg. 11). The left flank squad of the first platoon was to maintain contact with the second platoon (pg. 16).

3. ASSAULT ON MY LAI.

a. Securing the LZ.

The artillery prep was followed by a gunship run in the vicinity of the LZ (pg. 19). Some of the prep landed in the western edge of the village (pg. 28). COWAN did not recall any ground to air fire when approaching the LZ (pg. 19). COWAN believed that MEDINA was on the first lift (pg. 20).

LZ security was first established. His platoon did not receive hostile fire on the LZ. The first platoon occupied the extreme right portion of the LZ (pg. 21). At about 0800, the assault on the village began. The approaches to My Lai (4) were reconned by fire (pg.23).

b. Sweep through My Lai (4).

Once in the village the witness found the vegetation extremely heavy (pg. 22). The first platoon was in the southern part of the village (pg. 21). There were only two squads in the platoon (pg. 29). Lieutenant CALLEY was the first platoon leader (pg. 24). The platoon deployed in a skirmish line (pg. 24). Staff Sergeant BACON's squad had the left flank and Sergeant First Class MITCHELL's the right flank (pg. 31). The platoon moved through the village firing (pg. 25). COWAN and the medic, LEE, were to the platoon's rear as security. It took approximately one hour to sweep the village (pg. 25). The heavy vegetation prevented visual contact with the second platoon (pg. 25). There was no enemy resistance. Initially, there was no burning (pg.25).

COWAN moved through the village and saw five dead civilians. He next encountered the platoon's main body. They had gathered the civilians together (10-15). CALLEY was interrogating them (pgs. 26, 29). Civilians were always brought to CALLEY (pg. 26). No casualties were sustained from hostile fire (pg. 27). COWAN took some of the men forward and had them establish a defensive perimeter on the eastern edge of the village (pgs. 29, 31). He heard an occasional shot after setting up the defensive position

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(pg. 41). The third platoon burned My Lai (4) after the first and second platoons had moved through (pg. 40).

c. Helicopters landing to their front.

A helicopter landed in front of their defensive position and the pilot talked with CALLEY. A few minutes later a second ship landed and picked up civilian women and children (pgs. 33, 34, 44). COWAN did not recall civilians being in a cave or a hootch (pgs. 45). He thought that platoon members carried the Vietnamese from the bunker to the chopper (pg. 34).

CALLEY told COWAN that the operation was under investigation and that the pilot was going to report it (pg. 46). CALLEY was the only one COWAN saw talking with the pilot. CALLEY told him that the pilot was a major (pg. 37), and that "they were reporting the incident of the My Lai operation and they told us to stop all this shooting" (pg. 52). Afterwards, CALLEY ordered the shooting stopped (pg. 51).

d. Actions by the National Police.

COWAN first saw the National Police at the night laager position on 16 March (pgs. 47-50). The company took some prisoners to this position (pg. 42). A National Policeman shot a VC suspect near the CP that night (pg. 50).

e. Body count.

COWAN did not see any bodies in a ditch (pg. 39), or civilians shot (pg. 39), but that night in the laager position he heard that CALLEY had shot some civilians (pg. 59). He did see a man jump out of a crater who was immediately shot (pgs. 39, 40). There was some dead livestock (pg. 41). COWAN did not know the platoon's body count for the day (pg. 56).

4. INQUIRIES CONCERNING THE ASSAULT.

After the operation, COWAN does not recall anyone, including MEDINA, saying anything concerning an investigation (pgs. 52, 53). However, after the extraction on 18 March at LZ Dottie, Colonel HENDERSON talked with his group (pgs. 53, 54). He asked if there was anything unusual on this particular operation. The question was

directed to the group (pg. 54). One sergeant said, "No comment" (pg. 54).

Lieutenant Colonel BARKER never took a statement from COWAN (pg. 55), nor did any other investigating officer talk with him (pg. 54).

5. OTHER INFORMATION.

a. COWAN joined the unit on 2 November 1967 and remained until 1 June 1968 when he was evacuated to CONUS after being seriously wounded in action (pgs. 8,9).

b. Since the incident broke into the news, COWAN has not talked or corresponded with anyone associated with the operation (pgs. 9, 10). He talked with Colonel WILSON earlier (pg. 10).

c. C/1/20 did not go into Pinkville because PW interrogations indicated that the VC had left (pg. 48).

(The hearing reconvened at 0909 hours, 18 December 1969.)

IO: The hearing will come to order.

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

The next witness is Sergeant First Class Isaiah COWAN.

(SFC COWAN, , Company E, 10th Battalion, 2d Training Brigade, Fort Jackson, South Carolina, was called as a witness, was sworn, and testified as follows:)

IO: Sergeant COWAN, before we proceed with any of the questions, I will ask Colonel MILLER, from the Office of The Judge Advocate General, to inform you concerning certain matters.

COL MILLER: Sergeant, I have several things to tell you this morning. They are important. I will try to go slow enough so that you can get what I have to say. If you have any questions, be sure that you ask them. I will go over anything that is necessary.

This investigation was directed jointly by the Secretary of the Army and the Chief of Staff of the Army. It is for the purpose of determining facts and making findings and recommendations concerning two main things:

(1) the adequacy of prior investigations, investigations prior to this time, and inquiries into, and the subsequent reviews and reports within the chain of command, of what we have now come to call 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 the My Lai incident.

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

We have had made available to us and we have reviewed prior official statements made by witnesses in this case. I might add that we have reviewed the statement that you have made before this time.

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

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

You see quite a few people in this room. Several of them will be asking you questions. I would like you to know who they are. First of all, General PEERS, who has the sole and final responsibility of weighing the evidence in this case and of making the findings and recommendations. The rest of us are here to assist him, but the decision making is his. To his immediate left is Mr. MACCRATE, a civilian attorney, who has been appointed by the Secretary of the Army as an advisor and assistant to General PEERS. On my left is Mr. WEST, who is from the Office of General Counsel of the Department of the Army. On your immediate right is Colonel FRANKLIN. Next to him is Colonel WILSON and myself. All of us may be asking you questions at one time or another. Do you understand the things I have gone through so far?

A. Yes, sir.

Q. Have you received an order indicating that you may be called as witness in the case of United States v. Calley?

A. We were told when we were down at Fort Benning, Georgia, that we might be called back as witnesses on the

evidence that came out of the Article 32 investigation, sir.

Q. You are ordered not to discuss the testimony you give in this investigation with others, including other witnesses before the investigation, except as you may be required to do so in the performance of your official duties or as you may be required to do so before a competent judicial, legislative, or administrative body. If you have questions on that, if you are called, you can make inquiries and get advice as to whether you should testify before those bodies.

In addition, if you are subject to the order issued by the military judge in the general court-martial case of United States v. Calley, the fact that you have come here today and testified does not change in any way the effect of that order. In other words, your testimony here does not relieve you of any orders issued by the military judge.

A. Yes, sir.

Q. Sergeant, I just stated the purposes of this investigation and told you that we have read prior statements made by you and others. We have no evidence before us which incriminates you. However, we do have a suspicion that you did not relate all of the relative facts available to you when you made your prior statement to the inspector general representative and when you made a statement to the military police criminal investigator.

If you did, in fact, see other people commit felonies, and by that I mean serious offenses such as the intentional wounding or killing of innocent civilians in My Lai (4) during the period 16 to 18 March 1968, and if you did see them and not report them you may have committed an offense called misprision of a felony. A person subject to the Uniform Code of Military Justice who has knowledge of the actual commission of a felony of another, and who conceals it and does not as soon as possible make it known to the civilian or military authorities, is guilty of this offense--a misprision of a felony. However, the mere failure or refusal to disclose a felony without some positive act of concealment does not make one guilty of the offense. We noted

that you had refused to answer certain questions and that you indicated that you might wish to have counsel. In your prior testimony there were certain questions which you were asked and you declined to answer. Do you recall that?

A. Yes, sir.

Q. We have had some indication that you may wish to have counsel made available to you for this hearing. Consequently, before we proceed this morning, I want you to be fully advised concerning your testimonial rights and your right to counsel.

We have read your statement that you made to the Army criminal investigator on 30 October 1969. I believe that was made to a Mr. Robert GRAHAM. At the time of that interrogation, he informed you that you were suspected or accused of murder in violation of the laws of war. According to that statement, you understand --

A. (Interposing) Would you please read that again?

Q. I will. We have a statement that you made to Mr. Robert GRAHAM on 30 October 1969. The heading of that form indicated that at that time you were informed that you were either suspected or accused of murder in violation of the laws of war. We understand that this is still the case and that you are still among many others in the general investigation of the My Lai incident. Now, before we ask any further questions, I want to advise you of your specific rights:

First, of course, you need not, under the Constitution and Article 31, make any statements which would incriminate you or tend to incriminate you. As General PEERS told you, we have no evidence before us which does incriminate you, but there is a suspicion that you may have withheld evidence, and this prior statement does indicate that you were suspected of murder or a violation of the laws of war.

You have a right to remain silent.

Any statement that you make may be used against you as evidence in a criminal trial.

You have a right to consult with counsel, and by counsel I mean a qualified lawyer,

and to have that counsel present with you in this hearing if you testify. You can retain counsel of your choice at your own expense, or the Army will appoint military counsel for you inasmuch as you are subject to the Uniform Code of Military Justice. If you request appointed counsel, and you have a particular counsel that you wish to have, if he is reasonably available, he will be made available. Otherwise we will provide appointed counsel.

Even if you decide this morning to go ahead and answer any questions without having any counsel present you can stop the questioning at any time, and you can refuse to answer any questions. You also may request counsel at any time in the event that you decide to start answering questions and giving testimony without having counsel present. If you decide to have counsel, he can be here with you. You can consult with him at any time. He can consult with you at any time.

Do you understand these things that I have told you now, sergeant?

A. Yes, sir.

Q. Do you have any further explanation or questions that you would like me to give to you?

A. No, sir.

Q. Do you want counsel?

A. Yes, sir.

Q. Do you wish to make any statement before counsel is made available to you?

A. Yes, sir.

Q. You are willing to make some statement now before we make counsel available to you?

A. Yes, sir.

Q. As soon as you desire, we will make counsel available to you, either now or as soon as you specifically request that he be appointed.

A. Yes, sir.

Q. General, I have nothing further, but I suggest that we make counsel available before we get into any substance.

IO: I think that under the circumstances, Sergeant COWAN, that you would be well advised to have counsel before you make a statement.

A. Yes, sir.

Q. This can be a matter of your own choice, but it would be my suggestion that you confer with legal counsel before you make a statement to this body.

A. Yes, sir.

Q. Would you prefer to have counsel or would you prefer to make your statement first under those circumstances?

A. I will answer some questions without counsel, sir.

Q. You will make a statement or answer some questions without counsel?

A. Yes, sir.

Q. Are you indicating that we should go ahead, and when it comes down to a point where you require counsel you will ask for it?

A. If a point comes that I know nothing about then I would prefer to have a counsel, sir. That is what I have reference to. If it's something according to the statement that I have already stated, then it is not necessary for a counsel.

COL MILLER: Well, sergeant, just keep in mind that you know of the offenses of which you are suspected or accused and you do have the unqualified right to counsel--so anytime that you wish to not answer a question, that you wish to have counsel, you let me and you let General PEERS know. You have that right.

A. Yes, sir.

(The hearing recessed at 0924 hours, 18 December 1969.)

(The hearing reconvened at 1005 hours, 18 December 1969.)

RCDR: All persons present when the hearing recessed are again present.

IO: Sergeant COWAN, we are going to recess at this time in order to provide you with an opportunity to get together with your counsel.

A. Yes, sir.

Q. And we will advise you as to the time we will reconvene so that you may reappear before this investigating group with your counsel.

A. Yes, sir.

(The hearing recessed at 1006 hours, 18 December 1969.)

(The hearing reconvened at 1625 hours, 18 December 1969.)

IO: The hearing will come to order.

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

The hearing recalls SFC COWAN as a witness.

(SFC Isaiah COWAN, , was recalled as a witness and reminded that he was still under oath and testified as follows:)

RCDR: Sergeant COWAN are you represented by counsel?

A. Yes, sir.

RCDR: Will counsel please state his name, rank, and organization for the record?

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IC: Yes, sir. I'm Mitchell D. FRANKS, a member of The Judge Advocate General Corps and a member of the bar of the state of Florida. I'm assigned to the Office of The Judge Advocate General, Headquarters, Department of the Army.

RCDR: Thank you.

COL MILLER: Captain FRANKS, you are aware, I think, of the general nature of the information which I gave to Sergeant COWAN this morning. Included in this was the fact that he could have counsel, to consult with counsel here at any time, and he had, of course, the right to not answer questions. So you may consult with him or he with you at any time. Do you have any questions?

IC: No, sir. I have apprised him of this fact--that before answering any questions he may consult with me, and he is willing to proceed on that basis.

IO: Sergeant COWAN, what was your duty assignment on 16 March 1968?

A. Sir, my duty assignment was platoon sergeant, 1st Platoon, C/1/20.

Q. How long had you been in that assignment?

A. I joined the unit in November of 1967, sir. Approximately the 2nd of November.

Q. 1967?

A. Yes, sir.

Q. And you'd come to South Vietnam with the unit, is that correct?

A. Yes, sir.

Q. And how long after the 16th of March did you remain with C/1/20?

A. Until the 1st of June, 1968, sir.

Q. And where were you assigned then?

A. I was assigned to Camp Zama in Japan, from there to Walter Reed Hospital and then to Fort Jackson, South Carolina.

Q. Is that the result of a combat wound?

A. Yes, sir.

Q. I'd like to review briefly for you, Sergeant COWAN, the purpose of our investigation. Basically, we are going to look into the adequacy of any investigation of what we refer to as the incident of My Lai (4) on 16 March 1968. We are going to try to determine the adequacy of those investigations and inquiries and the reviews of the investigation which may have taken place. We are also going to check to see if there was any suppression of information concerning what may have taken place in My Lai (4) either by the unit, by the task force, or by higher headquarters.

A. Yes, sir.

Q. We realize that we are asking you to recall things that took place approximately 20 months ago, over a year and a half, and that this will be testing your memory in many of the instances. In order to be responsive to the requirements that I have just indicated to you, so that we know what was to be investigated, it is necessary for us to know generally what happened at My Lai (4). Now I would say that, tell you that this is not our investigation. It is not a criminal investigation. We are not here, for example, to implicate you in any way in this investigation. But we do want, to the best of our ability and within the limits of what you can tell us, to be able to put together what happened at My Lai (4) on the 16th of March, 1968. I would ask you whether, since the break in the news about September this year of the My Lai incident, you have talked to anybody concerning the situation in My Lai (4) who had--who was related to the incident. Anybody in the company or task force or the brigade?

A. No, sir.

Q. Have you had any correspondence with any such individuals?

A. Not on this matter, sir. Not what took place at My Lai (4). We were told not to discuss the matter with anyone when I was down at Fort Benning on the 19th of October.

Q. Yes. Did you talk to anybody before then?

A. No, sir.

MR WEST: Sergeant COWAN, when did you first hear of this investigation into My Lai (4)? Do you recall?

A. Colonel WILSON came to Fort Jackson, South Carolina, and talked to people, I think it was. He told me that he was investigating the matter in order to turn a report over to the Chief of Staff.

Q. And you talked to him at that time?

A. Yes, sir.

Q. Fine. Now going back to March 1968, do you recall the 15th of March and when the company was getting ready for this operation into My Lai (4)?

A. Yes, sir.

Q. Could you tell us what happened that day as you recall?

A. Well, on the day of the 16th, approximately 1700 or 1800 hours, we had funeral services for one of the members of the company. His name was Sergeant COX. He had been killed by a booby trap or mine out in the field on an operation. Immediately after the funeral service our company commander, Captain MEDINA, gave us a briefing. He told us on the day of the 16th we had another mission to go on. We were going into Pinkville. He told us that all the children and women would be out of the village at approximately 0700 hours. Everything that was in the village would be VC or VC suspects. He said that he expected the LZ to be hot because the elements of the 48th VC Battalion was in that area.

Q. Now I believe you stated in the beginning the 16th of March. Could you have meant the 15th?

A. The 15th he gave us the briefing, sir.

Q. Yes, the 15th he gave you the briefing?

A. The evening of the 15th.

Q. And the funeral was the same day?

A. Yes, sir.

Q. Was this a friend of yours that had been killed?

A. He was in the 2d Platoon; I was in the 1st Platoon.

Q. But you knew him well, did you?

A. Yes, sir.

Q. Do you recall what they told you about the enemy strength in the hamlet that they expected?

A. They told us to--that it would be the 48th VC Battalion that was suspected to be in that location, in the area of My Lai (4).

Q. Any indication of how many there were? How many VC?

A. No, sir. I don't recall the numbers.

Q. What kind of an operation was this supposed to be? Do you know?

A. It was a search and destroy mission, sir.

Q. I see. Would you tell us again just what the captain said about what you were to do there?

A. Well, the company commander assigned each of the platoons their mission. The 1st Platoon--he told us that we would take the right flank of the village. The 2d Platoon, here on the left-hand side. The 3d Platoon in the rear, here, for the search and destroy portion of it. The command post would be located in the rear with the 3d Platoon.

(The witness was handed an aerial photograph of the area of My Lai (4).)

Q. Going back to the funeral a minute, Sergeant COWAN. Who attended the funeral? Do you recall?

A. Well, we had all of the elements of the company that was--the company was assembled for this, sir.

Q. Everybody who was present for duty was there?

A. Yes, sir.

Q. Did they remain assembled there and go on with the briefing from there?

A. Yes, sir.

Q. Where was this held?

A. It was held around the command bunker. There was a large bunker for the command bunker and the personnel were sitting around on the side of the bunker, on top, all around for the ceremony.

Q. Was this at Landing Zone Dottie?

A. This was Landing Zone Dottie, sir.

Q. Dottie?

A. Yes, sir.

IO: Sergeant COWAN, who conducted the memorial service?

A. I don't recall the name of the chaplain, but it was the chaplain there. I don't recall his name.

Q. It was a chaplain though?

A. Yes, sir.

Q. Was he a normal chaplain there at fire base Dottie or--

A. (Interposing) Yes, sir. He would go from fire base to fire base, from place to place. It was a regular Army chaplain, sir.

MR WEST: Sergeant COWAN, here is the aerial photograph (Exhibit P-1). We will just lay it flat. This is oriented to the north.

A. This is north, sir (indicating the top of the photograph)?

Q. Yes. Perhaps you can look at the map up here (indicating Exhibit MAP-1, and assisted the witness in orienting the photo with the map). Does that look familiar to you now?

A. Yes, sir.

Q. All right. Before we look at the photograph again though, I wish you'd think back now and tell us what the captain told you--told the members of the company they should do when they moved into My Lai (4), into the hamlet. Was there anything said, for example, about burning any hootches and that sort of thing?

A. Sir, we were on the right flank of the company. He told us that we would go through to make sure that nothing was in the village, for we were to sweep through the village. The search and destroy team were in the rear. They would come through, search all the hootches and tunnels, the complexes. They would look for military valuables--weapons and things of this type, sir.

IC: I would like to just make a note for the record, that if you are having difficulty understanding Sergeant COWAN it is because of the wound that he received which destroyed his jaw and he has had total repair of the right side of his face and his jaw. That is why he speaks as he does.

MR WEST: Well, at the time of the briefing, Sergeant COWAN, were any general remarks made by Captain MEDINA or anyone about what you were to do when you made your landing and hit the hamlet?

A. He told us to expect the LZ to be hot. So whenever we got off, we were under the impression we were going to be hit by a large volume of fire coming from the VC. So he said when we got off the helicopter, hit running and taking up our positions so that having a small element on the ground we wouldn't get wiped out before we got the main body gathered, sir.

Q. Now the other day when you talked to--you remember talking to Mr. GRAHAM from the CID? Do you recall that day?

A. He came to Fort Jackson, sir.

Q. I notice that when you were talking to him about the orders, you know, from Captain MEDINA, that you said that Captain MEDINA told the members of the company you were going on a search and destroy mission and that you were, the company was, to destroy everything and be prepared to fight?

A. Yes, sir.

Q. Is that about right?

A. Yes, sir.

Q. All right. And also that you were told by Captain MEDINA to destroy everything that was alive and to burn the village?

A. Yes, sir.

Q. Is that correct?

A. Yes, sir.

Q. We don't want to put anything in your mouth, but if that was--

A. (Interposing) I understand, sir.

Q. Fine. I wanted to get that point cleared up. Had you had any trouble with this VC battalion before?

A. Yes, sir. The first time I encountered any fire was in the vicinity of the Pinkville within some of these villages adjacent to these. We have been pinned down. Also we had a man that was lost in my platoon in that vicinity. We had people shot in the leg, and we had other members from working in that area got APC's shot out from under them and personnel that got killed and also, that was not from my unit, but the other units had been receiving mortar fire from in the area.

Q. The same enemy outfit?

A. Yes, sir.

Q. The 48th VC?

Q. Yes, sir.

MR MACCRATE: When he indicated to destroy the village and everything alive, would this have included cattle?

A. We were under the impression that every person there was VC or VC suspects. Anything that produced food, such as banana trees, or something of this nature that had bananas on it, they would feed off from them. And the cattle also, sir.

IO: Would it have included babies, small children?

A. He told us, when he gave us our orders, that they were supposed to be out of the village by 0700 hours. We did not land until 0730 hours, sir.

Q. Yes, this is what I am getting at though. In your training and indoctrination, Sergeant COWAN, even if you had been given the impression that the women and the children would be out, was it the impression that if they were there that they were to be killed?

A. No, sir. I don't think we would have killed the babies and children if they were in the area, sir.

Q. Or the women?

A. No, sir.

Q. One thing I have. Although it will perhaps come up when we get into the operation, when they designated your platoon, the 1st Platoon, as the right and the 2d Platoon as the left platoon, did they designate a boundary between platoons and control points?

A. Well they told us approximately--that we would be occupying approximately 200 meters of the village. Whenever we got ready to move, out....

Q. Yes?

A. Then we established our boundary lines. Then whenever we linked up, then the two platoons would move through. The 2d Platoon was on the left. We were on the right, and we had a certain portion of the village that we were supposed to go through, sir.

Q. Was any indication given as to how contact was to be maintained between the 1st and 2d Platoon?

A. With the left squad that we had to our left, we was to maintain contact with the platoon over there which was the 2d Platoon.

MR MACCRATE: Sergeant COWAN, did Captain MEDINA in his briefing tell you anything about who lived in the village? Did he tell you about who were the people that were in My Lai (4). Did he say anything about that, that you remember?

A. I don't remember who the people was. Not as I remember.

MR WEST: He didn't talk about what kind of people were there?

A. No, sir. I don't recall that, sir.

Q. Well did Captain MEDINA say anything about the man whose funeral had just been held when you were having the briefing?

Did he refer to the fact, well we just lost one of our buddies and--

A. (Interposing) "We had just lost a man, a member of the company; we are going on another operation."

Q. He did mention that?

A. That we had lost a man?

Q. Yes? Did he mention that at all?

A. May I talk with my counsel?

(Witness confers with counsel.)

Not as far as I can recall, no, sir.

Q. After the briefing, what was the feeling in, say, your platoon and the company? Were they looking forward to this or did they seem to be sort of excited or worried? Could you give a general description?

A. Well, sir, I can express my opinion. We had been in the area before and we knew that it was a VC stronghold. We knew the enemy was there and by him telling us that we were going back again we knew about what to expect within that area, sir. And so I figured the only way to go there and come out we had to go and do the job, that we had to go and do the best that we could.

COL WILSON: COX was carried on the morning report as died of wounds, dead on arrival at the hospital, on the 14th of March. Is this George J. COX, Staff Sergeant, E-6, the one you are talking about?

A. He was a Staff Sergeant COX. We had two COX's. I don't remember the name, just that he was a staff sergeant.

Q. Did this man die that close to the 15th, the day before?

A. It is a possibility, sir. Yes, sir.

Q. Was this man very well liked in the unit?

A. Yes, sir.

Q. Was there any emotion surrounding the ceremony that was held on the 15th regarding Sergeant COX. Did anybody cry or....

(Witness confers with counsel.)

A. Sir, I didn't notice anyone crying.

MR WEST: Well, were the men of your platoon pretty keyed up for the action to follow the next day? Were they excited or nervous?

A. I don't think they were nervous, sir.

Q. All right. Let's move to the next morning. You recall the helicopter lift into the area?

A. Yes, sir.

Q. All right, would you just tell us what happened then in regard to the lift?

A. According to the lift they picked us up approximately 0715 hours and we were carried into the vicinity of My Lai (4). We had approximately six choppers bring us in on the first lift. Each chopper carried approximately seven combat-loaded troops. We landed in the--

Q. (Interposing) Before the landing, did you hear or see the artillery preparation?

A. Yes, sir. On our way to the LZ we could see the flashes from the artillery rounds that were hitting on the LZ.

Q. All right. With reference to the aerial photograph in front of you do you recall about where the LZ was?

(Witness studies photo.)

A. I would say that--

IO: (Interposing) Sergeant COWAN, 1 inch on this map (indicating the photo) equals about 100 meters or 100 yards, roughly.

A. Sir, it appears to me that we landed on the west side of the village, about in this area here.

MR WEST: Would you take the pen there and mark the place please, Sergeant COWAN?

(Witness marks on the aerial photograph later admitted as Exhibit P-54.)

Mark LZ there by it, if you would please?

(Witness does as directed.)

That's fine. When you were still in the air were you taken under fire, any hostile fire at all?

A. While we was in the air?

Q. Yes?

A. No, sir. I don't recall any fire while we was in the air.

Q. All right. Would you go ahead and tell us what happened when you landed?

A. The first lift went in. Then the artillery was lifted or shifted. I know it stopped in this area.

Q. All right.

A. The gunships came in. Normally, when you have a LZ like this, you expect it to be hot. Then the gunships will come in firing. The gunships came firing and then the ships landed. When the ship landed we rushed out, moved up and took our positions, the first element that landed on the ground. We tried to establish all-around security to keep anything from coming in on us. We just had a small element on the ground at this time.

Q. Was that your platoon that established this security?

A. It was more than my platoon, sir.

Q. I see.

A. They sent some of the key personnel with the command post, I was with the 1st Platoon at this time. I went in on the first lift, and I had key personnel such as a machinegun, automatic weapons, RTO, was with me in the first lift.

Q. I see. Did Captain MEDINA come along on the first lift, some of his people?

A. Yes, sir.

Q. All right.

IO: There were two questions there. You asked if Captain MEDINA came or some of his people? Now when you said "yes, sir," did you refer to Captain MEDINA being along or some of his people. Was Captain MEDINA in the first lift?

A. As I can recall Captain MEDINA was with the first lift.

Q. All right, that's good enough. After you established the perimeter of security were you taken under any hostile fire at that time.

A. I don't recall there being any fire at this time, although we did receive a report over the radio from a pilot that was flying around that we were receiving fire on the left flank.

Q. You didn't observe or hear this yourself?

A. No, sir.

Q. All right. What happened next?

A. Well, we stayed in that area. We spread out and waited. We stayed there approximately 15 maybe 20 minutes or maybe longer waiting on the ships to go back and pick up the rest of the company.

Q. This was in the LZ area?

A. Yes, sir.

Q. Okay.

A. When the rest of the group linked up with us and we had word to move out to our respective locations, we moved up into position and then we started. The 1st Platoon was on the extreme right portion of the objective, in this area here. The 2d Platoon was over to our left. We started moving off of the LZ to move as close to the village as possible at this time.

Q. Sergeant COWAN, I wonder if you could mark on the photograph the sector for the 1st Platoon and the sector for the 2d Platoon. Do you think you could do that?

A. I wouldn't know exactly the 2d Platoon's sector, but we were operating on the right, sir.

Q. I understand. Just approximately as you can remember.

(The witnesses did as requested.)

Now, I notice that you have marked two arrows on the photograph. What do they stand for?

A. One is the left of our sector and the other is the right of our sector, sir.

Q. Would you like to mark 1st Platoon by one of them and 2d Platoon by the other?

A. This --

Q. (Interposing) I see, your sector is between the two arrows?

A. 1st Platoon's sector is here, this is 1st Platoon. 2d Platoon is further to our left. I don't know how far they were extended to our left.

Q. Did they go out into the rice paddy you think?

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A. I didn't see their flank, sir, because I only saw this portion of the village here (witness points to southern part of village). They extended from our sector here over to the left. Now, just how far to the left, I don't know.

Q. That's okay. Will you mark 1st Platoon between the two arrows there?

(Witness does as requested.)

And that correctly represents the sector?

A. As I remember. Yes, sir.

Q. As I understand it then, you were going to move east right through the hamlet, along as indicated?

A. Yes, sir.

Q. All right. About what time did you form up to move through the hamlet, can you recall?

A. Well, the first wave, the first group went in approximately 0730, and it had taken us approximately 15 minutes flying time. It was about 8 miles from there to LZ Dottie. They had to go back and come back again so approximately 25 minutes I would say of waiting time that the 1st Platoon was there, so at approximately 5 or 10 minutes to 8 I would say we were ready to move out.

Q. Somewhere around 8 o'clock maybe?

A. Yes, sir.

Q. Now did you immediately move out at that time then?

A. Yes, sir. When the second wave moved in then we immediately moved out.

Q. All right. Was there any--were the men in your platoon firing at this time or--

A. (Interposing) Yes, sir.

Q. What about while you were there waiting for the rest of the company to come in?

A. While we was waiting, we was firing at likely areas that enemy could have been hiding, in bunker type areas, and bushes, any suspected area.

Q. What you might call reconnaissance by fire?

A. Yes, sir.

Q. You were not actually in a fire fight with anybody were you?

A. No, sir.

Q. Had you seen anybody in the hamlet up to this time?

A. No, sir.

Q. You weren't getting any mortar fire or rocket fire?

A. No, sir.

Q. Then you moved out into the hamlet sometime around 8 o'clock?

A. Yes, sir.

Q. All right. Would you just tell us what happened next?

A. We start moving through the hamlet at this time. We moved up to the edge of the hamlet. It was a small ditch, a little incline, a little bank, like you know, as you entered the village.

Q. All right.

A. The village itself was heavily vegetated with hedgerows, banana trees, and bamboos. It was very heavily vegetated. We moved up to the edge of the village and we were halted momentarily--for a short period of time.

Q. How were your men deployed, now?

A. We were in a line formation.

Q. As skirmishers?

A. Yes, sir.

Q. All right.

A. At this time the squads started moving through this village. They was firing. I was walking along with them. I was staying with my medic. I said, "We have no rear security. We have to have someone back for rear security." At this time my medic and I dropped to the rear and started watching the rear to keep anything from coming in to our rear.

Q. Where was the platoon leader at this time?

A. The platoon leader was moving with the lead element, controlling the two squads that were on line.

Q. And what was his name?

A. Lieutenant CALLEY, sir.

Q. All right. And the men of the platoon were still firing?

A. Yes, sir.

Q. All right, please go ahead.

A. They moved through the village until they were approximately 25 meters to the far side of the village. The personnel that the squad had collected in the village, they carried them over to Lieutenant CALLEY. At this time my medic and I moved through and when I got up to where Lieutenant CALLEY was the men began to bunch up because we had some personnel there gathered up. I didn't want anybody--

Q. (Interposing) Civilians you mean?

A. Yes, sir. I didn't want something to happen, an explosion to go off and wipe out the whole platoon. So I immediately had the men spread out and move forward. We moved forward of the village and we established a perimeter on the forward edge of the village. We was out in the rice paddies. These in this general direction here (indicating on the photo) to our immediate front were other scattered buildings, to our front.

Q. Now going back to -- well first of all how long do you think it took Charlie Company to -- the 1st Platoon to sweep through its sector, and come out on the other side?

A. Well, I'd guess it had taken us anywhere from approximately 45 minutes to an hour.

Q. Now was the 2d Platoon keeping up with you all right? Could you tell?

A. They were to our left. The only thing that I could hear was firing to my left and judge from that.

Q. Yes.

A. We had no visual contact from the 1st Platoon to the 2d Platoon due to the heavy vegetation.

Q. Okay. Now could you tell us a little more about what the men did as they moved through the village? Did they stop to burn any of the hootches or anything?

A. No, sir. I didn't see any of the members of the 1st Platoon stop and burn any of the hootches.

Q. They just moved through firing?

A. Yes, sir.

Q. Did they encounter any resistance?

A. I don't recall. We didn't -- I don't think we encountered any resistance.

Q. I see. How did they come to gather up the civilians?

A. Well the civilians that they had -- whenever I was moving through the village, I heard them. They were hollering to Lieutenant CALLEY, and talking about, "I got some over here, I have some over here." Okay, so they finally find him there in the center. They knew that he was in the center of the element when it went through the village, so they took the ones that they had and they carried them to the -- there was a little road in the forward edge of this village, and when I got up there there was a group of civilians there. Lieutenant CALLEY had them and was interrogating them.

Q. Could you mark the point on the aerial photograph where the civilians were gathered as you can recall?

(The witness did as requested.)

This was still in the hamlet?

A. Yes, sir. Pretty close to the end of the hamlet.

Q. All right. Could you mark that with the number 1?

(The witness did as requested.)

Had the lieutenant issued some orders about the civilians being brought to him?

A. No, sir.

Q. Why did they do that?

A. Well, they carried the -- usually whenever we are out on a search and destroy mission, or come in contact with civilian personnel, we take them to the command post, and they carried their personnel that they had collected to Lieutenant CALLEY.

Q. They always did that?

A. Yes, sir.

Q. Tell me again, who was with you keeping the rear security as the platoon moved through?

A. His name was LEE, we always called him Doc LEE. He was the medic.

Q. Just the medic? Anybody else with you?

A. No, sir. He and I was the only ones back there. We were bringing up the rear. I don't know his first name. All I know is LEE.

Q. I understand the platoon had no casualties as you moved through, is that right?

A. Well we had one man, he was assigned to company headquarters. His name was CARTER.

Q. Yes, I know about CARTER but--

A. (Interposing) That was the only casualty. He was a member of the 1st Platoon.

Q. But nobody was wounded by VC fire or hostile fire?

A. No, sir.

Q. Did you see any wounded or dead civilians as you moved through the hamlet?

A. Yes, sir. I saw approximately five, sir.

Q. Would you describe that, please, if you recall where you saw them and what they looked like? Are you marking a place where you saw them?

A. The one that I saw was approximately middle ways of the village. It was --

Q. (Interposing) Well, you don't have to mark it now.

A. I saw approximately five as I went through the village.

- Q. Were they all in one place or scattered out?
- A. No, sir. Scattered out through the village.
- Q. Do you recall whether they were men, women, or children or what they were?
- A. I'm not sure but I think they were male personnel.
- Q. Did you come upon any wounded civilians?
- A. No, sir.
- Q. Doc LEE didn't have any wounded to give first aid to then, I take it?
- A. He didn't work on the five that I saw, sir.
- Q. And at this time nobody stopped to burn any hootches or anything like that?
- A. No, sir.
- Q. All right. Do you know where the artillery preparation was fired?
- A. Where it was fired?
- Q. Where it was fired. When you saw the artillery going in, where was it being fired?
- A. Well, it was landing--I was way up in the helicopter--it was landing down, it appeared around in this open area here, but when I went to approach the village I did notice where one or two rounds had hit the edge of the village just as we entered.
- Q. You say that some of it was then on the western edge of the village?
- A. Yes, sir.

Q. How many men were in the 1st Platoon?

A. I would say approximately 28, sir. We were very low in men at this time.

Q. How many squads did you have?

A. Two.

Q. Only two squads?

A. Yes, sir.

Q. So with 28 that would have been two fairly full squads, then?

A. Yes, sir.

Q. You mentioned seeing Lieutenant CALLEY and having these women and children brought to him. About how many were gathered, would you estimate, at that time where you made your mark with the letter 1?

A. I would estimate 10 or 15, sir.

Q. Ten or fifteen?

A. Yes, sir.

MR MACCRATE: Sergeant could you estimate about how far to the right, that would be actually the south on the map, was the farthest south the men in your platoon went? How far south? You were going through the southern half of the village, on the right flank?

A. Yes, sir.

Q. How far to the south, or to the right side of the village did the men in your platoon go?

A. I would say they moved close enough to the edge in this vicinity to make sure that there was nothing to the right of them out in this portion here. The man that we had on the

extreme right, I was unable to see him on account of heavy vegetation through this area here. Through this area here where we were traveling.

Q. To your knowledge, did any of your men get outside of the village to the right?

A. Out in the rice paddies, sir, on the right?

Q. Yes.

A. Not to my knowledge.

IO: I would like for you to show the approximate location where you went into your defensive perimeter after you had passed through the village and you had left Lieutenant CALLEY in the village.

A. While we were in the same village?

Q. Yes. You had indicated that you had passed through and you were generally out to the east. Now I'd like you to draw on your....

(Witness does as requested.)

A. We had scattered our men. We were out in the open so we were spread out a long distance apart covering a portion of the village.

Q. Now would you mark a 2--put a figure 2 by your last line there?

(Witness does as requested.)

About how long did it take you to get to that point, Sergeant COWAN?

A. From the starting, from this point here?

Q. From the time you entered the village to the time you reached point 2. Just approximately.

A. I would say we entered approximately 8 o'clock like we said awhile ago. It took about 45 minutes to an hour to go through the village. Moving slow, very cautiously, not knowing what was in the village, it took approximately 45 minutes to an hour, sir.

MR WEST: From where you were on the skirmish line could you see Lieutenant CALLEY and the group of people that were with him? Or had you moved on ahead?

A. Yes, sir. Lieutenant CALLEY was at the forward edge of the village. Well, I don't know the distance from there out to the opening on the edge of the village, but he was there and when I reached his point I moved forward and established a perimeter around the eastern section of the village, sir.

Q. Do you remember who was with Lieutenant CALLEY at this time?

A. No, sir. I don't recall who was with him at the time, sir.

Q. Did you know his RTO?

A. I don't recall seeing the RTO sir, but normally the RTO's move along with the platoon leader. Anyplace that the platoon goes, then the RTO is supposed to be very close by, sir.

Q. Do you know Sergeant MITCHELL?

A. Yes, sir.

Q. Did you see him this time?

A. No, sir. I didn't see Sergeant MITCHELL at this time. When we moved on--when we established our perimeter out here, Sergeant MITCHELL's squad had been operating on the extreme right flank of the village and Sergeant BACON's squad was operating on the left flank of the village. Whenever we moved forward and established our line, I guess it was approximately 200 meters or maybe more across in this

perimeter here, that we were set up here, so I was on the extreme left flank up in this area here (indicating the left end of the perimeter line). Sergeant MITCHELL was around on this side. I was unable to see Sergeant MITCHELL at this time.

Q. I see. But his squad was on the right half of the perimeter I take it?

A. Yes, sir.

MR MACCRATE: Did both squads come out into the perimeter?

A. We had members of both of the squads up occupying the perimeter, both squads when they moved forward, the third squad was on the right and the other squad was on the left, in a perimeter stretched around the village.

Q. Was there a portion of each squad that remained in the village?

A. If anyone stayed in the village it was probably the RTO personnel, sir.

MR WEST: This was Sergeant BACON that had the second squad?

A. Sergeant BACON was on the extreme left.

Q. Yes. I thought you said BAKER a little while ago.

A. BACON. We were minus one squad you see on account of we did not have the personnel.

Q. How about a Sergeant BUCHANON?

A. Sergeant BUCHANON was the platoon sergeant of the 2d Platoon, sir.

Q. I see, and they were over on your left?

A. Yes, sir.

Q. Do you know what happened to the civilians that Lieutenant CALLEY was talking to?

A. Well, while we were out in this perimeter a helicopter landed--one of the, I call them the bubbletops. It was piloted by a major, and I understand that he talked to Lieutenant CALLEY. He was some distance from where I was, maybe 100 meters or more, and he told Lieutenant CALLEY that he was in charge of getting the civilians out of that area. In a few minutes he left. A few minutes later another helicopter came in and he picked up the civilians and carried them back to the rear and dumped them on the main road to our rear, out of the area that we were operating in.

Q. Could you mark on the photograph where the bubbletop landed?

(The witness did as requested.)

Q. The next number is 3 isn't it?

A. Three, yes, sir.

Q. You were way over on the left flank, but you could see alright across the rice paddies.

A. He was in the rice paddies. You could see the two of them talking, sir.

Q. I wonder if you could mark about where Sergeant MITCHELL was at this time, if you know?

A. I don't know exactly.

Q. At least where he was supposed to be?

A. He had members that were sitting from--he was taking up approximately half of the perimeter from here back around to here (indicating).

Q. I see. Well, he would be somewhere along the right sector of the perimeter?

A. Yes, sir.

Q. I see. Now the other--the ships that came in and picked up the civilians, where did they land? Was it about the same place as the bubbletop or--

A. (Interposing) The other ship that picked the civilians, he came out and landed out in front of our position. He landed in front of the perimeter.

Q. Would you mark that with a number? I guess 4 is the next one.

(The witness did as requested.)

A. Out in this area here.

Q. Yes, then can you tell us about how the civilians got out to the helicopter there?

A. They carried them up to the helicopter, sir, and put them on the chopper.

Q. They walked up there did they?

A. Yes, sir.

Q. Who were they? Was there anybody with them that you knew or recognized?

A. Someone carried them. I don't recall who carried them and put them on the helicopter.

Q. Was it a pilot or--

A. (Interposing) No, sir.

Q. Was it one of the members of the company?

A. I would say one of the members of the platoon put them on the helicopter, just who I don't know, sir.

Q. Did I understand you to say there was two trips for this?

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A. Yes, sir.

Q. Was this a gunship?

A. No, sir. It was, I guess you call them Hueys. It was a Huey.

Q. Okay. It wasn't like the other helicopter was it?

A. No, sir.

Q. Could you fix a time about when this took place, Sergeant COWAN?

A. I would only be guessing, sir.

Q. Well to the best of your recollection, we understand.

MR MACCRATE: Maybe we could go back a moment?

MR WEST: All right.

MR MACCRATE: You left Lieutenant CALLEY inside the village?

A. Yes, sir.

Q. As you came out to perimeter then, it must have been after the passage of some time that you saw him outside at the point you've identified with this number 3. About how long a period of time would it have been between the time you saw him in the village and the time you saw him outside?

A. I would say approximately 10 o'clock.

IO: Let me ask you a couple of things here, Sergeant COWAN?

A. Yes, sir.

Q. Did you see the pilot get out and talk to anybody at that time?

A. Yes, sir.

Q. Who did he talk to?

A. Lieutenant CALLEY, sir.

Q. You're sure, at that time, that he talked to Lieutenant CALLEY at that time?

A. Yes, sir.

Q. Do you know whether he talked to Sergeant MITCHELL or not at that time?

A. No, sir.

Q. You didn't see him talk to Sergeant MITCHELL?

A. No, sir.

Q. Later on, did you see that helicopter again, the H-23, leave this area and again land out in this area, and might he have talked to somebody?

A. The next helicopter that landed in that area was the one that picked up those civilians that they put on the helicopter, sir.

Q. Yes. Had you seen the people that came to this point? How did they get there?

A. They walked, sir.

Q. Where did the walk from?

A. They came from this area over here to the helicopter (indicating area on Exhibit P-54).

Q. Were they walking or running or what were they doing?

A. Walking, sir.

Q. Were these the same people that Lieutenant CALLEY had had?

A. Could have been, sir.

Q. Did you recognize any of them?

A. They were civilians that were put on the helicopter.

MR MACCRATE: Did you say that you saw Lieutenant CALLEY talking to a major or did you hear that it was a major?

A. I saw him talk to the pilot.

Q. So it was just a pilot?

A. Yes, sir.

Q. I understand.

A. And he told me that it was a major.

Q. When did he tell you that it was a major?

A. This was when he was--when he moved out of the village after the pilot, after the helicopter had gone. He came around on the line. I asked who was the one in the helicopter, and he told me it was the major.

IO: Did you have any other conversation about this? Wasn't it sort of strange for a helicopter to come down like that?

A. Yes, sir. He told me that the major was reporting this incident of the My Lai (4) operation.

Q. What was he reporting? What did you visualize he was reporting?

A. Well he told me--he didn't talk to me any more. He said he would talk to me later, and he left and went back over to his position.

MR MACCRATE: Where was his position at this time?

A. He was somewhere with his CP, sir, slightly to the rear of the perimeter that we had set up.

Q. Along the edge of the--

A. (Interposing) Approximately, pretty close to the location where the helicopter landed.

IO: Did you ever see a stack of bodies in the sector of the 1st Platoon?

A. No, sir.

Q. Did you ever see a ditch that had a large number of bodies in it or people that were in a ditch?

A. We crossed a ditch when we went up into our perimeter. It was a ditch running down across pretty close to the village.

Q. To the edge of the village?

A. Yes, sir.

Q. Would you point to the--would this be the ditch that you are referring to in this area around the perimeter?

A. Well I wouldn't--it could have been very close to the edge, right outside the village and we--I crossed the ditch on the upper portion here at this location here (indicating).

MR WEST: Could you put a number on the ditch about where you think it was? It will be number 5, I think.

(The witness did as directed.)

IO: Well that ditch wasn't just in one spot then, Sergeant COWAN. Is that correct?

A. It was along here, sir.

Q. You had also crossed a ditch on the far side over here so you had a ditch, actually had a ditch pretty well around

the village. Is that correct?

A. I didn't see the right portion of the village north of here, sir.

Q. But you did have a ditch in the area that you entered and in the area that you exited?

A. It was a bank like that we went up at the first portion of the village. And on the other, on the forward edge, it was a ditch.

MR WEST: It was just a regular ditch?

A. Yes, sir. An irrigation ditch.

Q. Did you see any bodies in that ditch?

A. No, sir.

Q. These five people that you said you saw, these five bodies back in the village, did you see any of these people shot?

A. No, sir.

Q. You don't know how they were killed then?

A. No, sir. The only thing that I saw was the bodies when I came through the village, sir.

Q. Did you see anybody shot that day?

A. Yes, sir.

Q. Would you describe that please?

A. Yes, sir. When we first started to move off the LZ where we had landed there was a large bomb crater there on the LZ, the landing zone, and we had to move in the direction of this crater. When we were moving out we was firing, and in this particular crater something jumped out of the crater hollering and he was instantly shot.

- Q. You say someone jumped out of the crater?
- A. Yes, sir.
- Q. Who was it?
- A. It was a man.
- Q. How--
- A. (Interposing) I suspected him of being one of the members of the 48th VC Battalion.
- Q. How was he dressed?
- A. He had on black pajamas.
- Q. Did you see any military equipment?
- A. No, sir. We didn't check at this point. We had a search team that was supposed to move to the rear, and we were primarily concerned in getting off of the landing zone and into the village so that we could have some cover, sir.
- Q. Did you see any houses burning in My Lai (4)?
- A. Yes, sir.
- Q. When did this take place?
- A. This was taking place while we were out in the forward edge of our assembly area.
- Q. There was no burning until after you had gotten all the way through, is that right?
- A. Yes, sir.
- Q. Who was doing the burning?
- A. I understand it was elements of the 3d Platoon.
- Q. The 3d Platoon. Did you see any livestock killed, any cows, chickens, pigs, water buffalo?

A. I saw some that was killed when I went through the village, sir.

Q. I see. Well you did see dead livestock, is that correct?

A. Yes, sir.

Q. Did your men kill any livestock?

A. They were in front of me, sir. I was to the rear for rear security, and when I came along through the village the livestock was dead. I didn't see any of it killed.

Q. Did they have orders to kill the livestock? Did your men have orders to kill the livestock?

A. They had orders to kill everything like that and to cut down anything that produced food. So they could have taken into consideration that this was something that was producing food.

IO: While you were out in your perimeter defense 100 to 150 to 200 meters beyond the village, Sergeant COWAN, did you hear any large volume of friendly fire, either semiautomatic or automatic fire?

A. No automatic fire, sir. While we were still in the perimeter, sir, we were still popping a few rounds down range. The platoon to our left was still firing, which was the 2d Platoon. We were firing, too, at suspected enemy targets to our front.

Q. If there had been any large volume of fire to your rear 100 to 150 meters, do you expect that you would've heard it?

A. Yes, sir.

MR MACCRATE: What were you firing at while you were on the perimeter?

A. Suspected enemy targets, sir. Bushes anywhere that an enemy could be, anything that looked like where

an enemy soldier could be. Every now and then we would fire a round into these areas.

Q. But you were getting no return fire?

A. No, sir.

Q. And you hadn't had any return fire since the report of some on the left flank very early in the move through the city--through the village. Is that right?

A. Yes, sir.

IO: Was your second squad on the left firing?

A. Yes, sir. They were firing a few rounds.

MR WEST: Did your platoon take any prisoners?

A. Yes, sir. We did.

Q. Will you tell us about that please? I mean up until this time now which would be about 10 o'clock.

A. Well, we had some prisoners. Whenever we got ready to leave from this location we carried some prisoners with us to the area where we stayed for that night. We carried some along with us.

Q. How many?

A. I would say approximately eight to ten, sir.

Q. What were they? Could you describe them?

A. Mostly male. Male personnel. I do know that we had a lady along with us. She had a baby with her.

Q. Are you sure that this was at this time?

A. When we moved out from this area that we was in?

Q. Yes.

A. For the night--we carried some with us, yes, sir.

Q. Did you have the prisoners with you at the time you formed the perimeter here around 10 o'clock, or did you pick them up later on?

A. Well, whenever we got ready to move out we had the prisoners that we had collected up around the perimeter.

MR MACCRATE: When the Huey landed--made two landings as I understand--before it landed did you pass an order to cease firing to the members of your platoon?

A. Before the Huey landed out in front of the perimeter?

Q. Yes.

A. Well, whenever we'd see a helicopter landing, sir, we would know not to fire because it's a friendly wanting to come in.

Q. Ordinarily a friendly helicopter doesn't just come down in front of your line of fire does it?

A. Not normally, sir.

Q. This is a little unusual is it not?

A. Yes, sir, and we know--

Q. (Interposing) And what did you do that made sure it wasn't fired on?

A. I hollered cease firing and everybody stopped firing.

Q. And had you received any orders from Lieutenant CALLEY before you passed the cease fire order?

A. I don't recall whether he had to give the order like this or not, sir. It is something that would come automatic in a situation like this. If you see a helicopter that's landing, you know who it is and you would normally just tell your people to stop firing.

Q. Well, I think if I was in the helicopter I would want you to cease fire before I came down and would not rest too much on faith that you would. I wondered if a word was not passed about ceasing fire before he came down.

A. That was something unusual that he landed outside the perimeter. He landed outside the perimeter.

Q. But you have no recollection of anyone passing an order to you which you passed on to cease fire before he came down?

A. People normally would stop even if he did land out in an area like this. They know who it is and they would stop firing.

MR WEST: Let's go back a little. When you--after the helicopters had gone and you spoke to Lieutenant CALLEY, did he indicate--did he really explain why the helicopters had landed?

A. He told me about the helicopter. He was the one in charge of taking the prisoners or the civilians back to the rear. So when he left approximately 10 or 15 minutes later the other helicopter came out and he landed out there, and they loaded these civilians onto the helicopter. He left and carried them and dropped them off somewhere to the rear and returned again.

Q. These weren't prisoners were they?

A. They were just civilians, sir.

Q. Well would you describe them, were they men, women, children?

A. They were mostly women and children, sir.

Q. Any men at all?

A. No, sir, women and children. We carried the male personnel that we had along with us.

Q. Do you remember seeing any in a cave at that time, Sergeant COWAN?

A. In a cave?

Q. In a cave. Out in front of you?

A. No, sir. I don't recall seeing anyone in a cave.

IO: Do you remember a group of what might be referred to as huts or hootches there, that these people were going toward?

A. Forward of our perimeter, sir?

Q. Yes, where--

A. (Interposing) Well, there was a few scattered hootches out there. I don't recall seeing any personnel out in those hootches. I don't recall seeing anyone out in those hootches to our front, which was in the east of our location.

Q. Sergeant COWAN, you had your people there. They were on this perimeter and they were firing out there. Could these people that were heading in this direction where the helicopter eventually picked them up have been pushed along their way by--moved rapidly because of the firing that was coming from the squad or squads?

A. Are you speaking of the ones that we put on the helicopter, sir?

Q. Yes.

A. Well, when these civilians were put on the helicopter there was no firing at this time because the helicopter landed out in front of the perimeter.

Q. I mean before the helicopter landed. That is what I am referring to.

A. I didn't quite understand your question.

Q. The people had been coming out of this area toward this general area where the helicopter landed, and

your people were to the west of them and had been firing out in this direction?

A. Yes, sir.

Q. My question, then, is if this firing had driven these people toward this area where they were eventually picked up by the helicopter?

A. They didn't come from in front of us, sir.

Q. Yes.

A. The personnel that got on the helicopter, they didn't come from there, sir. They came from the rear. They was loaded on by some of the personnel within the platoon.

MR WEST: Well, I believe that you said Lieutenant CALLEY told you that the major threatened to report something. Is that right?

A. Lieutenant CALLEY told me that the operation was being under investigation.

Q. Did he explain what he meant by that?

A. No, sir, he didn't have time to, he said. I don't know why he said it but he said--

Q. (Interposing) Did he say anything about whether the pilot was going to report the killing of civilians? Do you remember, did he say anything like that?

A. He told me that he was going to report the operation, sir.

Q. And didn't explain further?

A. No, sir.

Q. Okay. Did you see any National Police that day, ARVN police?

A. Yes, sir, I did.

Q. Would you describe that please?

A. Yes, sir. We had a National Police along with us this particular day. They was moving with the command post. When we received word to move from the location that we were in, we moved to a perimeter where we were going to stay for the night, which was forward of this area.

Q. Is it off the map do you think?

(The witness examined the map.)

Let the record show that Sergeant COWAN is looking at Exhibit MAP-4.

Do you want to refer to the map on the wall, Sergeant COWAN, MAP-1?

A. These maps have different scales.

Q. Yes. There is a large scale map (MAP-1) on the wall. Maybe that will help you.

(The witness examined MAP-1.)

All right, Sergeant COWAN, can you point out the place on the big map?

A. Yes, sir. Our perimeter was established on the forward edge of this area here, this being My Lai (4).

Q. Would you give us a coordinate there approximately? Is that about 720790?

A. Yes, sir.

Q. That was your perimeter about 720790?

A. But we moved from this point. We moved in an eastward direction to approximately this area here. Then we linked up there with another element, a friendly element, which was--

Q. (Interposing) That was your objective?

A. I think our objective was to go into Pinkville, but due to the interrogation of the personnel that we had they told us that the VC's had moved out of Pinkville. They had moved out of that area. We did not go all the way into Pinkville that particular day. We held up here. We linked up with another element which was Bravo Company. I believe it was. We tied in with Bravo Company.

Q. You laagered in for the night there?

A. Yes, sir. We stayed there for the night.

Q. You were going to tell us about the National Police, Sergeant COWAN?

A. Yes, sir. While we were in this area here we established a--

Q. (Interposing) That's the area marked OBJ on MAP-1?

A. Yes, sir.

Q. Okay.

A. While we were in that area we established a perimeter. The two companies tied in together so we would have all-around security. There we stayed for the rest of the night. In the center portion of the perimeter we had the command post, and each platoon had different command post depending on the location of the platoon. I would say that the 1st Platoon was here on the extreme right, tied in with the sister element, I believe that it was Bravo Company, and extended back around and linked up with the 2d Platoon for the night. In the perimeter the command post was somewhere near this vicinity or this location. Our CP was located approximately 50 meters from the location of the command post so we were close to our platoon area.

IO: I think at this time we will take a short recess.

(The hearing recessed at 1744 hours, 18 December 1969.)

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(The hearing reconvened at 1757 hours, 18 December 1969.)

IO: The hearing will come to order.

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

IO: Sergeant COWAN, you were talking about the National Police in the area where you laagered down for the night with B/4/3.

A. Yes, sir.

Q. The National Police were there, is that correct?

A. Yes, sir.

Q. Had you seen them before with C/1/20?

A. I saw them on the LZ prior to leaving out that morning, sir.

Q. From LZ Dottie?

A. Yes, sir.

Q. Had you seen them with Charlie Company though, throughout the operation into My Lai (4)?

A. No, sir. I did not see them any more.

Q. Would it be possible that they accompanied B/4/3 or later were flown to the area where you laagered in that evening?

A. Sir, I don't recall where Bravo Company was, but the National Police were there that morning.

Q. The point that I just want to clarify is whether or not you were sure that the National Police had accompanied C/1/20 through My Lai (4) and on up to the laager area, or whether your first seeing the National Police, after you had seen them at Dottie, was in your night laager area?

A. I saw them in the night laager area too, sir.

Q. How they got there you don't know. Would that be a correct answer?

A. Yes, sir.

MR WEST: What did you observe the National Police doing at this time.

(LTC MAHAFFEY entered the hearing room.)

A. Well, sir, while we was in the laager area the prisoners that we had were taken to the command post. In the command post they had the prisoners there from our unit and they were there from Bravo also. They had the prisoners in one center location approximately 25 to 35 meters away from the command post. The National Police were back there interrogating the prisoners that we had.

Q. Did you notice anything unusual about their interrogation of the prisoners?

A. At this time we were establishing our platoon CP. We were digging foxholes, preparing for the night, and the National Police brought one of the PW's over approximately 25 meters from my location and was talking to one of the PW's. I don't know what he was saying because I didn't learn any of the language they speak. He was talking to him and all of a sudden, "bang," he shot the man.

Q. You saw him shoot the man?

A. Yes, sir.

Q. Do you know the name of the National Policeman?

A. No, sir. I don't.

Q. Going back a little bit before this time, when you were back around My Lai (4), I don't remember exactly how many civilians were gathered up--you said were gathered up and turned over to Lieutenant CALLEY, was this about 12, 15, or 20?

A. Approximately 10 to 15 were turned over to Lieutenant CALLEY, sir.

Q. All right. We had Sergeant BACON testify for us the other day, and he reported turning over about 30 civilians to Captain MEDINA. Do you know if this was a different group?

A. To Captain MEDINA, sir?

Q. I mean to Lieutenant CALLEY, I'm sorry. He sent two men of his squad to take about 30 people over to Lieutenant CALLEY.

A. When I saw Lieutenant CALLEY he had approximately 10 to 15 there, I don't know whether Sergeant BACON went to him after I saw Lieutenant CALLEY or not.

Q. You don't know about that group of people if there was such a group?

A. No, sir.

Q. Okay. After you had gone through the village did you receive any instructions from Lieutenant CALLEY to stop the killing?

A. Yes, sir.

Q. Do you remember about when this was?

A. Well, we was on the perimeter there whenever I talked to Lieutenant CALLEY. He told us to stop the shooting.

Q. I see. Was that before or after the bubble-top helicopter came in, and the Huey?

A. It was after the bubbletop job came in.

Q. Do you remember about how long afterwards?

A. Well, immediately after the helicopter left he moved back out on the perimeter. And he came along

to my location. I asked him--he told me that they were reporting the incident of the My Lai operation and they told us to stop all this shooting.

Q. I see. That was about the same time. Did he say stop the shooting or stop the killing?

A. He said stop the shooting, sir.

Q. Stop the shooting?

A. Yes, sir.

Q. Do you know why he happened to do that?

A. No, sir, other than he said the My Lai (4) operation was--that he was reporting the incident of the My Lai (4) operation.

Q. You didn't relate this to any message that you got on the radio?

A. I didn't have a radio, sir. He had the command radio.

Q. I see. You don't know whether he got a message or not?

A. No, sir.

Q. With reference to the investigation of the operation did Lieutenant CALLEY or Captain MEDINA ever talk to you about the investigation?

A. No, sir.

Q. At this time did they talk to you, for example, and say there is an investigation going on and that you had better not talk about it as long as the investigation is going on?

A. I don't recall anyone saying anything about investigations, sir, after the operation was over.

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Q. There has been some testimony that the company was called together and Captain MEDINA spoke to the company and said, "Now our operation at My Lai (4) is going to be investigated. We'd better just not talk about it among yourselves or to others while the investigation is going on." You don't recall that?

A. I don't recall that. No, sir.

Q. Did anyone ever come around and talk to you about the operation at My Lai (4)?

A. Whenever we were CA'd out of that area, let me figure the date that we left out of that area.

Q. All right.

A. I think we left out on the day of the 17th going back to Dottie, I think it was the 17th.

Q. Could it have been the 18th?

A. Let me see where we moved to.

Q. Well to refresh your memory, after you laagered overnight with B/4/3, didn't you move south down to My Khe (2) and back up again?

A. Yes, sir. And then we were CA'd out.

Q. But didn't you spend the night and get CA'd out the next day on the 18th? Didn't you spend 2 nights out?

A. Yes, sir, we spent 2 nights out. On the 18th we went back in.

Q. All right. You had been extracted on the 18th then, is that correct?

A. Yes, sir. The day that we was extracted, we went back to Dottie. And when we got to Dottie, they were moving us out with two ships that day, low on helicopters. When we got off the helicopter we saw Colonel HENDERSON.

Colonel HENDERSON asked us was there anything unusual on that particular operation. Another sergeant that was in the group said, "no comment." I don't know what other remarks he made. Then we moved on to the company area.

Q. You were dismissed after that?

A. Yes, sir.

Q. Did he ask any questions about whether civilians had been killed during the operation?

A. No.

Q. You don't remember that?

A. I don't recall, no, sir. When we gave him the answer "no comment," I remember moving out immediately after that, sir.

Q. Did he direct any questions at individual members of the company?

A. Well, this was only two helicopters. I don't know about the rest of them. I don't know what he asked the rest of the groups that came in behind us. They were CA'ing us out on two helicopters, approximately 14 men. I don't know what he could have said to some of the other men that were on the other helicopters.

Q. He just asked the group a question, I take it?

A. Yes, sir.

Q. He didn't single out any particular person to talk to?

A. No, sir. He was talking to the group.

Q. Okay. And, aside from that, nobody, no investigating officer, ever came to talk to you?

A. No, sir.

Q. Not anybody?

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A. No, sir.

Q. Did you know Colonel BARKER?

A. Yes, sir.

Q. Did he ever take a statement from you?

A. No, sir.

MR WEST: Let the record show that Colonel MAHAFFEY has joined the session and will be sworn as an assistant investigating officer authorized to ask questions.

(LTC MAHAFFEY was sworn.)

LTC MAHAFFEY: Did you say, Sergeant COWAN, that you actually saw the Vietnamese National Policeman shoot one of the suspects rounded up?

A. Yes, sir.

Q. Did you report it?

A. Well he was a National Policeman, sir, and I figured that he was more skillful in handling the job than I was. I didn't see the name of the individual. I didn't see that I had anything to do with the National Police.

Q. And because of that you figured that it was not reported?

A. Yes, sir.

Q. Sergeant COWAN, do you know--were you with Lieutenant CALLEY or in the vicinity of Lieutenant CALLEY as you moved through the village?

IC: (Interposing) Excuse me just a second, colonel, the record--

MR WEST: (Interposing) Go ahead and talk to him and let him answer.

(COWAN)

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IC: For the record, he has answered that question here on a couple of occasions. He had indicated that he was in the rear. He was not in the vicinity of Lieutenant CALLEY.

MR WEST: Well, just advise him to answer "no" then.

IC: He wasn't here when this question was talked about and that was the only reason that I interjected.

MR WEST: Okay.

LTC MAHAFFEY: I understand the answer was no.

A. Yes.

Q. Do you know, and I hope that I am not repeating a previous question, what the platoon's body count reported for that day was?

A. No, sir.

Sir, I would indicate to you that at a later date I read in the Stars and Stripes for the whole, entire operation that 125 VC were killed.

MR WEST: Could you tell us what the procedure was in the platoon for reporting body count?

A. The procedure that we used: anytime that we would kill a VC we would report it to the platoon leader, and the platoon leader would get on the radio on the command net, and he would call it in to the company command net. From there they would call it to battalion or higher echelon.

Q. But you would make a report as soon as you learned of a KIA or VC killed? You would report it to the platoon leader?

A. Yes, sir.

Q. That was the SOP?

A. Yes, sir.

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Q. Would your squad leaders report this directly to him or would they come to you and you report it to him?

A. They would go to the platoon leader, sir.

Q. I see. And in this case, for example, you were handling the rear security and the squads were out in front, so in this instance they might have reported to the platoon leader?

A. Yes, sir.

Q. And you wouldn't know it at the time, I take it?

A. No, sir.

Q. Do you recall anything about the body count that day, on the spot, apart from what you read later in the paper?

A. No, sir, I don't recall a body count on that particular day.

Q. Had you seen any VC dead during the day?

A. I considered the five bodies that I saw when I went through the village as VC.

Q. How about the man in the hole? That would be another?

A. I considered the man that was on the LZ was a VC and I considered the one that National Police shot was a VC.

Q. Anybody else?

A. Those are the only ones that I saw, sir.

Q. That would be about seven, then?

A. Yes, sir.

Q. Now you are aware of course, from reading the papers, what has been alleged to have happened at My Lai (4) on that morning the 16th of March?

A. Yes, sir.

Q. Then the stories in the press that quite a number of noncombatants, civilians, were killed during this operation--for that reason I want to ask you if during that morning you saw any noncombatants killed?

A. The ones that I saw I considered them as being combatants, sir.

Q. Did you see any women killed?

A. No, sir.

Q. By American soldiers that day?

A. No, sir.

Q. Any children?

A. No, sir.

Q. Did you see Lieutenant CALLEY shoot anyone?

A. No, sir.

Q. Did anybody tell you that he had shot anyone?

(Witness confers with counsel.)

A. Well, sir, I heard that Lieutenant CALLEY had shot some of the ones that he had. And whenever he told me that--when this pilot landed he told me that the matter was under investigation, I thought that was what he was talking about.

Q. I see. Was this someone in your platoon who told you this?

A. I can't recall who it was.

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Q. But you were told this sometime just before Lieutenant CALLEY came to you and told you about the fact that the operation was going to be investigated?

A. He told me he was investigating--I mean the My Lai (4) operation was under investigation.

Q. But it was some time before this that somebody--

A. (Interposing) I did not know why or what it was about. I didn't know what it was about.

Q. But it was some time before this that someone had told you that he's shot some of the people, some of the civilians that were with him?

A. I heard it whenever we were in the laager area for that night, sir.

Q. I see. You don't remember who told you this though?

A. No, sir.

Q. Did they indicate how many were shot?

A. No, sir.

Q. But it was Lieutenant CALLEY?

A. That shot them?

Q. Yes.

A. Yes, sir.

Q. Would you like to add something, Sergeant COWAN?

A. Yes, sir. I want to point out the fact that that afternoon when I heard this report I still didn't believe that he had shot those personnel that we had given him.

Q. I see. Well you related this later on in the laager area.

A. Yes, sir.

Q. Put two and two together so to speak?

A. Yes, sir.

Q. Now when you were in the laager area and you were talking to your friends there, was anything else said about anybody else shooting noncombatant civilians that day?

A. No, sir.

Q. Okay. Sergeant COWAN, can you think of anything else you could tell us that would help us in our investigation?

A. No, sir. I think all the things that I have--you have it on paper there. You have the report that I gave Colonel WILSON when he was down to see me in April. I told him everything that I knew about the operation and at this time I have nothing to add on to the report.

LTC MAHAFFEY: Sergeant COWAN, you'd been in a big operation. As I understand it this was the biggest operation that Task Force Barker had ever been involved in, and as far as you knew at the end of the operation the company had done pretty well. All right, did you recommend then or at any time subsequent to that any of the men in your platoon for a decoration or an award for their actions during that period of time?

A. No, sir, I didn't recommend any awards for this. I figured that, I don't know if it was before or after that, I was in something much worse than that operation and I recommended, a couple or two times, men for awards and none--they didn't get them and I recommended at least, I discussed it with my company commander--for an award once. We got caught in a minefield and we had three men killed and 18 wounded in the same day. I recommended certain individuals that were within the platoon for certain awards and they never received them.

Q. But as far as the 16th of March action you recommended no one?

A. No, sir, because in this particular operation I felt that I couldn't recommend a man for doing something that I didn't see him perform myself.

Q. Do you know if Lieutenant CALLEY recommended any of the men?

A. No, sir, I don't recall.

COL WILSON: Sergeant, you mentioned in previous testimony that a sergeant had told you that people in this village had been warned to leave that village. I'm trying to establish, number one, who this person is and if he told anybody else that.

A. I don't know, sir. Being around in places, I heard once that leaflets were dropped in that particular area whenever we first encountered hostile fire in that area. It was a VC-held area, and whenever we would receive orders to go into this area-- I heard someone say that they had been warned to leave, and the company commander told us that night that all the civilian personnel and children would be out of that area. So whenever we went in there we were figuring to encounter the 48th VC Battalion. If they weren't VC, they were VC sympathizers.

Q. Are you certain that this question about all the people would be out of the village has not come subsequent to my talking to you before, based on some radio or television message?

A. Pardon, sir?

Q. Are you certain that this statement about the women and children not being in the village has not developed since your previous testimony?

A. Sir, at the briefing that Captain MEDINA gave, he told us in the briefing that the civilian personnel, women and children, would be out of the village that morning.

MR WEST: In that connection, Sergeant COWAN, how many civilians would you say were in the hamlet that day?

A. I don't know, sir, I didn't see all the civilians. I just saw only a portion of the village, and when I went through the--

Q. (Interposing) You've already indicated the number you'd seen, then.

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A. The ones that I seen, yes, sir.

Q. There wasn't any general discussion, then, among the others so that you got some idea about how many people were there?

A. I had no discussion prior to--I mean with anyone prior to Colonel WILSON coming to Fort Jackson.

Q. Well, I guess I was going back to the laager area that night when you were talking it over--talking over the action. Was there any discussion about how many civilians they were in My Lai (4)?

A. No, sir.

MR WEST: Okay. Sergeant COWAN we appreciate you coming today and helping us. I would remind you again about orders not to talk to anybody including other witnesses about what has gone on here today. As we indicated we're treating the testimony as confidential to the extent that we can.

A. Yes, sir.

Q. If you should think of anything else that you think would be helpful to us we would appreciate your calling us and letting us know about it. We also would appreciate your getting with Colonel WILSON afterward to go over the photograph, filling him in a little bit on the locations and so forth. The aerial photograph that Sergeant COWAN has marked the locations on will be entered into the record as an exhibit.

RCDR: Sir, this will be Exhibit P-54.

MR WEST: Thank you Captain FRANKS for assisting us and serving as counsel for Sergeant COWAN. Is there anything further? All right, the hearing will be recessed.

(The hearing recessed at 1833 hours, 18 December 1969.)

(The hearing reconvened at 1841 hours, 18 December 1969.)

MR WEST: The hearing will come to order.

RCDR: The following persons are present: MR WEST, COL WILSON, LTC MAHAFFEY, and MAJ LYNN.

MR WEST: Just two or three additional questions. Sergeant COWAN. If you can, tell us what really happened at My Lai (4) on 16 March 1968?

A. Sir, I have given you all that I know about it, and it is on the record.

Q. Well, from your testimony you saw very little in the way of people being killed and I believe you testified you didn't see any noncombatant civilians killed, such as women and children, and that someone in the laager area that night told you that Lieutenant CALLEY had shot some of the civilians, is that correct?

A. Yes, sir.

Q. Well, just with reference to the report that Lieutenant CALLEY had killed some civilians, could you explain, could you help us by explaining, why such a thing would happen?

A. Sir, what do you mean by that question?

Q. Well, let me ask you another question then we can come back to it. Had such a thing ever happened before in the company where, say, civilians had been gathered up in front of the company? In this case Lieutenant CALLEY had shot them. Had such a thing ever happened before?

A. This is the first time that I ever went through a village and saw five bodies that were killed in one particular village, sir.

Q. I see. So you hadn't had a similar experience before?

A. No, sir.

Q. Do you have any idea why Lieutenant CALLEY would shoot these civilians? This is what I was trying to get at a while ago.

(Witness confers with counsel.)

A. I heard that some had been shot, but I didn't know. I'm not sure. He had said--only that this was the way it happened--this had taken place--I didn't believe it after hearing it.

Q. So you couldn't venture to say why?

A. No, sir.

Q. Do you know whether any report was ever made of this alleged happening, this--

A. (Interposing) As I emphasized earlier about the major that was in the helicopter that landed there, who said the My Lai (4) incident was being under investigation, and was reporting the incident.

Q. I see. You don't know anything about any other report? I was thinking specifically of the report, what you know about Lieutenant CALLEY shooting some people. Did you ever hear of that being reported?

A. No, sir.

MR WEST: The hearing will be recessed.

(The hearing recessed at 1847 hours, 18 December 1969.)

SUMMARY OF TESTIMONY

WITNESS: DOINES, Rennard

DATE OF TESTIMONY: 7 January 1970

PLACE OF TESTIMONY: Pentagon

WITNESS SUSPECTED OF: N/A

COUNSEL: None

DUTY ASSIGNMENT ON 16 MARCH 1968: PFC, 1st Platoon, C/1/20.

1. PREOPERATIONAL PLANS AND BRIEFINGS.

The witness attended Captain MEDINA's briefing on 15 March (pg. 3). He recalled a memorial service being held before the briefing but did not know what day it was held or who the chaplain was that conducted it (pg. 3). MEDINA told them that it was a known VC village and that some of the people in it were VC sympathizers (pg. 4). They were to go in and kill the VC (pg. 4) and they anticipated a pretty big force (pg. 6). The witness disagreed with his prior statement to the CID in which he said that MEDINA told them to kill everything living because he said that he is not sure now and did not remember if this was said (pgs. 4, 5). He described the men in the unit as being a little nervous and expecting a real fight (pg. 5). Some of the people in the unit had the attitude that killing the Vietnamese really did not count (pg. 19), and he felt some may have been out for vengeance, if one of their unit members was hurt (pg. 20).

2. ASSAULT ON MY LAI.

Sergeant BACON was the witness' squad leader. Sergeant COWAN was his platoon sergeant and Lieutenant CALLEY was his platoon leader (pg. 3). His squad went in on the first lift (pg. 6), and they started firing right away (pg. 14). The first and second platoons got on line (pg. 7) and they then started firing and moving ahead (pg. 6). To his knowledge, no one shot at him but he stated that he may not have heard them (pg. 6). He began firing because everyone else was and

he stopped later when he began to round up prisoners (pg.15). The only man in the platoon wounded was CARTER (pg. 7). As they moved through the village, they ran into many old men, old women, and children who were gathered up into groups (pg. 7). He guarded some along with Robert WOODS and Charles SLEDGE (pg. 8). They took them over to Lieutenant CALLEY who was located to his right at the edge of the village and they turned them over to him (pg. 8). He did not recall who was with CALLEY at the time (pg. 8). SLEDGE later told him that the people had been shot (pg. 16) and he stated that he later saw the bodies, some on a trail and some in a ditch (pgs.9, 10). He saw other bodies scattered throughout the village most of them women with little children (pg. 9). He estimated that he saw 40 to 50 throughout the village, in addition to the 20 or 30 in the group that he has mentioned (pg. 10). He agreed with his statement to the CID that SLEDGE told him that CALLEY, John WOODS, and MEADLO shot those people. He stated that later in the day he saw members of the National Police shoot three men (pg. 12) but did not see any American officers at the time (pg. 13). The witness never heard of Co Lay (2). He stated that he was surprised that they were lifted from the village after so short a period (pg. 13).

3. INQUIRIES CONCERNING THE ASSAULT.

The witness did not recall Colonel HENDERSON questioning the men (pg. 18), and remembered MEDINA saying something about an investigation going on (pg. 19).

4. OTHER INFORMATION.

He felt that MEDINA was a good officer (pg. 11) and CALLEY was not (pg. 17). He felt CALLEY was trying to act tough, but was always getting the platoon lost (pg. 17).

(The hearing reconvened at 0837 hours, 7 January 1970.)

MR WEST: The hearing will come to order.

RCDR: The following persons are present: MR WEST, COL FRANKLIN, LTC PATTERSON, and MAJ COOP.

The next witness is Mr. Rennard DOINES.

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

Please state your full name, occupation, and residence.

A. Rennard DOINES. I work in a pipe plant in Fort Worth, Texas. My address is 2709 Belzise Terrace, Fort Worth, Texas.

MR WEST: Before we go ahead with any questions, I want to advise you of the nature and purpose of our inquiry.

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 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 to furnish information concerning this incident. In other words, a look into whether this was a coverup.

This investigation is not being conducted to pry into all facts and circumstances of what happened at My Lai. It is directed to those specific purposes which I have just stated. For example, we are not directly concerned with the culpability of any individual for something he did that might have been wrong. That is not our purpose here.

We have had made available to us and have reviewed prior statements obtained in other official investigations of My Lai. For example, we have a report here from Mr. THOMPSON, the CID agent, who talked to you in October at Fort Worth. He just wrote up what the two of you talked about and what you told him.

(DOINES)

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

The general classification of the report will be confidential. However, it is possible that the testimony we receive, or parts of it, may later become a matter of public knowledge.

I request that you not discuss your testimony in this investigation with other people, including other witnesses for the investigation, unless you are required so to do before some administrative, judicial, or legislative proceeding. For example, there is a subcommittee of the House Armed Services Committee which is looking into the My Lai incident. They are calling a number of witnesses before the subcommittee. It is just possible that you may be called over there. Of course, what we say here about not discussing your testimony wouldn't restrict you in any way from appearing before a hearing of a legislative body.

Do you recall whether you received an order from the military judge in the case of the United States v. Calley not to discuss certain facts of the case?

A. Yes, sir, I did.

Q. Now, I want to advise you that your appearance here does not affect the applicability of the order in any way. At the same time it is permissible, under the terms of that order, for you to be here today and discuss the case with us.

Do you have any questions about these matters?

A. No, sir, I don't.

Q. For the record Mr. DOINES, on 16 March 1968, I understand you were a member of the United States Army.

A. Yes, sir.

Q. What was your grade?

A. I was a PFC.

Q. And where were you assigned at that time? What outfit?

- A. 1st Platoon, C/1/20, 11th Infantry Brigade.
- Q. Was C/1/20 assigned to Task Force Barker at that time?
- A. Yes.
- Q. Which was under the 11th Brigade?
- A. Yes, sir.
- Q. Who was your squad leader?
- A. Sergeant BACON.
- Q. Was your platoon leader Lieutenant CALLEY?
- A. Yes.
- Q. And Sergeant COWAN your platoon sergeant?
- A. Yes.
- Q. Do you remember the attack on this little village of My Lai (4)?
- A. Yes.
- Q. When did you first hear about the plans for a combat assault on My Lai (4)?
- A. It was the day before we went in.
- Q. Was this at the briefing held by Captain MEDINA?
- A. Captain MEDINA.
- Q. Do you recall a memorial service being held for the company sometime before this briefing?
- A. Yes, but I don't remember what day it was.
- Q. Do you remember the chaplain who conducted it?
- A. I remember it, but I don't remember his name. I remember it, but I don't remember his name.

Q. You don't know his name, okay. At the briefing which Captain MEDINA held, what did he tell the company? What were the orders that he gave?

A. I don't remember nothing about it. I remember some of it, but I don't remember all of it.

Q. Just what do you remember.

A. He said that it was a known VC village there and some of the people in it were VC sympathizers. That is all that I remember.

Q. Do you recall when you talked to Mr. THOMPSON in October? I believe you told him that MEDINA, Captain MEDINA, said you were going on a search and destroy mission?

A. Search and destroy.

Q. What else did he say along this line? Do you remember? What were you supposed to do in the village?

A. I don't remember.

Q. Well, according to Mr. THOMPSON, you told him that Captain MEDINA said that you were to kill everything in sight, all of the animals and everything living.

A. Something on that.

Q. Well, is this correct now?

A. I am not too sure that he said that. I am not going to say that he did. I don't remember.

Q. What impressions did you get about what the company was supposed to do?

A. To go in there and find VC's, you know, and kill them and go on. We used to go through and pick out the VC's and stuff, you know. There was VC's in there, you know, make sure they were killed and to keep on moving all the way through.

Q. This statement Mr. THOMPSON said that you made; is it not correct now or is it correct?

A. It's not correct, because I'm not too sure he said that, and I'm not going to say he did.

Q. You're not too sure he said to kill everything living?

A. I'm not too sure of that.

Q. What did Captain MEDINA tell you about how long the operation, the whole operation, was to last? How long were you supposed to be out in the field?

A. I don't remember that.

Q. Did he indicate any length of time at all?

A. Not to my knowing. I don't remember.

Q. Do you know whether there was a meeting of platoon leaders and platoon sergeants in addition to the briefing of the company?

A. No, I don't.

Q. What was the frame of mind of the company after the briefing? How did they feel about what was going to happen the next day?

A. I guess everybody didn't talk too much about it, you know. They didn't say too much about it that night.

Q. Were they ready for a fight or were they nervous or afraid?

A. I guess everybody was a little nervous.

Q. As best you can recall, were they expecting a real fight in there the next day?

A. Yes.

Q. What had Captain MEDINA told you about the strength of the VC in there, what the company might run into?

A. He just told us there were known VC in that area and there was a pretty big force.

Q. A pretty big force?

A. Yes, sir.

Q. Were you starting to say something?

A. No, sir.

Q. Let's go to the next day now, the morning of the 16th. After you were brought in by helicopter and put down at the landing zone there at My Lai (4) could you tell us, please, what you did and saw, what your squad did, and where you went and so forth.

A. We got down on the first chopper. I was on the first lift and we all got up on line of this little village--

Q. (Interposing) Yes.

A. And we started firing into the village and everybody got on line.

Q. Was this sort of a reconnaissance by fire?

A. Yes, sir. After we got on line we just started firing and moving ahead.

Q. Moving ahead and firing?

A. Yes, sir.

Q. Did you run into any enemy resistance at all? Did anybody shoot at you?

A. Not to my knowing. I didn't hear anybody shooting at me, because there were so many people shooting. I don't know whether they were shooting at us or what.

Q. But did you run into the hard fight that you expected with the VC?

A. No.

Q. As a matter of fact, did you have any resistance at all?

A. Not to my knowing.

Q. Did anybody in the platoon get wounded or killed?

A. During that day I think one boy shot himself in the foot.

Q. That was CARTER?

A. Yes.

Q. Nobody else got hurt?

A. No, sir, not that day.

A. Do you remember how you went through the village? Did you move straight through or how did it go?

A. The 1st and 2d Platoons were on line and we moved straight through.

Q. What happened as the 1st Platoon moved through? Did you run into a lot of Vietnamese people?

A. We ran into quite a few of them, and there were a whole lot of old women, kids, and babies and stuff like that, and old men.

Q. What happened to them?

A. We started gathering them up out of these hootches. We moved them to the side and started gathering them all up in a group. We took some of them over and put them in groups.

Q. Did you guard any of these people?

A. Yes. For a while I did.

Q. Who was with you, helping you at that time?

A. I think it was Robert WOOD and Charles SLEDGE.

Q. SLEDGE. S-L-E-D-G-E. I understand that Robert WOOD is dead now?

A. No. That is John WOOD.

Q. John WOOD is dead?

A. Right.

Q. Where did you, WOOD, and SLEDGE take these people?

A. We took them over to -- around the lieutenant, Lieutenant CALLEY, I think.

RPTR: Lieutenant what, sir?

A. Lieutenant CALLEY.

MR WEST: CALLEY. Did you turn them over to Lieutenant CALLEY?

A. Yes, we took them on over to the right. We turned them over to him.

Q. When you say "over to the right," what part of the village was that? Was this near the edge?

A. Yes, sir, near the edge of it.

Q. Near the edge?

(Witness nods in the affirmative.)

Who else was with Lieutenant CALLEY at this time?

A. I don't remember that.

Q. Do you know what happened to these people?

A. He took them over there and they shot them.

- Q. Did you see MEADLO there at this time?
- A. I didn't see him over there.
- Q. What did you do after you left the people there?
- A. We just kept going. We seen for a while and heard the shots and everything. We kept going through.
- Q. You saw the shooting, did you?
- A. No, I didn't see the shooting. I seen the people lying out there, but I did not see the shooting.
- Q. You saw the people dead afterwards?
- A. Yes.
- Q. About how many were there?
- A. I'd say about maybe 30 or 40, I guess, something like that.
- Q. Were they on a trail or in a clearing?
- A. Some of them were in a little trail like, some of them down in a little ditch or something.
- Q. Did you see another large group of people dead later on that morning?
- A. Well, what I saw was mostly scattered out, I believe.
- Q. I see. You saw a lot of dead people scattered around?
- A. Yes.
- Q. What were they as far as their age and sex is concerned?
- A. Most of them were women with little kids and old ladies; some old men.
- Q. Later on did you see a ditch at the far edge of the village with some dead people in it?

Q. I understand that you did not kill anybody or shoot anybody.

A. No, I didn't.

Q. Did you hear an order given, during the morning, to stop the killing?

A. No, I didn't, I didn't.

Q. Apparently Captain MEDINA did issue such an order, and it was passed on by Lieutenant CALLEY. You didn't hear this, did you?

A. No, I didn't.

Q. Did you see any visiting officers that morning from Task Force Barker or the brigade or division, any strange officers?

A. No, I don't think so.

Q. Did you know Captain MEDINA very well?

A. Yes.

Q. What kind of an officer was he?

A. He was all right, I guess. He was a pretty good officer.

Q. Had you expected before you got into the village of My Lai (4) -- had you expected to see so many Vietnamese people killed, shot the way they were?

A. No, I didn't.

Q. Including women and babies?

A. No, I didn't.

Q. Some people thought that maybe the company got out of control and this was part of the reason for this. Did you think, could you tell whether, Captain MEDINA had control of the company that morning?

A. Captain MEDINA was behind us with another platoon, so I wouldn't know that.

Q. Why do you think the men of the company killed so many Vietnamese civilians, including the women and children? Have you thought about this much and wondered why they did it?

A. No, I haven't.

Q. Did you think this is what the company was supposed to do?

A. No, I didn't think we were supposed to do that.

Q. Did you talk it over with your friends and try to figure out what happened and why?

A. We never did talk about it much after it happened. We never did talk too much about it.

Q. I believe you told Mr. THOMPSON that SLEDGE told you that Lieutenant CALLEY had killed two little girls or babies in the ditch there. Do you recall that? This is just what SLEDGE told you now.

A. No, I don't remember that. I don't remember saying that.

Q. Later on that day, did you see any members of the National Police talking to some VC suspects?

A. How is this, the Vietnamese soldiers?

Q. Yes. They look like soldiers. They had little caps on.

A. Yes, I know.

Q. Did you see them shoot anybody.

A. I seen them shoot about three men, about three VC suspects.

Q. Did you see any American officers with them at the time?

A. No, I didn't see them. I think -- no, it may have been some place else.

Q. We are told that Captain MEDINA was there and Captain MICHLES from B/4/3, and Captain KOTOUC, who is the S2 of Task Force Barker. Do you know Captain KOTOUC?

A. No, I didn't.

Q. Did you ever hear anything about Vietnamese people being killed that day at another little hamlet on the coast, a place called Co Lay (2)?

A. No, I didn't.

Q. Do you remember being lifted out by helicopter a couple of days later and going back to Landing Zone Dottie?

A. Yes.

Q. Were you surprised of going in from the field so soon?

A. Yes.

Q. Do you remember any talk about it among the members of Charlie Company at that time?

A. They were saying something about -- something that happened there in the village. Something that somebody got killed or something like that. A helicopter or something.

Q. Was this a report that a helicopter pilot had complained about all of the killings?

A. Yes, something like that. That is what we were talking about among ourselves.

Q. I see. And you figured this was why the company was going in early?

A. Yes.

Q. Is this what you were saying? I don't want to put words in your mouth. Was this the idea?

A. Yes.

Q. Thinking back now, what did the men of the company --how long did they think they were going to stay out?

A. I don't remember.

Q. But at least it was supposed to be longer than 3 days, right?

A. Yes. I thought it was going to be longer than 3 days.

Q. How long did you usually stay out when you went out on one of these missions in the field?

A. Around about 7 days or something like that. Maybe 3 or 4 days or something like that.

Q. Ever stay out 2 or 3 weeks?

A. Yes, we did, 2 or 3 weeks.

COL FRANKLIN: When you came off of those choppers this first lift, were people shooting then? Was the 1st Platoon and part of the 2d, were they firing then, or did they just all get behind that dike and wait?

A. We started firing right away.

Q. Started firing right away?

A. Yes.

Q. And you kept firing until you moved out?

A. Yes.

Q. And then while you were moving out you kept firing?

A. That's right.

Q. And about how long did you do this? How long before most of the firing stopped?

A. It started settling down right after the other chopper started coming in with the 3d Platoon. We started settling down.

Q. You moved out right away. You didn't wait for that second lift to come in?

A. I don't remember.

Q. Why did everybody start firing? Why did you start firing?

A. Everybody was firing, so I was firing too.

Q. You started firing because everybody else was firing. What did you stop firing for?

A. I don't remember. I started rounding up prisoners and stuff, you know. I stopped firing after that.

Q. You stopped firing after you rounded up the prisoners. Thank you very much.

LTC PATTERSON: When you took this group of people, you took this group of people over to Lieutenant CALLEY. Did you leave the group with Lieutenant CALLEY and then you went off somewhere else?

A. No. We just stood around, you know. We were hunting people in the hootches.

Q. Did SLEDGE and WOOD stay with you? Did you three kind of stick together? You were kind of buddies?

A. Yes.

Q. So you took them over there and left the group there and you three went somewhere else?

A. Yes.

Q. SLEDGE didn't stay or WOOD didn't stay with the group?

A. I think SLEDGE stayed over there. I think SLEDGE stayed. I'm not too sure about that.

Q. Somebody was there though to take charge of this group?

A. Yes.

Q. And then you said later that SLEDGE told you about some shooting in this ditch. Did he tell you that morning right after it happened?

A. Yes. He told me after it happened. I guess that is what he told me right after it happened.

Q. You were pretty good friends with SLEDGE?

A. Yes.

Q. You and SLEDGE and who else was in your little group? Did you have a little group of friends that you kind of--

A. (Interposing) It was mostly our squad.

Q. SLEDGE was in your squad?

A. Yes.

Q. Apparently, SLEDGE and you talked about who did the shooting. You kind of knew who did and heard rumors as to who was doing all of the shooting of these people, didn't you?

A. Yes. John WOOD, MEADLO and Lieutenant CALLEY.

Q. And those were the three that did it? How did you feel about this group of people that had done all of this killing and shooting after it happened?

A. I didn't have any feeling.

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Q. Was the company -- did the company have a kind of a little group of fellows that hung around with each other all of the time?

A. We mostly all got together all of the time.

Q. As a platoon?

A. As a company.

Q. Were the platoon members real friendly one among each other?

A. Yes.

MR WEST: What kind of a man was Lieutenant CALLEY? What did you think of him?

A. Well, he always tried to be a little tough, and he has to show you who is boss and stuff like that.

Q. Pardon me.

A. He always tried to show you who is boss and stuff like that.

Q. Well, was he a good leader, would you say?

A. I would not say he was.

Q. I think you told Mr. THOMPSON that he was a nut. He always went in the wrong direction. He was always getting the platoon lost.

A. He always -- he didn't know how to read the map or something, because he always would get us lost and stuff like that.

Q. You also told Mr. THOMPSON, according to his statement, that you didn't approve of killing babies but the members of the company were following orders, killing the women and children. Was this your impression?

A. No. I don't remember saying that.

Q. Okay. I guess from what you tell me you're not entirely sure why all of the women and children got killed that morning?

A. No, I'm not.

Q. But you do feel they didn't think they were following orders in doing this?

A. No, I don't think it was orders to go in there and kill them all like that.

Q. Do you remember being taken back by helicopter to Landing Zone Dottie the afternoon of the 18th?

A. Yes.

Q. When you and the others landed there and got out of the helicopters, did an officer talk to you, ask you some questions?

A. He didn't ask me no questions. I didn't talk to nobody.

Q. Do you know Colonel HENDERSON, the brigade commander? He was a full colonel and a tall man.

A. Yes, I think I remember him.

Q. Colonel HENDERSON told us that he met one or two helicopters loads of men when they came in. He talked to them and asked them about My Lai. He asked the whole group and then he picked out two or three men and asked them questions. Do you remember that?

A. No, I don't.

Q. Did you ever hear of an investigation being conducted of what happened at My Lai on the morning of the 16th.

A. No, sir.

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Q. Did anybody ever come to you and say he was investigating that and asked you questions?

A. I don't remember.

Q. Do you remember the company being called together by Captain MEDINA and he told the company that the investigation was going on and that it would be better not to talk about what happened at My Lai except to talk to the investigating officer?

A. I remember him saying something like that. It was something like that. That day we got out of the field, that day, he was saying something about that. I don't remember the exact words he said. He said something like that.

Q. At least you got the impression you weren't supposed to talk about it except maybe if an investigating officer came?

A. Yes.

Q. Did anybody else ever tell you to be quiet about what happened at My Lai?

A. No, nobody.

Q. What was the attitude of the men of Charlie Company toward the Vietnamese people? Were they friendly or did they dislike them? Did they look down on them, or how did they feel?

A. I don't know. I guess they felt all right about it.

Q. Well, what I was really getting at, I was wondering whether there was an attitude on the part of the men that killing the Vietnamese really didn't count like if you killed an American? Was there any feeling like that in this company?

A. I think so, yes. I have seen some guys like that.

Q. You mean they talked about them and called them names like "dinks" and "gooks" and things like that?

A. Yes, some of them said things like that. If one fellow got hurt, you know, he might try to take it out on one of them.

Q. Do you remember the company getting into a minefield and having a lot of casualties and men getting hurt and killed?

A. Yes.

Q. Now, was there any idea about when you went into My Lai, when the company did, that this was a chance to get even with the VC for what had happened in the minefield and for casualties the company had had from snipers before? Was there any feeling they wanted to get even that day? We're trying to figure out why this happened, because it was most unusual.

A. I don't have anything to say about that.

Q. I see. You didn't feel like you were going in there to get even with the VC or anything like that?

A. No.

Q. Mr. DOINES, can you think of anything else you would like to tell us that might help us in our investigation here?

A. No, nothing that I know of.

MR WEST: All right. We thank you very much for coming here and appearing today. I know it's been a lot of trouble for you to come all the way up here and particularly during this bad weather. But you have helped us and we are very grateful. Thank you very much.

The hearing will be recessed.

(The hearing recessed at 0921 hours, 7 January 1970.)

SUMMARY OF TESTIMONY

WITNESS: DURSI, James J.

DATE OF TESTIMONY: 5 January 1970

PLACE OF TESTIMONY: Pentagon

WITNESS SUSPECTED OF: N/A

COUNSEL: None

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

1. PRIOR TRAINING IN THE RULES OF LAND WARFARE.

A small amount of training on the handling of PW's and noncombatants was given the unit before DURSI left Hawaii (pgs. 30, 31). On reaching Vietnam the unit was given cards, the contents of which were discussed in class (pg. 32). The cards they received did not include "The Enemy in Your Hands" or "Nine Rules", but contained rules from the Geneva Conventions (pg. 32). He was given no instruction on the legality of orders (pg. 32).

2. PREOPERATIONAL PLANS AND BRIEFINGS.

MEDINA's briefing for the My Lai operation was given immediately following a memorial service for those who had been killed when the company stumbled into a minefield (pg.4). The men were pretty certain that the VC in My Lai were the same persons who had planted the mines and had sniped at them (pg. 5). MEDINA told the men that this operation was an opportunity to get back at those who were shooting at them (pg.5). Furthermore, MEDINA said the company would make up for those who had been killed such as WILSON, WEBER, and ROTGER (pg. 5). MEDINA ordered them to destroy livestock and anything that would be of use to the enemy, but did not tell them to burn the hootches (pg. 6). MEDINA did not say to kill everybody, but did say that anyone they saw

would be carrying weapons or supplies or operating for the VC and should thus be considered an enemy (pg. 6). There was a lot of confusion over this statement (pg. 6). Despite this, he did not expect to see civilians killed (pgs. 16, 26, 27). The briefing was short and much like a pep rally (pgs. 5, 7). There was no briefing by CALLEY after it (pg. 7). The men were a little nervous and somewhat keyed up after this briefing (pg. 7).

3. THE ASSAULT ON MY LAI.

a. The platoon enters the village.

DURSI did not recall if the doorgunners on his helicopter were firing as they came into the LZ (pg. 34). Gunships were firing, however, and at least one gunship was firing into the village (pgs. 6, 19, 34). As they approached the LZ, someone yelled about fire to the front and everyone was pretty much on guard since they expected the LZ would be hot (pg. 7). The LZ was in a rice paddy approximately 100 meters from the village and to its west (pgs. 8, 33). As they landed, they set up a perimeter along the dike facing east to protect the helicopters coming in on the next lift (pgs. 7, 8, 34). The first squad was on line in a paddy north of the treeline (pgs. 8, 33, 34). On order the squad moved out in a southeasterly direction toward the village (pgs. 8, 34). As they moved, they herded the villagers ahead of them toward an area where they could be watched and then started the search (pg. 8). He did not know if they were receiving any hostile fire at this time, but there was some firing in front of him (pg. 8). Men were firing into the village even before they were on line (pg. 19). He could not fire because his own people were in front of him (pg. 8). Between the dike and the southern part of the village the only body he saw was that of an old man or woman with a head wound, lying face down (pgs. 9, 19, 36).

b. CALLEY orders civilians killed.

(1) DURSI's general location.

DURSI's squad moved along the trail around the southern edge of the village (pg. 36). DURSI was on the outskirts of the village and was looking toward a rice paddy (pg. 20). There was brush all around him and he could only see 150 feet into the village (pg. 20).

(2) The shooting of MEADLO's group.

DURSI was moving a group of people he had captured and came upon CARTER and MEADLO who had another group (pgs. 10, 12, 20). MEADLO and CARTER were playing with the kids, telling the people where to sit, and giving the kids candy (pg. 11). CALLEY came up to MEADLO and asked, "Can you take care of this group?" (pg. 10). MEADLO, believing CALLEY just wanted him to guard the people, replied that he could (pg. 11). CALLEY returned in a few minutes and queried, "Why haven't you wasted them yet?" (pg. 11). MEADLO said, "Waste them?" (pg. 11). CALLEY returned, "That's right, I want you to shoot them" (pg. 11). DURSI began moving his detainees along the road and heard shooting behind him (pg. 12). Although he did not actually see it, he believed the civilians were shot (pg. 12).

(3) The shooting of DURSI's group.

At a point in the trail which DURSI has marked "1" on Exhibit P-138 (pg. 38), CALLEY came up behind DURSI and ordered him to put his detainees into an irrigation ditch which was about 50 to 75 feet off the trail (pg. 38). DURSI told the people to get down into the ditch (pg. 12). To CALLEY's order to start shooting, DURSI replied, "Send me to jail but I'm not going to shoot" (pg. 12). MEADLO joined CALLEY in firing into the ditch; he was crying (pg. 12). CALLEY and MEADLO fired their M-16's on semi-automatic at first and then switched to automatic (pg. 14). DURSI did not know how many clips they used (pg. 14). There were about 50 to 75 old men, women, and babies in the ditch (pgs. 13, 16). These people did not offer any resistance (pg. 13). They just tried to run out the sides of the ditch (pg. 13). DURSI moved to the rear, and, because he could see no more than the tops of the people's heads, he did not know if CALLEY shot a little boy climbing out of the ditch (pg. 13). When the shooting was finished, CALLEY told DURSI to get across the ditch before he got sick (pg. 12). Neither MITCHELL nor BOYCE participated in this (pg. 14). DURSI heard that there was an argument between CALLEY and a helicopter pilot in which the pilot told CALLEY that the ground troops should at least go back and make sure the people in the ditch were dead (pg. 14).

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b. Discussion of the incident by C Company.

He did not recall a company meeting at which MEDINA said it would be better not to discuss the incident (pg. 24). He was not told to keep quiet about it by anyone (pg. 24). No one spoke to him about the matter in an investigative capacity (pg. 24). This surprised him because he had heard there was going to be an investigation, and, like the other members of the company, he was just waiting to be called in (pgs. 24, 25, 27). The men waited for the investigators to come to them because to prefer charges they would have had to go through the very officers involved (pg. 27). DURSI and those to whom he felt close thought that an investigation was called for and that the Army would investigate (pg. 30). He had been shocked to see people shot down like that and so were his friends (pgs. 20, 21).

c. Rumors within the company.

When the men discussed the incident, they talked about how they felt about what had happened rather than who shot whom (pg. 21). However, he did hear that the second and third platoons had done some killing (pg. 21). He heard no stories about civilians being killed in Co Lay (pg. 23).

5. OTHER INFORMATION.

a. MEDINA spoke with another officer during the operation.

At one time during the morning of the 16th, he believed that a tall, thin officer, wearing glasses and a soft cap came in by helicopter, spoke with MEDINA and then took off again in the helicopter (pg. 15). He did not know who the officer was, nor did he know where the company was at this time (pg. 15). DURSI did not know KOTOUC (pg. 19).

b. DURSI kills a woman and a baby.

He killed a woman whom he mistook for a man with a rifle as she crouched in low weeds in a rice paddy holding a "chogie stick" (pg. 17). He yelled "Lai Day" which means "come here," but she ran and he shot her (pg. 18). He had not seen the baby she was carrying, but the bullet went through both the woman and the baby.

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c. DURSI's assessment of MEDINA's control of the company.

Under the circumstances, MEDINA controlled the company as best he could (pgs. 16, 17). Everyone was spread out and the brush was thick, making control difficult (pg. 17). MEDINA was off to one side of the village (pg. 17).

d. Miscellaneous.

(1) Marijuana.

He knew of no marijuana problem in the company (pg. 26).

(2) C Company's attitude toward Vietnamese.

C Company's attitude toward Vietnamese was determined by the side the people were on (pg. 25). The attitude toward people siding with the enemy was pretty bad (pg. 25).

(3) His squad members.

The members of his squad were MEADLO, CARTER, OLSEN, SIMONE, LAGUNOY, HAYWOOD, MORROW, CONTI, BERGTHOLD and BOYCE (pgs. 9, 10).

(4) Use of Vietnamese as point men.

They used some Vietnamese as point men during the operation because they were fairly certain that if there were any boobytraps planted in the area, these people would know about them (pg. 40).

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EXHIBITS

EXHIBIT NUMBER	DESCRIPTION	NOTES	PAGES
M-2	MACV Card "Nine Rules"	Wit had never seen before.	32
M-3	MACV Card "Enemy in Your Hand"	Wit had never seen before.	32
P-1	Aerial photo of My Lai	Wit recognized the area.	7
P-7	Miscellaneous Scenes	Wit did not see.	39
P-18	" "	Wit identified SIMONE.	40
P-25	" "	Identified as picture of MI attachee.	41
P-29	" "	Identified picture of OLSEN at LZ.	41
P-50	Picture of Col HENDERSON	Used for identification purposes.	24
P-104, P-105, P-112 P-117	Miscellaneous Scenes	Wit asked to identify.	35
P-60	" "	Identified as picture of GRIMES	41
P-66	" "	Identified as PHU.	42
P-68	" "	Identified as TORRES.	42
P-69	" "	Identified as DELPOME.	42
P-78	" "	Pictures of area where company laagered.	43
P-87	" "	Identified as picture of CONTI.	44
P-109	" "	Wit did not identify.	44

(The hearing reconvened at 1400 hours, 5 January 1970.)

MR WEST: The hearing will come to order.

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

The next witness is Mr. James J. DURSI.

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

Would you state your full name, occupation and residence?

A. James J. DURSI. I work at Western Electric in New York City, and my address is 715 East 42nd Street, Brooklyn, New York.

MR WEST: Mr. DURSI, before we get into any questions, Colonel WILSON will advise you as to the nature and purpose of this particular inquiry.

COL WILSON: Mr. DURSI, 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 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 to furnish information concerning this incident.

It should be emphasized that this investigation is not being conducted to investigate all the facts and all the 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 have reviewed prior official statements obtained in other official investigations of the My Lai incident, the Inspector General's and also the CID investigation statements.

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

Although the general classification of the report will be confidential, it's possible that the testimony or parts of it may later become a matter of public record or public knowledge. Do you have any question on what I've just said.

A. No.

Q. I would like to continue with some instructions regarding this testimony. I'll request that you not discuss your testimony in this investigation with others, including other witnesses before the investigation, except as you may be required to do so before competent judicial, legislative, or administrative body. This is an administrative body. You may be requested to appear before a legislative body, and you may be requested to appear before a judicial body. Those three are all right. But you shouldn't discuss these matters with others.

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

A. Yes.

Q. Well, this is a legal body which has authority to conduct this portion of the investigation. However, this doesn't affect his instructions at all.

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

A. Yes, I was.

Q. When were you discharged?

A. October 4, 1968.

Q. Mr. DURSI, what was your assignment on 16 March 1968?

A. I was a rifleman with the first squad in the 1st Platoon.

Q. This is C/1/20.

A. Yes.

Q. And at that time was Charlie Company a part of Task Force Barker?

A. Yes, it was.

Q. Could you give me the name of your platoon leader, platoon sergeant, and squad leader?

A. The platoon leader was Lieutenant CALLEY. I'm not sure who was platoon sergeant at the time. I think Sergeant COWAN was out at the time. He was my platoon sergeant right along. And Sergeant MITCHELL was the squad leader.

Q. Sergeant COWAN has been here to testify, and he was along that day. He brought up the rear according to his testimony. What was your grade at this time?

A. I was a PFC.

Q. Now, Mr. DURSI, when did you first hear of the planned assault on My Lai (4)?

A. It was the night before, during the briefing we had.

Q. Was this the briefing given by Captain MEDINA?

A. Yes, it was.

Q. Was there a memorial service at some time before the briefing, do you recall?

A. Yes, there was.

Q. Could you fix the time of the service?

A. I'm not sure, I think it was afternoon.

Q. It was the same day?

A. I think so. It's hard to remember, really.

Q. As I understand it, this was for the memory of some men of the company who had been killed in a minefield?

A. Yes, sir.

Q. Would you tell us a little bit about that minefield incident?

A. We were moving along, and it's hard to say how it really started. We came through a hedgerow area. There were small, squared-off portions with hedge around them. The point man in my squad was WILSON. I think he was the one who hit the first mine.

Q. Bobby WILSON?

A. Yes, it was. And that mine hurt him, REED, who was squad leader at the time, and a man named ROTGERS. He was followed by CONTI and myself. When the explosion went off, we ducked down behind the hedge, and as soon as we realized what happened, I thought at first it was just an isolated booby trap. So we went around, and started to take care of the wounded. SIMONE and WHITE, who was a specialist five at the time, the company medic, move up, and while we were taking care of them WHITE hit a mine, a small one, and lost part of his toes, I think. And another medic moved up, that was LEE. I think he was a PFC at the time. Then we started to carry the wounded out, feeling our way, pretty much, because the mine sweeper was over in another part of the company. When the first explosion went off, it was almost like a series right along. One explosion, and then a couple of more off in the distance, and that's pretty much what happened. We went back and forth about five times carrying guys out, their equipment, rifles, and stuff.

Q. About how many casualties were there?

A. I'm not sure. I think the number was about 20 all told. I think three or four died.

Q. Do you remember who conducted the memorial service?

A. No, sir.

Q. What did Captain MEDINA tell the company later that day?

A. In the briefing?

Q. Yes, the briefing before the operation?

A. Well, the briefing itself was pretty much like a college pep talk, like before a football game, more or less. We had been out, and most of our action was sniper fire. We never saw them, so there was no real chance to fight back. This was getting to the guys in the company, because we were going out and it was like target practice. We would come out, move around --

Q. (Interposing) You were the target?

A. Yes. So I think the whole briefing was more or less to give us a little more confidence, and to tell us that we were finally going to meet an enemy that we were going to see, that VC and NVA used this area for a while now, and that it was an ARVN AO that wasn't really patrolled. Our first casualty was lost, a man named WEBER, at the river itself from fire from the other side. When the company tried to cross, they were told to stop because it was an ARVN AO. It was a conflict.

Q. People still remembered WEBER, then?

A. Right.

Q. We've been told that WEBER was the first man of the company to be killed?

A. Yes, he was. After that it was WILSON, Gus ROTGER and everything. It was the same -- we were pretty sure it was the same group of VC who were planting the mines, hitting us, operating from across the river. More or less, he told us we were going to have a chance to get back at the ones who were shooting at us. And he said, you know, we'd make up for guys like WILSON, and WEBER, and ROTGER, the guys who were killed. More or less to raise morale.

Q. Did he tell you what kind of an operation it was to be?

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A. I'm not sure, exactly, but I know there was a lot of confusion over one statement that might solve it, the way I remember it. He said that when we came into the area, that it was a VC area. It was inhabited by VC. He said that if we see a man, woman, or a child, they'll probably, that's the word, probably, be carrying weapons, or supplies, or operating for the VC. But at no time did he ever say to just kill everybody you see, not to my recollection.

Q. He more or less said that everybody was enemy, but he didn't say kill everybody?

A. Right. He said it was a VC area, not necessarily that everybody was an enemy. If we did see somebody -- it was more or less an assumption on his part that they'd be carrying supplies and weapons, and if they were, they were to be considered enemy. That's what I took it as.

Q. Did they say anything about the livestock or food?

A. Yes, from what he said we were supposed to destroy livestock or anything that would be of use to the enemy.

Q. Anything said about burning houses or hootches?

A. No, that I never heard him mention. I don't know who started it, but it seemed spontaneous. Once somebody saw one burning, they figured the order was passed down. They just started burning.

Q. Did Captain MEDINA give any indication that his orders had come down to him from higher headquarters?

A. Well, I think in the beginning of the briefing he was reading pretty much from intelligence reports on the area. I don't remember any exact statements or anything.

Q. Did you know Colonel BARKER?

A. Yes, I did.

Q. Was he present at the briefing?

A. I don't think so.

Q. Did anybody else speak at the briefing?

A. Not that I remember. It was more or less a pretty short briefing, like I say, a morale factor.

Q. How about Lieutenant CALLEY. Did he give you a briefing afterwards?

A. Not that I remember.

Q. What was the mood of the men after the briefing that evening, the night before the operation?

A. Everybody was a little nervous. But it was more or less the way, I said, you'd go into a football game. The guys were looking forward to getting back at the enemy, really.

Q. They were keyed up, were they?

A. To a certain point. It wasn't really like a mad mood where they were just going to go out and start firing, but they were just glad that for once they were probably going to see the enemy they were fighting.

Q. Come to grips with them.

A. If we had to go out, that was the best way to go out. I mean, instead of the way we were going, just walking around hoping we'd stumble into them, and meanwhile getting hit while we were doing it.

Q. Let's move to the next day now, the 16th. Could you tell us what you did and saw after you were lifted into the landing zone?

A. As we came into the LZ, somebody was yelling about fire from the front, and everybody was pretty much on guard. We had heard reports that it was going to be a hot LZ. They got it from the radio. The gunships were firing when we came in, and, as we landed, we all set up a perimeter along the dikes.

Q. Let me interrupt you here, Mr. DURSI, to show you an aerial photograph (Exhibit P-1) of My Lai (4). The scale is 1 inch equals approximately 100 meters. It's oriented to the north. Actually, this is the hamlet of My Lai (4). I also show you a 1:25,000 scale map which has been admitted into evidence as Exhibit MAP-4.

(MR WEST orients witness on Exhibits P-1 and MAP-4.)

The landing zone was west of the hamlet in the rice paddy. Does this look familiar to you?

A. Offhand, it's hard to say. When we landed, all I saw was the surrounding area.

Q. Are you accustomed to looking at aerial photographs?

A. No, not really.

Q. Referring to the photograph in front of you, this is the landing zone here. I understand that the sector of the 1st Platoon was on the right as you formed up along the dike. 1st Platoon had the right half, or the south half, of the hamlet, about like that. Just go ahead and tell us what the platoon did and what you saw and heard.

A. As we landed, we dropped into position and formed a perimeter for the helicopters coming in on the next lifts. We were on line. We got an order to move into the village. We started in, and started gathering the people up like we usually do when we go through a village. We herded all the people together ahead of us, moved them into an area where they could be watched and then started the search.

Q. At the outset, was there much shooting?

A. There was some fire to my front, but I can't really say anything on it because I was behind them. I couldn't fire, my own men were in front of me.

Q. Had you received any hostile fire at all?

A. I don't really know. The word came back that we were receiving fire, and that the helicopters were firing. I assumed we were.

Q. After you got on the ground, though, were you taken under fire at all?

A. I don't really know. When I moved to position, all I was doing was moving into position. And then, when we got up to move through, there were guys in front of me. There was some firing going on ahead of me. But did I actually see anybody shoot at us? I can't say I did.

Q. Well, did your platoon receive any casualties that day, did anybody get hurt?

A. One man, CARTER.

Q. Outside of CARTER? Nobody was killed?

A. No, not until -- there was one man who was hurt in the mines after we left the village. TREVINO was hurt, I know. He was in the 2d Platoon. I think there was one other, but I'm not sure.

Q. MEADLO was hurt the next day, the 17th.

A. MEADLO, too.

Q. When you first got into the village, did you see anybody killed?

A. I came across one body as I came through the hedgerows into the village. I couldn't tell whether it was a woman or an older man because it was a head wound, and the body was lying face down.

Q. Just go ahead with what you saw.

A. Then we moved through and started gathering people up, and I was with Lieutenant CALLEY, moving people down toward the other end of the village. MEADLO and I think, CARTER, I'm not sure who else was with them, had another group, and I think they were off here to the side.

Q. Before we go any further, do you recall the names of the members of your squad?

A. Some of them, I can't be sure of all of them. That day there were --

Q. (Interposing) All you can remember.

A. MEADLO, CARTER, myself. I think OLSEN had the machinegun. It might have been BERGTHOLD, too.

Q. How about BOYCE?

A. BOYCE was with my squad.

Q. SIMONE?

A. SIMONE, right.

Q. MAURO?

A. MAURO, I think, was attached to the 2d Platoon.

Q. How about LAGUNOY and HAYWOOD?

A. LAGUNOY and HAYWOOD, right. They were actually in the first squad. You see, that squad was actually a combination of the first and third because we were undermanned at the time. So they made two squads of our platoon, out of the original four.

Q. We understood there were just two squads.

A. I think CONTI might have been in the squad, too.

Q. Yes, CONTI was in the squad. All right, you were gathering up people as you went along. Was the platoon killing anybody as they moved forward, do you remember?

A. Not from where I was. We were just gathering people. MEADLO and CARTER, I think, had this one group off to one side, and there was another group being moved through the village just inside. This group was out in the rice paddy next to it. And I saw Lieutenant CALLEY come over, and he said to MEADLO: "Can you take care of this group?"

Q. About where was this group at this time, do you recall?

A. It must have been through this area somewhere.

Q. In the south of the hamlet in the rice paddy?

A. It was to the outside of the village, and the road was next to it.

Q. Do you remember whether you were just about at the end of the hamlet, or in the center, or --

A. (Interposing) It's hard to say. It might have been about three-quarters of the way through.

Q. Mr. DURSI, have you seen Life magazine for December 5, 1969?

A. Yes, I have.

Q. The color prints in there, as you recall, were photographs taken by Ron HAEBERLE who was at that time a sergeant in the PIO detachment of the 11th Brigade. I have here a copy of that magazine which has been introduced into evidence as Exhibit M-1. Among the photographs reproduced in the magazine, on page 38, is a photographic reproduction of one of the photographs taken by Ron HAEBERLE which has been admitted into evidence as Exhibit P-41. I show you that, and ask if you have ever seen that before?

A. It's hard to say. I didn't see it like that, no. I go by this fence on the side of the road but -- the way I was moving, came through the village, there was a road that came this way, and cut into the village. There was a paddy next to it. That's where I saw that one group.

Q. I actually interrupted you. You were telling us about this one group.

A. Lieutenant CALLEY came over to MEADLO and CARTER and told them to -- can they take care of this group. So MEADLO said, "Yes, sir." And he figured he just wanted him to watch them. And Lieutenant CALLEY left, and came back a couple minutes later, and asked him, I think the words he used were: "Why haven't you wasted them yet?" And MEADLO just looked at him like he couldn't believe it. He says, "Waste them?" And he says, "That's right. I want you to shoot them." I had been talking to CARTER. MEADLO and CARTER were actually playing with the kids, telling the people where to sit down, and giving the kids candy. And when CALLEY said it, I don't know what made me think it, but I just felt that's what he meant, and I said to CARTER, "I think he wants him to kill them." And CARTER just looked at me and said, "No." And I said that that's what I think he means. That was the last time I saw CARTER. I heard later he was shot through the foot, and I heard some people say he did it himself. I don't know. That was the last time I saw him, and he was pretty shocked about what was going to happen.

Q. How close were you to CALLEY and MEADLO at this time?

A. MEADLO was off to my--as I was facing him--he was off to my left about 10, 15 feet. CALLEY was coming to that road I was talking about, which is another 15 feet.

Q. What happened then?

A. I started moving the people I had been walking along down this road, and I heard shooting behind me. Lieutenant CALLEY came back up --

Q. (Interposing) You had another group at this time?

A. Yes. Lieutenant CALLEY came up from behind me and said: "Get them all into this ditch." It was like an irrigation ditch.

Q. What is your understanding of what happened back there?

A. I believe they were shot.

Q. You didn't actually see this?

A. No, I didn't see any shooting. We got to that ditch and he says, "Get them all down into the ditch." So I started to tell people to get down into the ditch. And he said something like, "Start shooting," gave an order to shoot. I just stood there. I couldn't do it.

Q. Was MEADLO there at this time?

A. MEADLO came up after Lieutenant CALLEY started to shoot. MEADLO came up. He was crying at the time he came up. They both started firing into the ditch. MEADLO turned to me and said, "Why aren't you firing? Shoot." He was still crying. I just said, "I can't." I had told Lieutenant CALLEY, "Send me to jail, but I'm not going to shoot." Then, after all the shooting into the ditch was finished, he told me to get across the ditch before I got sick. I walked down a little ways and crossed the ditch onto the other side, finished moving through the village.

Q. Did you see Lieutenant CALLEY kill a little boy or a baby in the ditch, a boy climbing out of the ditch?

A. No, I didn't see that. What I saw was pretty much the top of the ditch, a few people's heads. Where I was standing, I was back a little way. I saw them firing into the ditch.

Q. About how many people were in the ditch in your judgment?

A. It's hard to say. I think there were 50 to 75 or so.

Q. What were their ages and sexes?

A. A few old men, women, babies, and a few small kids.

Q. Were they offering any resistance at all?

A. No, not that I saw. They tried to run out the sides of the ditches. But the only resistance, I guess you could call it, was on the part of one old man. I don't know whether he was the village chief or a Buddhist monk. He was trying to talk to CALLEY; he was talking Vietnamese, so I don't know how much he got across to him.

Q. I believe when you talked to the CID agent, Mr. ZAZA, you said this man wore white garments?

A. Yes, he did.

Q. Could he have been a monk?

A. I'm not really sure, he could have been. I know that they do wear white, but I wasn't sure.

Q. What happened to this man?

A. He was killed with the others in the ditch.

Q. Did anyone else participate in the shooting to your recollection?

A. I don't remember.

Q. What about Sergeant MITCHELL?

A. Not that I saw. I saw Sergeant MITCHELL only before we were going through the village.

Q. What were Lieutenant CALLEY and MEADLO using to fire into the people?

A. M-16 rifles.

Q. How were they firing?

A. First they were firing automatic, and then they fired semiautomatic.

Q. They went more or less to aim and fire with the semiautomatic?

A. Yes.

Q. Do you have any idea how many clips or magazines they used?

A. I can't be sure.

Q. Was everybody in the ditch dead when they finished shooting?

A. I know there was an argument between Lieutenant CALLEY -- this is what I've heard now -- an argument between Lieutenant CALLEY and a helicopter pilot over it. I know I did hear words that a helicopter pilot said that all the people in the ditch weren't dead and that they should go back and at least make sure they were dead.

Q. Did you see BOYCE around there at this time?

A. I saw BOYCE after we crossed the ditch for a couple of seconds.

Q. Did he participate in the shooting?

A. Not that I know.

Q. Could you tell us what happened after this incident at the ditch?

A. I moved through the other end of the village, and

the company reformed. We continued towards some other villages.

Q. Let's go back to the incident with the helicopter pilot. Did you see the helicopter land?

A. No.

Q. You just heard about this later on?

A. Yes.

Q. During the morning, did you hear an order given to stop the shooting or stop the killing?

A. Yes. An order was given that no more people were to be shot.

Q. Can you fix the time of this, approximately?

A. Not really, no. I know it was after we passed through the village. We were on our way to the second.

Q. It was after the incident at the ditch?

A. Yes.

Q. Did you see any visiting officers that morning from Task Force Barker, brigade, or division?

A. At one time, I think, a helicopter did come in with a tall, thin officer. I'm not sure what rank he was. He had a clipboard with him. He talked to Captain MEDINA, and then took off again in the helicopter.

Q. Could you fix the time of this, where you were? We know that Captain KOTOUC came in during the afternoon sometime. He was the Task Force Barker S2.

A. I don't know. All I know is it was a tall, thin officer. I think he was wearing glasses. He was wearing a soft cap, he didn't have a helmet.

Q. Do you remember where the company was at the time?

A. No.

Q. I'm not sure I asked you this. Can you tell me about the people in the ditch, what their ages and sexes were?

A. Yes, there were a few males, old males. The rest were women, small babies, and young children.

Q. How well did you know Captain MEDINA?

A. I was with him in Hawaii for over 6 months before we left.

Q. What kind of an officer was he?

A. He was a strict officer, but he was also pretty fair. They give reference to that nickname "Mad Dog," but he got that in Hawaii. It was just more or less he was strict, he was straight. When he talked to you he resembled a mad dog.

Q. When you went into the hamlet that morning, did you expect to see a lot of civilians killed like this?

A. No, I didn't.

Q. Did you get the impression that this was done pursuant to orders?

A. At the time, I thought Lieutenant CALLEY was operating under orders. I figured why else would he do it. But when he gave me the order, I just couldn't go through with it.

Q. Do you have any reason to believe that MEDINA ordered this?

A. No, not really, because at the time what I thought it might have been, too, was misinterpretation of that phrase I told you about earlier, where he said "probably." If you left that word out, you could take it the wrong way.

Q. Do you think Captain MEDINA had control of his company that morning at My Lai (4)?

A. As best he could, I guess. We were moving

through the village. He was off to one side of the village, I think. It's hard to control everybody from there. It was a big village, and we were pretty well spread out.

Q. A lot of trees, lots of underbrush, as I understand it.

A. A lot of obstructions where one guy could be standing here and he wouldn't see a guy 10 feet away from him.

Q. Could you tell whether he was in radio communication with Lieutenant CALLEY during the morning?

A. I'm not sure. I know at one time -- I don't know whether Lieutenant CALLEY stayed near a man with a radio the whole time, but I think I did hear him once over the radio saying to CALLEY to get his people out of the open, keep them in the trees and everything. Then, in case we did get fire from one side or something, they'd have some protection.

Q. Was SLEDGE Lieutenant CALLEY's radio operator?

A. I think he was at the time.

Q. Did you see much of SLEDGE during the morning?

A. No.

Q. Aside from the two groups of people that you gathered together and shot, did you see other people killed during the morning as you moved through?

A. As we came out after the ditch, I did kill one woman and a baby, but it was involved in -- I didn't know she had the baby, and I thought it was a man. She was crouching in low weeds in the rice paddy. And what I thought was a rifle turned out to be a "chogie stick" later on. That's a stick with which they carry things along the road I yelled, "lai day," which means come here. And as I yelled it, she didn't turn or anything. All I saw was the back of the rice hat. She started running toward one side of the village. I yelled to

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Q. Did you know Captain KOTOUC?

A. I don't think so.

Q. Task Force Barker S2?

A. No.

COL FRANKLIN: Mr DURSI, I'm trying to get an idea. Am I correct in understanding you to say that the killing as you knew it -- you just went in, you were just rounding people up. You saw one dead person, a man or a woman, you weren't sure, hit in the head. And then the killing was of these two groups of people. We've had other people say that the killing started as soon as people got in the village. There were all sorts of bodies in ones, twos, threes, and fours lying all around. Granted, it could be different in each squad area, because you're cut off from everybody else. But could you just think about this and give your recollection again of what you saw, what you heard. I'm not talking about gunfire, and yelling, and people telling you stuff later on. Do you have an idea how this thing started, and once it started, was it everybody, just a few guys, or just what happened? Did you, in fact, really understand it yourself?

A. It's very hard because I only know what I saw in the particular area I was in. That's the way I've been telling it, but, I mean, I did hear fire from the front, guys firing into the village before we even got all the way up on line. And the helicopters were firing as we were coming in.

Q. Into the village?

A. Yes.

Q. Helicopters fired into the village. Did you walk through the village? You only saw one -- you walked all the way through that village up to the ditch, and you didn't see one dead body other than that woman you saw?

A. In that particular area I went through.

Q. You didn't see one?

A. I saw the one woman. I was more or less on the outskirts of the village out here, so most of the time I was looking toward the rice paddy, and there was brush and everything on one side of me. I herded the one group down to where I made the turn to go to the ditch. I went to the ditch. Then, when we came out, I went that way again. I didn't really see any more than maybe 150 feet inside the village. As far as my walking through it, I wasn't in the village that long.

Q. Did you hear a lot of firing?

A. Yes, there was. It was scattered fire, off to either side.

Q. Scattered, but was it sort of continuous. I mean one weapon, at least one weapon, firing most of the time for say an hour, hour and a half, two hours? Or how long?

A. It's pretty hard to remember.

Q. Yes, I understand that. You knew that these two groups had been murdered. Did you think that was the extent of it? When did you find out what everybody else had done? What was your opinion immediately after the ditch? What did you think, and what did you later find out? What were your feelings at that time?

A. I was pretty shocked over the fact that people were shot down like that. As far as I saw, or as far as I've ever known, unless someone was actually capable of harming you, or capable of shooting you, there's no reason to shoot them. You take them prisoner, or you send them back where somebody can watch them until they can be taken in. When they were all just lined up and shot like that, it reminded me of newsreels of Hitler.

Q. How about the other squads? You were in the third squad which actually was part of -- the 1st and the third had been combined into the third squad, right? And then, there was the second squad. What did the guys in the second squad say?

A. After all this was happening?

Q. Yes, what did they say they had done or seen done?

A. I only talked about it to a few close friends. Most of the feeling was that, you know, they felt pretty bad about it themselves. I mean the guys to whom I was pretty close.

Q. The second squad -- who are your friends, SIMONE, CONTI?

A. SIMONE, CONTI, MAURO. Those are the three with whom I stayed most of the time. John WOOD, but he was killed. Gus ROTGER, he was killed in a minefield. There were about five or ten of us who were actually really close friends. The other guys, you know, I knew them to say hello and everything, but as far as to sit down and talk for an hour or so at a time, it was very rare. Mostly I stayed with the guys that were in my squad. Most of them with whom I was friendly were from up here, around the New York area, New Jersey area.

Q. When you talked to these people you just mentioned did you have the feeling, all of you, that it was a small group in the 1st Platoon that had done all of it, or that nearly everybody had participated?

A. From what I heard among everybody talking in the company, the 3d Platoon was supposed to have done some killing, and likewise the 2d Platoon. As far as going into the incidents afterward, it was just a matter of talking about how we felt about what happened, not really saying, you know: "I shot this one," or "Whom did you shoot?", or "How many did you kill?" It's like a nightmare is over, you know, and you discuss what happened, not really pinpointing details.

MR WEST: Mr. DURSI, do you remember what the company did on the next few days, the 17th and 18th?

A. I know we went through some other villages, and we searched them and everything.

Q. There's one thing in particular that I want to ask you about. In your statement to Mr. ZAZA, you said: "We never went back to the first village, but we skirted around it the next day. There was a heavy stench in the village, and I saw a row of fresh-dug but empty graves just outside the village. The area seemed deserted, and

we didn't come across any bodies." Now you, I guess, were speaking of My Lai (4) then, weren't you?

A. Yes.

Q. Could it have been that you came back near My Lai (4) on the way to Hill 85?

A. It was the hill on which MEADLO lost his foot.

Q. It was the hill where MEADLO lost his foot?

A. Yes.

Q. We've been led to believe that the 1st Platoon had a mission to go up on Hill 85 the morning of the 17th. So I take it, then, that you did go back somewhere near My Lai (4). Could you think back on this, and tell us everything you can remember about the appearance of My Lai (4) that morning, the morning after?

A. A few of the houses weren't burned; a lot of them were. It was quiet, and looked deserted.

Q. Did you see any people?

A. No, I didn't see anybody around.

Q. Where were these newly-dug graves that you mentioned?

A. The village was to the right of us as we were heading for Hill 85, and then, between us and the village, there were some trees and a ground swell. To one side of it there were these graves.

Q. Were they anywhere near the ditch where you saw the bodies, where you saw people shot?

A. No, the ditch was closer to the village. It was in the village.

Q. So the newly-dug graves were farther away from the village and beyond the ditch, away from the village?

A. Yes. As a matter of fact, the only sign of life we saw in that area were some cows roaming around.

Q. Did you ever hear later of a story of the killing of civilians in a little hamlet called Co Lay (2), near the coast, on or about the same day, 16 March 1968?

A. No.

Q. Do you remember being lifted back by helicopter into LZ Dottie? This was, I believe, on the afternoon of the 18th. Colonel HENDERSON, the brigade commander, testified here some time ago. He told us that after the operation, when the men were brought back into LZ Dottie, he met some of the men, perhaps two helicopter loads. He asked them about what had happened at My Lai (4), whether civilians were killed there. Then he singled out a few men and asked them questions. Were you present when Colonel HENDERSON spoke to the men?

A. He and Colonel BARKER approached the group with which I came in on the helicopter. He asked pretty much the whole group, he didn't really single anybody out to ask the questions. He said: "Did you see any unnecessary killings in the village?" And right after that he said: "How about you, sergeant?", to Sergeant BUCHANON who was the 2d Platoon platoon sergeant. And Sergeant BUCHANON said: "I'd rather not say, sir." And then Colonel BARKER started to talk about the fact that our job over here was to help the South Vietnamese people, how we were trying to help them set up their own government, and that we shouldn't forget that. That was pretty much the content of it. And then he left.

Q. Did he say anything about there being an investigation of what happened at My Lai (4).

A. No, he didn't say.

Q. Now, you said Lieutenant Colonel BARKER, and you also told Mr. ZAZA this when you were questioned by him. Our information is that it was Colonel HENDERSON, brigade commander. Could they both have been there?

A. I think it might have been both.

Q. Could you have mistaken Colonel HENDERSON for Colonel BARKER?

A. I can't really say. I'm pretty sure it was Colonel BARKER. If you had a picture, I could probably point him out to you, which one it was.

Q. We have a photograph of Colonel HENDERSON. Exhibit P-50 is a photograph of Colonel HENDERSON.

A. (Examining the photograph) It's hard to say, but I'm pretty sure Colonel BARKER had a heavier face.

Q. Well, fine. This is, I believe, the first indication we've had that Colonel BARKER was present when the men were brought in from the field. We may be able to locate a photograph of Colonel BARKER before you leave. Do you remember Captain MEDINA getting the company together a short time later, and stating that there was an investigation going on of what happened at My Lai (4), and that it would be better for the members of the company not to talk about it, except perhaps to the investigation officer?

A. No.

Q. You don't recall that?

A. No, I don't.

Q. Did anybody ever tell you to keep quiet about what happened at My Lai (4)?

A. No.

Q. Did anybody come to you, and say that he was investigating it, and ask you any questions?

A. No.

Q. What was the talk among the men of the company afterwards about what had happened?

A. Among the guys to whom I talked, it was, like I said, they were pretty much shocked over what happened, and some of them were asking -- You know, we had heard the next day there was going to be an investigation. Word had come down. I didn't hear it directly from Captain MEDINA, but that's who everybody figured the officer with the clipboard was. And most of the guys said that we just might as

well wait, and when they call for us, we'll give them the story.

Q. So you thought something was being looked into, but nobody ever came around to talk?

A. Not to me.

Q. What was the attitude of the men of Company C toward the Vietnamese people?

A. Pretty much the attitude that they were people like everybody else, and that it depended on which side they were really on. If they were the enemy, then opinion was pretty bad against them. But regular people, we'd deal with them, talk to them.

Q. You got along all right?

A. (The witness withdrew a photograph from his wallet and handed it to MR WEST.) That's me. This is MAURO, BOYCE, WILSON, myself, and some other guys with some kids on a bridge.

Q. Let the record show that Mr. DURSI produced a photograph from his wallet, showing, who?

A. MAURO, ROTGERS, POLSTON, myself, John WOOD, TURNER, BOYCE, and WILSON.

Q. With a group of Vietnamese youngsters. They look to be mostly boys.

A. Yes.

Q. When was this taken?

A. It was taken while we were on bridge guard one time, and came in for a rest.

Q. Bridge guard?

A. Along Highway 1. That was before any of this happened; it was before the minefield.

Q. I understand. What kind of assignments did Charlie Company draw after this? Any difference?

A. Not that I noticed, but I was transferred from the company not too long after that. I have trouble with one eye.

Q. I see. When did you leave the company?

A. I think it was in April.

Q. In November, there was a story in the press to the effect that some of the men of the company might have been under the influence of marijuana during the operation that morning in My Lai (4). Do you have any ideas about this?

A. Not that I know.

Q. Was there any marijuana problem in the company?

A. Not that I know.

Q. Mr. DURSI, we've really touched on this to some extent already. But what happened at My Lai (4) was the most unusual thing in our country's history, so it becomes important to determine just what happened, why it happened. Could you address this and give us your thoughts on it. I 'm sure you've dwelled on this a good bit.

A. I think it boiled down to really, I think it was Lieutenant CALLEY misinterpreting Captain MEDINA's orders, as far as the way I see it, from that briefing. That's what happened with our platoon, but I don't know whether the fire from our platoon started everybody else off, or if people were firing before that and maybe some other people might have misinterpreted it. When I left the briefing itself, as far as I was concerned, we were going into the village to meet armed VC resistance or NVA resistance. If we didn't, it would probably be as any normal operation. We went through 100 villages. You just gather people up, make your search. It's finished. Everybody goes home.

Q. You never before killed them off like this?

A. No.

Q. To the best of your knowledge, these were not the

initial orders, to go in and kill everybody?

A. No, they weren't.

Q. We've had some testimony to this effect. There have been some statements that that's what the orders were, to kill everything that breathes.

A. As far as I remember it wasn't. I know I didn't go in there with that -- but like a lot of these guys in the company that did do killing, if they believed that was the order, they were going to follow it. Now, they're bringing out the fact that you're supposed to have a thought on whether it's legal or illegal. But actually, while you're in the service, you're taught to obey an order, and later on contest whether it's legal or not legal. You can get into an awful lot of trouble for disobeying one. But at the time, I myself tossed it around in my mind there at that ditch, and I said to myself it had to be wrong. I figured even if I went before a court-martial for disobeying an order, nobody could convict me for anything because it was actually shooting unarmed civilians. I felt that I couldn't be punished in any way for not killing somebody if they weren't directly out to kill somebody else, or caused somebody in my company to be killed.

Q. I think you're aware that this incident was not widely known until recently. It really wasn't reported back here, it wasn't known back here until a man named RIDENHOUR, Ron RIDENHOUR, wrote a letter to the Secretary of Defense. An investigation got underway. Colonel WILSON started an investigation in April, 1969. Do you have any idea why the events of that day weren't reported the way things usually are?

A. I really don't know. Like I said, as far as we were told, there was an investigation. As far as everybody knew, it looked as if there was an investigation started, and guys were waiting to be called on rather than go through the chain of command in the company, because it actually involved orders from the officers of the company. So you'd have to go through your chain of command, and go through these officers to start any charges or anything.

Q. Well, the word did come around to you that an investigation was going on.

A. Yes.

Q. I can't remember what you said, but did anybody say that there was an investigation, it was better not to talk about it?

A. I don't remember that.

COL FRANKLIN: Mr. DURSI, when your men came down from the laager site toward Hill 85, about how far -- what was your distance from My Lai (4) when you saw those graves?

A. It must have been 200 meters or so.

Q. You were that close, 200 meters from the village? You could smell the death, then. When you came back and you got off the choppers, Colonel BARKER and Colonel HENDERSON, or one of the other was there, and you heard Sergeant BUCHANON asked if there was any unnecessary killing?

A. No, Sergeant BUCHANON was asked.

Q. He was asked. You heard him asked that question. What did Sergeant BUCHANON answer?

A. He said: "I'd rather not say, sir."

Q. And what did the colonels do then?

A. That's when whoever it was, either Colonel HENDERSON or Colonel BARKER, went into telling us that we were here to help the Vietnamese people set up their government.

Q. How many soldiers heard that?

A. There must have been the one lift, so it must have been about five others besides myself.

Q. What did you think when you heard that talk, after what you had seen?

A. That made me figure, believe even more, that there was an investigation started. I figured that at some time they'd call on us to talk to us.

Q. You didn't think it was stupid to be talking that way? You thought they were really going to investigate this?

A. Yes.

Q. What did you think when a colonel asked a sergeant a question, and he said he didn't want to talk about it.

A. I didn't know his position in the village, whether he did anything that he wanted to talk to a lawyer about first before he made any statement.

Q. Had you ever heard a sergeant say that to a colonel before, and nothing happened, the colonel just accepted it. Didn't that seem strange? Or did it?

A. Not at the time, no.

Q. Not at the time. Let me ask for your personal opinion. If anyone with a reasonable amount of brains had taken an hour in your company, and had collected some people, a cross section, picked them out individually, do you think there would have been any problem at all in finding out what had happened at My Lai (4), or knowing that something very unusual like a massacre had happened, considering the way you people were feeling at the time?

A. I think if they would have talked to us right after it, they probably would have gotten a clearer view on it than they will now, because it all happened 2 years ago.

Q. Let's say between the time it happened and 2 months after, someone had come down, a lieutenant, a captain, a colonel, and had just gotten together some of the soldiers of your company individually, and just asked them as we're talking now, under oath. Do you think there would have been any hiding of this, or do you think it would be difficult to find out what happened in My Lai (4), or what do you think?

A. For my own part, I'd remember a lot more facts clearly, and I'd give them.

Q. But you'd give them?

A. Yes, I would.

Q. Do you think the other men in the company, other than the ones who were really guilty or something, would have talked freely also?

A. Yes, I do.

Q. Do you think that some of the men in your company were surprised that there really was an investigation?

A. Not those with whom I had close contact. They figured there would be an investigation. And most of the guys, to whom I personally was close, felt it was wrong. So, naturally, they'd feel that an investigation should be called for.

Q. Maybe you thought the Army didn't stand for this kind of stuff, and the Army would investigate.

A. Yes, I did.

Q. And they didn't. Thank you.

MR WEST: Mr. DURSI, this finishes the primary part of the interrogation. We'd appreciate it if you would spend a little time with Colonel WILSON, and go over some photographs and other papers. We appreciate your coming in very much. We know it was a lot of trouble to you. But it's been very helpful to us, and we're very grateful. Thank you very much.

The hearing will be recessed.

(The hearing recessed at 1512 hours, 5 January 1970.)

(The hearing reconvened at 1530 hours 5 January 1970, with COL WILSON questioning MR DURSI.)

COL WILSON: The hearing will come to order. I remind you you are still under oath. The orientation on the photos is complete. I want to ask you a couple of questions on training before we get started with the photographs.

Q. Were you given any training just prior to leaving Hawaii that was oriented toward Vietnam?

A. Well, pretty much exercises or simulated exercises where we were.

Q. What kind of exercises?

A. Training exercises in the training area there in the jungle.

Q. Were you given any specific training on handling prisoners?

A. A little. When we did the test villages, we were supposed to go into a village and check it out for booby traps, little Viet Cong villages they had.

Q. How long before you left Hawaii was this training given?

A. It was a few months before we went.

Q. A few months?

A. Yes. I was there for about 6 months, and it was only the last 2 months or so we were pretty sure we were going to Vietnam. Up until that time, we had regular training exercises in the jungle area, and most of them were handled the same way. Nobody really knew we were building the brigade up to strength.

Q. How about rules of engagement, did you ever get any training on that?

A. You mean tactics?

Q. What to do with civilians in tactical situations, civilians, noncombatants?

A. When we went through the villages, they'd have somebody act like a Vietnamese who didn't understand English, something like that. We'd tell them to move. There wasn't really a great deal of it.

Q. What about after you got to Vietnam, did you get any training on that after you got over there?

A. I think the first couple of villages we searched were more or less training exercises, really. I don't think there was any real action or anything. We went through villages. As a matter of fact, it looked like nobody had lived there for a couple of months or so, at least. This village we were supposed to surround. Some guys went through, but I think the village looked completely deserted. They never told us that it was a deserted village, but I think it was to give us a feeling of the terrain, and teach us how to act with these villagers. Before that, we had a couple of villages we went through, and gathered up villagers. Another bunch searched the village, and after that everybody just left like I said before.

Q. Did you have any classroom work at all when you got to Vietnam?

A. Yes.

Q. Any lectures?

A. Yes. We had instruction in, I forgot, I think it was the first few weeks we were there. It was mostly classroom instruction.

Q. Were these subjects taken up in those classes?

A. I think they were.

Q. Did you have any instruction in the Geneva Convention rules of land warfare, or legality of orders?

A. Not really on legality of orders. We were handed a card, and given talks on the cards themselves. I think they probably covered everything that was on the card at the time. It's hard to say.

Q. I show you Exhibit M-2, entitled "Nine Rules." Have you ever seen this card?

A. Not this particular one, no.

Q. I show you Exhibit M-3. Have you ever seen this card, "The Enemy in Your Hands"?

A. These phrases were mostly taught to us in the beginning, but I don't remember seeing the cards themselves.

Q. You didn't see that. Did you ever see any cards that had the MACV insignia?

A. There was one card we were given, I think that was the Geneva Convention card itself. I don't remember what it explained. It had the rules under the Geneva Convention on it.

Q. I am going to give you a set of pictures. I want you to separate them into two groups; one group where you recognize either persons or places, and the other group where you don't recognize anything.

(The hearing recessed at 1535 hours, 5 January 1970.)

(The hearing reconvened at 1620 hours, 5 January 1970.)

COL WILSON: The hearing will come to order. All persons who were present when the hearing recessed are again present. I want to remind you that you are still under oath. Before we start on the individual photographs, I want to look back at the aerial photographs and review what can be remembered on this area.

(Witness is handed Exhibit P-1 which he later annotates. The annotated photo is later entered into evidence as Exhibit P-138.)

Q. We have evidence that the landing zone was to the west of the hamlet, generally in this area? Do you remember this east-west tree line?

A. Yes, I think we landed right around in here.

Q. You were with the first lift. Do you remember how far it was from your aircraft to the edge of the village?

A. It wasn't too far.

Q. One hundred meters?

A. Maybe less.

Q. You said you pulled up on line there, is that correct?

A. Right. We were in the paddies here, we formed a line facing the village.

Q. By the way, this scale is 1 inch to about 100 meters. If your helicopter set down 100 meters from the village it would be about here.

A. It was inside 100 meters, then.

Q. About right here?

A. Yes.

Q. Were your doorgunners firing as you approached the village?

A. No, I can't really remember. I remember seeing at least one helicopter firing into the village, though.

Q. I suppose that helicopter was a gunship, wasn't it? You established a line for your platoon on this line, too?

A. I know we came in and started the line. The next lift came in and joined our line. And we started to move through the village.

Q. You mentioned earlier a perimeter being set up. The perimeter was along this embankment. There was an embankment, wasn't there? A dike?

A. Yes.

Q. Along the dike, facing east, did you also extend around to the south, the perimeter?

A. I can't be sure.

Q. As far as you were concerned your squad, which was the first squad, was on the dike, is that correct?

A. Yes. I was still off as you're facing the village to the left, the tree line. I was in here, somewhere.

Q. You were up to the north of the tree line, the first squad was?

A. Yes. As we started to move into the village, I don't think there was any perimeter extended around the tree line. I think it was more or less like this, and then we started to move around.

Q. So your original perimeter actually was something like that? When the first squad moved past the dike, you moved off in a southeasterly direction?

A. Yes. There was one thing I was trying to get from these photos. When we came out at the other end, there was a small rise, and cut into that rise there was a water hole.

Q. You mean the other end of the village?

A. Yes.

Q. Did you find a photograph of this?

A. This looks like it could be it, but I'm not sure. It shows water over here.

Q. I'm not sure that this photograph is My Lai (4), anyhow. That one is (referring to P-109 and P-129).

A. I know we came out on the other side, there was sort of a sweep up, right in here (referring to P-109). That looks like it might be a shell hole.

Q. You're talking about the east side of town, on this side. Looking toward the sea, this is the area you came out, except for the fact that these tracks weren't there (referring to P-104). This is looking back from the side on which you came out, this is looking west as you came out through here. This is P-105. Now this is the area into which you came, this is this area right through here. This is photo P-117, so this is the area that you walked into when you left the village right in here. As you walked out of the village, right through here, this is the route that you would have taken. As you leave the village, which is right here, and walk toward this tree line, there's water out here.

A. Yes, but there wasn't anything that big. It was like a small pool. The ground had sort of an incline.

Q. This is the photograph which you have here (P-112).

A. This might be it here, or this might be it here.

Q. This is probably a vehicle track. It might have been a temporary thing which doesn't show up on these photographs because they're new.

A. Yes.

Q. Your squad moved generally southeast because you did move down to the southern half of the village, didn't you?

A. Yes.

Q. This is approximate, because we can't be exactly accurate, but your squad did move through -- was on the right flank at the time?

A. Yes.

Q. And you can recall when you were walking through the village?

A. Yes.

Q. You can see the rice paddies out to the right?

A. Yes.

Q. So you were walking along on the southern edge of the village?

A. Yes.

Q. Were you in the village, or were you in the trail that runs along the southern edge of the village?

A. I remember walking on the trail when I was taking the prisoners I had gathered. I walked down the trail. Somewhere in here is where I hooked in, and then there was a ditch not too far to the side.

Q. When you began your movement from this dike, how long was it before you reached the southern edge of the village?

A. I can't remember exactly. As it is, I only remember isolated incidents, certain things.

Q. When you left the dike, did you see anything of significance between the dike and the time you got to the southern part of the village?

A. Not until we reached the ditch I was talking about.

Q. The man and the woman about whom you were talking. Were those two bodies you came across?

A. There was just a man or a woman. I'm not sure.

Q. Well, we'll go on down. You did move down to the southern part of the village, along the southern part, and you picked up the trail down there?

A. Yes.

Q. When you were on that trail was there anything to your right?

A. Not that I remember.

Q. You must have been right on the southern tip of the village.

A. Yes. I know there was a break in the village, and then the pool I was talking about was somewhere around in this area. We followed -- we were moving in that direction, because I know I saw this. The pool was in here somewhere just after that.

Q. Do you remember where CARTER was wounded? Did you see CARTER?

A. I saw CARTER before he was wounded.

Q. Was he behind you or in front of you when he got wounded?

A. He probably would have been behind me because, when I talked to him, I started to move my people off. He had gotten up and gone in this way, towards the inside of the village. That was the last time I saw him. Later on, I heard he was shot in the foot.

Q. How much later?

A. It was after we had finished going through the village.

Q. Did you see him evacuated?

A. No, I didn't.

Q. Did you see the helicopter come in?

A. No.

Q. So you moved on through the village. Did you see anything of significance as you moved through the village?

A. No, not that I remember.

Q. When you reached the edge of the village over here, what happened at this point?

A. We came out. I think we came through these hamlets here. Here, I think, is where we turned our prisoners over to CALLEY.

Q. Point 1 (Exhibit P-138) is the approximate location where detainees were turned over to Lieutenant CALLEY. How many detainees?

A. About 75.

Q. Did you turn them over directly to Lieutenant CALLEY?

A. As I came back, Lieutenant CALLEY was walking right along with myself, MEADLO, and CARTER, walking in the same group. And he told me -- actually, you could say he was in charge of the people the whole time.

Q. Was the ditch on the edge of the village, or was it after you got into this next group of houses?

A. It was in this village.

Q. The ditch was in the village?

A. Yes.

Q. How far in the village from the south would you say the ditch was from the trail on which you were walking?

A. Not more than 50, 75 feet off the turn, because I remember a turn in the road.

Q. What you're saying is that the area where you turned the detainees over, point 1, was also the area where the ditch was?

A. Yes.

Q. How far was the ditch from the location of the people?

A. When we came in here, it was about 50, 75 feet from the trail until we were standing in front of the ditch. In other words, when I gave them over, we were standing next to the ditch.

Q. Was there another ditch?

A. Not that I know. This ditch seemed to cover a lot of ground. It might have gone through the whole village, I don't know. When the people were killed in it, I came down a little farther from where they were killed and crossed over. There was an area where it was pressed down so you could go through the ditch.

Q. What happened when you moved east towards the sea, away from the village.

A. I came through here. We ended up over here somewhere and regrouped, and then marched out again.

Q. Did you see helicopters land at any time in here?

A. Not that I remember, no.

Q. Did you set up a perimeter in here anywhere?

A. I know we stopped for a little while. I don't know what went on over here.

Q. Did you eat when you stopped?

A. I don't think so.

Q. What did you do when you stopped, anything in particular?

A. The way I figured, it was more or less a hold to get everybody back together, and get ready to start moving.

Q. Let's look through the ground photographs here, and see what we've got. This is photo P-7. It shows CARTER being bandaged, but you didn't see that point?

A. No.

Q. This is the same location, you don't know where it was (referring to P-6)? Photo P-18, do you recognize anybody in that photo?

A. SIMONE.

Q. You think the one soldier is SIMONE?

A. Yes.

Q. Do you know that location?

A. No, but I'd say it was probably after we got through the other side of the village. They used these people as point men, because they were pretty sure that if there were any booby traps planted in the area, these people would know about them. So we made them lead out, and they actually did lead us around a few booby traps.

Q. If this is SIMONE, and this is the other side of the village --

A. (Interposing) You see, there is a distance between the houses. I remember this one kid here.

Q. You remember that boy?

A. I remember that boy.

Q. Who was that boy?

A. He was one of the prisoners taken in the village. Later on, I think --

Q. (Interposing) He was taken out by the National Police?

A. Yes.

Q. Was he taken out by helicopter?

A. I'm sure he was because he was about the closest one whom I saw.

Q. You believed that this photograph may be down in this area?

A. Yes.

Q. Could you describe what this is? Is this a road, or is it a ditch or --

A. (Interposing) I think this could be a turn in the road right here.

Q. Does it look like that road?

A. I really can't say. From the picture itself, I would say that it's on this side of the village. It might be this turn here.

Q. Photo P-29?

A. This looks like it could be BERGTHOLD.

Q. Do you know where that is?

A. Probably the LZ going into the village.

Q. Could that be OLSEN?

A. It might be. Now that I remember, OLSEN wore a watch with a bright dial. That looks like a watch on his hand. BERGTHOLD had one, too.

Q. Do you remember whether there was a well on that landing zone?

A. No, I don't think so.

Q. P-25?

A. I think he is the man who was attached to us from MI.

Q. Do you recall any of the engineers who were with you that day?

A. No.

Q. P-60?

A. That's GRIMES, 3d Platoon.

Q. P-66?

- A. Again, I don't know the location, but that's Sergeant PHU, company interpreter.
- Q. Who is the other Vietnamese soldier?
- A. I think he was with the man from MI.
- Q. Do you know those two colored fellows in the back?
- A. That could be Roy WOOD.
- Q. On the right?
- A. Yes.
- Q. What about this radio operator on the extreme right?
- A. That's hard to say. It could be Roger MURRAY; he was with the CP group.
- Q. Do you know these two Vietnamese?
- A. No, I never saw them.
- Q. P-68?
- A. This looks like TORRES.
- Q. The man on the right?
- A. Yes.
- Q. Do you know that location?
- A. No.
- Q. P-69?
- A. That's Peter DELPOME.
- Q. Which squad?
- A. I don't know. He was with the 2d Platoon.
- Q. You know that?
- A. I'm sure he was with the 2d Platoon.

Q. Do you know that location?

A. No, I don't.

Q. P-78?

A. This looks like the area where we camped for the night, because it had a tree line like this.

Q. Do you think those are graves?

A. Yes, it could be. They used to build them like that above ground. There was a building out to the front. That's where we got water from some Vietnamese who were over there. This was after the village, when we camped for the night.

Q. If we could add two and two and be sure that we were correct, these are probably the graves which you saw dug the day you walked back to Hill 85.

A. You mean this is the village of My Lai (4) back here?

Q. Right.

A. No, I don't think that's what it was.

Q. You don't?

A. No, the ones I saw were -- the village was here, and there was a tree line coming this way from the area at which we were looking. They were almost even. These are sort of staggered, coming toward us away from the village. The ones I saw were more on line with the village.

Q. Those were open at the time you saw them?

A. Yes, if these are the same ones.

Q. But these were in the direction of your march, these mounds are somewhere in this area. You marched generally down here, south, to Hill 85. It's very difficult to try to locate where these photographs are without knowing exactly. These are more of those mounds, and it's in proximity to the village. It could be that these may be the ones that you saw being dug, or they may not be. P-87?

A. That's CONTI. I don't know who the guy is behind him.

Q. CONTI, in that photograph, has identified that ditch, a ditch which had bodies in it. That ditch is identified as being here. This identification was made both by CONTI and by two Vietnamese who were residents of the village. That ditch is shown up on the aerial photograph, right here.

A. The ditch about which I'm talking, I'm positive there were houses and things behind me.

Q. In the village?

A. Yes.

Q. P-109?

A. I was trying to pinpoint that water hole I was talking about.

Q. This is taken more in the 2d Platoon area. They were moving in this direction through here. These photos were taken almost a year later. P-126?

A. SMITH.

Q. The man on the left?

A. SMAIL.

Q. Second man from the left?

A. This is hard to say. He could be RULA or SIMONE.

Q. Third man on the left?

A. GRIMES.

Q. 128?

A. SMAIL again.

Q. Do you know where either P-126 or P-128 are located?

A. This could be where we stopped for the night.

Q. P-126 looks like where you stayed for the night?

A. Could be.

Q. Did you say you slept by a graveyard?

A. Yes.

Q. When you set your perimeter up back here, do you remember firing on some cattle?

A. I remember there was some fire at some cattle, and I think there was a man there, too. I don't know if he got hit or not because I think they started to shoot at him, and then started moving into the village.

Q. Now, it was at point 1 (Exhibit P-138) that the people were killed in the ditch?

A. Yes, that's the place. I'm almost positive it was inside the village, because I don't remember crossing an area this big.

Q. That's 100 meters at least.

A. The turn in the road, also, I'm pretty sure that's where the first group was.

Q. You didn't recognize any of the photographs I gave you as being the bodies you saw?

A. Well, like I say, I saw the people before they were killed here. The other was in the ditch, and I didn't really look down into the ditch, either.

Q. Is there anything else that you can recall that happened while you moved through that village?

A. Not offhand, no. One thing I just remembered, there was some firing, an explosion or two, in a small group, after we got through the one village. I don't know exactly what happened. There was a main village, and then this small group of houses, and there was fire and an explosion or two in there.

Q. But you didn't see it?

A. No, I was up ahead of it.

Q. It could have been coming from the 3d Platoon. This basically is how you saw it. Would you sign this for me, right here under the date.

(The witness signed aerial photograph P-1, which he has annotated and which was later entered into evidence as Exhibit P-138.)

Now, Mr. DURSI, do you have any further testimony, anything further to state at this time?

A. No.

Q. I want to remind you that you shouldn't discuss the questions and answers that have taken place unless you are called on by a legislative body, or a judicial body, or another administrative investigation.

A. No, sir.

COL WILSON: I'd like to introduce this exhibit into evidence as P-138. This is an aerial photograph prepared by, or annotated by, Mr. James DURSI. If you have no further testimony, that completes the interview.

(The hearing recessed at 1705 hours, 5 January 1970.)

SUMMARY OF TESTIMONY

WITNESS: HAYWOOD, Elmer G.

DATE OF TESTIMONY: 19 January 1970

PLACE OF TESTIMONY: Pentagon

WITNESS SUSPECTED OF: N/A

COUNSEL: None

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

1. PREOPERATIONAL PLANS AND BRIEFINGS.

a. MEDINA's briefing.

There was a memorial service for COX and other casualties preceding MEDINA's briefing on 15 March (pgs. 3, 4). MEDINA said they were to search and destroy My Lai (4), (5), and (6) (pgs. 4, 5). He told them that they would meet strong resistance from the 48th VC Battalion and that they were to avoid getting pinned down and were to maintain fire superiority (pgs. 4, 5, 7). MEDINA pointed out that this was a chance to get revenge for their earlier casualties (pg. 4). He said there were no innocent civilians there; everyone was either VC or a VC sympathizer (pgs. 5, 6, 31). HAYWOOD thought these orders came from higher up and expected everyone there to be enemy (pgs. 22, 31). MEDINA said something about all the villagers being gone (pg. 6). The company was to destroy all bunkers, food, and livestock (pg. 5). He did not recall if MEDINA told them to burn the hootches (pg. 5). The morale of the men was not too high, but they were looking forward to a chance to get even with the VC (pg. 6).

b. MITCHELL's briefing.

Sergeant MITCHELL held a squad briefing after MEDINA had finished and told them to send all prisoners to a specified area (pgs. 8, 9). MITCHELL told them not to take the time to search hootches and bunkers or set them on fire

as this was the job of the third platoon (pg. 9).

2. THE ASSAULT ON MY LAI.

a. Movement into the village.

HAYWOOD's squad came in on the first lift and set up a perimeter while the second lift landed (pg. 10). They saw no VC and received no hostile fire (pg. 10). They took some noncombatants with cows under fire, but missed them (pgs. 10, 11). Around 0800 hours the platoon moved east and prepared to proceed on line through the village (pg. 11).

b. Movement through the village.

It took the platoon an hour to move through the village (pgs. 22, 23). HAYWOOD's squad moved along the southern edge of My Lai (pg. 14). They reconned by fire the whole way (pgs. 12, 25). They met no resistance (pg. 12). He saw two dead people in a ditch about three quarters of the way through the village (pgs. 13, 14, 25). He did not see any bodies inside the village or along its southern edge (pg. 25). When they reached the eastern side of the village at approximately 0900 they set up a perimeter in a rice field (pg. 23), but he did not know of any order to stop shooting. The fire died down about this time (pgs. 21, 25). After this the men "ran around" for two hours (pgs. 23, 24). They then moved across the rice field into another small hamlet just prior to the lunchbreak (pg. 23).

c. The execution of groups of prisoners.

As they moved through the village DURSI gathered a group of 30-50 prisoners (pgs. 11, 12). Most of these people were women and children and HAYWOOD saw no military-age males (pgs. 12, 14). This was the only large group of people he knew were shot (pg. 15). Although he heard that this group was shot, he did not see it (pgs. 17, 21). He did, however, see MEADLO and CONTI bring up a group of 10 to 12 people whom they put into a ditch and shot with their M-16's (pg. 19). He estimated that this took place after the platoon had crossed the paddy and gone into the small hamlet (pg. 25). This group was composed of men, a couple of whom were military-age and a couple of whom were old (pg. 20). Some of the prisoners were taken to act as guides (pg. 20). He believed these persons had been shot in accordance with the orders they had received (pg. 20). Including this group he saw only 13-15 dead Vietnamese (pg. 26). He did not shoot anyone (pg. 34).

d. The landing of the helicopter.

After the platoon had gotten through the village he saw a helicopter land and the pilot get out (pg. 18). The helicopter landed by a ditch to his front at a distance of 150 yards (pg. 24). HAYWOOD left and thus did not know what else transpired (pg. 18).

e. Actions at the laager site.

There was no one shot en route to the laager site. However, civilians were used as point men (pg. 32). He saw National Police at the laager site but knew nothing about their shooting PW's (pg. 27). He did not see any visiting officers there (pg. 28).

3. INQUIRIES AFTER THE ASSAULT.

He did not recollect a visit by an officer from the task force or brigade prior to the extraction (pgs. 32,33). He recalled a full colonel meeting his group at LZ Dottie after the extraction on the 18th, but could not identify the man as Colonel HENDERSON (pgs. 28, 33). The colonel asked a couple of sergeants if they had seen any unjust acts by C Company while in the field, but no one said anything (pgs. 28, 29). He recalled hearing something about an investigation and remembered MEDINA getting the company together (pg. 29). However, he could not remember what MEDINA said (pgs. 29, 30). He was never questioned about the incident and he knew of no one else who was (pgs. 31, 34). He did not know why the incident was not reported (pg. 31).

4. OTHER INFORMATION.

The other members of his squad were MEADLO, STANLEY, DURSI, CARTER, OLSEN, and LAGUNOY (pgs. 8, 9).

(The hearing reconvened at 1000 hours, 19 January 1970.)

MR WEST: The hearing will come to order.

RCDR: The following persons are present: MR WEST and MAJ LYNN.

The next witness is Mr. Elmer G. HAYWOOD.

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

Will you state your full name, occupation and address for the record?

A. My name is Elmer Glenn HAYWOOD, I am employed at Humble Oil and Refinery, 1904 West Gulf, Bay Town, Texas.

MR WEST: Mr. HAYWOOD, before we get started with any questions, I want to tell you something about the nature of this inquiry.

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 into 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. In other words, whether there was a coverup.

We are not trying to look into all the facts and circumstances regarding what happened at My Lai that day. For example, we are not directly concerned with whether anybody committed a criminal offense in connection with what happened there that day.

We've had made available to us and have looked at other statements obtained in investigations of the My Lai incident. I understand that you recently gave a statement to the CID?

(HAYWOOD)

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A. Yes.

Q. We haven't seen this yet, but we have seen some other statements.

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

Now, 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. We ask that you not discuss your testimony here today with other people, including other people who may be witnesses coming before us, except as you may be asked or required to do before some competent administrative, judicial or legislative body.

For example, there is a subcommittee of the House Armed Service Committee which is looking into the My Lai incident. They are calling some witnesses, including some who appeared here. When we ask that you not discuss the testimony of course this doesn't include your appearing before a congressional subcommittee and talking to them.

Have you received an order from the military judge in the case of the United States v. Calley?

A. No, I haven't.

Q. Well, have you had a letter from the trial counsel, Captain DANIEL, I believe it is, concerning possible testimony in that case?

A. I received something from Fort Hood.

Q. In the case of the United States v. Mitchell?

A. Right.

Q. I take it this order directs you or asks you not to discuss possible testimony in that case and the facts of the case in order to protect the accused and to enable him to have a fair trial? Is this the gist of it?

A. Right.

Q. I asked you that because your appearance here today is consistent with that order. We have coordinated with the military judges and that order does not prevent you from possibly testifying at the court-martial.

(LTC MAHAFFEY enters the proceedings.)

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

A. Yes, I was.

Q. Could you tell us your grade and your duty station? Where you were at that time?

A. My grade was PFC, Private E-3. I was stationed at Chu Lai. Our base camp was Chu Lai, South Vietnam.

Q. Were you a member of C/1/20?

A. Yes, I was.

Q. What platoon were you in?

A. I was in the 1st Platoon, first squad.

Q. Who was your squad leader?

A. My squad leader was Sergeant MITCHELL.

Q. What was your duty? Were you a rifleman or were you a gunner, machinegunner?

A. Rifleman.

Q. Mr. HAYWOOD, when did you first hear of the planned assault on My Lai (4)?

A. About a day before we went to My Lai.

Q. Was this when Captain MEDINA briefed the company on the operation?

A. Yes, it was.

Q. Was this at Landing Zone Dottie?

A. Yes.

Q. Do you remember, sometime prior to this, a memorial service being held for some men of the company who had been killed?

A. Yes, I do.

Q. Can you fix a time on this? When did this memorial service occur?

A. No, I can't. It was at LZ Dottie, I believe.

Q. I think it was for Sergeant COX and maybe one or two other men?

A. Sergeant COX and two or three other men. Yes.

Q. It was before the company briefing I take it?

A. I don't recall when it was, but I think it was. I can't remember too good.

Q. We've had quite a bit of testimony on this and it has varied all the way from the same afternoon to 2 days before and even a month before, but I think it was probably not too long before the briefing. I believe these casualties were suffered just a reasonably short time before the briefing.

Could you tell us what Captain MEDINA told the company during the briefing, as best as you can recall?

A. Well, he briefed the company and said we were going to be CA'd to the My Lai (4) area and work through My Lai (5) and (6), that we were to come up on strong resistance from the enemy and he also stated that it would be a good chance to gain revenge on the Viet Cong force for the casualties that we had suffered earlier in that area and he gave us some safety lectures and that was about it as far as I can remember.

Q. Did he indicate how long the operation was to last?

A. I think he said around 4 days at the most, 4 days.

Q. Do you remember what he told you in any detail about the strength of the enemy there?

(HAYWOOD)

A. No. He just said it was the 48th VC Battalion.

Q. The 48th VC Battalion?

A. Right.

Q. Was this the outfit that had been inflicting casualties on the company?

A. Yes, as far as I know.

Q. Did he say anything about the people in My Lai (4)?

A. Well, I understood him to say there was no innocent people in that area. Everybody that was in that area was either VC or Viet Cong sympathizers.

Q. Did he tell you what kind of mission it was to be? I understand that most of the time before this, the company had what they called search and clear missions where you went out on patrol and maybe you would go through hamlets and you would search them. We understand this one was different. Did he tell you the difference?

A. I don't remember too good, but it was search and destroy or something. I can't recall too good.

Q. Well, we have had some people tell us that it was described as a search and destroy mission. Did he tell you anything about what to do with regard to the hootches, animals that you came across, food, or crops, or wells?

A. To destroy all Viet Cong food, livestock and all hiding places and destroy bunkers.

Q. Did he talk about burning houses or hootches?

A. I don't remember.

Q. Now, you said he indicated that there wouldn't be any innocents there and all the people would be VC or VC sympathizers. Did he say anything in particular as to the inhabitants of My Lai (4)? Did he talk about taking people prisoner or did he talk about killing them all? Anything specific like that?

A. I don't know. As far as I know all the people wasn't innocent. I can't recall too well, but they was supposed to be gone or removed or something.

Q. Did he indicate that the people had been warned in any way ahead of time such as by leaflet drops or any PSYWAR airplanes that float around over head with loud speakers? Do you remember anything said along that line?

A. No, I don't.

Q. Did I understand you to say that the innocent people were supposed to be out of the place?

A. As far as my knowledge, sir. Yes. I can't remember too well what was said at the meeting.

Q. Do you remember whether there was a meeting of platoon leaders and platoon sergeants after the company briefing?

A. I can't remember.

Q. What was the mood of the men in the company after the briefing by Captain MEDINA?

A. Well, I would say that the morale wasn't too high, because we had been in that area before and we knew how it was. We had lost a couple of men over in that area and the morale wasn't too high, and revenge was high.

Q. Pardon me. I didn't hear that last part?

A. Revenge in most of the guy's eyes.

Q. I see. Did they regard this as a chance to get even with the VC?

A. Right.

Q. Did Captain MEDINA say anything about eliminating the 48th VC Battalion once and for all or destroying them once and for all or words to that effect?

A. I can't remember right off. I think I recall something in that nature. I'm not sure.

LTC MAHAFFEY: Mr. HAYWOOD, were you an 11B?

A. Yes, I was.

Q. You mentioned something about safety lectures with Captain MEDINA. What specifically did he include in this safety lecture?

A. Well, before we went over he told us to keep moving. When we engage the enemy, not to stop and get pinned down in any kind of way and to keep spread out and things of that nature.

Q. Did he make any mention of preventing the VC or their sympathizers from recovering weapons by this business of continuing to pursue and closing with them?

A. Yes, I think so.

Q. During this briefing?

A. Yes.

Q. Can you tell me specifically what you recollect him having said in that connection?

A. Well, he said something about keeping them from gaining superior fire power. Try to keep fire power over the enemy and something to that nature.

Q. What did you understand your mission as an 11 Bravo to be when you got on the ground?

A. To move through the village and to gather anybody that's standing around, to send them out in a certain area where we had a man to guard them.

Q. Was that mentioned in his briefings?

A. No, it wasn't.

Q. What did you understand that to mean?

A. My platoon, my squad leader, we had a meeting with just our squad--

Q. (Interposing) Sergeant MITCHELL?

A. Right.

Q. This was after Captain MEDINA's briefing?

A. Right. It wasn't a meeting. I don't recall a meeting here between the platoon leader and platoon sergeant and squad leader. He had a meeting with us in the squad.

Q. What did Sergeant MITCHELL say at this squad meeting?

A. Well, mostly we were to stay on line. We was to be on the right side of the village. We were to be on line and we would move through the village and pick up all prisoners and send them out to a certain area.

Q. Prisoners?

A. Right.

Q. Did he discuss the organization for the chopper lift the next morning?

A. He said that our squad would be on the first lift. That's as far as I can recall.

Q. Was there any mention, either by Captain MEDINA or by Sergeant MITCHELL of--getting back to this thing of the villagers being out of the area, they're going to the market place at this time of the morning?

A. No.

MR WEST: Could you tell us the names of the members of your squad, Mr. HAYWOOD? I'm not sure we know all of them?

A. Paul MEADLO, Harry STANLEY, DURSI, CARTER, OLSEN and HARRIS. No, not HARRIS, just OLSEN.

Q. CONTI, spelled C-O-N-T-I?

A. I think he was in the second squad. I'm not sure.

Q. Did you say not HARRIS?

A. Not HARRIS.

Q. Counting you, that is a total of nine. That is about it, isn't it?

A. Yes. HARRIS was originally in our squad, but I think he got wounded a couple of days before when we went into that area.

Q. Who was the fire team with the machinegun, M-60?

A. That was OLSEN and I remember one other guy now, LAGUNOY, Sergeant LAGUNOY.

Q. Who was the assistant gunner? MEADLO?

A. I don't know. I don't know for sure if it was MEADLO.

Q. It seems to be three people, as I understand it. There is the assistant gunner and the ammunition bearer, in addition to the gunner?

A. Right.

Q. Did Sergeant MITCHELL talk to the squad about moving forward with fire and closing aggressively with the enemy and this kind of thing?

A. No, I don't remember or recall him saying that.

Q. Did he talk to you about what you were to do with the inhabitants of My Lai (4)? I know you mentioned gathering people up and sending them someplace, but anything else, like firing on them for example?

A. No, he didn't mention anything like that. We were to gather the people up and leave them at a certain area and keep pushing through the village.

Q. Were you to take your time to search the hootches and bunkers or set anything on fire?

A. No. I think it was the 3d platoon that was supposed to come through and search the hootches.

Q. Mr. HAYWOOD, you have in front of you a blown-up aerial photograph of My Lai (4) and the vicinity (Exhibit P-1). On your left is a map with a scale of 1:25,000 which has been introduced into evidence as Exhibit MAP-4. You will notice that My Lai (4) on this map is here.

(The witness is oriented on the map and aerial photo.)

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Q. Will you tell us what took place after you CA'd in and got out of the helicopters?

A. Well, after we had landed, our squad and I guess the second squad or the third one, moved to the south to secure an area for the rest of the company to come in.

Q. To set up a perimeter for a while there, did you?

A. Yes.

Q. While the rest of the lift was coming in?

A. Yes.

Q. Did anything particular happen during that time? Anything of significance happen? Did you see any VC or did you encounter any resistance at that time?

A. No. Not to my knowledge. From our side, we did not receive any incoming fire.

Q. I see. Did you see any VC or noncombatants or any people at all?

A. I think we saw a couple of people walking on a trail moving from east to west and they had a couple of cows or water buffalo or something.

Q. What happened?

A. I don't know who said anything about it. I think they was supposed to have been fired upon because--

Q. (Interposing) Somebody took them under fire?

A. Yes.

Q. Would you just describe what happened?

A. That was about it, as far as I know. They was just fired upon by my squad. I don't know if it was just our squad. There was a lot of shooting going on so I don't know.

Q. Were the people hit?

- A. As far as I could see, no.
- Q. How about the cows? Did you get the cows?
- A. No.
- Q. Anything else happen while you were on the perimeter there?
- A. No. That's all that I can remember.
- Q. What did your squad and your platoon do next after this?
- A. Then we moved to the east and got on line to prepare to move through the village.
- Q. Now, the first lift was supposed to have hit the LZ at about 0730. Could you put a time on about when you moved up on line to get ready for the assault?
- A. I guess anywhere from about 0800 to 0815. I'd say we stood out there about a good 30 minutes or maybe more.
- Q. Somewhere about 0800 then, you were on line?
- A. Yes.
- Q. Were any orders issued about this time when you were on line by Sergeant MITCHELL or Lieutenant CALLEY or did anything come down to you?
- A. I don't remember anything.
- Q. Can you describe the assault when you moved out and what happened after then? What you saw? What you did?
- A. Well, we were to move right through the village and to eliminate all livestock and anything that would help the VC; food, rice, ammo and things of that nature. If we were to come up on any people to send them out in a certain area and there was a man out to take care of them.
- Q. Was somebody detailed to guard any prisoners or detainees that were rounded up? For example, was it DURSI?
- A. I don't know if he was detailed, but he was out taking them.

Q. How about MEADLO? Did he have any people in charge?

A. No. I didn't see him with anybody at that time.

Q. But you did see DURSI guarding some people?

A. Yes.

Q. How about CARTER? Was CARTER with you?

A. I don't remember seeing him.

Q. There was a time, according to DURSI, when CARTER was with him and they were pushing a group of people along. Now, to talk about detaining people and rounding up people, what kind of people are you talking about? You are not talking about military-age males are you?

A. They were mostly women and children that was detained.

Q. Did you take any prisoners? By that I mean VC or VC suspects, military-age males or anybody that had a weapon?

A. Not that I know of. Not then.

Q. Did you get any resistance at all as you moved into the hamlet?

A. No. Not to my knowledge. At least our platoon didn't.

Q. Would you tell us how the platoon moved into the hamlet? Were they moving forward? Was it a recon by fire?

A. Yes, recon by fire.

Q. Shooting into every bush and hedgerow, and that kind of thing?

A. Yes.

Q. As I understand, this was in compliance with the orders you had gotten the day before; move aggressively with fire?

A. Yes.

Q. As you moved through the southern part of the hamlet there, Mr. HAYWOOD, did you see any dead people? Did you see people killed? Just what was the scene that you saw?

A. Well, I didn't see any people that was killed at the west side of the hamlet, but I moved further on out and I got to a clearing we were to cross. I don't know if it was a rice paddy or what, but it was a big clearing and it was a ditch or something running north and south, I'm not sure. I saw a couple of people there that was dead.

Q. Was this while you were still in the hamlet or still in the village there?

A. It was at the edge or either--I think it was on the edge of the hamlet. I can't remember exactly because the only thing I remember is we was supposed to go across a big open field. We was told to keep moving and we hesitated because we had been caught once before in a wide area and nobody wanted to go, so I went on and CARTER followed and that's when I saw them, so I can't remember. I know it was on the edge of something on that village.

Q. All right. We have a big sketch on the wall, Mr. HAYWOOD. I wonder if you wouldn't mind stepping up here and maybe you could figure out where this was.

(MR WEST and the witness move to the artist's concept map of the My Lai (4) and surrounding area, which was not received in evidence.)

A. I'd say that we were about halfway or three-fourths of the way through the village. (indicating).

Q. A couple of people in a ditch?

A. Right. I can't picture the area on here where I saw it.

Q. You can see there are some clearings here over here (indicating) somewhere in the southern half?

A. It was just before we got to this big clearing.

Q. When you say the big clearing, do you mean the rice paddy east of the hamlet?

A. Yes. It was something like a dried-up rice paddy. I know it was real clear.

LTC MAHAFFEY: Might it also have been south rather than east?

A. I can't remember. All I know is we were moving into another little hamlet, another bushy area. (Witness points to an area southeast of My Lai 4.)

Q. As I recall, you said that you were about half-way or three-quarters through the village when you moved to this large open area?

A. Right. It could have been this area here. I don't really remember (indicating).

MR WEST: Pointing to a wooded area southeast of My Lai (4).

From your testimony, up to this point, these are the only dead people you had seen?

A. Right.

Q. If I understand you, you were on the right of your platoon? Did your squad move along the south edge of My Lai (4)?

A. Yes.

Q. You notice from the aerial photograph there is a rice paddy out to the south. Did you ever look out into that clear area, the rice paddy to the south?

A. Yes.

Q. As you were moving along there, would you tell us what you recall about people who had been gathered up as the platoon moved forward? We've had other testimony indicating that there were at least two fairly large groups of people gathered together. How does that fit in with your recollection?

A. I don't recall exactly. I can't remember. It may have, but I only remember one and that was seeing DURSI. That's the only person I recall seeing with a group.

Q. How many people did he have in charge?

A. Anywhere from about 30 to 40, 50 people at that point.

Q. When was the last time you saw this group together?

A. I think it was at the end of the trail on the south side right at the end of the village.

Q. At the east end of the village?

A. Right.

Q. Was anyone helping DURSI guard these people at this time?

A. I don't remember seeing anybody except DURSI.

Q. Did you see a group of people that was sent over by Sergeant BACON from the second squad?

A. I don't remember seeing Sergeant BACON at all.

Q. He testified that he had the second squad, 1st Platoon. He was on the left and should have gone through just about the middle of the hamlet. He said they gathered up about 30 people and they sent them over to Lieutenant CALLEY.

A. I don't remember seeing him.

Q. You don't remember that?

A. No. I don't remember seeing Sergeant BACON at all.

Q. Mr. HAYWOOD, I direct your attention now to the southern part of My Lai (4), right in the center where the trail leads south to 521. Do you remember as you moved along there, did you see a group of people down here (indicating) who were alive or dead? This could have been around 0830 or 0845?

A. I can't recall right off. I don't know if it was in this area, but I remember seeing a group of people moving in a brush area somewhere over in this area and to our right. I remember seeing them, but I don't know which area it was.

Q. It was not in a rice paddy? It was more of an area where there was vegetation?

A. Yes.

Q. You don't recall whether it was in the village or out?

A. No, I don't.

Q. Were you anywhere around when CARTER shot himself?

A. I was up ahead.

Q. Forward?

A. Yes.

Q. I think you are about the only man in the platoon that wasn't there at one time or another.

A. I heard that he had shot himself, but I wasn't anywhere around the place where he had shot himself.

Q. Besides these two other people that you saw in the ditch, did you see any other bodies while you were in the hamlet, in My Lai (4)?

A. Not in that area I didn't see anything.

Q. As you moved through, did you keep pretty much on line or were you sort of disorganized and everybody on his own or how did it go?

A. Well, after about 100 yards or so, everybody got kind of disorganized and were just running around pretty much, as I could see. A couple of men to my left--At times I couldn't see them and at times--

Q. (Interposing) How about Sergeant MITCHELL? Where was he? Did he keep control of his squad or did he go off by himself, or what happened?

A. Well, I can't remember too well. He was on my left, but I didn't see him. The times that I did see him he was telling us to keep on line and keep moving.

Q. Mr. HAYWOOD, let's go back to this group of 30 to 50 people that DURSI had in charge. Now that you have thought about it a little bit, can you recall anybody else that was with him?

(Negative response.)

How about OLSEN?

A. I don't think OLSEN--he was the machinegunner. I don't think he was there. The only person, I don't know for sure, that could have been there was MEADLO. That's about the only person that could have been there. I don't know for sure.

Q. Do you know what happened to this group of people?

A. I know what was supposed to have happened. I don't know exactly. I didn't see that group of people and--

Q. (Interposing) You didn't see them?

A. I didn't see that group of people being shot.

Q. Tell us what you heard about it? What was supposed to have happened?

A. Well, they were supposed to have been shot and killed.

Q. Do you know where this took place?

A. No, I don't. I don't know if it was in My Lai (4) or the next village.

Q. All right. After you reached the end of My Lai (4) where did you go?

A. We started pushing towards the next village. I think it was My Lai (5) or My Lai (6).

Q. Who went with you, your squad?

A. My whole squad and the company, well, the 2d Platoon.

Q. Well, this was sometime later. Didn't you set up a perimeter?

A. After we got to the edge of the village?

Q. Did you have a break for chow, have lunch before you moved out? Where did you set up on the perimeter? Where were you?

A. I remember setting up for chow. I think it was outside of the village, but not too far from the village we set up, because I remember being in kind of a open area and behind me was a ditch or something like that. We set up there for an hour maybe.

Q. During this time did you see a helicopter land, a bubbletop?

A. Yes. I saw one, a bubble helicopter with two machineguns on it.

Q. What happened?

A. All I know is the pilot got out or somebody came over. I am not sure. I didn't watch it that close. I went somewhere and it went out of my eyesight.

Q. You don't know who he talked to?

A. No. I don't recall who it was, but I remember a helicopter landing.

Q. Did you see any other helicopters land later on?

A. No, I didn't.

Q. You say that you did hear that this group of 30 to 50 people that DURSI had were shot later on?

A. Right.

Q. Did you hear about any other groups of people being shot?

A. No, I didn't hear of any. I saw a group of men being shot. I didn't actually see it. I saw them rolling in the ditch shot.

Q. Was this in the afternoon later in the day?

A. It was around 1100 or 1200.

Q. Could you describe that?

A. Well, there were about 10 or 12 men brought up by MEADLO and CONTI. They were brought up from the rear. I don't know where they got them from. Maybe they was in that group of people. I don't know where they came from. They were brought up from the rear by MEADLO and CONTI and was thrown in the ditch and fired upon.

Q. MEADLO and CONTI fired on them?

A. Yes.

Q. What kind of weapons did they use?

A. M-16.

Q. How many men do you think there were?

A. I'd say it was anywhere from seven to twelve men.

Q. You fix this around 1100?

A. I think it was around 1100 because I remember we had set up for chow and had got through eating or was eating at the time.

Q. Do you remember where this was?

A. It's hard to say. No.

Q. Was it outside My Lai (4) or beyond it somewhere?

A. I think it was beyond it. I don't think it was in My Lai (4).

Q. Do you recall now, as you moved out of My Lai (4), there was a big rice paddy to the east here and there is another clump of trees and houses off to the east and a little bit to the south, the southeast corner. If you think back and remember that, could you place this ditch in relation to those locations?

A. It seemed to me that the ditch was running in a curve north northeast direction to the west. Northeast to west direction.

Q. You don't recognize the place on the map, the photograph?

A. No.

Q. You said these were males I believe. Were they military-age males or old men or just what were they?

A. A couple, I'd say, were military-age people. It's kind of hard to remember, but I would say a couple of old men. A couple was kept apart and used as point men.

Q. Why do you suppose they did this?

A. I don't know. Either they were told or they just done it on their own, but I don't know that they would do anything like that on their own.

Q. Was there a general feeling in the platoon that you were supposed to kill these people that you came across in the hamlet and wipe them out?

A. I imagine there was. Yes, I would say.

Q. Was that your understanding of the orders that these people you came across were either VC or VC suspects and you should shoot them?

A. Yes.

Q. When MITCHELL talked to you about gathering people up and sending them over to somebody that would be in charge of them, did he say anything about killing them later?

A. I don't remember if he said it.

Q. I ask you this because apparently this is what happened. These people were gathered up and they were taken off someplace and they were shot.

A. I don't remember him saying anything about it.

Q. Do you know anything about a group of people that were under guard by MEADLO, and possibly CONTI, being taken down to some location along the southern location there of My Lai (4) and shot by CALLEY and MEADLO? Did you hear anything about that?

A. I heard, but I didn't see them. I don't remember who said it, but they said that's what happened.

Q. Did they say about where this was?

A. No. All I know it was someplace back to the west, back in the village.

Q. As you understood it this was a separate group from the one that DURSI had?

A. Either it was a combined group or a separate one. I don't know for sure. I think it was a combined group that DURSI had.

Q. Do I understand that you are saying that you don't know of a second group or large group of people that were killed?

A. No, I don't.

Q. But, you have described that this large group that DURSI had in charge were killed?

A. Right.

Q. The other group of males of seven to ten which MEADLO and CONTI--

A. (Interposing) Right.

Q. Were killed. Do you remember about when CARTER was wounded? Did you hear anything about this at the time that you might know when this happened?

A. I would say it was just before noon or somewhere in there.

Q. Along about this time or a little afterwards, did you hear any orders to stop the killing?

A. No, I didn't hear any. I don't remember hearing any.

Q. Of course, the platoon started out with recon by fire. I assume they kept this up for a while. Do you remember when the firing died down?

A. Down at the end of the village. Right after the village.

Q. How long did it take the platoon to move through My Lai (4)?

A. I would say about an hour.

Q. Were you visited at My Lai (4) that morning by any officers from Task Force Barker or the brigade or division? Did you see any visiting officers at all come in by helicopter?

A. No, I didn't.

LTC MAHAFFEY: Mr. HAYWOOD, I'd like to go back and retrace a few steps. After you hit the LZ and your squad moved to the south to set up a portion of the security for the LZ, do you recall where the second squad was located in relation to your squad at that time?

A. No, I don't. I don't recall.

Q. After you had formed up on line and were moving through the village, do you recall where the platoon CP or command group was moving? Were they moving behind your squad or behind Sergeant BACON's squad?

A. I think it was behind--I'm not too sure, but behind Sergeant BACON's squad or in between the second squad and the first squad. I don't think they was directly behind the first squad.

Q. You discussed certain things that you were to do with respect to the livestock, with respect to gathering people up and moving them out. What were you supposed to do with enemy?

A. Enemy? Well, everybody there was supposed to be the enemy.

Q. What were you supposed to do with them? What was your understanding of what you were supposed to do with the enemy? Collect them up and move them out?

A. Right. That's the understanding I had. Everybody that was in the area was either VC--They had a man out here, DURSI, to collect the people and move them out.

Q. If they were enemy, isn't the normal thing that's done in combat with the enemy is to kill them?

A. Not all the time, unless they fire upon you first.

Q. You said that it took about an hour for the platoon to move through the village?

A. Right.

Q. This is before the lead elements reached the eastern edge of My Lai (4)?

A. Yes, I think so.

Q. Were you with the lead elements of the platoon as they reached the eastern edge?

A. Yes, with the first squad on the right side.

Q. What did you do at the time you reached the eastern edge of the village?

A. I think we set up some kind of a way. We set up in a rice field or some kind of a way.

Q. In a stationary perimeter?

A. Yes.

Q. That would have been roughly 0900 to 0915 in the morning?

A. Around that. We didn't stay there that long.

Q. You didn't stay there that long? What did you do then?

A. We kept moving on across the rice paddy and we moved into another little hamlet. It was real small. I don't know what it was, but it was real small.

Q. Was this before the lunch break?

A. Yes. It was just before the lunch break that we was moving across this little hamlet.

Q. Now, if you were there on the eastern edge of My Lai (4) at 0900 and just before lunch moved into this small village further to the east, there are a couple of hours in there. What were you doing during that 2 hours? What was the squad doing?

A. It's hard to say, just running around.

Q. Backtracking through the village?

A. I don't remember backtracking through the village.

Q. Do you remember any members of the squad backtracking?

A. I don't know if they went back. I remember not seeing them a couple of times.

Q. When you saw this helicopter land, the bubble helicopter land, where was he in relation to where you were set up on the perimeter? Was he to your left front or to your front?

A. He was, I think to my front. He was about directly to my front or to my right front. OLSEN was machinegunner, if I can remember clear he was to my right by the grave. I think and this helicopter landed right by a ditch. I'm not sure.

Q. Landed by a ditch?

A. Right.

Q. Had that helicopter landed prior to that time?

A. Not that I had seen.

Q. But the one time that you saw him, he was directly to your front then?

A. Yes.

Q. At what distance would you estimate?

A. I'd say about 150 yards.

Q. As you left the LZ and entered the western edge of the village, you were moving by assault fire or reconning by fire. Did this continue pretty consistently until you reached the eastern edge of the village?

A. Yes.

Q. Did it then die down as you reached the eastern edge of the village, or prior to that time?

A. It died down at the end. It was mostly used when we came up on a bushy area or heavily dense area that we were not sure about.

Q. This group of 10 or 12 males that you observed, I believe you said MEADLO and CONTI shooting into. Did that occur after you crossed the open paddy and went into the small village?

A. Yes.

Q. After?

A. Yes.

Q. So that would have been, then about noon time?

A. Yes.

Q. As I understand your testimony so far, you saw only about two people dead or two bodies as you went through My Lai (4) itself?

A. Right. It was around two or three. It looked like they was on each other or laying close by.

Q. Close by? Two or three?

A. Yes.

Q. Did you see inside the village itself, or around the southern edge of the village itself, any other bodies at all?

A. No, I didn't.

MR WEST: Mr. HAYWOOD, you said that after you left My Lai (4), after you set up the perimeter, you didn't stay there long, but you moved forward into another little hamlet?

A. Yes, I think it was.

Q. Take a look at the sketch again, Mr. HAYWOOD, and remember you're looking right down, directly overhead, I direct your attention to a wooded area which is east of and a little bit to the north of My Lai (4). Could this have been it? This is about 400 meters to the east of My Lai (4). Could that have been the other little hamlet you are thinking of (indicating)?

A. It could have. It wasn't too heavily vegetated. You could almost see to the other end.

Q. Well, you can see how the trees and the brush are scattered and this cultivated field here (indicating).

A. I remember because they had a couple of brick buildings that had all been shot up like by artillery or some kind of tanks or whatever it was, knocked a whole lot of buildings down. It was pretty well cut down.

Q. Did you see any demolition men with the company that morning? There were supposed to be two engineers that went along?

A. I remember seeing them at the end of--where we rung up at this graveyard for the night.

Q. When you laagered in for the night?

A. Yes.

Q. Did you know either one of them or their names?

A. No, I didn't. All I know is they were with the 26th Engineers, I think.

Q. We've been trying to find out their names. One of them had a nick name of "Hotshot"?

A. I don't recall.

- Q. How many dead Vietnamese did you see altogether in My Lai (4), Mr. HAYWOOD?
- A. That I saw for the whole operation or that morning?
- Q. That morning in My Lai (4)?
- A. I'd say about 13, 14, 15, or something like that.
- Q. Did this include the men that you said MEADLO and CONTI shot?
- A. Yes.
- Q. Could that have been over--I'm trying to understand this. Was this over in the second little hamlet where they were shot?
- A. It could have been.
- Q. In this area of the photograph. It would be here (indicating)?
- A. It could have been right out and up here.
- Q. Indicating to the north to the hamlet lying some 400 to 500 meters east and a little north of My Lai (4).
- When you laagered in for the night in this graveyard did you see any National Police there?
- A. I saw about three or four, I think.
- Q. Did you see them interrogating any prisoners?
- A. No, I didn't.
- Q. Did you see them shooting any prisoners?
- A. No, I didn't.
- Q. Did you hear about them shooting any prisoners?
- A. Not to my knowledge. I didn't hear anything about that.

Q. Did you see any visiting officers here (indicating) where you laagered in for the night?

A. I don't remember seeing them.

Q. Do you remember being taken out by helicopter a couple of days later on the afternoon of the 18th and going back to Landing Zone Dottie?

A. I don't remember what date it was, but I remember being lifted out a couple of days later.

Q. When you landed there at Landing Zone Dottie and got out of the helicopters, do you remember being met by a full colonel who talked to the group?

A. Yes.

Q. Do you know who that was?

A. No, I don't.

Q. Did you know Colonel HENDERSON?

A. No.

Q. The 11th Brigade to which Task Force Barker was attached was commanded at that time by Colonel HENDERSON. He told us that he talked to some of the men that came back from the operation. Could you tell us what he said?

A. Well, he asked a couple of sergeants that was in this group that got off the helicopter. He asked them about what went on out there and he tried to get some comment from people, but nobody would comment on what went on.

Q. Mr. HAYWOOD, it could be very important to us. Could you recall just what his words were? Just what he said when he asked questions?

A. No, I can't.

Q. What was he inquiring about?

A. Well, he was inquiring about, I imagine, what went on out in the My Lai (4) area. Did we see any unjust things or something in that nature? He asked a sergeant to tell him anything about any unjust things that went on in that area that C Company had done.

- Q. Did he use the words civilians or noncombatants?
- A. I don't remember.
- Q. He couldn't get anybody to comment?
- A. No.
- Q. How long did this last? How long did he question them?
- A. When we left he was still on the LZ. I don't know. I guess he was waiting for--
- Q. (Interposing) I mean, how long did he keep your group?
- A. I guess about 4 or 5 minutes trying to get someone to comment.
- Q. After this did you hear anything about an investigation of what happened at My Lai (4) that morning?
- A. As far as I can recall I did hear a little something about an investigation that was being held.
- Q. Do you remember Captain MEDINA calling the company together and talking about it?
- A. I don't know what he said, but I remember something that came up like that. Either he called the company together or it came through from the platoon leader or squad leader or something.
- Q. He told us. He was here, and he told us that he did call the company together and told them that there was an investigation going on of what happened at My Lai (4) that morning. He tried to reconstruct just what he said and what the impression was that the men of the company got. Can you remember your impression of what it was that he said?
- A. No, I can't.
- Q. Well, did he tell you not to talk about it for example?

A. No, I can't remember anything he said.

Q. He said that he advised the company not to talk about it and not to gossip to others about it while the investigation was going on. Other people have put it more strongly. He told them not to talk about it. You can't remember anybody telling you to keep quiet about what happened at My Lai (4) that morning?

A. No, I didn't.

Q. What was your impression of what happened at My Lai (4) that morning?

A. My impression?

Q. Yes?

(Negative response.)

I realize you couldn't have seen everything and perhaps not very much of it because My Lai (4) was pretty heavily wooded and you went right on through, but just based on what you heard from others what was your total impression of what happened there that morning?

A. Well, it is pretty hard to say. I felt that it wasn't right, but I figured it came down from higher above. They must have decided that the people there were all Viet Cong or Viet Cong sympathizers or they wouldn't have gave the order for a search and destroy mission in that area.

Q. You mean, you are talking about an order to shoot the people? Is that what you mean?

A. Yes.

Q. I don't want to put words in your mouth. Is that what you meant?

A. Well,--

Q. (Interposing) They decided they were not innocent and therefore it was all right to kill them? Is that the idea?

A. Not exactly like that, but somewhere in that nature. That it was all right to destroy the whole village, in that order.

Q. How did you get the impression that it was from higher headquarters? Is that something that Captain MEDINA said?

A. Well, in his briefing that day I think he said that he had been given an order or something. I don't remember if he said that he had been given an order, but he said that there were no innocent people there in the village and the only way I could gather that he knew this was that it came down from Task Force Barker or Colonel BARKER or somebody else that was higher up. I don't think that he was high ranking enough to be able to give that kind of order.

Q. Did he mention orders from higher headquarters or did he say this was a mission given by higher headquarters for example?

A. Yes. I don't exactly remember him saying it that way, but he said something about we had to go in this area on a search and destroy mission. I can't recall what kind of way he put it.

Q. But that's the general idea?

A. Yes.

Q. I think you appreciate the fact that what happened there that morning with a lot of Vietnamese people being killed is pretty unusual, and also that this didn't become well known until the past few weeks. Do you have any idea why this incident was not reported through official channels the way that other things that happen on the battlefield are reported?

A. No, I don't. I figured that the incident just was investigated, or whatever it was, and was called off, so I figured it was over.

Q. Did anybody ever come to talk to you about it and say that he was investigating the matter?

A. No.

Q. Do you know anybody else in the company that was questioned?

A. No, I don't.

LTC MAHAFFEY : Going back again to your movement through My Lai (4), did you see or do you know if any other elements of the company were moving to the right or the south of your squad?

A. No, I don't remember seeing any other--

Q. (Interposing) You were almost on the right flank of your squad, weren't you?

A. Yes.

Q. Would you have seen any other elements that were moving in further to the right or to the south?

A. Yes, I would have.

Q. You did not see any?

A. No, sir.

Q. When you left the area of My Lai (4) and went to the night defensive position or the laager position for that night, what happened en route?

A. I don't remember anything that happened.

Q. Was there any shooting?

A. No. We were told not to shoot because B Company was moving up from the right. I don't remember any shooting.

Q. Did you collect up any people en route?

A. The only people that I can remember with us was some point men that they was using, Vietnamese civilians that they was using on point.

Q. They were going along with you?

A. Right. They was used as a point in each squad.

Q. The next day after you left that laager position we understand that you moved south. Did any officers from task force or brigade visit you in the field that day?

A. No, not troops. I could have been--

- Q. (Interposing) Did you see any helicopters coming in?
- A. No, I didn't.
- Q. Do you know Colonel BEERS?
- A. Colonel BEERS? Yes.
- Q. Did Colonel BEERS visit you that day?
- A. No. I don't remember seeing him that day.
- Q. When you were being extracted the next day, what kind of choppers were used for the extraction?
- A. Huey slicks.
- Q. Were there any "Hooks," CH-47's, Chinooks, used for that extraction?
- A. No.
- Q. How many slicks did you have?
- A. I think it was four or five. It wasn't too many.
- Q. Not too many?
- A. No.
- Q. But, you saw no CH-47's?
- A. No.
- Q. Were you on the first lift?
- A. I was on about the second or third lift.
- Q. And Colonel HENDERSON was there when you arrived on the second or third lift?
- A. Yes.
- Q. Did you shoot at anyone yourself as you were going through My Lai (4)?

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A. Yes. I shot at a couple of cows, chickens.

Q. Did you shoot at any Vietnamese?

A. No, I didn't.

Q. You said that you were not contacted by anyone conducting an investigation?

A. No.

Q. Have you been contacted or have you talked with anyone since the incident itself became pretty well known?

A. Yes, to a CID--

Q. (Interposing) How about anyone from C Company?

A. No, I haven't.

Q. No one?

A. No one.

Q. Were you decorated at all for your service with Charlie Company?

A. The only thing I received was the CIB Badge.

Q. CIB?

A. Yes.

Q. What rank did you hold at the time that you ETS'd?

A. SP4.

MR WEST: Mr. HAYWOOD, can you think of anything else that might help us in our investigation that we haven't touched on in the questioning, any statement you would like to make?

A. No. None that I can think of.

MR WEST: We very much appreciate your coming here, Mr. HAYWOOD. We know that it has been a lot of trouble for you at this particular time. You have helped us with the information you have given us. Your testimony is going to help us put this thing together. We are very grateful to you. Thank you very much.

The hearing will be recessed.

(The hearing recessed at 1137 hours, 19 January 1970.)

SUMMARY OF TESTIMONY

WITNESS: KONWINSKI, Joseph W.

DATE OF TESTIMONY: 29 January 1970

PLACE OF TESTIMONY: Pentagon

WITNESS SUSPECTED OF: N/A

COUNSEL: None

DUTY ASSIGNMENT ON 16 MARCH 1968: Unit personnel specialist, C/1/20.

1. BACKGROUND INFORMATION.

As the unit personnel specialist, the witness worked in the 11th Brigade basecamp at LZ Bronco (pg. 2). The first sergeant and he worked in the unit orderly room (pg. 2). Also present were unit supply personnel and the executive officer, Lieutenant STORMS (pg. 2). He stated that Sergeant HOBSCHEID had a PRC-25 in the headquarters on which he occasionally monitored the operations (pg. 17). Usually the communications chief in the company did the monitoring (pg. 17). Sergeant SAMMONS, the communications sergeant, worked in the supply room which was a separate building from the company administrative building (pg. 17).

2. KNOWLEDGE OF ACTIVITY ON 16 MARCH.

a. His personal contact with the area.

The witness did not have any knowledge of the operation in advance and did not get involved with resupply (pg. 2). He did not go into the objective area during the operation (pg. 2). He had never been in the Pinkville area and was not familiar with it (pg. 3). He did not know any of the tactical information about the operation, but merely heard talk from various individuals (pg. 3). He was not involved with sending the mail out to the unit (pg. 18).

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Although he frequently was around the helicopters which were going out to the unit, he did not recall seeing any photographer with a MACV patch on his jungle hat (pgs. 18, 19).

b. Information concerning personnel in the unit.

(1) GRZESIK.

The witness stated that three people from the unit, including GRZESIK, told him that a number of people had been murdered (pg. 3). He stated that the men were in hysterics when they told him (pg. 3). He thought that GRZESIK was in tears because of some reason in his background (pg. 3). They told him that a number of people were rounded up and put in a ditch (pgs. 3, 4). He felt that the number of 60 people was mentioned frequently and he stated that he was told the group was rounded up in 20 to 30 minutes and machinegunned to death (pg. 4). He stated that the people that were in hysterics were a minority and that most of the people relating the stories were gleeful about it (pg. 4).

(2) TORRES.

The witness stated that when TORRES left the country he had a gold necklace around his neck and when questioned about it he said it was "for killing dinks in Pinkville" (pg. 4). The witness stated that he had been told that TORRES had killed a large number of people with an M-60 (pg. 4).

(3) SIMONE.

The witness stated that SIMONE was representative in his mind of the majority of the people in the company who enjoyed what had happened (pg. 5). He stated that he had had the feeling that they thought "we just had a chance to kill a lot of dinks, so we killed them" (pg. 5).

(4) DURSI.

The witness described DURSI as a "dink-hater" (pg. 6). He classified DURSI with TORRES and SIMONE, because DURSI was friendly with SIMONE (pg. 6).

(5) MEADLO.

The witness stated that he heard that CALLEY was personally pushing MEADLO and specifically told him to shoot the group of people (pg. 6). He was told that MEADLO was crying while he was shooting the people (pg. 6). The next day when MEADLO was wounded he made the statement to CALLEY that "this is what God did to me for what you made me do", and "God is going to get you" (pg. 6). He felt that MEADLO did not want to do the shooting but did it because CALLEY made him (pg. 6).

(6) DOINES.

The witness described DOINES as a "dink-hater (pg. 7).

(7) TERRY.

The witness stated that he did not know TERRY well, but knew that he was a Mormon and "superficially, a religious person" (pg. 7).

(8) DOHERTY.

The witness recalled DOHERTY as a "stocky dude with a crewcut" but did not give any further description (pg. 7).

(9) CONTI.

The witness stated that CONTI had a reputation for cold bloodedness in the company (pg. 10). He stated that CONTI was the guy to watch when it came to "messing dinks up." He described CONTI as "the worst of the self-styled supermen" (pg. 10).

(10) LACROSS.

The witness described LACROSS as a good platoon leader and a "good ground pounder." He stated that he never heard anything but good words about him (pg. 8).

(11) MEDINA.

The witness stated that MEDINA was the best company commander that the company had while over there. He stated that MEDINA was liked by most of the dink-haters, but was disliked by a small group represented by GRZESIK (pg. 8). He described MEDINA as being ruthless and "cold lifer type" (pg. 8). He stated that MEDINA was called mad dog by most in admiration and said that in fact "this son of a bitch was a mad dog" (pg. 8).

(2) CALLEY.

The witness described CALLEY as a "punk". He said that he was an "apple polishing, ruthless-type guy" (pg. 8).

(13) BROOKS.

The witness stated that he heard nothing but praise for Lieutenant BROOKS who was loved by his men (pg.8). He stated that he was a good officer who could be admired right away (pg. 8).

(14) STORMS.

The witness stated that STORMS, the executive officer, was a "dummy" (pg. 11). He stated that he did not think STORMS knew what he was doing the entire time he was there. He did not think STORMS knew what was happening in My Lai and said that STORMS was rarely in the orderly room (pg. 11).

(15) PHU.

The witness stated that he spoke to PHU the day before he left and PHU told him that he began to cry when he saw the people murdered in the village (pg. 26). MEDINA grabbed him and said, "You VC, you VC, why you cry?" (pg.26).

(16) The attitude of the men in the company.

The witness stated that the predominant number of people in C Company did not regard the Vietnamese as people. They called them "dinks" and felt that they were not burning people's homes, they were burning "damn hovels" or hootches

where the dinks stayed (pg. 5). He described it as a racist attitude and said that My Lai stands as a manifestation of this attitude (pg. 6).

c. Nature of the operation.

The witness stated that he heard of many incidents of this type occurring and stated that they happened "every goddamn day in one form or another" (pg. 9). The My Lai operation left the figure of 250 dead people in his mind, but he could not recall where he had gotten this figure (pg.9). He stated that the operation was sanctioned by high ranking officials because it was a planned and approved operation (pg. 9).

d. Rapes.

The witness stated that rape was an everyday thing over there but he did not recall any specifics (pg. 10). He recalled that a man in B Company was court-martialed for rape and remembered a few lineups which occurred in Duc Pho in which Vietnamese women would try to identify the men (pg. 24).

e. Inquiries concerning the assault.

The witness stated that the operation was not investigated at the time. He did recall it being investigated before he left over a year later (pg. 10). He stated that a Life magazine correspondent spoke with him and another man, KINCH, before the episode was magnified (pg. 10). He did not hear of any prior investigations (pg.14). He stated that he had heard that MEDINA had told his people to keep the incident quiet (pg. 11). He stated that the first sergeant did not say anything like this to him and probably would not have done so (pg. 11). The witness stated that he did not discuss the incident with any officers, primarily because he heard this type of information everyday (pgs. 12, 13). He knew of no policy requiring him to report the matter through channels (pg. 14). Aside from an injunction issued by the commanding general of the Americal Division in November 1969 against the press speaking with him, the witness was never approached and told not to discuss the operation (pg. 21).

f. Other information.

(1) The witness did not come in contact with personnel from B/ 4/3 and heard nothing about any incident in which they may have been involved (pg. 19).

(2) The witness stated that he knew a lot of people smoked marijuana, but it was rare that an infantryman smoked it while in the field (pg. 19). He stated that this was "scorned" and if a "grunt" got stoned he would be given a "blanket party" (pg. 20). This was because the use of marijuana in the field would be "their death out there" (pg. 20). He stated that people in the rear area would get caught with large quantities of it (pg. 20). He did not think that people were habitual users, but were merely experimenting (pg. 20).

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(The hearing reconvened at 1745 hours, 29 January 1970.)

COL WILSON: The hearing will come to order. The following persons are present: COL WILSON and COL ARMSTRONG.

The hearing calls Mr. Joseph W. KONWINSKI.

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

Mr. KONWINSKI, were you given an information sheet (Exhibit M-57), to read?

A. Yes, sir, one page while I was in the other conference room.

Q. You recall that the information sheet said that General PEERS had been directed to investigate on two specific matters, previous inquiries and investigations and their reviews which may have taken place on this particular incident, and second any suppression of information that may have occurred?

A. Yes, sir.

Q. These are the primary things that General PEERS is interested in. Colonel ARMSTRONG and myself are members of General PEERS' board. We have his authority to ask you questions and we don't have any authority whatsoever to make findings and recommendations, this is strictly within his prerogative, and we sit here as his instruments.

Will you please state your full name, occupation and residence?

A. Joseph Wilber KONWINSKI, unemployed, 1608 Bradley Avenue, Rockville, Maryland.

Q. What was your assignment on 16 March 1968?

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A. I was the unit personnel specialist.

Q. For C/1/20?

A. Yes, sir.

Q. And where were you located?

A. At the 11th Brigade base camp, LZ Bronco, Duc Pho.

Q. Did you have any knowledge of this operation? That this operation was going to be conducted on the 16th of March?

A. No, sir. I did not.

Q. Did you ever get involved with resupply?

A. No, I didn't.

Q. Or equipment?

A. No, I didn't.

Q. Were your duties in a consolidated personnel center or did you sit with other members of C Company at Duc Pho?

A. No, I was in the unit orderly room. There was just myself and the first sergeant, and the unit supply personnel, but they were in the back.

Q. Was the executive officer there?

A. Yes, sir, he was.

Q. Lieutenant STORMS?

A. Yes, sir.

Q. Did you by any chance happen to go into the objective area during this operation?

A. Negative.

Q. I have your previous testimony and I have looked it over, and that which you state is hearsay. We would like to know hearsay information, it is important to us, so this is the reason we have called you in here. Now, were you familiar with this area of operations, the Pinkville area?

A. No, sir.

Q. Had you ever been into this area at all?

A. No, sir.

Q. Now let me describe to you, and the reason I do this is so that you won't have to repeat for us, things that we know. And we could be wrong and if so, you correct it. Let me describe to you what we know happened on 16 March. And this is primarily the actions of C/1/20, which we are interested in.

A. Very well, sir.

Q. Can you see this all right? I am utilizing the map, 1:25,000 (Exhibit MAP-4).

(Colonel WILSON oriented the witness on the operation as it was known up until that time.)

Explain to us what you heard about what happened in My Lai (4)?

A. Well, I didn't get any of the tactical niceties that you just gave me. I just got, you know, some little specifics about what individuals had done while out there, and what had taken place overall.

Q. Right.

A. When the infantrymen talked to me they didn't tell me, "Well we were on this or that we did that." They just told me that they had murdered a goddamn lot of people out there. They had a couple of guys, specifically GRZESIK comes to mind. Specialist GRZESIK and a couple of other guys with GRZESIK more or less with whom I'm familiar, these guys were in hysterics, especially GRZESIK was in hysterics. The three of them were relating to me. It wasn't any later than 36 hours after it happened. Some reason in his background, I don't know why, but GRZESIK and two others were in tears, relating to me what they had seen. They had seen a lot of people get murdered. You know, that a lot of people were

rounded up and put in a ditch springs to mind, this was the focal point of the conversation. A large number of people, the number varied from 60 to just a hell a lot of people, but 60 was mentioned frequently. A mass of Vietnamese people were grouped, which took 20 to 30 minutes to group these people by the ditch, and they were subsequently machinegunned to death with the M-60's.

I couldn't get a picture of what had taken place, I couldn't get a mental picture of where in a combat operation they would just round these people up. I just got the impression that a lot of people were rounded up soberly. I know that Charlie Company had a lot of trouble previously in there. They had run into a minefield and got a lot of guys fucked up, but I know this and these guys's stories that I got put in my mind that they had rounded these people up, women and children, a large number of them. This was GRZESIK and other people like GRZESIK. I don't know how to say it, they were my friends, GRZESIK and his type. The ones that were in hysterics were a minority, the ones that were affected adversely, that were crying and were upset about the VC. The majority of the guys that told me the story were pretty gleeful about it. They said, "Wow, you ought to have been there, I killed 20 or 30, man."

There was this one guy TORRES that left, as a matter of fact when he left the country he had a gold necklace around his neck, and I asked him, "What's the necklace for, man?" and he said, "Well it's for killing 'dinks' in Pinkville." I did hear, but I can't recall who said it, that TORRES had killed a large number of people that day with an M-60. So you see all I have is just hearsay.

Q. That's all right just go ahead, now. Now you've mentioned two people. You've mentioned GRZESIK and you say he was back at Duc Pho, is that when you saw him?

A. Yes.

Q. And this was shortly after the operation?

A. Yes, shortly afterwards. I'd say a day, but it was so long ago it might have been, I don't know for sure, it could have been longer.

Q. Yes, it has been 2 years. And you talked to GRZESIK back there within a short period after the operation, and he was emotionally upset?

A. Yes.

Q. Now who else did you talk to that was emotionally upset?

A. That I talked to that was emotionally upset?

Q. Right.

A. Sir, GRZESIK is the only one that has stuck in my mind all this time as representative of the standard reaction for what had taken place. And another man SIMONE is representative, in my mind, of the majority of the people in the company that were in My Lai on the day, that dug what had happened. They had just killed "dinks," you know, "We just had a chance to kill a lot of 'dinks,' so we killed them."

Q. In other words he was in the TORRES' category?

A. Yes, this is what I wanted to say.

Q. That was TORRES, SIMONE, now who else would you place in this particular category of the people, that you had talked to or heard about in this particular operation? Would you say this was predominant number of people in C Company?

A. This was a predominant number of people in the 1/20. This was the predominant number of people that I met in my 2 years in Vietnam. The people that were in My Lai weren't people; they weren't women and children; they weren't human children, women and men; they were "dinks." It wasn't homes they were burning; it was them damn hovels. They were hootches where the "dinks" stayed.

It just seemed to be the overriding attitude over there. I saw a racist attitude that these weren't people, and My Lai stands as a manifestation of this attitude. This is the way a large majority of the people I came into contact with in Vietnam feel toward the Vietnamese. They are "dinks," animals, worthy of nothing more than maybe a casual contempt and targets at times for such as this.

Q. What about DURSI?

A. DURSI? He was a friend. He was a "dink" hater, also a "dink" hater, but he was a friend. But he was in the TORRES, SIMONE category I think, because SIMONE and DURSI were buddies.

Q. What about MEADLO, what did you hear about MEADLO?

A. I heard an interesting story about MEADLO. I heard that MEADLO was hesitant. I think MEADLO realized what was going on and for some reason was hesitant about it. I got it from guys that moved on in front of him. But I can't remember who I got it from. I got it from guys that CALLEY was personally pushing MEADLO, specifically got down on MEADLO and said, "God damn it do it." He ordered him to shoot a group of people, I think it was. And MEADLO was crying and that seemed to bear out the story that they related to me, that MEADLO was in tears, and the next day when he got hit he told CALLEY that this is what God had done to him for what CALLEY made him do. Which leads me to believe that CALLEY did in fact say, "Here, shoot these people," and MEADLO was crying and did it anyway, because he was ordered to do so. But the next day he was hit. I think he lost his foot, and the story that came back was that when CALLEY reached him, MEADLO said--he had not gone into shock I guess--he was still in control and said, "This is what GOD did to me for what you made me do, and GOD is going to get you!" This is the way the story came back to me. The way it did, it sort of framed it in my mind that MEADLO didn't want to do it, but did it because CALLEY pushed him to do it.

Q. Was GRZESIK and MEADLO in the same squad?

A. I couldn't say, sir.

Q. Wasn't GRZESIK from Maine?

A. Yes, sir. He was from either Maine or Wisconsin one, a northwestern state--midwest state, Wisconsin or....

Q. I believe GRZESIK related the story about MEADLO being in almost a state of shock when he saw him. Now what did you hear about Lieutenant CALLEY, anything other than what you said? I believe you said that he told MEADLO to fire into this group?

A. Yeah.

Q. Was there anything else? Did he give any other orders like that that day, that you know of or heard of?

A. My recall is poor. No, it only came to bear in my mind because MEADLO on this day lost his foot. That's the only person I remember, was MEADLO, because the next day he was hit and then what he had said to CALLEY, and this being a dramatic moment, and getting back as this story.

Q. What about this boy TERRY, did you know TERRY?

A. Not really, only that he was a Mormon, and superficially a religious person.

Q. Yes. Did you talk to him at all?

A. I honestly can't recall, sir.

Q. How about DOHERTY, did you ever see DOHERTY?

A. DOHERTY?

Q. Do you remember him?

A. Yes, he was a stocky dude with a crew cut as I remember.

Q. You remember DOINES?

A. DOINES, yes, he was a "dink" hater, quote.

Q. Is that right?

A. Yes. When I say "dink" hater I hope you know what I'm talking about.

Q. Yes. What about Captain MEDINA?

A. Well, it can't be denied he was the best CO that Charlie Company ever had over there. There was no median with MEDINA. The majority of the company that I came in contact with, which was considerable, were "dink" haters. They liked MEDINA; he was great; he was tremendous. Then there was a small fractional body, represented at best by GRZESIK, that didn't like MEDINA. He was ruthless; didn't like his ways more or less; he was ruthless and just a cold lifer type.

Q. "Maddog," right?

A. Like the majority said, "Maddog" in admiration, but these guys said "Maddog", because in fact, this son of a bitch was a mad dog.

Q. What about the other officers in the company?

A. Let's see, LACROSS. I never heard anything but good words for LACROSS. He was a good platoon leader I guess, a good ground-pounder. CALLEY was a punk. That may be over-generalizing. He was an apple-polishing, ruthless type guy. And well, I can't even recall who the other one was.

Q. I believe BROOKS, was it BROOKS?

A. BROOKS was out there, yeah. He was a platoon leader. I'm not sure which one he was, but all I heard was praise for him. They loved him, Lieutenant BROOKS.

COL ARMSTRONG: Did they love him because he was a "Maddog", or because he was a good guy, a good officer?

A. He was just one of those good officers that you could admire straight away.

COL WILSON: What about operations before this one? Did you hear of anything occurring like this before this operation? Well, I'm not saying that it was of this magnitude but of this type of thing that occurred?

A. No. Every goddamn day in one form or another, it seems every day.

Q. I mean that emotionally upset guys like this, guys like GRZESIK?

A. No, not incidents such as this, which actually made men hysterical almost, not to this degree, no.

Q. How about after this operation, did you hear about anything this bad occurring in Task Force Barker, 1/20, or 11th Brigade?

A. Not on such a grand scale, no, not hundreds of people.

Q. And do you recall the number of bodies that were described as being involved in this?

A. About 250 is in my mind. I know it has to do with My Lai, it has to do with the body count, but it shouldn't even be on the transcript, because I can't recall where it came from. I know somebody, a radio, or something. I know I heard it, but I can't place it and it's probably worthless.

Q. Now this was sanctioned by high ranking officials, the Pinkville mission?

A. Well, yes.

Q. How do you know?

A. I say it was sanctioned by high ranking officials, because it was an operation. It was a recognized operation, it was a planned operation, it was an approved operation--

Q. (Interposing) There's no question about that.

A. It was a military operation.

Q. Well, it would have to have been. What about CONTI?

A. CONTI had quite a reputation around the company. I mean, for all the cold bloodness in the company, CONTI's name came to the surface more often than not. He was really the guy to watch when it came to messing "dinks" up, or quote, "fucking dinks." I heard stories about him, especially with girls. CONTI was supposed to be the worst of the self-styled supermen. I didn't even like being in the same room with him.

Q. Did you hear that during this time, was there ever anything said about a group of people in C Company that more or less practiced rape as a group? They went into these areas. CONTI would have been among these. They sort of worked together? I don't know whether they were all in the same unit or not. Did you ever hear about this?

A. No, sir. Honestly rape is such an everyday thing. It got to be such an everyday thing over there that, you know, I don't really recall any specifics.

Q. Did you ever hear of this operation being investigated while you were in Vietnam?

A. Of the operation being investigated while I was in Nam, yeah? It was being investigated while I was there, not shortly after but like a over a year later when I was getting ready to leave. This is when it just came to the forefront and made the headlines, and I knew it was being investigated while I was still in country. As a matter of fact a Life correspondent kind of snuck in and talked to me and KINCH, before it really blew up and got into the world's eye.

Q. You're talking about 1969, is that right?

A. Yes, sir, it was mid-November.

Q. Right. I mean, well I should conjecture your departure from Vietnam. Up until March of 1969, let's say about 26 March 1969, did you hear of any investigations prior to that time conducted in Vietnam?

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A. No, sir. And I stand shamed, because I could have probably have initiated one on my own, but I know of none.

Q. Well, there was.

A. Not that I knew of.

Q. That's what I'm trying to find out. There are certain things that happened and we never have--we have found a sort of a superficial investigation, but it was a question as to whether C Company was ever informed never to say anything about this operation by Captain MEDINA. Do you remember hearing anything about this?

A. Yes, again this is hearsay, I can't say for sure there was. There has been purported to have been a briefing after the operation wherein MEDINA instructed the people like, "Keep it cool; keep it quiet," what had taken place.

COL ARMSTRONG: Did your first sergeant ever tell you that he didn't want to hear another thing about this?

A. My first sergeant would not have done this. No, sir.

Q. He wouldn't have done that?

A. No, sir. He didn't.

Q. Did he know about this incident?

A. Probably in greater detail, because he was on the resupply and plus he might have had radio contact, I don't know.

Q. What about the executive officer, did he know about this?

A. The executive officer was a dummy. I don't think he really knew what he was doing his entire time over there. I don't think he really knew what was happening in My Lai. As a matter of fact he was rarely in the orderly room.

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Q. Were you the only confidant? Was this kept within C Company or did the other personnel sergeants of the other companies know about this too?

A. This stayed in C Company. I don't think it got out.

Q. You didn't discuss this with any other personnel that you knew, that you recall?

A. Yes, sir. I will have to say, yes, sir. I have discussed it, but it didn't come through.

Q. How about the personnel officer?

A. No, sir. I didn't discuss it with any officers.

Q. Wasn't there any officer in the unit that you could discuss things like this with?

A. The XO of the company?

Q. No, the personnel officer of the brigade, your personnel officer?

A. There was no such thing.

Q. Didn't you have an officer or warrant officer to see about your personnel activities back there?

A. No.

Q. Who was the adjutant of the brigade?

A. I don't know, sir.

Q. You don't know who the adjutant of the brigade was?

A. No.

Q. You didn't have an S1 in the brigade?

A. We had an S1 in the battalion.

Q. Was he the kind of a guy you could go to about things?

A. Yes, sir, Lieutenant LIPSEC I think it was.

Q. And you didn't talk with him about this?

A. No, you just hear this shit day after day, and it just doesn't make for good conversation. I just didn't discuss it with anyone.

Q. But you knew that this was wrong obviously, because of your reaction?

A. Yes, sir. That's why I stand shamed before anybody who cares to look.

Q. But you knew this was wrong and my point being, there wasn't some officer that you felt that you could turn to and say this is, was, wrong?

A. Hell, no, the Army did it. The Army did it. What are you going to do? This should be off the record, but what was there to do? The officers planned the damn thing. They carried it out.

Q. You mean all officers grouped together?

A. No, sir. I'm saying that officers planned it, and what do you do, turn to an officer and tell him what other officers did?

Q. Well, you didn't do anything about this?

A. No, sir.

Q. Did you hear anything about an official investigation of this?

A. No.

Q. That the colonel knew about it?

A. No, sir. Only just before I left country, and it made the headlines, did I find out that a perfunctory investigation was conducted shortly afterwards.

COL ARMSTRONG: I'd like to assure you that this was not the way the Army does these things.

A. That's hard to believe, sir. It's really tearing me up.

Q. I'm stating this in the face of what you have seen and what you have experienced, but I too have experience and combat experience in Vietnam, and I tell you this was unique.

A. This was what?

Q. This was unique.

A. God, I hope so.

Q. Maybe not in your brigade, but it was as far as other units are concerned.

A. Unique in volume?

Q. Unique in practice. It is not standard practice for riflemen to rape women over in Vietnam, in the boonies, in the hills, or any other place. There have been isolated instances of it. But when it comes to light the men are tried. Now it may have been in your unit--

A. (Interposing) That's why I say, it was all hearsay, sir, because you hear a lot of hearsay about a lot of rape.

Q. You get a lot of war stories?

A. Yeah, about a lot of things.

Q. Well, I want to reassure you that this is not accepted practice, this is not policy. And did you know of any policies that said you were supposed to report this thing, to any military person, not just officers?

A. No, sir.

Q. That any such action would be thoroughly investigated. This is in direct communication from commanders to subordinate commanders, to staff, to men. They have conducted classes on on this in which there was discussions of it. We have testimony to this effect. This was standard policy over there and we have document after document to substantiate this from MACV, USARV, division, right on down.

A. Well, I know, but the "grunt" in the field, the guy that's out there thinks that these are just "dinks."

Q. It may not get down to one company one time, but this was the policy. But there are always policy and directives.

A. Yes, sir, this is what you have to know--

Q. (Interposing) That this is not normally condoned.

A. I'm not really condemning the Army or anything, myself. It's the American attitude that has to do with all racism in America. We are over there fighting for them and we don't really think we are doing it for people. When we are out there in the field, or working with them on a local basis, and at USARV the policies are good, but down here at Duc Pho they were the dinks" and we were the Americans. "Man and I'm going to kick that son of a bitch in the ass to get him out of my way." That's true whether it's a "dink" girl or "dink," see what I'm driving at?

Q. I understand definitely what you're driving at.

A. I'm not a radical or anything.

Q. I've seen this advertised, I've seen this attitude on more than one occasion, but they have been isolated. Every-time I've seen them or heard about them they were squatted on and squelched, and somebody tried to take the trouble to explain to the soldier voicing such an attitude what the real mission was.

A. I never once--

Q. (Interposing) This has been my experience.

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A. In the 1/20 I never once heard the mission explained to anybody, never in my entire time over there.

Q. Well, I'm sorry.

A. I think maybe now in retrospect, looking back I think the 1/20 must have been a freak bad unit.

It must have been a bad unit, but never the less it was an American infantry battalion involved in the American mission in Vietnam.

Q. Well, we all must share the responsibility and pick up the chips for what it did. This is correct, but it doesn't mean that this was ever condoned by anyone. That's what I'm trying to convince you of now. You take that away with you.

COL WILSON: When you heard about this briefing that Captain MEDINA gave to the company, not to talk about this operation, do you recall who you heard it from?

A. No, sir.

Q. Do you recall what he said or supposedly said?

A. No, it was just a briefing.

Q. Did he say that there was any investigation going on?

A. I don't remember, sir.

Q. Did you hear of any officer coming into Task Force Barker and questioning people on this operation?

A. No, sir. I never heard anything like that.

Q. Now there were certain intelligence detachments down there in your area, the 31st MI Detachment?

A. Yeah, there was something like that.

Q. Did you ever hear of any of them going out and asking questions about this operation or what happened after the operation?

A. No investigation of any kind ever came to my observance until after it hit the headlines.

Q. Did you ever hear of a change in mission, or types of missions, or tactics after this operation? Search and destroy, search and clear, burning, destruction of foodstuffs? Had you heard or did you hear from any of the men in the company that there was a change in the procedures of Task Force Barker or of C Company?

A. No.

Q. Business as usual?

A. Yes, sir.

Q. Was there, or did Sergeant HOBSCHEID have a PRC-25 right there in his headquarters?

A. Yes, we did.

Q. Did he usually monitor the operations?

A. He monitored them on occasions, but I don't think it was standard procedure. We had a commo chief in the company, and I think he did most of the monitoring.

Q. And he was back there?

A. Yeah. Well, there were two separate structures, the orderly room, the administrative company building, and the supply room in the back, a separate building like.

Q. And there was a commo sergeant back there in the supply room?

A. Yes, sir, SAMMONS.

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Q. S-A-M-M-O-N-S?

A. Yes.

Q. Where is he, do you know?

A. Probably somewhere down in the deep south somewhere.

Q. That's where he was from?

A. Yes, sir.

Q. Aside from Mr. HAEBERLE there was supposedly another photographer that probably left from Duc Pho, that went to join B Company during this operation on 17 March. Do you know anything about helicopters leaving Duc Pho? Did you ever get involved in sending mail or anything like that out?

A. No, sir.

Q. To where you went down to the helicopters?

A. No, sir.

Q. You didn't have to handle the mail?

A. Occasionally I did, but I wouldn't have remembered it. I couldn't possibly have remembered.

Q. You remember 17 March as being a day maybe that you were around the helicopter pad or--

A. (Interposing) I wouldn't remember that, sir.

Q. Did you go around the helicopters very often?

A. Yes, quite often--

Q. (Interposing) When they were going out to your particular areas?

A. Yes, sir.

Q. Do you ever remember seeing a photographer with a MACV patch on his jungle hat?

A. I couldn't remember that, sir.

Q. He was The Stars and Stripes man. I don't know whether they wore any specific insignia or not?

A. No, I don't think I ever saw anything that delineated The Stars and Stripes or anything. There was regular type combat photographers and correspondent's insignia worn.

Q. Did they wear it on their right shoulder or left shoulder?

A. I can't recall.

Q. How about B Company, did you hear anything similar to this out of B/4/3 up there?

A. No, sir. They were on the other side of the mountains from where we were based, sir. I didn't come in contact with that many of the 4/3 personnel.

Q. Did anybody in C Company say anything about B Company's operation?

A. None that I recall, no, sir.

Q. Do you know if there was any marijuana problem up there at the fire bases?

A. I know a lot of guys that smoked marijuana, yes.

Q. Did you ever hear of marijuana being used on operations such as this?

A. No, as a matter of fact that's an encouraging factor. A lot of guys smoked marijuana in Vietnam, plenty of guys, but it's rare that you hear that an infantryman smoked marijuana in the field. It's just not done. It's scorned, as a matter of fact.

Q. Well this is primarily what we are trying to find out.

A. No, it's a scornful practice. As a matter of fact if you hear of a grunt that gets stoned, you will then say, "Let's get rid of him. Let's use a rod on him or give him a blanket affair," because if they don't, it's their death out there.

Q. Well, we don't know that there was any marijuana problem in C Company, but well, if there were, we were just trying to find out if it was used. That was my next question, was it used on operations?

A. Never, probably I'd say never, because the guys felt that strongly about it. In the rear area probably, but not in the field.

Q. Yes. Was there a problem in the rear areas?

A. There wasn't a problem as such, except the guys that would get caught with large quantities of it, but never really a problem that I saw.

COL ARMSTRONG: There was the habitual users and the ones that try it?

A. I never saw an habitual user.

Q. This is basically what we were wanting.

COL WILSON: Yes.

COL ARMSTRONG: A lot of it was experimentation, but not a lot of habitual users?

A. A lot of experimentation, sir, but habitual users in Vietnam, that's a fallacy I'd say.

Q. At least in this outfit?

A. Yes, sir.

Q. The reason being that if you are in the middle of nowhere and if you are all messed up, you can get in a bind, especially at night.

A. Yes, that's right.

COL WILSON: Did you hear from anybody in C Company, that during that day there was an order passed down to stop either firing, or to stop killing, or stop burning? Did anybody ever mention this?

A. No, the only order I ever heard of was to kill every damn thing, animals included.

Q. Were you ever told not to discuss the operation, did anybody ever tell you to keep quiet about it as an individual? I think we asked you about it before in regards to the first sergeant, but a--

A. (Interposing) No I was never.

Q. Nobody ever told you this?

A. No, I was never individually approached and told to shut up. No, I can't say that.

Q. Were you ever in a group when this was done?

A. The Americal general issued an injunction against the press, just speaking to me, before I left which left a sour taste in my mouth about the whole affair, because there were press agents there. They were talking to people who were not in Charlie Company at the time. I was the only man who was there and they were talking to men who had no idea what went on in the company, or anything, because the commanding general had issued an injunction against them speaking to me. I can't understand that.

Q. Well I can, and maybe I can explain it to you. He did not know what you knew. He knew that you were in the company and you may have been a material witness, which you obviously are not, because all this is hearsay. But he didn't know this and if you were a material witness and made your statements out in public to be repeated by newspapers, these sort of things can jeopardize any case that a court-martial may have.

A. That's enlightening. I had not known that.

Q. So this is the reason; to keep you quiet, no. So as not to jeopardize the validity of your evidence, if you had such evidence.

A. Right. This is something that's good to hear.

COL WILSON: That's really true and it goes a bit further than that. I've been on this case since last March when RIDENHOUR wrote his letter, and I investigated for 3 months and talked to RIDENHOUR about once a week trying to keep him from going to the press with it, not because we wanted to hide it, but because of exactly what happened when it hit the press. Any evidence that has been brought against the guilty in this case will probably never be effective, because of the way the press has handled it. That was the reason for trying to keep it quiet and RIDENHOUR followed through, but he was interested and I talked to him once or twice and my opinion of that man escalates more and more every time I hear of him.

He probably did his best, but the thing that we didn't want to happen happened. And it happened when the investigation became a criminal matter and there was a small release of that in a local paper, because a newsman from the Columbus Ledger came in and asked what are you doing with this officer in jail, and they said he's suspected of killing, unnecessarily, people in Vietnam. A little squib that went on I guess for about 15 days and then all of a sudden it broke and I don't know if they ever figured out how it broke or not, but once it did the evidence was gone.

A. According to that Life correspondent, it was that Toledo photographer that broke it all open with a photograph that he had.

Q. That's Mr. HAEBERLE, but this is one of the things that made it big. When it broke and hit the papers this is what made HAEBERLE's photographs so valuable, because the story was out by the time they contacted him. We had got the black and white photographs before that which he had left in Vietnam. But this just reinforces what he means, that this probably had nothing to do with you as an individual. Because you were part of that unit, and of course what you had to say could have been so critical if you had been there, that it could have been evidence and used in a court-martial.

A. I hope you understand that from where I stood it seemed suspicious as hell, sir.

COL ARMSTRONG: Sure, sure, but on the other hand the general couldn't come to you or send a representative to you, because you may be a material witness.

A. Right, I understand now. I'm glad that you enlightened me on it.

Q. You might have been the big one that could tie this all down, so no one officially could talk to you, you see?

A. Well knowing this makes me feel a lot better.

Q. They were trying to protect the Government and they were trying to protect the individual, this was what they were trying to do. But sometimes it is misinterpreted. You do the best you can with what you've got.

COL WILSON: You have identified the photographs and the people in them. I'm not going to pull those out again. Now I want to remind you once more of what General PEERS' responsibility is, we're not in the criminal end of it, a lot of our testimony is used as leads for the criminal investigators, but he is primarily charged by the Secretary of the Army to determine if there was an investigation in Vietnam of this, or an inquiry. If it was investigated, was it properly reviewed, and last did anybody attempt to suppress information.

A. Right.

Q. On the basis of those three primary objectives, he is going further than that, but with those three primary objectives of his mission can you think of anything that you could tell us that would throw light on those subjects?

A. No, sir. I'm sorry I just can not.

Q. There was a type of investigation made and it was typed up by somebody. I don't think we have located that typist. It could have been back in Duc Pho, and there was allegedly a second investigation which we can not find. This is the type of information that we are looking for at this stage?

A. No, sir, I stayed a company personnel specialist all the time I was in Vietnam, at Duc Pho, in the rear. My Lai happened and it was forgotten. And that was it. No investigation, nothing that I can recall through the company, never. It just happened and that was it.

Q. Do you have any further testimony, or any further statement you wish to make?

A. No, sir.

COL ARMSTRONG: Did you hear while you were over there assigned to the Americal Division of any courts-martial for rape?

A. I remember a guy in Bravo Company was court-martialed for rape and went to prison. He is in prison for it now; that's all I know of. I feel almost qualified to say one, but I observed a couple of lineups while I was at Duc Pho. There would be a company. One time it was Charlie; another time it was Delta Company. The guys would line up and there would be a woman out there, a Vietnamese woman, which I recall, because we didn't have that many women there, and the woman would be looking up and down the line. But, court-martials? The only court-martial that I remember, and this is all hearsay again, was a guy in Bravo Company. He was convicted of rape and is in Leavenworth now, for 2 years if I recall correctly.

Q. For your information, I know of two such trials where there were infantrymen tried and convicted for the type of rape that you've described as being an everyday occurrence. So I want you to know that this was going on in the Americal Division. There were responsible people who reacted to this, and it was not condoned by authorities or people who were responsible. Of this I wanted to assure you. There is one more point that you might be interested in. Assisting General PEERS is a eminent civilian lawyer that volunteered to assist the Secretary of the Army, I guess representing the American public in this investigation, who is privy to everything General PEERS knows and every discussion. So it is as wide as it can be.

A. That's good, sir. I'm understandably embittered against the military. I hope understandably, I'm not a radical or an activist, but that's it, I served my time. But I am embittered, but it did a lot of wrong stuff to me. I have a basic mistrust for military operations, because I know how many people they say were slaughtered there. This has really helped me, sir, now I know that something is being done.

Q. That's why I wanted to explain some things to you, because I do feel that your attitude is this way and I hope that to some degree we have explained that this is not too well founded. I know that certain things have happened to you but again they were unfortunate things which did occur.

A. This is true, yes.

Q. But wherever it can possibly be eliminated by responsible officers and NCO's, it is. I wanted to personally assure you of this.

A. I'm glad that you did.

COL WILSON: Do you have any further statement or testimony that might help General PEERS in this investigation, of the subjects that he is primarily interested in?

A. No, sir. Yeah, there is something important. I don't know about that, I might be the only one that had knowledge of this, but there were two Vietnamese present. Do you know about these?

Q. Yes, Sergeant PHU and MINH.

A. Right, Sergeant PHU.

Q. Sergeant PHU was Captain MEDINA's interpreter; he wasn't there. In fact he spent quite a bit of time with General PEERS when General PEERS went to Vietnam.

A. How long ago was this, just recently?

Q. General PEERS just got back last month.

A. He did, because I talked to PHU the day before I left and he told me that he had told nobody else. And I told him, well I will do what I can, but you'll have to write me so that I can have you point them out.

Q. Tell me what Sergeant PHU told you.

A. PHU told me about MEDINA. He said that he had come into the goddamn village after the people had been murdered, and he saw his people, his countrymen, lying all around, all fucked up in this place, and he started weeping, and MEDINA grabbed him and slapped him around and said, "You VC, you VC, why you cry?" He said, "Why you call me that, why you call me Viet Cong." And now I hear how he's got this F. Lee BAILEY, and he's telling how innocent he is and how he knew nothing about this, and there he is slapping a man who is crying about his own countrymen being slaughtered, and demanding to know whether he's a Communist or not.

Q. Sergeant PHU told you this?

A. Yes, sir, word of mouth, my last day in country.

Q. Did you know PHU pretty well?

A. Yeah, I liked him. He was one of my best friends over there. He was a fanatical soldier though.

Q. Did he try to get out of C Company? Did you hear of him trying to get a transfer or anything after this operation?

A. I think that is predominant with all interpreters, sir. Yeah, he wanted to get out of Charlie Company. He wanted to get the hell out of the field.

Q. Mr. KONWINSKI, let me request that you do not discuss your testimony in this investigation with others, including other witnesses for the investigation.

A. Very good, sir.

Q. You may be required at some future date to appear before a judicial or legislative body. If this is so, of course this is not valid. In the case of people who have evidence that we want to get, it is bound to be colored right now by the publicity that's gone out. But we are trying to restrain any discussions with people you might know who may appear before this board, and also with the press. This is the request that we make.

A. Very good, sir.

Q. In addition you are cautioned that if you are subject to any order issued by the military judge in the general court-martial case of the United States v. Calley your appearance here in no way changes the applicability of that order. I don't think you are. Have you received an injunction from--

A. Yes, I have.

Q. Have you?

A. Yes.

Q. From the military judge?

A. Yes.

Q. Well your appearance here has no applicability to that order, you haven't done anything that involves that particular instruction, we have already cleared that with him.

A. Yes, sir.

Q. I didn't know that you were on the list. I didn't take a look to see before you came up. When did you get your notice?

A. From Fort Benning, well it would have been more while I was still a serviceman, it had been rerouted through Alaska or somewhere and lost in the mail, so I didn't get it until after I had been discharged. It was a month late.

Q. It was a month old by the time you got it?

A. Yes, sir. It was a registered letter, but it was over a month late.

Q. And you live in Rockville now?

A. Yes, sir.

COL WILSON: The hearing will recess at this time.

(The hearing recessed at 1845 hours, 29 January 1970.)