

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

Volume II
TESTIMONY

BOOK 5

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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 5

**TREXLER
VAN ABLE
WHITE**

**WILSON, M.
YOUNG, G.
YOUNG, M.**

**BAKER
COLBURN**

14 MARCH 1970

SUMMARY OF TESTIMONY

WITNESS: TREXLER, Tommy P., COL

DATE OF TESTIMONY: 19 December 1969

PLACE OF TESTIMONY: Pentagon

WITNESS SUSPECTED OF: N/A

COUNSEL: None

DUTY ASSIGNMENT ON 16 MARCH 1968: G2, Americal Division.

1. PREOPERATIONAL PLANS AND BRIEFINGS.

Although he did not attend the briefings, Colonel TREXLER states that from neither the area along the coast nor other populated areas had he ever heard a report that all the people of a village would be gone to the market place at 0700 (pgs. 23, 24). He would expect some of the people to be there at any time unless they had been alerted to leave (pg. 24).

2. INQUIRIES CONCERNING THE ASSAULT.

a. Suspicious raised by the ratio of KIA to weapons captured.

The witness stayed abreast of all significant actions by use of the Americal Division log. He considered the large body count that was reported to be significant (pg. 4). He felt that item number 28 in the log, which indicated a body count of 69 at 0940 hours, was indicative of a good operation (pg. 5). The operational results were presented to the division staff at the evening briefing (pg. 5). He felt that the ratio of VC KIA's to individual weapons captured was abnormal but not extremely unusual because the enemy was often armed with only a hand grenade. There was always an imbalance in the ratio. For a body count of this size, a capture of 30 weapons would have been more normal (pg. 5). There was no KIA break down by company in the operational report given at the evening briefing (pg. 6).

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with translating documents that they received (pg. 28). He stated that he relied on brigade MI detachments to sift through information and report significant material.

d. In explaining Exhibit M-5, an SOP which stated, "Deny needed food stuffs to the enemy", the witness stated that this was interpreted as meaning to collect excessive amounts of rice which were beyond the needs of the people (pgs. 18, 19). This rice would be moved to Quang Ngai or An Dinh where it would be redistributed or held and issued to the people. The units were expected to leave sufficient food stuffs to sustain life (pg. 19). He also states that any substantial quantities of food could not be destroyed without division approval (pg. 19). Normally, G5 monitored this (pg. 20). If a large cache was uncovered it would be turned over to the GVN (pg.20).

e. The witness examined Exhibit D-1, MACV Directive 20-4 and applied phrases from it to the treatment of civilians by the National Police (pgs. 20, 21). He stated that he was familiar with Exhibit M-8, III MAF order 5820.1 because they operated under III MAF and made sure that they complied with the regulations (pg. 20).

f. The witness stated that he had read Exhibit M-9, Americal letter dated 24 March 1968. He thought that General KOSTER wrote the majority of it, getting his information from G2, G3 and the Provost Marshal (pg. 26). He did not recall any discussion concerning the document nor did he know what prompted it (pg. 26).

g. During February, they suspected an enemy build up in Quang Ngai (pg. 26). The 48th VC Battalion operated in that area. He recalled an instance of a MACV intelligence summary reporting that 122 rockets were being moved into the area and tied them in with the 48th which he considered a local operation without NVA (pg. 27).

h. He had weekly discussions with Colonel BLACKLEDGE regarding propaganda reports (pgs. 27, 28). The witness stated that he placed more significance on PW reports, captured documents, and other reports than he did on propaganda documents (pg. 28). He pointed out that the document could have been translated at brigade level or at division level because of the problem described in paragraph 4c, supra (pgs.28, 29).

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EXHIBITS

EXHIBIT NUMBER	DESCRIPTION	NOTES	PAGES
D-1	MACV Directive 20-4	Wit applied para 2 and 5a to actions of National Police.	20,21
D-5	Americal Reg 525-4	Wit stated that it was probably circulated prior to publication.	24
D-6	MACV Directive 525-3	Wit thinks he read it.	20
M-5	TAN's letter to KHIEN, 28 Mar (translated)	Wit had not seen.	18
M-6	Americal log	Wit was familiar with the large body count.	4,5
M-8	III MAF Order 5820.1	Wit was familiar with the order.	20
M-9	Americal letter, 24 Mar 68	Wit feels KOSTER wrote it, does not recall any discussion of it.	26
M-14	TF Barker log	Reference to civilian casualties.	7
P-14 thru P-17	Black and white photos	These were not seen but should have been given to him by PIO.	18
R-1	HENDERSON's report	Wit had not seen.	12
R-2	BARKER's report.	Wit had not seen.	10
MAP-4	Map 6739 II	Wit points out where a mis-treated PW was captured.	22

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SUMMARY OF TESTIMONY

WITNESS: TREXLER, Tommy P. COL

DATE OF TESTIMONY: 13 February 1970

PLACE OF TESTIMONY: Pentagon

WITNESS SUSPECTED OF: N/A

COUNSEL: None

DUTY ASSIGNMENT ON 16 MARCH 1968: G2, Americal Division.

1. BACKGROUND INFORMATION.

a. Explanation of the general staff.

The witness stated that the commanding general, along with the general staff, would receive the afternoon briefing in the command briefing room every evening (pg. 31). After that briefing the G2, G3, the division artillery officer, the assistant division commanders, and the chief of staff would proceed to General KOSTER's office for an intelligence briefing (pg. 31). At the conclusion of the intelligence briefing the aviation officer would come in and present the helicopter situation for the following day (pg. 32). The witness stated that he had full authority from General KOSTER to perform as he thought a G2 should function (pg. 32). He cited an example where he had an argument with General KOSTER, which disturbed Colonel PARSON to the point that PARSON went in and asked the general about it. The general told PARSON that if TREXLER "acted any other way he would not be wanted as the G2" (pg. 40). The witness did not think that the G3 had the same degree of latitude (pg. 40). He did say the G3 was doing his job in briefing the commanding general (pg. 33).

b. The chief of staff.

The witness felt that basically the chief of staff had the authority to do his job and coordinate the

staff (pg. 33). He felt that the most significant accomplishment of the chief of staff, which he had witnessed, was the revamping of the operations center (pg. 34). The chief of staff had a meeting with officers who were going in to see the general, before they went in, to determine what was going to be discussed (pg. 34). He had meetings once a week in which he gave guidance out to the entire staff (pg. 34). He did not feel that PARSON's relationship with the general was on the same level as that of Colonel MUSSER, the former chief of staff (pg. 41). He stated that he was not happy about the relationship between the general and the chief of staff (pg. 41). He felt that PARSON was lacking in combat perspective. He mentioned the chief of staff putting up white fences and planting grass, which both the witness and the G3 resisted (pg. 42). He stated that the remodeling of the TOC displayed a lack of combat perspective and that this caused friction among the staff. The witness did not feel that it had degraded or prevented him or his staff from doing their job to the best of their ability (pg.42).

c. Assistant division commanders.

The witness pointed out that one of the ADCs was primarily oriented toward combat operations while the other was pointed towards logistics and the administrative work (pg. 35). During the witness' tour General RYDER, General YOUNG, and General GALLOWAY were the ADCs (pg. 35). General KOSTER gave General YOUNG a free hand to operate but not to the same degree that KOSTER had given a free hand to RYDER (pg. 35). The witness stated that he would accompany YOUNG approximately once a week and YOUNG would pass on individual guidance to the brigade and battalion commanders (pg. 35). He was not sure of YOUNG's authority for approving battalion or brigade operations and felt that KOSTER had the final approval (pg. 35).

d. Battalion operations.

The witness discussed a hypothetical example in which General KOSTER approved, through brigade headquarters, a battalion operation. Intelligence from division level was passed to the brigade and from the brigade it would be passed back up to the division (pg. 36). Plans for operations were not in written form and would come either to the operations center, through channels or through a liaison officer (pg. 37). Most operations were fragmentary, with an

overlay of the concept of the operation. They were not formal written plans with intelligence annexed (pg. 37).

2. PLANNING OF THIS OPERATION.

The witness stated he did not see a plan for this operation and he felt that there was none and that it was the concept that was approved (pg. 38). In the intelligence for the operation he did not remember any mention of any specific size enemy force being in the area. He felt that normally the 48th Local Force Battalion operated in the general area south of the Batangan Peninsula. The witness stated that information on the location of the 48th Local Force Battalion would not be given to Task Force Barker from him as the G2 (pg. 38). In discussing the operation he remembered an extension of the AO being approved, but not on the basis of the presence of the 48th Battalion (pg. 39). There was nothing more than a suspicion that the 48th Local Force Battalion operated in that general area (pg. 39). Because the area was VC infested and had possible elements of the 48th Local Force Battalion, the witness stated he would have been convinced of the justification for an operation in the area (pg. 39). He did not know if this operation was specifically approved by the commanding general (pg. 39).

3. THE TRIP WITH GENERAL YOUNG ON THE HELICOPTER.

The witness recalled accompanying General YOUNG on a helicopter trip in which they switched their earphones to-private conversation (pg. 43). YOUNG discussed in general terms the unnecessary destruction on the operation. The witness could not say whether it was artillery fire, helicopters, or the ground forces that brought about the destruction (pg. 43). He did not recollect YOUNG saying anything specific about burning or animals, or the leveling of the area (pg. 43). He did not recollect YOUNG mentioning unnecessary burning and destruction in more than one village (pgs. 43, 44). The witness stated that his general impression was that the units involved were over-aggressive (pg. 56). He held that YOUNG was concerned that people had gone beyond what was considered proper conduct, but he did not recall any discussion of particular personalities (pg. 57). He did not remember YOUNG stating "some heads are going to roll," but YOUNG possibly did discuss the value of retaining Task Force Barker (pg. 57).

4. VC PROPAGANDA.

The witness was shown various propaganda exhibits (See Exhibit List, infra). He indicated that he had not seen or did not recall the exhibits (pgs. 44-48, 55). He stated that most of the propaganda information he received, he did not recall as being valid (pg. 44). The witness stated that if the propaganda had been given to a senior officer in the division it should have been passed on to him as G2 (pg. 45). He stated that he was surprised that Exhibit M-29, TAN's letter to KHIEU, had been given to a senior officer in the division and had not been passed along to the G2 (pg. 47). Discussing intelligence reports, the witness stated that he received reports from the PIC in Quang Ngai, but he did not say how frequently he received reports (pg. 49). They had a permanent liaison officer in the Quang Ngai area, as opposed to the 11th Brigade who would send a man to Quang Ngai occasionally, to pick up information (pg. 49). He did not recall the name of the LO in Quang Ngai. The witness stated he did not recall a report coming from Quang Ngai which indicated that the VC were distributing propaganda indicating four to five hundred civilians had been slaughtered (pg. 50). He stated it was possible that his military intelligence people could have turned the report over to the 11th Brigade for analysis (pg. 51). He did not know why this report which indicated propaganda concerning a division unit, was not brought to his attention (pgs. 50, 51). The witness stated that the liaison officer would report to him and brief him on the developments, but he had no knowledge of this specific incident (pg. 52). The liaison officers would report to Major DORF (pg. 53).

5. DISCUSSION WITH CHAPLAIN LEWIS.

The witness was told of Chaplain LEWIS' statement indicating that TREXLER had been present with BALMER when the chaplain complained to BALMER about the incident (pgs. 58, 59). The witness said he did not recall Chaplain LEWIS talking to BALMER (pg. 59), but having known that YOUNG was aware of the incident, he would not have paid the chaplain "a great deal of attention" feeling the problem was already in the command channels (pg. 60). He pointed out that very rarely was he in the G3 office (pg. 60). He stated the chaplain never came by to see him as the G2 (pg. 61).

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6. DISCUSSIONS WITH THE 2D ARVN DIVISION PERSONNEL.

The witness stated that in April he visited the advisory personnel of the 2d ARVN Division a few times. However, he did not recall mention being made of a report from the district chief to the province chief concerning My Lai (4) (pgs. 61, 62]. He said that he worked closely with the 2d ARVN Division, both through the liaison officer and personal contact (pg. 62]. At approximately this same time, in April, he was developing intelligence with the 2d ARVN Division to support plans for an opening of the area and roads to Tinh Phouc and Tra Bong (pgs. 62, 64). He stated that there was no new major intelligence collecting effort between the two of them and they used the intelligence they already had (pg. 64).

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SUMMARY OF RECALL TESTIMONY

WITNESS: TREXLER, Tommy P. COL

DATE OF TESTIMONY: 26 Februry 1970

PLACE OF TESTIMONY: Pentagon

WITNESS SUSPECTED OF: N/A

COUNSEL: None

DUTY ASSIGNMENT ON 16 MARCH 1968: G2, Americal Division.

1. HIS CONVERSATION WITH GENERAL YOUNG.

The witness indicated in his previous testimony that when he stated that "a little over aggressiveness on the part of the units involved, came to my attention a couple of days after the incident", he was referring to information that he received in his conversation with General YOUNG while they were flying in the helicopter (pg. 56). He did not remember any details but recalled only that they had switched to private conversation and had discussed the incident in general terms (pg. 57). He did not recall YOUNG being concerned with any particular individual nor did he remember YOUNG making a statement to the effect that "some heads are going to roll" (pg. 57). He stated that he knew YOUNG was talking about the My Lai (4) area because YOUNG was discussing the operation (pg. 58).

2. CONVERSATIONS WITH CHAPLAIN LEWIS.

The witness was read part of Chaplain LEWIS' testimony which indicated that LEWIS had reported the incident to BALMER in TREXLER's presence (pgs. 58, 59). The witness did not recall the Chaplain talking with Colonel BALMER about this matter (pg. 57). He stated that he did not think he would have paid much attention to the chaplain if the chaplain had reported such an incident, because he knew that

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General YOUNG was aware of it and would therefore feel it was in proper channels (pg. 60).

3. HIS RELATIONSHIP WITH THE 2D ARVN DIVISION ADVISORY GROUP.

The witness stated that he would see the advisors when he was in Quang Ngai City and when they came to division (pg. 61). He relied mainly on his liaison officer to bring him information from the advisor group (pg. 61). He stated that to his knowledge the advisors never mentioned anything relative to this incident. He stated that he visited them several times in April and that he dealt with Major EARLE frequently (pg. 62). During this period they were also developing intelligence to support the plan for the opening of the roads to Tinh Phouc (pg. 62).

4. HIS KNOWLEDGE OF GENERAL KOSTER'S DEALINGS WITH THE 2D ARVN DIVISION.

The witness stated that Colonel TOAN came to division several times and that KOSTER went down to the 2d ARVN Division to plan the Tinh Phouc operation. The witness was not privy to what KOSTER discussed nor did he remember KOSTER passing on any sufficient intelligence (pg. 64). He stated that the operation began in April and had started before General KOSTER went on R&R (pgs. 64, 65).

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(The hearing reconvened at 1828 hours, 19 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 MILLER, COL WILSON, MAJ ZYCHOWSKI, and MAJ LYNN.

The next witness is Colonel Tommy P. TREXLER.

(COL TREXLER was called as a witness, was sworn, and testified as follows:)

Colonel TREXLER, for the record please give your full name, grade, Social Security number, branch of service, organization, and station?

A. Tommy P. TREXLER, colonel, Social Security number Office of the Deputy Chief of Staff for Operations, DA, Chief, Far East Pacific Division, Operations Director.

RCDR: Thank you, sir.

IO: Colonel TREXLER, before we proceed with questioning, I will have Colonel MILLER from the Office of the Judge Advocate General inform you on certain matters.

COL MILLER: Colonel, 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 two major areas:

(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.

(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.

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The investigation is not being conducted to investigate all of the facts and circumstances of exactly what happened at My Lai. It is directed to those specific purposes which I have just outlined.

General PEERS and the rest of us have had made available to us and we have read many of the official statements made by witnesses in other official investigations into the My Lai incident.

Your testimony here today is to be under oath. A verbatim record will be taken and in addition to the reporter, we are also making a tape recording of the testimony.

The general classification of the report is confidential. However there is the possibility that the testimony, either all of it or parts of it, may become a matter of public knowledge at some later time.

Before we proceed, I also want you to know who these people are here and what their functions are. First, of course, to your immediate front is General PEERS who is the investigating officer and has the sole responsibility for weighing the evidence and making the findings and recommendations in this case. To assist him, on his immediate left is Mr. MACCRATE, a civilian lawyer made available by the Secretary of the Army as a consultant and advisor. Also, Mr. WALSH to your left, who is also a civilian lawyer. Mr. WEST, on General PEERS' immediate right is from the Office of General Counsel of the Army. Colonel WILSON and myself are here as assistants also. Any or all of us may ask you questions during the questioning.

I want to mention one thing with respect to your discussion outside of here and what goes on in this hearing. 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 duty or as you may be required to do before a competent administrative, legislative, or judicial body or forum.

In addition, if you are subject to or you should become subject to the order of the military judge in the general court-martial case of the United States v. Calley, your appearance here and your testimony here in no way affects the applicability of that order. Of course, it does not apply if you are not now subject to the order, but if you should receive or become subject to it you must comply with it.

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IO: Colonel TREXLER, what was your duty assignment on the 16th of March, 1968?

A. I was the G2 of the Americal Division.

Q. How long had you been in that capacity?

A. Since mid-January, sir.

Q. How long did you stay in that capacity?

A. I believe it was about the 5th of May of '68.

Q. Where were you assigned then?

A. To G2, USARV. I was initially the special projects officer, and then I was the chief of the Indoctrination System and Training Division for G2.

Q. Since the news of the My Lai incident broke into the news and into radio and television and so forth in September and October, have you had any conversations or discussions with individuals from the division concerning the My Lai incident or any of the investigative process?

A. Not with the investigative, no, sir. I have talked to some of the officers in the Americal that are here in the building.

Q. Can you recall who they are?

A. Well, there is a Major WATKE who is in the operations center and a Lieutenant Colonel BEERS. Now, General STILWELL got a group of the previous officers together in his office, so I assume that this is what you are talking about. Lieutenant Colonel FRANKLIN was there, Colonel Dean BALMER, and a Lieutenant Colonel GUINN. I believe that's all of us, sir.

Q. Did any of this discussion have to do with the investigation of the incident or the reporting of it or anything that could have influenced you or refreshed your own memory?

A. I don't think that it really had any impact on refreshing my memory. The main thing that General STILWELL was trying to do was sort of prepare himself to accompany the Secretary of the Army to go over to the Congress.

Q. Have you had any other conversation with other individuals?

A. Well, I met General KOSTER in the hall. I talked to him about 10 minutes, but we really did not discuss the thing. I did tell him that I had not appeared before the Peers Committee.

Q. When did the My Lai(4) situation first come to your attention when you were on the the staff of the Americal Division?

A. Well, the My Lai (4) situation as it is being described in the newspapers never did come to my attention. The fact that there was some, probably, going beyond what what was expected--in other words, a little overaggressiveness on the part of the units involved came to my attention a couple of days after the incident.

(The recorder hands the IO Exhibit M-6, the log of the Americal Division.)

Q. Colonel TREXLER, I show you here the log of the Americal Division. Were you normally familiar with this log as it was being maintained?

(Hands the log of the Americal Division, Exhibit M-6, to the witness.)

A. I did not--I used to check on it as the G2, but I did not study it in any detail. I stayed abreast of all the significant action that took place and, of course, this particular action, because of the large--for that particular day, the large body count that was reported was significant enough that I did--or was familiar with the information that was reported through official channels.

Q. I call your attention to the page you are presently looking at and item number 28 at 0940. Would this in itself have alerted somebody to some pretty heavy activity going on and an unusual situation?

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A. Yes. Yes, sir. This would have been--a body count of 69 would have been considered to be a good operation and a fairly large or significant operation.

Q. You'll notice that these 69 were killed as a result of artillery fire?

A. Yes, sir.

Q. The log goes on and the final report of the day is number 94 for the entire Americal Division.

A. Yes, sir.

Q. When would the operational results of the day's operation have been presented to the division and to the division staff?

A. As far as what you see right here, either that day or certainly the next morning, it would have been reported at the briefing, sir.

Q. Do you recall it as having been briefed? This information, all of it, although it is summarized at the end of the day, Colonel TREXLER, all of this information had been into the division by about 1700 hours?

A. I forget the exact time of the evening briefing, but I believe it was about 5:00 that it was held. But what information that is here certainly--it might not have these final figures, but it certainly would have been reported.

Q. Looking at this count of 128 VC KIA's and 3 individual weapons captured, would that be a normal ratio within the division or a totally abnormal ratio?

A. Well, it's a little bit abnormal, yet not so much that it would be extremely unusual because in the particular area that this operation was taking place, very frequently many of the enemy was just simply armed with a hand grenade. There was always a great imbalance between the number of weapons that were captured and the number of enemy that you might kill. This is a little bit unusual, and subject to question, because the weapons ratio should have been higher. But I would say, for example, that had it been 30 weapons, then that would be very normal.

Q. That would have been 1 out of 4, but this is about 1 out of 43.

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A. Yes, sir. That's unusual.

Q. Was it the custom of the division or the division staff to question things such as this and demand an explanation?

A. Yes, sir.

Q. Do you know whether this was done?

A. As I stated, I was made aware of this within a day or so, or maybe the very next day, which makes me quite positive that it was done.

Q. In the same sense I refer you to the next item which is two U.S. KIA as compared to the 128, and if they had presented a breakdown of the casualties by company, the enemy KIA in Charlie Company would have been somewhere in the vicinity of about 100. To the best we have been able to ascertain thus far they had one man wounded slightly.

A. Yes, sir. That's possibly correct. However, the report that I remember, and I distinctly remember 128 VC and 3 weapons, I believe that the two U.S. KIA were the ones that came in on the report. Now, where they came from, I don't know.

Q. Did they normally, in an operation such as this, brief by company?

A. For this operation they would have been briefed as the operation itself rather than by company.

Q. Can you think of any reason why, when this report was submitted, the civilian casualties were not reported at the same time?

A. No, sir. They certainly should have been.

Q. Do you have a requirement to submit a report on civilian casualties?

A. Yes, sir.

Q. Is that a part of your division's intelligence reporting SOP?

A. Yes, sir. In fact, it was a very strict policy. Any indiscriminate shooting or any civilian casualties or even animals killed were really considered a serious situation.

Q. I have here another log, Colonel TREXLER, which is the log of Task Force Barker for the 16th of March 1968. I refer this to you.

(Hands Exhibit M-14, log of Task Force Barker for the 16th of March 1968 to the witness.)

I specifically call your attention to page 4 and item 39 at 1555.

A. Yes, sir.

Q. You will notice that this report had been forwarded to the 11th Brigade and indicates that the 11th Brigade had been notified. Can you think of any reason why that item was not forwarded? I'm talking about that item (pointing).

A. Yes, sir. I see. If this was forwarded to them, I agree with you.

Q. There's your action right there on the bottom.

A. Yes, sir.

Q. Would this have been a reportable item?

A. Yes, sir.

Q. Could you offer any possible explanation why that should not have been forwarded to division?

A. No, sir.

Q. If this number had subsequently increased to 30 or 35, would this have increased the requirement to reporting it to division?

A. Yes, sir.

Q. Was it ever reported to you, during the course of the My Lai (4) operation and the operation of C/1/20 into the hamlet of My Lai (4), that it had been reported through MI channels and interrogation that there had been 35 to 40 VC in the village the previous night, but they had departed before the CA took place in the morning?

A. I would not--I do not remember. We had numerous

reports coming in. I read all of them. We had numerous agent reports which I placed very little weight on and the reliability I did not regard too highly. I would feel that there was sufficient intelligence that warranted the operation at least taking place. As far as this report that you are talking about, I cannot say that I remember it.

Q. This report, Colonel TREXLER, was supposed to have originated from an interrogation conducted on an old man by one of the 52d MI Detachment officers who was present on the scene. He, in turn, passed on the information to the company commander at that time. Later in the day the same individual reported back to his detachment in person at Duc Pho. Would you have expected that information then to have been set down on paper and relayed to you?

A. That information should have come into G2. Yes, sir. It should have. Any and all information on the enemy should have come into my office and most probably would have ended up in the division log, even.

Q. With your having noted the 128 to 3 and 2 and so forth, if this information had come in, it would probably have hit your curiosity, would it not?

A. Yes, sir.

Q. We have no indication that it was ever forwarded. At the moment I do not know that it ever went to division.

A. Yes, sir.

Q. You indicated a while ago that as the situation developed you had heard about something going on concerning this. Could you explain that please?

A. I used to make frequent trips of about once a week and this is really the way I go out to see the troops, by going with, principally, General YOUNG. I'm sure this was within a day or so after this happened. General YOUNG discussed this operation with me. I don't specifically remember just what he said, but he did talk to me for, I imagine, 5 to 10 minutes. I thought at least that they had gone to the extreme and, really, I thought that they had burned houses which they should not have done. Certainly, from what I remember that General YOUNG had told me, I did not get any indication that there was any really extensive killing

of civilians. However, it was enough that it disturbed him. That is why I realized that it was fully within the command channels. General YOUNG, I felt, was following up on it quite aggressively. That is really the total of my knowledge of the incident.

Q. Do you recall the date and the circumstances of this discussion with General YOUNG?

A. It was in the helicopter and shortly after we took off. He just told me that he wanted to discuss this operation. As to the specific date, I do not remember. I do firmly believe it was within 1 or 2 days after it happened.

Q. Where did you go?

A. We covered most of our fire bases and made a complete swing that took us all day, and I would think that it included the 11th Brigade. I don't know if we visited all of the battalion locations or not, but we hit most of the locations throughout the division.

Q. This discussion having focused on Task Force Barker, did you land at Barker that day?

A. I am not positive if we did or not, sir. We did land there on frequent occasions when I went with him, but as to whether he specifically landed there that day I don't know.

Q. What did General YOUNG specifically indicate to you? What's the impression that he conveyed to you?

A. The impression that I have and I do not, as I say, I do not remember, other than the fact that it made sufficient impact on me that I remember that much--the units had indiscriminately burned villages and burned hootches. I do not remember him specifically stating that any civilians were killed.

Q. Did he talk about any indiscriminate firing?

A. I would think that it must have included a little bit of indiscriminate firing along with burning the hootches because that would go hand-in-hand.

Q. But it was enough to indicate that he was quite concerned?

A. He was most concerned.

Q. Did he say what he was going to do about it or what he had done about it?

A. No, sir. He very clearly expressed to me his concern and I felt that he was--he certainly gave me the impression that he was following up on it. That is really all that I think that I can honestly say about the discussion.

Q. Do you recall whether he indicated whether such had already been reported to General KOSTER?

A. No, sir. I don't think he told me that General KOSTER was aware of it.

Q. I have here another report which is Exhibit R-2. This is a combat action report from Task Force Barker to the 11th Brigade, dated 28 March. I would ask if you had ever seen this combat action report?

(Hands Exhibit R-2, Combat Action Report, to the witness.)

A. No, sir, I have not seen it.

Q. What period did the combat action report normally cover, or the after action report?

A. If you are talking about the Americal it was a 3-month period of operational reports and lessons learned.

Q. That was for the division?

A. Yes, sir.

Q. How about down to brigade or down to task force level?

A. After a significant period or a 3-month period--in other words, if you were on a fairly significant operation at that time, then you would submit one at that time.

Q. For this operation here, Colonel TREXLER, the best we have been able to piece it together is that Charlie Company stayed in the field for 3 days and came back on the afternoon of the third day. B/4/3 stayed in at least 1 day and perhaps 2 days before it was sent back, so the operation was at least 3, 4, or 5 days in length. But if you will notice in paragraph 2 there, this particular report covered a very small portion of that period from, I believe, 0630 in the morning to 6 at night. Is that a normal situation?

A. Considering that they stayed on the operation for the number of days that you said, I would have thought that it would be more normal for them to submit it after or for that period of time. Now, the 11th Brigade may have had their own specific policies and this would be something where they made a combat after action report on a daily basis, and from division we wouldn't object to it. I don't know their policies, but from the time that I was in the 198th, I was in the 2/198 at a little lower level, and from what I remember, we wouldn't have had, I don't believe, a specific requirement for that short a period of time. It would have come in after the operation of 3 or 4 days or whatever it was.

Q. Did you ever hear the matter of what took place at My Lai (4) on 16 March 1968 was being inquired into or being investigated?

A. Did I ever hear of it after I left?

Q. No. While you were there?

A. None other than my discussion with General YOUNG.

Q. Did he indicate that the matter was being investigated?

A. He left me with the impression that he was certainly looking into it. As far as an investigation I did not have personal knowledge of it.

Q. Did you ever hear of an oral report of inquiry or a written report of any kind coming into division?

A. No, sir.

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A. No, sir.

Q. This information that we have contained in the VC propaganda, as well as the information that is contained in the statement that you read in Inclosure 1, were reported to have been sent to the Americal Division prior to the submission of this report, When this information was received, it prompted this report to be submitted.

A. If that's the case it would have probably come through the G2 section, but to the best of my memory I do not remember it, and no one in my G2 shop would have done anything without my knowledge.

Q. Certainly with the warning flag up as you evidently had because of your discussion with General YOUNG and your previous interest in it, this would have perhaps triggered something?

A. Yes, sir.

Q. And if that had been accompanied by this, it would have probably been both barrels?

A. Yes, sir.

Q. But, to your recollection, you received no information of this that came into the G2 of the Americal Division?

A. No, sir.

Q. Within your G2 shop, Colonel TREXLER, how did you function? Did you have your people focused on specific areas or did they more or less operate on general or functional areas?

A. I had an officer who was my air officer. I had a couple of officers who operated in the AOC, operations center, and I had an assistant. I had a couple of officers in the MI who specialized; one of them on order of battle and one of them on agent reports. I had my MI operation which specialized principally on PW's and also agent reports that were coming in. I would have daily, well not maybe daily, but meetings with the whole group. I talked to all of them daily and they funnelled everything into me that they felt was of significance. I pretty much made the complete analysis and they would weed out stuff that they

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Q. Where would you suggest that we might look for such a directive, a division directive?

A. It would probably be in the rules of engagement or possibly one of the cards that was issued to the various people. Specifically to place the directive, I cannot state. A lot of things were going on.

Q. What I am talking about is the reporting requirement of the brigade to division?

A. It should be in the SOP. It should have come in with their situation report.

IO: I think that is the logical place to have it, in the SOP where it gives the reporting requirements.

A. Yes, sir.

MR MACCRATE: Nothing further.

IO: Mr. WALSH?

MR WALSH: Colonel TREXLER, you mentioned that General YOUNG was very concerned and interested in following through aggressively on the problem that he described to you of unnecessary burning of hootches and the possible indiscriminate shooting. I wonder if you could expand a little more on what your impression was of what his concern was? Was it a question of proper discipline of the troops or was it a question of a particular commander? Do you recall anything more about what was the nature of the concern?

A. Principally, his concern was that the unit involved or all the units involved went beyond what they were authorized to do. There were other occasions where one or two hootches were burned where there was clear justification for it, yet there was concern. He certainly implied to me that this was more serious than that. No specific individual--principally, from what I can remember, that they had certainly been more destructive than the situation called for.

Q. Do you remember him saying anything about there not being any hostile fire received when this was going on?

A. No, sir.

IO: In this same discussion, Colonel TREXLER, did he mention that there might have been some animals killed?

A. I don't specifically remember. If there had been a few animals killed, well, that was clearly a violation of division policy. There certainly was not supposed to be indiscriminate killing of civilians' animals. I don't remember.

Q. For one reason or another, through a portion of an operation, let's say, there is a hamlet, an uninhabited hamlet. If hootches in the hamlet were burned or razed, would you expect them to be reported?

A. Yes, sir. In fact, I distinctly remember one occasion when calls would come in, urgent calls saying they were receiving fire from a hamlet or a certain hootch within a hamlet, and where they requested clearance to take appropriate action and return the fire and destroy the hootch where the fire was coming from. That was the normal procedure. Unless it was terribly bad it was pretty much considered that they should come in and ask for that.

Q. Was this a policy established by General KOSTER?

A. Yes, sir. He was quite firm on it.

Q. If such living quarters were burned, it would have been in clear violation of the division policy?

A. That's correct, sir. I remember one occasion when I was in the 198th and one of our units--and the 198th also operated in a portion of this Muscatine area, and--I think it was the choppers, where quite a bit of fire had been coming out of this hamlet and they did destroy two or three hootches and killed a couple of cows. It was so serious that within a very short period of time I was down there in that hamlet on the ground with the company commander. The brigade commander was down there very shortly.

Q. A hypothetical question. Would you expect the information sections, the PIO sections throughout the division, if they had evidence of violations of division policy, that they would make such evidence known to the proper authority?

A. Yes, sir.

IO: I show you here, Colonel TREXLER, what have

been entered into the record as Exhibits P-14, P-15, P-16, and P-17.

(IO hands Exhibits P-14, P-15, P-16, and P-17 to the witness.)

Would you have expected that the PIO section, which had such photos, would have made this information known to their immediate commanding officer?

A. (Examining Exhibit P-17) Yes, sir, I certainly would have. On this particular one here, it looks like maybe the troops right there might be sort of taking cover, so I don't know if that one would be that serious.

(Examining Exhibit P-16) This one where the village is burning and there is a hootch there and a body. There is another one over there.

Q. Upon close observation you will notice that there are three of them there.

A. That one definitely, sir. (Examining Exhibit P-16) That should have been shown and brought to the attention of my people.

(Examining Exhibit P-15) That one should have been brought to the attention of my people, (examining Exhibit P-14) as well as this one.

Q. I have here another document, Colonel TREXLER. This has been entered into the record as Exhibit M-5. The front page contains the English translation of the original Vietnamese version which is attached to it. I would ask you to look at that and tell me if you have ever seen it or anything related to it?

(Hands Exhibit M-5 to the witness.)

A. No. I do not remember seeing this.

Q. Colonel TREXLER, in the SOP order that established Task Force Barker and actually covers the task force organization and so forth up to brigade, in assigning missions and tasks to the units, and this is repeated for all units, it says: "Deny needed foodstuffs to the enemy." What is your concept of what that means?

A. Well, we conduct operations, particularly to the

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west. Most of the enemy came in from the west. We would set up barriers. Of course, that was a very rich rice area generally along the coast, so we would set up frequent ambushes and so forth trying to catch the VC and NVA that was coming in and picking up the rice from the villagers. It could also include, when they searched the villages in conjunction with the Vietnamese--if there was an excessive amount of rice there beyond the needs of the people, it meant taking it up and moving it to Quang Ngai or An Dinh where it would be redistributed or held and issued to people.

Q. But basically, as far as the people were concerned, there would still be sufficient foodstuff there to sustain life?

A. Yes, sir.

Q. Could this be interpreted to mean the destruction of crops such as cutting down corn and trees and things of this category? Could it mean the slaughter of livestock?

A. No, sir.

Q. To completely deprive the population of any foodstuffs?

A. No, sir. It could not mean that. This point was clearly made.

Q. Colonel TREXLER, I have here another exhibit, D-6, which is a MACV Directive 525-3 entitled, "Combat Operations, Minimizing Noncombatant Battle Casualties."

A. Sir, one point that I would like to mention back on that food. As I remember, before any substantial quantities of food could be destroyed the units had to get division approval. In other words, if they picked up a large amount of rice, they could not destroy it without permission. It would have to be evacuated. To get back to what you said, if there were people in the area and the food was picked up, there was still adequate food left for the people.

Q. Right. If they had thousands of tons of rice it would be taken?

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Q. I would also ask you to address your attention to paragraph 5 (a) on the following page, particularly the first two sentences.

A. Yes, sir. I would say that this was clearly expected.

Q. Would you have any specialized intelligence training for your intelligence personnel throughout the division?

A. Now, this was part of their training, but when you say, did I? This was a point that I particularly discussed with our MI officers and on any instance that was ever reported to me I would tell him to go out and reinstruct all of his people, if you want to call that training. But as far as a formal training program, I don't remember having one because I felt I was certainly carrying out my duties by directing--

Q. (Interposing) I am reading here where it says that everybody is responsible, and it more or less highlights investigative, intelligence, police, photographic, and that kind of individual that should be particularly on the alert for that kind of activity. It's a matter of emphasis that you and your intelligence personnel and detachment commanders might have placed on this.

A. For example, the one instance that sticks in my mind, and I believe that it occurred maybe down in the 11th area or somewhere there, that really upset me very much. A prisoner, who as I remember was a high-ranking VC individual, so high that he was about the number two man in the Quang Ngai Province, and a report reached me that he had been beaten on the head. I remember raising hell about that.

Q. Beaten on the head by whom?

A. By the capturing unit. He said that the U.S. had done it.

Q. As part of this report was there any report of him being lined up against a tree and shots strategically placed over his head and successively lowered?

A. No, sir. This was after he had been brought back and turned over, as I remember, to the battalion.

Q. Do you recall what unit that was and the time period?

A. I believe it was around April, sometime in April.

Q. Do you remember the area that the man was captured in?

A. I think it was to the west of Duc Pho.

Q. Could it have been on the northern--back of the Song Tra Khuc River?

(The IO hands the witness MAP-4.)

Here's a map of the My Lai (4) area. Here's the village and this is down in the My Khe (2) area (pointing).

A. From what I remember, it was to the west of Duc Pho and to the south on your map there. I don't remember any incident of that type up in this western area, sir.

Q. Do you recall an individual being captured during the course of this operation of Task Force Barker into the Son Tinh area? Capturing what was reported to be the Quang Ngai VC province chief?

A. This might be the same individual. To the best of my knowledge only one was captured and he was very high ranking. He was the Quang Ngai, either number one or number two individual, and as I remember, he was beaten on the head. I remember raising hell about that.

Q. Was there any report in the log or anything filed on that?

A. My MI officer is the one that--as I remember it came to my attention after he was brought back to the PW compound. Now, as to whether the division MP's in the compound made a report in their log, I don't know.

Q. In accordance with the rules as I would understand them here, the mistreatment of a prisoner to this degree could well have triggered a formal investigation?

A. That's correct. I did not make what would be

called a formal investigation, but I did, as I remember, talk to everyone concerned.

IO: Mr. MACCRATE?

MR MACCRATE: Colonel TREXLER, you referred to General YOUNG's concern in the overaggressiveness in this operation. Did he talk about why this might have occurred? Did he indicate any interest in what might have been behind it?

A. I do not remember. It's been quite a long time ago. I don't think I remember him discussing anything behind it.

Q. Did he indicate anything as to how this had come to his attention or how he had gotten this information?

A. No, sir, he did not. To my knowledge he did not tell me who had reported this to him. I assume, the way he travelled, he, along with General KOSTER and all of our assistant division commanders--most of them would leave the first thing in the morning and return that night. There would be no reason for me to ask him. In fact, as I remember, I didn't question him one bit.

Q. Did he question you? Did he inquire whether you had any information?

A. No, sir. He was simply informing me.

Q. But, weren't you the source of information in many respects? Wouldn't you be a natural one to turn to if he wanted information of that kind?

A. Not to make an investigation.

Q. But, information might have come into your hands through the MI?

A. Yes, sir. In which case I would have informed him and he knew that.

Q. But he, so far as you can recall, wasn't seeking information from you?

A. No, sir.

IO: Colonel TREXLER, along the coastline and in the populated areas and so on, had you ever heard anything to

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the effect that people will have all gone to market by 7 o'clock in the morning?

A. No, sir.

Q. So that you might expect the village to be-- the implication would be that there wouldn't be any people in the village?

A. An occupied village with any reasonable number of people, I would expect some of them to be there at any time of the day or night unless there was some other reason that they had been alerted to get out.

Q. In other words, they didn't habitually each day or each weekday or something of this nature on a special day--would the whole village just pack up and go to market?

A. No, sir.

Q. There would always be left behind children, toddlers, old women, old men, pregnant women, and persons in these categories under any circumstances?

A. Yes, sir.

Q. I have here two additional documents that I would like to call to your attention, Colonel TREXLER. The first one is Exhibit D-5, which is an Americal Division Publication, 525-4, subject, "Combat Operation, Rules of Engagement." I would ask if you have ever seen this document?

A. Yes, sir. I would say that my office had, probably, quite a bit to do with preparing it.

Q. Do you recall whether or not this document had been prepared or put out for informational purposes prior to its publication on this date?

A. I would think that the contents were certainly out in one form or another.

Q. Prior to the publication of this directive and regulation and development of the Americal SOP, what operation procedures did you operate under?

A. Of course the brigades, in the case of the 198th where I started out at Fort Hood with them, before we even departed from Fort Hood we sent liaison personnel over. One of the biggest crashes we had going at Fort Hood was the development of an SOP which incorporated everything that was pertinent in Vietnam that we should know in carrying out our operations.

Q. At that particular time, what was the base document, you might say, for the development of your own SOP?

A. The documents that we used?

Q. Yes?

A. As I remember, a couple of SOP's from other units that were here in Vietnam at the time.

Q. Yes, but when you were going over, what was going to be your parent unit?

A. The Americal.

Q. This was when?

A. We were going to join Task Force Oregon.

Q. Did they have an SOP?

A. We got everything that they had. Specifically whether they had an SOP at that time, I don't really remember.

Q. Until such time as the Americal Division published its SOP, would the SOP and the directives and so forth of Task Force Oregon have been applicable?

A. Yes, sir.

Q. You are familiar with this document then?

A. Yes, sir.

Q. I have another document dated 24 March, subject "The Safeguarding of Noncombatants," addressed to all commanders--Headquarters, Americal Division, signed by S.W. KOSTER, Commanding General, Americal Division. Are you familiar with this document?

(Hands Exhibit M-9 to the witness.)

A. Yes, sir. I think I remember reading this.

Q. Do you know what section this was prepared in if it were in fact prepared by a section?

A. I can't specifically say. I would think that General KOSTER wrote a great deal of it. He might have gotten some of his information from the G2 and the G3 that went in here, and some of it from the provost marshal.

Q. Do you remember any discussion at this particular time concerning this document or what prompted it or anything special put out by the commanding general or the chief of staff at the time?

A. No, sir. I can't really say that I do.

Q. At this time, this would not have raised any particular suspicion or anything else in your mind?

A. On 24 March it could have been possibly as a direct result of that incident.

Q. But, you didn't know the incident?

A. I didn't know of the incident to the extent that it has been publicized, sir. I would expect this. This is not the first time that I saw something similar to this. In the 198th we frequently put out something like this and emphasized this proper conduct on the battlefield.

IO: Do you have any questions, Colonel MILLER?

COL MILLER: Colonel TREXLER, did you have any impression of an enemy buildup during February in Quang Ngai?

A. I've watched the--yes. I think that we did suspect some buildup and particularly to the west of Quang Ngai. Over in this particular area that you are talking about, there was one particular unit that stayed there, the 48th Battalion. However, they did not always stay there. They moved around quite a bit.

Q. Where were they carried during this period? Were they carried east or west of Highway 1?

A. I would say that 75 percent of the time they were carried to the east and specifically at the time of this operation I think they were carried to the east.

Q. Did you receive a copy of the MACV daily intelligence summary?

A. Yes, sir.

Q. Was there any indication of movement of rockets into the province about that time or do you recall?

A. I've read that in the newspaper and I remember one occasion, I'm not going to say just when it was, but I do remember one occasion when there was a report that some 122 rockets were being moved over into that area. Of course, we were pretty gun-shy of 122's at that time because we had been hit with them several times.

Q. Do you recall whether a NVA packet had ever been dispatched or received by the 48th Local Force Battalion?

A. That ties in with that packet, but I never considered that the 48th had any NVA in them. I always considered the 48th as being a strictly pretty good local force battalion, guerrilla-type operation.

Q. Did you discuss propaganda reports with Colonel BLACKLEDGE in February or March?

A. I might have because every time I would visit Duc Pho or he would visit me, we would discuss everything that we were aware of. I certainly tried to get him to discuss everything that he was aware of and I tried to keep him informed. I felt that it worked both ways.

Q. How frequent was this contact? How frequent was this eyeball contact?

A. At least weekly. It would have been more often, but really our choppers were not the best and I was either bumming a ride or occasionally there was one chopper that was available to the chief of staff and the G2 and the G3. So I tried to get to all of our brigade locations at least weekly.

Q. Do you recall if you or Colonel BLACKLEDGE assigned any credibility at all to any propaganda documents?

A. He might have assigned more than I would. Propaganda documents by the enemy I would look at, maybe, but there were just too many other sources of information that I placed more significance on, PW reports, captured documents, and Chieu Hoi Reports. I placed a great deal more weight on these.

Q. Did you ever assign any priority to the translation of these documents, or were they just normally laying around?

A. That was a problem. You always had a great deal more than you could handle. If something came in that looked significant, I wouldn't hesitate to get it down to Saigon to get it translated. I used to push my MI people to go through this stuff and try to get the important stuff translated as soon as possible.

Q. In the translation of a document such as this, would each document be analyzed for its value and each document translated or would there be a priority? Would any documents go by without being translated?

A. Some documents could, yes. If a couple of words in it were translated, and it didn't appear to be anything of any significance, there was just too much of it.

Q. What I am trying to find out, the document that you were shown earlier where we have a NVA propaganda leaflet that was translated, somewhere along the line, somebody had to decide to translate this. I was trying to understand the procedure in receiving these things and in going about translating them and what sort of priority they would receive?

A. We would try to sift out everything that we could handle, and as I remember the remainder of it we would ship to Saigon to this center. It was physically impossible. We were under-strength at the time. In fact the Americans, starting out the way they were with separate brigades, each of them had their own MI and this was true during the entire time I was there. That had many advantages as well as many disadvantages, but at division level where I had my MI detachment, I certainly did not have the resources of a normal division that had one MI detachment. I gave the brigades what I felt they needed. I had to rely on the brigades to sift through a lot of this because

they had some pretty good MI detachments. I inspected the stuff that appeared to be real significant to them, for them to follow through on it right away. The stuff that they couldn't handle and didn't appear quite so significant when it hit the division--I expected my people to get out of there anything that might be of some value to us, and if it looked like some long-range stuff I turned it over to someone else.

COL MILLER: That's all I have.

IO: I think it might be fair to state in looking at VC propaganda documents, Colonel TREXLER, that it might not be necessary in all cases to translate?

A. Yes, sir.

Q. The point being that a good Vietnamese skilled in that could scan that and he would, if he sees something important, then translate it. It was also true that a lot of this material came to you through Vietnamese sources: districts, provinces, and various other sources connected with the ARVN or the GVN?

A. Yes, sir.

Q. I have one other question and that is whether you ever heard of an investigation of the My Lai incident being conducted by the ARVN or by the GVN while you were there with the division?

A. No, sir.

Q. You were not acquainted with the fact that General LAM and Colonel TOAN were interested in it and Colonel KHIEN of Quang Ngai province, and Lieutenant TAN of Son Tinh district?

A. No, sir.

IO: Have you anything further?

MR MACCRATE: No.

IO: Colonel TREXLER, before we terminate this hearing I'd like to give you the opportunity to make any statement which you'd like to, which in your judgment would assist us in this area.

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A. No. Other than I think that our policies were quite clear concerning conduct on the battlefield and the involvement with the civilians. For example, in the same area I distinctly remember we were most concerned about relocating, and not in the same areas in the north, but in the Muscatine area. In my discussions with the battalion commanders before I became a G2, there were several old women and men in this village, and we knew very clearly that they were VC sympathizers. Yet we took care when we used to search through the villages and so forth, and we did not bother the civilians. We were constantly negotiating with the ARVN's and the province chiefs and the district chiefs to relocate them and to get them out of the area because it was definitely a VC area. Certainly, no effort was made, nor was it tolerated, to forcibly remove them. It was our goal in this whole area to relocate and establish some resemblance of control in refugee camps and refugee camps were set up for this purpose. This was considered one of the worst areas for mines and booby traps that we had. We had many ROK Marines that went through this area and left many mines behind that the enemy had used. There were minefields that the ROK's just left and our troops frequently got caught in them. We had several real bad incidents where a couple of people got caught in a minefield and others went after them and you would end up having six or eight people getting killed and a dozen wounded. As far as this particular incident that you are talking about, I certainly never had any knowledge that there was such a large number of civilians indiscriminately killed. That's all I have, sir.

IO: This hearing will recess until 0830 tomorrow morning.

(The hearing recessed at 2010 hours, 19 December 1969.)

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(The hearing reconvened at 1140 hours, 13 February 1970.)

IO: The hearing will come to order.

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

Sir, the hearing recalls Colonel Tommy P. TREXLER.

(COL TREXLER was recalled as a witness, was reminded that he was still under oath, and testified as follows:)

IO: I don't want to go into too much detail on this Colonel TREXLER, but since you have last been here, we have learned much more about this situation than we knew before. We have talked to about 350 people. We've gathered a large number of documents, and we've also made a trip to South Vietnam, visiting the headquarters, U.S. and Vietnamese, in the related chains of command. So we are in a reasonably good position as far as the investigation is concerned. But we still have some gaps.

A. Yes, sir.

Q. And that's the reason we're calling you back in this morning to talk to you. The thing we want to talk about has to do with the functioning of the division headquarters and the interrelationship that existed within the command element and the general and his special staff. I think that's enough of an introduction. If you can tell me, what was your appreciation of how this division headquarters functioned with respect to, let's say, the general staff about the time of March 1968?

A. Well, maybe I don't get the point, but I'll explain how we operated and then you can ask me other specific questions. With the general staff the commanding general, of course, would receive his afternoon briefing which was presented over in the command briefing room. Then from there the G2, G3, artillery officer, assistant division commanders, and the chief of staff would immediately proceed to General KOSTER's office at which point of time the first order of business would be the intelligence briefing bringing General KOSTER up to date. Immediately following that the aviation officer would come in and present the helicopter situation for the next day in conjunction with

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the G3. Then General KOSTER would give specific guidance, listen to the comments of those present, and issue specific guidance, to the general staff or to his assistant division commander. Of course now the following morning there was a briefing.

Q. I understand all of that. I think we got that down pretty well, Colonel TREXLER, about the evening staff briefings, the morning briefings, the update to what happened the previous night, and any new hot items of intelligence that you may have had. I think I understand that part all right, but let's come down to the real responsibility and the delegation of authority and this. Did you function as a G2 should function?

A. Yes, sir. I feel that General KOSTER gave me the full authority to perform as I thought a G2 should function.

Q. Yes?

A. And to accomplish everything that the G2 was responsible for, and I had a fairly free rein to do so.

Q. Yes, now what about the operational side, the G3 side?

A. Yes, sir. Of course your assistant division commanders and the CG are your best "3's"; however, I think the G3, generally speaking, functioned as he should.

Q. To what other division headquarters have you been assigned?

A. What division headquarters?

Q. Yes.

A. The 2d Division and the Americal Division. I was the G1 of the 2d Division at Fort Benning.

Q. Fort Benning?

A. Yes, sir.

Q. How many years before that?

A. Before I went--that was in 1965.

Q. Yes. Did you feel that the G3 was doing his job as spelled out in FM 101-5, for preparing the plans, providing the operational back up for the commanding general, and coordinating operations?

A. Yes, sir. He had several officers working for him at G3 preparing plans and the "3" briefed the CG on his concept of how he felt the plans should be executed.

Q. What was the general atmosphere? Was it a happy headquarters? What about it? I'm bringing you down here asking you matters of opinion. I don't want hedging. I want you to give me honest opinions. That's why I've got you here.

A. Yes, sir. Well, there was a normal amount of griping I imagine. I don't think it was excessive. As the G2, I felt that I was properly treated and respected. Based on a visit up to the Americal later where we had another division commander, I know it was an altogether different atmosphere.

Q. What do you mean by that?

A. Well, General GETTYS, for example, had a different personality from General KOSTER. He was a more jolly type. General KOSTER, if you want my opinion, adopted a more professional attitude. He wasn't as prone to carry on a more friendly atmosphere as another commander. But that's just strictly personality. Personally, I had all the respect in the world for General KOSTER. I thought he was an extremely capable division commander.

Q. How about the chief of staff? Did he have authority to do his job as a chief of staff and really coordinate the staff and make sure that the staff was doing the things they should be doing?

A. Basically, I think so.

Q. Basically?

A. Yes, sir.

Q. Is this true for Colonel PARSON?

A. Yes, sir.

Q. I take from what you said, the commanding general then had the utmost confidence in him, and he just let him coordinate the staff? That's the impression you're giving me now. That's why I want you to come out and tell me what you think.

A. As far as I know, Colonel PARSON--for example, one thing, Colonel PARSON said that he completely revamped the operations center.

Q. Yes?

A. And General KOSTER certainly gave him the authority to do that. In fact I would think that during the time frame I was there that was probably the most significant accomplishment of a chief of staff that tied in with the G2. That greatly affected my operation as well. As to any private discussions and so forth he might have had with the chief of staff, I have no knowledge of it, but outwardly, the chief of staff held a morning briefing with the officers who were going in to see General KOSTER before we went in to determine what was going to be discussed. He pretty much controlled that, which I think is the prerogative of the chief of staff. He was allowed to do that. He held meetings generally every week in which he gave out guidance to the entire staff, not only his general staff, but the special staff as well.

Q. Would this same kind of relationship that you have described that existed for yourself and for the G3, would this also be for the G2, the G4, and the G5?

A. Yes, sir.

Q. How about the special staff?

A. The same thing was true.

Q. Now what was the relationship and what authority and delegation of authority passed between General KOSTER and his ADC?

A. One of his ADC's was primarily oriented toward the combat operations and one of them primarily oriented toward the

logistic and administrative part. During the time I was there he had General RYDER, General YOUNG, and of course General GALLOWAY came--

Q. (Interposing) What was his relationship with General RYDER? I know General RYDER very well. As a matter of fact he left my division and came down there.

A. He gave General RYDER a pretty free hand. For example, when I first went over there with the 198th, he gave General RYDER pretty much a free hand in squaring away the 198th. In fact, General RYDER moved down to Duc Pho where we were undergoing our training, right in that vicinity, before we moved up to the Chu Lai area. And he gave General RYDER, I'd say, about as much of a free hand to conduct the operation as--

Q. (Interposing) What about General YOUNG when he came in? Did he have the same degree of freedom and the same authority?

A. I wouldn't say that he had the same degree, probably not quite as much of a free hand as General RYDER did. However, General YOUNG certainly moved out smartly and did on his visits pass out individual guidance to all of the brigade commanders and battalion commanders. In fact, with General YOUNG, I used to go with him about once a week, since the helicopters were fairly short as far as the general staff going out and General YOUNG used to take me around. General YOUNG didn't seem that his hands were tied to any extent. He seemed to have a pretty free hand in what you would expect an assistant division commander to be doing.

Q. Did he have authority to approve the battalions operations or brigade operations?

A. Sir, I'm not positive on that. I wouldn't think that he would have the specific authority. I think on anything like that he would come back in and discuss it with General KOSTER. In fact, I'd say that was pretty much the case all along, that General KOSTER was the final approval. For a battalion or larger size operation, General KOSTER definitely would want to be the one that was making the decision.

Q. Well, I think you've pretty well answered my question with respect to the brigade commander then. Operationally speaking, they had some authority but they had to get their brigade operations and battalion operations approved by division headquarters before they could be executed?

A. That's right, yes, sir.

Q. How did you get the intelligence input into one of those?

A. For one of the operations?

Q. Yes. Let's take hypothetically that General KOSTER visited brigade headquarters and they outlined a battalion operation and he made the judgment to go ahead. How would the intelligence input from the division be put into it if, let's say, it had been contradictory to that the brigade or battalion might have had.

A. Well, of course any intelligence that we derived strictly from the division was passed down to the brigade as we received it. At the same time, any intelligence that they received was passed up to me. If it contradicted each other then I would resolve it.

Q. Well, suppose you didn't even know it?

A. If I didn't know it, then there's not anything I could do about it. However, this is something that was a continuing matter of my emphasis to the S2's at brigade as well as any of the battalions, as I visited battalions to pass their intelligence up to me.

Q. Did most of these plans for operations come into the division headquarters in written form or--

A. (Interposing) No, sir.

Q. Where were they approved?

A. The plans?

Q. Yes.

A. The concept of the operation would be approved at division.

Q. How did you get it?

A. It came in through G3 channels to the operations center--

Q. (Interposing) That becomes an operational plan, doesn't it?

A. Or a liaison officer would come in.

Q. Yes, they would have the intelligence annexed?

A. Not specifically. Most of the operations did not have formal written plans. Most of them were fragmentary type, with an overlay of the concept of the operation.

Q. Was this a universal way that it would happen?

A. Basically, yes, sir.

Q. Let me ask you something then. Everything we have indicated that Task Force Barker's operation into the AO extension was based upon the fact that the 48th Local Force Battalion had moved in there. Headquarters, MACV, III MAF and your headquarters carried the 48th Local Force Battalion in the mountains to the west. Now how could you do that?

A. When I was testifying before Congress, I told them that as far as the G2 was concerned, I could not tell you for example that there was a force of 200 or 300 people in a certain village at a certain time. Now my intelligence and the intelligence that I considered--the whole secret of the game ideally would be to try to pinpoint the enemy like you're saying. That's the ideal solution.

Q. Well, you must have seen this plan then. From what you say, Colonel TREXLER, you must have seen this plan when it came in.

A. No, sir.

Q. Well, you indicated that the plan including the concept of operations came into the division headquarters and was approved before these things were implemented.

(TREXLER)

A. I'm saying that the concept was approved for the plan.

Q. Yes?

A. Now the intelligence, I do not remember any mention of a specific size enemy force being in a certain location. Now the normal locations for the 48th Local Force Battalion was in that general area. Specifically I cannot say My Lai (4). As far as My Lai (4) is concerned, I wasn't even aware of My Lai (4) until this investigation started. But I do know that in the Muscatine area over into the south of the Batangan Peninsula was the normal operational area for the 48th Local Force Battalion. Now you're saying our intelligence indicated that the 48th was to the west. Now if you're speaking of the west of the highway--

Q. (Interposing) I'm speaking in the amount of about 20 to 25 clicks to the west because this 48th Local Force Battalion didn't have too great a strength anyhow, roughly about 300, about Tet time. And it was racked by over 100 killed during Tet.

A. That's right.

Q. They had that number killed and quite a few wounded. And the indications were that that outfit, after they pulled back here, moved due west and went out in the mountains to re-supply itself, to get some trainees filled into the unit, to refurbish and to reorganize.

A. Yes, sir.

Q. And we do have some indications that some headquarters thought they had moved back into the Son Quang or Son Hoa area to the north of the Diem Diem River?

A. Yes, sir.

Q. But according to what we heard in the intelligence and so forth that was put on for Task Force Barker, the reason they went there was the 48 Local Force Battalion was there; right there. They had been going in before, but now they knew it was there so they were going in.

A. They would not get that specific of information from me as the G2.

Q. Well, do you remember approving a concept that included that AO extension down there?

A. I remember the AO extension being approved, but I don't remember it being approved on the basis that the 48th Local Force Battalion was in the area. The only thing that I can say is that, as I said a minute ago, the normal area where the 48th was located was over in that general area. But to get specific and start specifying the exact size of the enemy force in the area, even battalion size--going beyond anything other than elements of the 48th Local Force Battalion suspected of being in the area. Now the accuracy of our intelligence, if they were justifying the operation, they need not have justified it on an entire battalion being in that area. Which I would have not gone along with. But as the G2, had they, because of the fact that area was considered to be pretty much Viet Cong infested, had they said that it was elements, that it was suspected, had they given me the source and said that there were elements of possibly the 48th Local Force Battalion in the area, even though at the time I might have been carrying the 48th over to the west, then as G2, I could have probably been convinced that there might certainly be some enemy in there that could justify an operation.

Q. We understand that some of these operations were approved by visits to headquarters and so on in which the staff would have to pick up the bits and pieces to find out what had been approved.

A. Yes, sir, that's true, too. That's right. There were operations approved by the CG and maybe tentatively approved by the assistant division commander. Maybe this one was approved that way. I don't know, specifically, in which case. If that is correct, then the staff would have to pick up the pieces. On a significant operation I would have to either take a look at my own intelligence and say, "Okay, they've got the operation there; it's just as good a place as not, because there's a lot of enemy up in that area." Not only there. I'm talking about the whole Americal area. Or I would talk to the S2 of the brigade and say, "What are you basing this operation on? What intelligence do you have?"

Q. Well, now let me come back to a very direct question, and this is very pertinent to the purpose of our investigation.

We've had some testimony which would indicate that the headquarters of the Americal Division was not a happy headquarters. There were more than a few people who hoped to get out of there. We've also heard that the G3 was not the G3. The G3 was the commanding general. The same thing applies generally to all so-called military operation type activities as compared to logistics and administration. Can you comment on that?

A. Well, other than the fact, like you said, some of the operations were definitely approved out in the field. I'd agree that maybe it was not the happiest headquarters. But while I was the G2, General KOSTER expected me to be the G2. In fact, on several occasions when I would go in and brief him, an argument might ensue over my analysis of the intelligence and General KOSTER's analysis of the intelligence. In fact, it disturbed the chief of staff, Colonel PARSON to the point that one time Colonel PARSON--I believe he's the one that told me this, or General KOSTER might have told me--went back in and asked General KOSTER and General KOSTER said that if Colonel TREXLER ever acted any other way then he wouldn't want me as his G2. And when I left, on two occasions, General KOSTER called me in his office and asked me to reconsider not leaving, that he wanted me to stay there as his G2.

Q. Did the G3 have the same degree of latitude?

A. Probably not. However, I'd rather for the G3 to comment on that himself, sir.

Q. Well, I'm asking you for some matters of opinion.

A. They certainly could express their views.

Q. Yes.

A. Whether they thought it was wrong or right, and was the purpose of the private meetings with the CG.

Q. Well, you were there when Colonel MUSSER was the chief of staff?

A. Just before he left, yes, sir.

Q. How long did you have with him?

- A. I believe I was with him for about a month.
- Q. What was his relationship with the commanding general?
- A. Well, I wasn't really up there long enough to probably give you as good an evaluation as somebody else who was there longer. But I think he had a good relationship.
- Q. He was replaced by Colonel PARSON. What was his relationship?
- A. For the time that I was there--
- Q. (Interposing) When did you leave?
- A. I left in early May, sir.
- Q. You were there for about--
- A. (Interposing) Three or four months.
- Q. Yes.
- A. I don't think Colonel PARSON's relationship with the CG was on the same level as Colonel MUSSER's.
- Q. I understand that you and Colonel BALMER lived in the same trailer?
- A. Yes, sir.
- Q. Was Colonel BALMER very happy as far as being the G3 under the conditions that you just discussed?
- A. No, sir, I don't think he was, not particularly. Well, really, if you want to put it that way, I don't guess I was particularly happy under the relationship between the chief of staff and the CG, but--
- Q. (Interposing) Did that reflect down into your modus operandi?
- A. No, sir. I felt that I had a duty as the G2. In spite of any relationship or anything else, I still told the CG exactly what I thought was the situation.

Q. The reason I'm asking, Colonel TREXLER, is I've been in a few combat situations and I've been in big headquarters, division and sometimes higher than division, during the course of war. I've heard some disturbing things about the relationship between the commanding general and the ADC's, also with respect to the chief of staff, and with respect to the general staff in particular, and to a lesser degree, the special staff who are really what the title indicates--they're specialist working in their own particular area. But from what I've heard, I don't get the same degree of authority and responsibility in some of the staff sections that I would expect in a combat division headquarters, for example.

A. Yes, sir.

Q. In order to have a good division, you have to have a lot of respect and you have to have a lot of really extremely close coordination.

A. Yes, sir.

Q. Not just on a periodic basis, but on a continuous basis. Now this is what I'm trying to ask you, whether this headquarters which is a combat headquarters with a huge division actually, nearly 23,000 people, whether this is a good, efficient operating division headquarters.

A. Talk about personalities for example, Colonel PARSON: during the time frame I was there we felt that he was lacking somewhat in his combat perspective. Such things as putting up white fences and planting grass, which the G3 and I pretty much resisted until it was beyond our control where we complied, which we did. And even remodeling of the TOC. In other words, a lack of combat perspective. However, all I can really comment on is my own and it did cause some friction among the staff, not so much the staff, but it probably did not produce the ultimate. But in my case I feel that it did not degrade any or one single bit from my doing exactly what I was supposed to do to the best of my ability and also my staff to the best of their ability.

Q. Colonel TREXLER, when you were here with us the last time, you gave us certain information concerning your discussion with General YOUNG on the helicopter.

A. Yes, sir.

Q. There was some place in which burning was mentioned. You indicated that he was quite upset about this particular thing. Can you recall any more of that situation now to add to what you knew previously?

A. No, sir. As I stated before, it was on one of the trips that I went with General YOUNG in which we switched our earphones to a private conversation. He discussed with me in general terms and not anything specific where I could say it was artillery fire or choppers or the forces themselves that had brought about unnecessary destruction in this operation.

Q. We're talking about this operation here now, Task Force Barker?

A. Yes, sir.

Q. Did he get beyond the burning? Was anything said concerning animals, leveling the area, or anything such as this?

A. Sir, he might have, but I cannot recollect anything specific, and I would not be making a true statement if I--

Q. (Interposing) Did he indicate that a village, for example, or a hamlet, had been burned down?

A. He indicated that he was most concerned, and I think that he did indicate that there was unnecessary burning and destruction in a village.

Q. Did he mention more than one village?

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A. No, sir, not that I can recollect.

Q. When you were here before, Colonel TREXLER, we had shown you certain documents.

A. Yes, sir.

Q. To ask if you had seen them.

A. Yes, sir.

Q. I would like to refer to you or to show you some additional documents and ask if you have seen these. Some of these documents, incidentally, we know arrived in the Headquarters, Americal Division.

A. Yes, sir.

Q. And as a consequence, I want to see whether they got around to you for distribution or for your knowledge. Now, you were shown Exhibit R-1 before, which had a couple of attachments. I now show you a different version of the VC propaganda which came out in broadcast form which was intercepted in Vietnamese, of course, translated and subsequently typed out in English. Here's the Vietnamese version (handing Exhibit M-33 to witness).

A. Yes, sir.

Q. Here's the English version. I would ask if you had seen that particular document?

(The witness examines the document.)

A. I don't remember seeing this, sir.

Q. Take a look at the second page, that second paragraph. Do you remember seeing anything like that?

A. No, but I would qualify myself to say that any of the numerous propaganda information that I received, it had a pretty low rating as far as I was concerned on having any validity to it. And I wouldn't, as the G2 considering the vast amount of stuff that I went through every day trying to sift through all the messages, and read the PW reports and so forth,

and try to come up with some analysis on the enemy--

Q. (Interposing) Oh yes, but let's come down to reason now. You're not the sole individual in G2 shop--

A. (Interposing) That's right, General PEERS.

Q. You have a staff, you have an MI detachment--

A. (Interposing) That's right. And the MI detachment I would expect--

Q. (Interposing) Yes?

A. Of course this would have come to them.

Q. Yes?

A. And if you talked to any of them, they should be able to tell pretty much whether they brought it to my attention.

Q. Would you be surprised to know that this was provided to one of the senior officers in the division by the ARVN command?

A. I would think that if it had been given to one of the senior officers in the division, it should have been given, in turn, to me.

Q. Well, that's why I'm asking you the question.

A. Yes, sir. It should have been turned over to me because then I would have remembered it.

Q. Yes. Now previously I've shown you this particular paper, one page. That's all I want you to look at.

A. Yes, sir.

Q. I ask you, have you ever seen that paper before? This is the first attachment to Exhibit R-1 (handing exhibit to the witness).

(The witness examines the document.)

A. No, sir.

Q. I believe that was your previous answer to the question?

A. That is true, sir.

Q. You have never seen it before. Now I show you this same document in a slightly different form and ask if you have seen this, by itself (handing Exhibit M-30 to the witness). The difference between this document and the other, you'll notice, is that there is a signature down in the lower right-hand corner.

(The witness examines the document.)

There is a true copy on the following page. You'll notice it's the same piece of material that you just saw there, Inclosure 1 to Exhibit R-1.

A. To the best of my memory, I have never seen this one either, sir.

Q. I have here Exhibit M-29 which is a letter from the district chief of Son Tinh District to the province chief of Quang Ngai Province, dated 11 April, which has been entered into the record as M-29. You'll notice the Vietnamese version is on the second page. The English translation of it is on the first page (handing the exhibit to the witness). I would ask you to read this and tell me whether you've seen this particular document or anything closely associated with it?

(The witness examines the document.)

A. No, sir. In fact, I've never seen any document that would come from anything like this or even to my knowledge any propaganda item that indicated the killing of these people.

Q. Yes. Would it surprise you to know that this also was provided a senior officer of the division?

A. Yes, sir.

Q. In about the middle of April?

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M-31. I would like to know whether you have seen anything such as this (handing the witness the document)?

(The witness examines the document.)

A. No, sir.

Q. I have one final document, Exhibit M-35, which is a notice dated 28 March from the Quang Ngai National Liberation Front Committee. We have some indication that this document had arrived and was in the files of the Americal Division (handing the exhibit to the witness). You'll notice here again, Colonel TREXLER, the Vietnamese version on the back. This is quite a long document, but I would ask you to look at the first page of the Vietnamese version about four pages back. You will notice that it takes a rather odd format, a little different than most. Do you remember seeing anything like that?

(The witness examines the document.)

A. No, sir.

Q. Now look at the English translation and tell me whether you've seen that or not. I think you can go through it fairly rapidly.

(The witness does as directed.)

A. Yes, sir.

Q. You don't have to read every line to know whether you've seen it or not.

A. No, sir, I haven't seen it. Not to my knowledge. I have not seen it.

MR WALSH: Colonel, we have heard from the S2 of the 11th Brigade that on two occasions subsequent to this operation he noticed reports he said were prepared in Quang Ngai intelligence channels and forwarded to division, that through his liaison going into Quang Ngai he got copies of some of these things and that two of these reports had contained sufficient references to the killing of 400 to 500 people in an operation in the Son My village area which impressed him enough to call

it to the attention of the commander. I wonder if you could first confirm that this type of report from intelligence sources in Quang Ngai was regularly furnished to you or someone else at the Americal Division Headquarters?

A. I did receive intelligence reports. Now I don't know specifically who in Quang Ngai you're talking about, but we did receive reports from various elements in Quang Ngai.

Q. From the PIC in Quang Ngai, perhaps from their source of interrogations?

A. Yes, we did, and we were trying continually to establish better relations with them and get more and more of their reports. As to the frequency that I was receiving these reports from them, I could not really say. But of course now his people, the S2 of the brigade, would come up and cross-check with my MI people. Or my MI people would go down to him and provide him anything that we had, so really the better analysis could very well take place in the 11th Brigade for this specific area than might have taken place at division.

Q. Well, he said that he didn't discuss this with you because these reports were intended for you. He just managed to get copies by sending a man over to Quang Ngai to pick up things.

A. Well that's--

IO: (Interposing) You had a permanent LO down there as I would understand it.

A. There was, yes, sir.

Q. In the Quang Ngai area?

A. I was asked to see if I could remember his name, but as I remember, the LO's were lieutenants or captains and they changed, and I can't remember his name. But we did try to get all of the intelligence or everything that they had and we'd sift through it.

MR WALSH: He said there was generally considerable volume--reports of interrogations and other items of that nature.

A. That's right.

Q. And he said that one of these included a report that the VC among the populace were going about propagandizing the fact that 400 to 500 civilians had been slaughtered by the Americans in the Son My Village area on 16 March 1968. Do you ever recall receiving any such report of this type?

A. I don't recall it.

Q. Can you give me any explanation as to why this would not have been picked up in your headquarters?

A. Well, I'm not saying that it might not have been picked up by some of my MI people. Of course now when they briefed me, I expected them to use their judgement as to what they brought to my attention. Because all this vast volume of propaganda--I was not, as I pointed out earlier, that interested in anything that the VC were saying as far as propaganda as trying to determine where the VC were and what they were up to and so forth. For that reason, I'm not saying that my MI detachment would not have had knowledge of it. Now, as I pointed out, if something pertained specifically to the Duc Pho area, why they might know something about it and my people might not. The Americal Division was a little bit different from your other divisions in that the brigades came in as separate brigades and they had their own MI detachments.

Q. What we're talking about are reports coming from Quang Ngai City addressed to the division headquarters.

A. Yes, but that's the reason why I'm saying that. My MI people could have, in turn, given it back to the 11th Brigade to run an analysis on it because each of our brigades at this time had basically the same MI capability that I had at division level. Rather than for the division having the larger MI capability and giving the brigade, you know, what I thought they really needed, they had a little bit more than that. They were operating to a certain extent with an MI capability for a separate brigade.

MR MACCRATE: Colonel TREXLER, I think the point here is that this was not something which was sent back for analysis. This was something that, when it came to the attention of the intelligence officer, the S2 of the brigade, he took it to the commanding officer because it related to an operation--

A. (Interposing) In his area.

Q. Of a division unit.

A. That's right, sir.

Q. And it's quite remarkable that if this was received and was directed to your unit that it was not similarly taken up to command at the division level?

A. I can't answer that. As I've already stated, my only knowledge of this entire incident was the one discussion I had with General YOUNG. Now as to any of my MI people, to my knowledge, what Mr. WALSH was talking about was not brought to my attention. Normally if it was taken to the general, then I would have been the one to have taken it to him. And I can understand what you're saying. It's why it was brought to the attention of the S2 of the brigade by someone at division, as you said--

Q. (Interposing) No, no, no, you misunderstood me. He sent a liaison man over to Quang Ngai to pick up these reports which were customarily sent to division. It was mere initiative for him to go. And he read them customarily and in finding one, assumed that division had it. He put the report together with the fact that a 11th Brigade unit had been in that area that day and had reported 128 VC killed in that area. I was just curious to know why someone in division didn't make the same correlation?

A. Was it provided to division?

Q. That's the question.

IO: That's the point he is making, you see.

A. I don't know.

Q. You don't know, but the point is you had a permanent liaison officer there.

A. Yes, sir.

Q. That lives in Quang Ngai with the specific purpose of picking up bits and pieces of information to send back to division. The brigade didn't have this capability. They would send somebody up there every once in a while--

A. (Interposing) That's right.

Q. To go around to these places and pick them up. The fact of the matter is that anything that brigade picked up under those circumstances, division should have.

A. Now that's division liaison officer? I distinctly remember the division liaison officers; as they'd come in, they'd give me a report and brief me on any new developments. But on this specific instance, I have no knowledge. The liaison officer also provided these reports to my MI people and maybe to some of my other officers. You'd have to talk to him, but as far as I know, it did not reach division. And as far as I knew, I didn't have any deficiencies in that area.

Q. Did he just go around passing out papers to just whomever he saw?

A. No, sir.

Q. I don't think he did that at all.

A. No, sir.

Q. I don't think that's the way he operated.

A. But--

Q. (Interposing) Just what the hell did he do with the material that he picked up?

A. Well, the MI people would have to answer that, sir.

Q. Oh? No--

A. (Interposing) If it was turned into them--

Q. (Interposing) Look, he doesn't come up and say, "I picked up a bunch of goodies," like this, and start passing it out, some of it to the MI people, some of it to your evaluation people and some of it to your section.

A. Exactly who he turned it in to, sir, I don't remember, but I agree--

Q. (Interposing) Yes, you must have had one point--

A. (Interposing) I agree.

Q. You didn't let him spread it out throughout the thing.

A. That's right. I agree, sir.

Q. Well.

A. I agree. I agree with that. He didn't--that's absolutely right. I'm quite certain that he did not go passing out bits and pieces to various people.

Q. Well that's the picture you're portraying. That's the reason why I think you ought to be more careful on that because I would imagine that you'd have an officer in charge of collection, and all this comes into him and he takes care of the receiving and the handling of it.

A. Now my assistant, as I remember, Major DORF--the liaison officers could come in and report to him, and he pretty much determined what happened. I don't know if you've talked to him yet or not.

Q. Well, I can't imagine a liaison officer that had to report into you every day anyhow. He isn't the only liaison officer you've got.

A. No, sir.

Q. You've got several of them. I wouldn't imagine that he comes in and bothers that individual unless he has something key to report.

A. That's right.

Q. In which event he'd probably go to the collection office and then see your deputy or something of this nature?

A. Yes, sir.

Q. But the fact of the matter is that even though he may have picked up that particular piece of paper--

A. (Interposing) It did not get to me.

Q. Yes. Well we haven't found anybody in your office that did have it, to my knowledge. I would be interested in the name of this liaison officer. When we conclude here, I will have Major LYNN refer you to a roster to see if you can pick out this individual. I feel that we may want to talk to him.

We appreciate very much your having come in. Again based upon this, if in recognizing the thrust of our questions and the sum of the information we have available to us, you can fill in any additional gaps by mental recovery, I'd like to know about it.

A. Yes, sir.

Q. Again before we recess I'd like to caution to the fact that you have been directed not to discuss your testimony here.

A. Yes, sir.

IO: The hearing will recess at this time.

(The hearing recessed at 1240 hours, 13 February 1970.)

(The hearing reconvened at 1421 hours, 26 February 1970.)

IO: The hearing will come to order.

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

Sir, the hearing recalls Colonel TREXLER.

(COL TREXLER was recalled as a witness, was reminded that he remained under oath, and he testified as follows)

IO: Colonel TREXLER, here is a copy of Exhibit M-29, a letter from Son Tinh District chief to the province chief, dated 11 April. I've shown you this before and asked you if you had seen this, if you recall.

A. Yes, sir.

Q. As a matter of fact your answer was:

"No, sir. In fact, I've never seen any document that would come from anything like this or even to my knowledge any propaganda item that indicated the killing of these people.

"Q. Would it surprise you to know that this also was provided a senior officer of the division?

"A. Yes, sir.

"Q. In about the middle of April?

"A. Yes, sir, it certainly would.

"Q. Would you expect to see a paper like this?

"A. If it was provided to a senior officer I would think the G2 would have an interest and it should have come to me."

A. Yes, sir.

Q. We have very strong indications at least that the information that is contained in this document was known by senior people in the division.

A. Yes, sir.

Q. I just wanted to make this correction so that I wasn't creating any false impression in your own mind.

A. Yes, sir.

Q. We had a couple of things that we did want to talk to you about, Colonel TREXLER. In your previous testimony, one of the questions asked was:

"When did the My Lai (4) situation first come to your attention when you were on the staff of the Americal Division?"

"A. Well, the My Lai (4) situation as it is being described in the newspapers never did come to my attention. The fact was that there was some, probably, going beyond what was expected, in other words, a little overaggressiveness on the part of the units involved came to my attention a couple days after the incident."

A. Yes, sir, somewhere, I'm not really positive, but somewhere in that time frame.

Q. Can you indicate where you got this information?

A. Yes, sir, that was my discussion with General YOUNG in the helicopter.

Q. Yes, and this is the one that had to do with overzealousness perhaps in burning. Was there any indication about destruction of additional property, of killing of livestock, or unnecessary firing, or killing of people?

A. Not that I specifically remember, sir, not that I can say that I remember any of the details. The only thing

that I do remember is basically my discussion. Of course, the significant thing was that we switched to private conversation and discussed this incident in very, very general terms. That stuck with me and that's the basic thing that stuck with me.

Q. Well, you do normally remember when you go onto private in your intercom?

A. Yes, sir.

MR MACCRATE: Do you have any recollection in that conversation of any reference to the fact that General YOUNG was concerned with particular individuals? Did he use any expression that indicated a rather sharp concern about particular individuals?

A. The main thing that stands out was the concern for what he felt in this operation was that the people had gone beyond what he conceived was proper conduct. As to whether he might have mentioned Colonel BARKER's name, I would say most likely Colonel BARKER's name did come out in discussion. But specifically to answer your question, I do not remember whether he discussed personalities or so forth.

Q. We have some testimony that his attitude, at least in one aspect here, was reflected in the words "Some heads are going to roll." Is there any impression of that sort that came through to you?

A. I don't remember that. I think maybe that he did discuss the value of retaining Task Force Barker. In other words, whether or not it should continue as a task force, and I'm not really positive about that. But something sticks out that I remember he might have discussed. As far as heads rolling, relieving of individuals and so forth, I don't remember anything or even a discussion.

IO: Did he in this discussion specifically talk about My Lai (4)?

A. No, sir.

Q. But you were flying in the area, is that right, in this area?

A. Not at the time. This particular discussion, as I remember, was shortly after we took off in the morning and headed north. I'm not even certain that we landed at Task Force Barker that day. I would say that at the time we discussed this we were not in the area of Task Force Barker.

Q. How did you tie it down to the area of My Lai(4) or Pinkville or Son My?

A. He was discussing the operation.

Q. He was discussing that operation?

A. There's no doubt in my mind that our discussion was relative to that particular operation.

Q. Well, relative to that particular operation, on that specific day when this matter was briefed, we have a little discussion that is supposed to have gone on in the briefing room which might be of interest to you. This is a discussion with Chaplain LEWIS. The question was:

"Did this 124 women and children, that was the thing that really stuck in your mind, then?"

"A. 124 women and children and also 3 weapons. This was another item that was buzzed about. We were sitting in the back, I was about in the middle row, and somebody said '124 women and children,' and somebody else said, 'Geez, there were only 3 weapons.'

"Q. I mean, was it sort of a quiet comment or did somebody--"

"A. It was under the breath.

"Q. It wasn't something then that everybody in the room would have known?"

"A. No, I'm sure that the generals didn't hear it. The guy didn't stand up and say '124 women

and children.' But I heard it and a number of us around heard it. So immediately after the briefing we buzzed about this on the way out and I went immediately to see the G3 shop. Then CRESWELL came in the next morning early, and I went back as soon as BALMER showed up. I can see BALMER and TREXLER sitting there, and I said, 'Boy I'm upset. What about this 124 women and children we killed down there? What are we going to do about this?' He said, 'It's going to be investigated.'"

Do you recall, one, a discussion such as this in the briefing room, possibly going around very quietly?

A. No, sir.

Q. Do you recall Chaplain LEWIS coming to talk to Colonel BALMER after he had returned from R&R, to talk to him about some indiscriminate or unnecessary killing of women and children?

A. No, sir.

Q. We know that Colonel LEWIS had received certain information which had been provided by Chief Warrant Officer THOMPSON to Chaplain CRESWELL, who in turn passed this information on to Colonel LEWIS. It concerned, of course, what Chief Warrant Officer THOMPSON had seen during the course of his flying the aero-scout helicopter on the 16th in the My Lai (4) area. Here again we have this question about the obligation of reporting:

"Q. Well, yes, but you have a very specific obligation, as do all of us, whenever you hear of a war crime. Certainly even a sergeant firing into women and children, this in itself is a war crime.

"A. That's right, right. Exactly what I told the G3. I said, 'Look, this has got to be looked into. This is terrible, this happening.'
'Chaplain I assure you,' this is what BALMER said, in the presence I'm sure of TREXLER,

'I assure you, that this thing will be investigated.' That was the kind of assurance, particularly, I got from BALMER. . . . Now, I had a high judgement of BALMER. BALMER was a very sensitive officer."

Does this help to refresh your memory?

"Q. Was this a passing conversation or was this you going over to Colonel BALMER in the TOC and talking to him there, or in his office?

"A. I talked in his office. I went in the G3 shop and I think that the first time I went in TREXLER was there too. Both of them together said that they'd heard some of these things. I remember that specifically. I didn't get the full impact of atrocity, but I did get the impact of women and children being killed."

A. No, sir. I do not remember. I think that if this happened after General KNOWLES, assuming that the chaplain was correct and that I was in fact there, which I don't remember, I don't believe I would have made any comments to him. I don't think that after I was aware of the fact that General YOUNG had some knowledge of something having gone wrong--it was in the proper channels, it was in the command channels--I don't think I would have paid the chaplain a great deal of attention. I could be wrong but I'm telling you the way I probably would have treated it. I think that it would have stuck with me had he made it of a subject issue, unless I just happened to be over there. Our offices were side by side, the G2 and the G3. About the only time that I went over to see the G3 was to pick him up when we went to dinner together. The rest of the times we met over in the TOC, so it was very seldom that I was in his office. When I was, it was for some specific business which normally did not deal with our regular business. Now that's about the best I can do there because I don't really remember the chaplain discussing it.

Q. Did he come around quite often and talk about what you were doing to check into these things or this, that and the other thing?

A. The chaplain?

Q. Yes.

A. The chaplain never did come to see me as the G2. Maybe on one or two occasions he came by, but if he came by to see me I would prefer that it be on a religious matter rather than giving me advice about something.

Q. How did you carry on your relationship with the advisor group at the 2d ARVN Division?

A. Any time that I got down to Quang Ngai City I would go by and visit the advisors there. When they would come up to division they'd do the same, in particular the ones concerned with intelligence.

Q. Yes.

A. We tried to carry on a close relationship. I relied mainly on my liaison officer to bring information from them.

Q. Do you remember at any time along about the middle of April going down to the 2d ARVN Division and talking with the advisor personnel there? I would think that you did most of your business with the G2 advisor, Major EARLE?

A. Yes, sir.

Q. Possibly with the executive officer, Colonel CROMWELL I believe it was.

A. Yes, sir.

Q. Possibly also with the senior advisor, Colonel HUTTER?

A. I imagine--

Q. (Interposing) I rather imagine that that would be your mode of operation?

A. Yes, sir.

Q. Do you remember at any time down there anyone indicating to you that the Son Tinh District chief had provided a report to the province chief concerning what may have happened in the Son My or the My Lai (4) area along about the middle of March 1968?

A. The middle of March, sir?

Q. Yes. This would have been the middle of April but it was referring back to an incident that may have taken place in the middle of March.

A. In either case, they never, to my knowledge, mentioned anything relative to this incident. I think I did visit them in April a couple of times.

Q. Yes.

A. But I don't remember them bringing any incident of this type to my attention.

Q. So, you're working with the advisor group both through your liaison officer there and also through personal contact?

A. Yes, sir. And Major EARLE, I just met him outside and I refreshed my memory of him. I definitely dealt with him on quite a few occasions.

Q. Yes. Now along about this time were you also working with the Americal Division and working with the 2d ARVN Division on developing intelligence to support a plan for the opening of the area and the roads to Tinh Phouc and Tra Bong?

A. Yes, sir.

Q. Can you tell us about when all this may have taken place, primarily the intelligence aspects of it, getting all the information and the initial planning of it?

A. Well the Tinh Phouc, the other one, we never did really follow through in the time frame I was there, but Tinh Phouc we did.

Q. Yes.

A. We were developing our intelligence. Of course, my intelligence was very much concentrated in that area anyway because that's where there was a major enemy base area, the 117, I believe. The enemy had been coming in there, the 2d NVA Division. We were working with the 2d ARVN Division. I guess it was in April we really went into that area and tried to open up that road but in March, in this time frame, we were developing our intelligence.

Q. Do you remember any planning conferences or anything that took place between Colonel TOAN and General KOSTER, particularly with General KOSTER trying to see what assets the 2d ARVN Division might be able to make available for the operation?

A. Well Colonel TOAN came up on several occasions.

Q. I'm thinking more on a meeting that may have taken place in the headquarters of the 2d ARVN Division.

A. Well, I think that's very, very possible. In fact, I know that General KOSTER did go down there, but I did not go with him.

Q. Yes. You weren't privy to it?

A. No, sir.

Q. But you know that he did go down?

A. Yes, sir.

Q. Do you know about what time that he went down?

A. No sir, he visited the 2d ARVN Division quite frequently.

Q. Well, I was just thinking about you developing the intelligence and Colonel BALMER working on the operational side. I was trying to more or less visualize what happened. Perhaps him saying, "Well, I talked to Colonel TOAN today and talked about certain intelligence aspects and he indicates that he can possibly make such and such forces available"?

A. Well, he might have said that, but as I stated in

the case of Tinh Phouc, I don't remember ever receiving any sufficient intelligence from the 2d ARVN Division relative to that area. The intelligence that we had primarily supported that particular operation. I don't remember General KOSTER coming back and passing on any sufficient intelligence.

Q. Yes.

MR MACCRATE: Can you fix the time in April that the Division was working with the 2d ARVN in the Tinh Phouc area?

A. No, sir, the only thing I know is, I'm quite certain the operations really took place in April but that is just the time frame. Really this wasn't, as far as I was concerned, any major intelligence collecting effort between the two of us. We principally used the intelligence that we already had.

Q. As far as the actual operation, when would that have been?

A. It started in April. In fact it was ongoing pretty much through the month of April as I remember. Well we went in there, then we had to keep the road open. We kept expanding in the area. Not knowing the exact dates I would say that it took place just about the end of April and into May.

IO: Do you remember one thing that took place here, Colonel TREXLER? General KOSTER departed on R&R on 27 April and he came back on 7 May. Does that refresh your memory any as far as --

A. (Interposing) Well the operation had already --

Q. (Interposing) General YOUNG directing the thing and so on?

A. The operation was taking place before he left.

Q. Before he left?

A. As far as going into the Tinh Phouc area, yes, sir.

Q. Let me hear that again, the operation took place --

A. (Interposing) Well, the operation was still on-going but it started before--

Q. (Interposing) It had started before that. I see.

IO: Colonel TREXLER, we appreciate you coming down. If you do recall any of these things that we've asked you about today and they become a little firmer in your mind, we would appreciate you letting us know.

A. Yes, sir.

IO: You have been directed not to discuss your testimony here. I don't think I have to instruct you further.

A. No, sir.

IO: Thank you very much.

The hearing will recess at this time.

(The hearing recessed at 1444 hours, 26 February 1970.)

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SUMMARY OF TESTIMONY

WITNESS: VAN ABLE, Herbert III

DATE OF TESTIMONY: 6 February 1970

PLACE OF TESTIMONY: Pentagon

WITNESS SUSPECTED OF: N/A

COUNSEL: None

DUTY ASSIGNMENT ON 16 MARCH 1968: Secretary to General GALLOWAY.

1. KNOWLEDGE OF TASK FORCE BARKER AND THE OPERATION OF 16 MARCH.

Mr. VAN ABLE recalled the general area of Task Force Barker's operations (pg. 4), and the name Task Force Barker (pg. 6). He was familiar with the name Pinkville (pg. 4). He could recall no details of the assault on Pinkville conducted on 16 March (pg. 5).

2. KNOWLEDGE OF INQUIRIES OR REPORTS.

Following the operation, he did not recall a complaint made by any of the participants (pgs. 6, 7). He recalled nothing about a confrontation between American forces, or of a captain shooting a woman (pg. 7). He did remember Lieutenant Colonel HOLLADAY conferring with General GALLOWAY on numerous occasions during this period of time (pgs. 7, 8). GALLOWAY appeared quite concerned (pg. 8). He had no knowledge of the subject matter of the conferences (pg. 8). HOLLADAY was normally alone when he visited GALLOWAY (pg. 8). He did not recall seeing a report concerning a complaint that a pilot had made (pg. 8). The witness stated that generally he was well informed as to what was taking place around him (pg. 9). He did not associate HOLLADAY's visit with visits of other officers to headquarters, e.g., General YOUNG or Colonel PARSON (pg. 10). He did not recall

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an inordinate number of visits being made by the province or ARVN advisors during this time period (pg. 11). He had heard nothing about a village chief's complaint (pg. 11). He heard of no investigation being conducted then (pg. 11). He remembered nothing unusual about this operation (pg. 14), or any unusual visits made by Colonel HENDERSON (pg. 16).

3. FILES AT DIVISION HEADQUARTERS.

VAN ABLE stated that when KOSTER left, he cleaned out the files. The only files that were turned over to KOSTER were his personal correspondence (pg. 15). The witness opined that Exhibit R-1 would have been retained in the assistant chief of staff's office (pg. 15). The witness did not have a hand in cleaning up Colonel PARSON'S papers when he left (pg. 16). Sergeants LOFTIS and STEPHENS eventually straightened out the files as they had previously been in poor condition (pgs. 16, 17). Any destruction of files was done by LOFTIS (pg. 17). The witness stated that LOFTIS did not destroy numerous files during the summer of 1968 (pg. 18).

4. OTHER INFORMATION.

a. VAN ABLE worked as secretary for Generals RYDER, GALLOWAY, YOUNG, and GETTYS (pg. 2).

b. The witness had not discussed My Lai with anyone from the Americal Division since his discharge from the Army.

c. He went to Australia on R&R 6-12 March of 1968 (pgs. 3, 4).

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(The hearing reconvened at 1530 hours, 6 February 1970.)

MR MACCRATE: The hearing will come to order.

RCDR: The following named persons are present: MR MACCRATE, COL ARMSTRONG, and MAJ LYNN.

The next witness is Mr. Herbert Van Able.

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

Mr. VAN ABLE, for the record, will you please state your full name, occupation, and residence?

A. Herbert H. VAN ABLE II, 616 South Rurly Street, Madison, Wisconsin. I'm working as a shipping clerk at the present time.

COL ARMSTRONG: Mr. VAN ABLE, have you read the preliminary instructions?

A. Yes.

Q. Do you understand them?

A. Yes, I do.

Q. On my left is Mr. MACCRATE, who is a civilian attorney and has volunteered his services to the Secretary of the Army to assist in this investigation. I have been assigned by the Office of the Chief of Staff to assist General PEERS in the inquiry. The inquiry has other groups taking testimony from other witnesses, but in the end, General PEERS will absorb all of the testimony, will write up the report, and come to the conclusions and make the recommendations. The rest of us are assisting.

Would you please state for us the date that you arrived in the Americal Division, the length of time you served with it, and the positions you held while you were in the Americal Division?

(VAN ABLE)

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A. Well, actually I was assigned to Task Force Oregon when we moved up from Saigon. I arrived in country on 6 April 1967, and I believe it was about 3 or 4 days later that Task Force Oregon moved up to Chu Lai. I was assigned to support command as a secretary for the CO, Colonel PRIDGON, and worked in that capacity until around August, September of that year to become the secretary for General RYDER. And so I was there when the Americal Division was activated in October of that year. You want me to tell you who I worked for?

Q. When you left and--

A. (Interposing) I left around 16 February 1969, still at headquarters, Americal, except for 1 month TDY to Hawaii working at the R&R center.

Q. And you worked for General RYDER all the time?

A. No, sir. I worked for General RYDER, his replacement General GALLOWAY. I worked a short period of time for General YOUNG. And then I worked for General GETTYS when he came in.

Q. Were you General GETTYS' secretary all the time that you remained?

A. Well, except when they came back from Hawaii, I only had a couple of months left, and I did various functions, mostly taking care of the CG's mess, the bar area, and things like that. Until February or November of 1968, I worked as General GETTYS' secretary.

Q. Since last September, October when the so called My Lai or Pinkville incident hit the news media, this was just last fall, have you discussed this with your former friends and members of the Americal Division either by telephone or by letter?

A. I've never had any sort of correspondence whatsoever with any of my friends or anybody of that sort in the Americal since I got out of the Army.

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Q. When did you depart the Army?

A. 19 February 1969.

MR MACCRATE: You indicated you had 30 days in Hawaii at some time during this period April 1967 to February 1969. Could you fix that for us?

A. Approximately November 1968 until 25 December.

Q. So that you were there at other times beginning in October 1967 right on to February of 1969, at Chu Lai all the time?

A. Yes, except for my leaves I was in Chu Lai during my whole time spent in Vietnam.

Q. And so we cover that at the same time. When were you away on leave?

A. Well, it was both Christmases. Christmas of 1967 and 1968.

Q. Were you away during the spring of 1968?

A. No, sir, except I did go on R&R to Australia in March. If I'm not mistaken, it was from the 6th to the 12th.

Q. Was it that early?

A. I think so.

Q. We had a reference by another witness to your R&R, and I was interested to fix the point in time.

A. I had thought about this previously, but, as far as I can figure, it was around the 6th to the 12th. If I had a calendar I could probably narrow it down more, because I know my second to the last day of leave was on a Sunday.

Q. We just happen to have a calendar.

A. Excellent. I could do well with it.

Q. You indicated that you were temporarily secretary for General YOUNG. Can you fix the period?

A. Whenever he arrived in country. Our offices were so confined that General RYDER and General YOUNG, in fact, shared the same office, and they hadn't yet found a secretary for him, so I just took care of both those gentlemen.

Q. Well, was this when General YOUNG arrived?

A. This is when General YOUNG arrived. I was secretary for both General RYDER and General YOUNG. When General GETTYS arrived, I was solely his secretary.

Q. You recall in the spring of 1968 hearing about the operation of Task Force Barker?

A. I recall it. I couldn't remember any of the details if I tried, but I certainly do remember the name.

Q. And do you remember the general area in which they were operating?

A. Yes, they were south of Chu Lai, north of Duc Pho, I'd say about 10 miles. Generally speaking, that's all I can remember as far as area.

Q. Before we get too far away from it, we now have a calendar for 1968 that I hand you.

A. It was indeed from the 6th to the 12th. Either the 6th to the 12th or the 7th to the 13th, but that doesn't strike a bell. I'm sure it was from the 6th to the 12th.

Q. It would have been in March and not in April?

A. It was in March.

Q. Do you recall hearing shortly after you returned from R&R in March 1968 about a large operation of Task Force Barker into this area south of Chu Lai?

A. I remember hearing of it. At the risk of being presumptuous, I don't want to say I heard the name My Lai, but I certainly do recall hearing the name Pinkville. That's the only thing I can familiarize myself with.

Q. Well, the operation did indeed go into the general area of what is called Pinkville. Perhaps if you look behind you at the map (Exhibit MAP-1), there is a large blowup on that side. If you look around to your left and to your rear you'll see a smaller map (Exhibit MAP-5) on which you'll find Chu Lai up toward the top. Then you come down the coast line and you'll see the area of the blowup of the other map, which is north of Quang Ngai City and out toward what is called the Batangan Peninsula in the eastern part of Son Tinh District. And the orange area on the two maps is the same, just to orient you. And you'll note that Pinkville is actually a community out toward the South China Sea known also as My Lai (1). Pinkville simply being the name given because it happens to be pink in color on some of the Army maps. What do you recall hearing at the time regarding that operation?

A. Either I don't remember correctly or I'm thinking of another operation, but I think this is one where they had had a marine assault.

Q. Marine or air assault?

A. Both. I thought they had landed Marine or Army personnel on the coast and there was also an air assault. If this wasn't the case, then I don't remember anything.

Q. There was no Marine assault. The closest that anything came to that in this particular operation was that some boats that were off shore were brought in to shore to discharge some Vietnamese. There were some detainees taken along the shore, but there was no amphibious landing or anything of that sort.

A. Then the details of the assault itself, I have no recollection.

Q. Do you have any recollection of this as a very large operation of Task Force Barker in which, in fact, they reported the largest number of VC KIA since the 11th Brigade arrived in country?

A. No, not particularly. I didn't have that much perspective as far as actually how large the operation was. They all seemed pretty large to me, and so I just noted nothing particularly large about it. I do remember Task Force Barker.

Q. Well, at this time in March or April 1968 you were just transferring over to work for General GALLOWAY, or then Colonel GALLOWAY, were you not?

A. Yes, if that's when he came in country. I don't remember exactly when he came in.

Q. Well, just to help you fix these things in time, General RYDER left on 10 March. Were you there when General RYDER left? And then Colonel GALLOWAY arrived, we understand, on 15 March.

A. That sounds right.

Q. Had you just come back from R&R?

A. As I remember, I said goodbye to General RYDER before he left, because I went on R&R. As a matter of fact, he tried to take me to Hawaii with him to become his secretary, but the reason I didn't go along with him is because the allocation called for a civilian secretary at his job as G1, USARPAC. In fact, that could have been the reason I took the R&R, because of the lapse of time between General RYDER leaving and General GALLOWAY coming in.

Q. Well, this fits into the general time frame for you, the period in which we're particularly interested. Do you recall following that operation, hearing any reports of any complaints that were made by any of the participants in the operation or about the operation?

A. Not at all.

Q. Do you have any recollection of a complaint being made by a warrant officer pilot about something that had gone on in the operation and something occurring in headquarters about this time which Colonel HOLLADAY, the aviation officer, was concerned?

A. Vaguely. I really couldn't say yes to that at all. For one thing, my capacity as secretary for an ADC, you don't really get in the know as much as, let's say, secretary for the chief of staff or the commanding general, simply because these fellows would know more through typing something he may want typed up or something going through his hands going to an office. For an ADC there wasn't that much paperwork, and

anything I would, of course, hear, would be hearsay, something maybe talked about between the stenos, which we probably shouldn't do.

Q. We're particularly interested in just that kind of information as we're trying to put it together.

A. Well, I'm certain you are.

Q. We have a great deal of information at this time. We talked to over 300 witnesses, so we have a pretty good idea of what was going on. But we are interested in talking with you men who were in headquarters to make sure that we have an accurate story and that we fill in any little details.

A. I really doubt that I heard anything. If I did, it just completely slipped me.

Q. Well, I'd like you to think about this. Do you recall talk about a complaint that there had been some indiscriminate shooting by ground forces and that a pilot of an aero-scout unit that was working with the ground forces had some sort of a confrontation with the ground forces and actually had threatened to have the gunner of the aero-scout ship turn on to the American forces. Do you have any recollection of something as unusual as that?

A. Not at all, sir.

Q. Any recollection of an account that of a captain having shot a woman?

A. No, sir.

Q. You have no recollection of Colonel HOLLADAY coming over in connection with the complaint of a member of the 123d Aviation Battalion and wanting to talk to one of the generals?

A. I can't say no to that. Something really strikes me of his being concerned about something at that time, because he was in and out of that office. At that time Colonel GALLOWAY had just gotten in country.

Q. That's right.

A. He was busy then, and I remember Colonel HOLLADAY seeing him a lot. What it was about I don't know, but I do remember Colonel GALLOWAY being quite concerned about whatever it was. He was trying to talk to Colonel HOLLADAY, I think.

Q. We happen to know that there were several things on Colonel HOLLADAY's mind at or about that time. And we're anxious to get any recollection you might have as to what seemed to you to be the nature of his concern.

A. He got to a point that, you know, general procedure would be coming to the secretary to see if the general was busy or something like that, but they were on the phone so much to each other that any morning Colonel HOLLADAY's going to walk in the office and shut the door. That sort of thing, they just seem very much in communication with each other. But what the problem was I have no idea.

Q. Do you have any recollection of Colonel HOLLADAY having anyone with him on any of these visits?

A. No, I don't recall. He may have a couple of times. It would probably be the assistant aviation officer. I wouldn't even know who that would be. But, no, I just remember Colonel HOLLADAY being by himself.

Q. Do you ever recall seeing around headquarters a report on an incident in connection with an operation where a pilot had made a complaint, if there had been an investigation of that complaint, and a report had been filed? As we would understand, a very brief report, perhaps only a page in length, but describing and evaluating what had been found and concluded along the lines there was no substance to the pilot's complaint. Do you remember seeing something like that around headquarters?

A. I just don't remember seeing something like that.

Q. Do you remember hearing about such a thing?

A. No. I really don't.

Q. Well, it's quite possible that it would be there, and you wouldn't know about it if it were held on a close-hold basis.

A. Absolutely. But generally speaking, I was pretty much in the know. It was very interesting, that's why I extended over there, to keep the job I had at headquarters, because I was very much interested in what happened.

Q. We got the impression that you did have your ears open, from what others indicated to us, that you were one of the knowledgeable men in headquarters.

A. Well, I really tried to be. I was extremely interested in how things like this worked.

Q. But you never picked up any clue as to what Colonel HOLLADAY was upset about, concerned about?

A. I probably did at the time, but I really don't recall. Even since the beginning of the publicity of this alleged incident, I knew My Lai from checking on the map and everything else and just knowing where it is.

Q. Let's put that to one side for the time being.

A. Well, it's just I was interested, but I wouldn't even stop personally to think back what I knew about it. That's what I'm trying to say, and I'm just not recalling any of this at all.

Q. Well, what you recall, you might be wholly unable in your own mind to associate with what you've been reading in the newspapers. This is one of the difficulties that we encounter as we're trying to get people's recollections, that they had been seeing things in the newspaper, and they think if I recall anything it has to be what I read there. But we want to try and get at what actually was going on and what you were observing. This is what I'm directing myself to.

A. I didn't mean to correlate with what I saw in newspapers, because I have a very low opinion of many things that are said in the papers, especially about operations going on over there. But I never stopped and thought about what I may have found out about this or anything.

Q. Well, let me ask you to think for a minute about whether at or about this time you do remember Colonel HOLLADAY coming in and talking to people in the headquarters, that

there was anyone going out from headquarters apparently in response to his concern, General YOUNG or Colonel PARSON, or someone else, that any activity of that sort that you associate with Colonel HOLLADAY at that time?

A. I can't associate that at all, because they were always on the go. It just happened every morning after 8 o'clock briefing, especially the two ADC's and General KOSTER, they'd be gone 'til noon. They wouldn't be back until lunch. All three of them, generally speaking, 90 percent of the time weren't there during the morning and evening briefing. They were out in the field. And so I really couldn't associate any of their going outside to Colonel HOLLADAY.

Q. Well, let me ask you about something quite different. You remember during the spring of 1968 along about this time that there was anything going on in relation to the Vietnamese authorities down in Quang Ngai Province, province advisors coming into headquarters. Anything of that sort? Does that begin to relate to something that you can recall? Let's start out this way. Do you remember who the province advisor was for Quang Ngai Province, a big fellow?

A. Was one of them MAY?

A. You're right, James MAY.

A. I remember then Colonel TOAN, of course.

Q. Who was later General TOAN, that's right. Do you remember that Colonel ULSAKER was the advisor until around April 1968? He was replaced by Colonel HUTTER.

A. Colonel HUTTER, yes, and I also remember Colonel ULSAKER.

Q. And do you remember the province deputy advisor to MAY, the military officer? Do you remember who he was?

A. Not at all.

Q. Lieutenant Colonel GUINN?

A. I remember him, but I don't remember him as distinctly as the previously mentioned civilians and Colonel

TOAN. I remember Colonel GUINN, but I didn't have any contact--

Q. (Interposing) Did you also know Colonel HENDERSON, the commanding officer of the 11th Brigade?

A. Yes, sir. Colonel Oran HENDERSON.

Q. Well, at about this time do you remember on one or more occasions any of the province advisory people coming up to Chu Lai possibly a couple of times, one or more meetings, and Colonel HENDERSON being present?

A. No, sir. I really don't. As far as brigade commanders were concerned, they came in not often at all, maybe two or three times a month at the most. As far as the advisors are concerned they may be up once a month. But at this time I can't say I remember anything out of the ordinary scheme of things, an extra visitation by these people.

Q. Do you ever remember hearing of a complaint by a village chief of Son My Village that was concerning the province advisors at Quang Ngai Province, and they had been talking to General KOSTER or to the chief of staff regarding this. Anything come across your desk or that you heard about from talking with the other men in the office?

A. No, sir. I'm sorry, I really don't. Son My doesn't even ring a bell at all.

Q. Did you hear that an investigation was being conducted of an instance dealing with Son My or Tu Cung or Co Luy, Thuan Yen?

A. No, sir.

Q. Do you ever remember hearing that there was any investigation being conducted with respect to the indiscriminate killing of civilians in connection with an operation within the division?

A. At that time?

Q. Yes.

A. No, sir.

Q. Or at some earlier or later time.

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A. I remember at a later time helping as a court reporter on a case about three young enlisted men who made home made rounds of ammunition, and they said they were just testing them out. However there happened to be a woman and a couple of kids or something like that down across a fence of some sort. One of them was killed and he was convicted for that.

Q. This was at a later time?

A. That was later, I believe. I believe it was. That's the only thing I really remember as far as killing civilians that I could distinctly recall.

Q. Do you ever remember Specialist HERRIS telling you about preparing a directive from the commanding general of the Americal Division to the commanding officer of the 11th Brigade directing an investigation with respect to a complaint received from Vietnamese officials?

A. No, sir.

Q. Mr. VAN ABLE, I'll show you Exhibit R-1, which is a report of investigation dated 24 April 1968 addressed to the Commanding General, Americal Division and ask you if you ever recall seeing that report at the headquarters of the Americal? Do you have any recollection of seeing a report such as that, hearing anything about a report such as that, having been brought to division?

A. Not this in particular, but somehow I recall some time and I can't relate when, several articles of correspondence, subject: "Report of Investigation." It could have been something else. Of course, I guess that was kind of a common thing. They had reports of investigation on helicopter crashes and things like that.

Q. A report of investigation in itself is a common phrase, but a report of investigation with the subject matter such as this?

A. No, sir. I don't remember this piece at all, reviewing it or it having been talked about. If this went through HERRIS, which I'm sure it did, he was one not to us-

ually talk about it anyway. We would talk a lot about minor incidents, but he was pretty reliable guy about not saying anything when it comes to something of a character like this.

Q. Do you know what happened to HERRIS when he left Vietnam?

A. I wish I did. I wanted to get hold of him myself. He's a good friend of mine, but all I know is that he was interested in going back to school. I know he had sent for material from Bolling Green. He was interested in going there so I just naturally assumed that's where he went to school.

Q. We called today to Bolling Green and he is not there, apparently not going there. Do we have the correct middle initial? Did Major APICI speak with you about that, William P.?

A. William P., I'm pretty sure that's the middle initial.

COL ARMSTRONG: Did you ever correspond with him at all?

A. No, I never got his address.

MAJ LYNN: The other man mentioned that he lived at home. Was his mother's name HERRIS too? Maybe it's a silly question. Did he ever mention anything like that?

A. Come to think of it, I don't think it is. I really don't. I know he lived in Cleveland, but somehow like looking at his mail from home, I don't think it is.

Q. I just thought maybe you might have remembered.

A. No, I wouldn't remember the name, but it just seems to me that they had not an ordinary family situation. I really don't think it is come to think of it. I may be mistaken.

MR MACCRATE: Referring again to Exhibit R-1, I'd like you to look at the third page Mr. VAN ABLE and ask you if you ever recall having seen that sheet of paper before or anything similar to that. Do you ever recall seeing or hearing anything like that around the headquarters of the Americal Division?

A. No, sir.

Q. Do you ever recall hearing anything about the hamlets of Tu Cung or Co Luy?

A. Those don't ring a bell at all.

Q. Now if you'll turn over to the next two pages, I'll ask you to look at those two pages of VC propaganda and ask if you ever recall seeing anything like that around the headquarters of the Americal.

A. No, I never remember seeing this at all.

Q. You'll note it's directed to the ARVN soldier. In that respect it's somewhat different from the general line of VC propaganda. But this doesn't ring any bell or recollection for you?

A. No, sir.

Q. At any time while you were in the headquarters of the Americal Division, did you have any reason to suspect that something unusual had gone on at Son My Village or down in the Pinkville area in March 1968?

A. No, sir. I just don't remember anything unusual about this operation at all.

Q. Well, do you have a recollection of this specific operation and hearing a report on it?

A. I undoubtedly heard reports or probably read reports on Task Force Barker, but as far as this is concerned I just don't recall it. I don't know, I was pretty gung ho about our activities over there, and as far as this was concerned I may have read it and laughed about it. As far as this previous correspondence, I don't know, I probably liked it. I can't say I liked it, but it didn't take me back by any means or I think I would have remembered it. So I just don't recall anything unusual about the whole thing.

Q. In connection with cleaning out the files of General KOSTER when he left, did you help Specialist HERRIS with the clean up?

A. As I remember I'm the one that cleaned them up. Well, actually, the only files they cleaned out of General KOSTER was personal correspondence, writing to general friends or colonel friends of his back in the States and things like this. Officers looking for jobs over there, artillery jobs, things like this. That would be the kind of thing we'd clean out and give back to General KOSTER. Otherwise, other correspondence of an unclassified nature was kept in the safe for use. These was mostly directives, things of this nature. We had a very small file for the commanding general. We just didn't need a large one at all. Anything of operational importance was usually classified in the first place and a copy retained in the assistant chief of staff's office. And the commanding general's secretary generally speaking would not type it unless it needed retyping. So therefore it would come out of the G3, possibly G5, G2 office.

Q. If a report of investigation such as this Exhibit R-1 came in to headquarters, where would you expect it to be filed?

A. In the assistant chief of staff's office.

Q. In the safe?

A. In the safe. It could be found during the daytime on any one of a number of people's desks. But at the end of the day it was our job, the secretary's job, that everything of a personal use only, even, was taken out of the box into the safe to be locked up.

Q. And you would deliver such papers to whom to be locked up?

A. I would put them in the safe myself. We had our specific folder for this thing in the safe and the assistant chief of staff saw to it that the safe was locked. Sometimes he wasn't available and this duty could even be in the hands of NCOIC because those two men were mainly in charge of that safe. It had to be witnessed by someone at closing time.

Q. Do you have any recollection of any particular visits by Colonel HENDERSON to division headquarters?

A. Nothing particular, no, sir. He usually came up before an operation, but most of the time, or even a lot of the time he wouldn't have to come up, because they always went down to see him. The generals didn't want to waste the operations. The generals just always went down to the unit for planning things like this. But most of the time when a brigade commanders and the staff and the generals met once a month. But there were other not so frequent times when they came up individually for one reason or another.

Q. Did you assist cleaning up Colonel PARSON's papers when he left in December 1968?

A. No, because his file I believe was in the same safe anyway. His papers were always handled by the assistant chief of staff and/or the NCOIC. And I don't believe I helped.

Q. Do you remember when Major BEASLEY left as the assistant chief of staff around June 1968? He went out to a battalion and then he came back a couple of times and he left some papers behind that had to be gathered together, sorted through, and turned over to him.

A. No. I don't recall anything like that.

Q. Do you have any recollection of any reorganization of the files in the course of summer 1968?

A. I don't know if it would be in the summer of 1968 or fall, but I know the files were completely revamped and put into a different order, just a cleaning out of some sort. I do recall that.

Q. It's been suggested to us that they were in pretty bad shape along about the spring of 1968 when Sergeant RITCHIE was the man in charge.

A. Well before Sergeant RITCHIE was Sergeant--I forgot his name, an outstanding young man that left to become a recon. He was killed a couple months later. His name slips my mind. But he and Bill HERRIS were good friends, in fact they did most of the general office work. We were reasonably short handed. But their files weren't anything outstanding by any means, and Sergeant RITCHIE as I remember wasn't one to keep real good files. It wasn't until Sergeant STEPHENS

and specifically Sergeant LOFTIS, was the man that did most of the cleaning of the files, getting them straightened out. He worked very hard on that.

Q. And were you involved in some of the file destruction details at that time?

A. Destruction, no. Sergeant LOFTIS usually prided himself in making sure it was done himself. Any work I did as far as setting up the files, I did type up nomenclature labels on the file folders, and I may have helped him sort out papers and things like this. And Sergeant LOFTIS was pretty good, I think, about burning matter himself.

Q. And so far as reviewing matters for destruction before they were burned, who would have done that?

A. NCOIC would have reviewed it, but I'd almost certainly say it was reviewed then by the assistant chief of staff at least.

Q. Who would have been Major POWELL at that time.

A. Major POWELL.

Q. Well this is the picture we get from talking to various people, but as a former member of that office you should know that for those of us who have recently been to Chu Lai the absence of records from that period of time is really quite shocking. We were even unable to locate the log of documents. Can you offer any explanation of that?

A. All I can remember is when I left it was a pretty big log, and I don't know who would have replaced Sergeant LOFTIS but I certainly wouldn't want to guess that it would be. I'm not trying to stand up for him or anything like that but that really seems strange.

Q. Well, we got the impresssion that he was very systematic in what he did.

A. Extremely systematic. He prided himself in doing a good job.

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Q. But we had the impression that there was quite a bit to be cleaned out and that there may have been rather substantial cleansing of the files in this period, the summer of 1968.

A. No. He seemed to know this book he used, the functional file system, frontwards and backwards. And knowing things such as destruction dates on different grades of classified papers and something that's classified and shouldn't have been destroyed, I don't think he would destroy it.

Q. Let me ask, do you know of any rabbit holes around the division headquarters where papers may have been kept that they could be overlooked?

A. We had a large headquarters but a small office. I mean just one safe. Most papers generally in headquarters were on the chief of staff's desk, the assistant chief of staff's desk and the NCOIC's desk where they go in and out of his hands for logging and filing. But rabbit holes didn't exist.

Q. Did you at any time substitute as secretary for General KOSTER?

A. Well, sure. HILL and I both helped out on those duties when HERRIS went on R&R in Hawaii.

Q. When would that have been?

A. It wasn't very far from his discharge.

Q. Was this when General KOSTER went to Hawaii or when HERRIS went to Hawaii. Are you thinking of General KOSTER going to Hawaii or are you thinging of--

A. (Interposing) Well, this had to be when HERRIS was going to Hawaii because he and I both filled in for him. You know, whenever one wasn't busy or something, there wasn't that much work to be done.

Q. General KOSTER was away on R&R himself from late in April to early May 1968. And he actually separated from the Americal Division 2 June 1968.

A. I don't know; I couldn't even guess when HERRIS took R&R, but that's the only time, outside of working for General GETTYS as the commanding general, HILL and I filled in for HERRIS when he went on R&R. I'm not even sure if General KOSTER was around then. I don't think HERRIS was there long after General KOSTER left.

Q. Well, Mr. VAN ABLE, we appreciate your coming and talking to us today. If from any of the questions we've addressed to you or what we've shown you hits a responsive chord as you think about this and you can think of anything that occurred that might have relation to these things in which we're interested, we would appreciate if you would get in touch with us. If you have any documents from the time, any records, or letters, photographs, that might refresh your recollection with respect to what was going on--were you writing letters home that might reflect not necessarily the details but the fact of something that was buzzing at the time?

A. Never. For one thing I always had a policy why worry the folks when they got enough to worry about anyway. And I would just not talk about any thing operational in any of my correspondence. I don't tell war stories as the expression goes and I wasn't a hero and I wasn't going to play up to be one. When I wrote home to my folks, it was folksy type correspondence. When I wrote home to my girlfriends, it wasn't about the war, believe me.

Q. Well, we appreciate your coming in and if you have any questions you want to ask us at this time or any statement you'd like to make for the record, we would welcome that.

A. No, sir. I have my own personal convictions which would be meaningless probably but nothing really to help you in your findings.

Q. Well, if your personal convictions are based on observation--

A. (Interposing) That they are.

Q. Even to express those is entirely appropriate and can be helpful to us.

A. Well, it's just the fact all the different officers I have worked directly for and the ones I worked with, although the secretary would be assigned to General YOUNG or General RYDER or General GALLOWAY or General KOSTER or whatever, we all kind of just pitched in and helped each other at different times. This wasn't a straight out and out office job over there and so I got to know, I felt, these different officers quite well. When I heard of this alleged incident I just knew in my heart then that the men I was working for would not be responsible for something like that happening. If it did happen I can't see them not really looking into it and getting to the meat of the matter. It's just beyond my comprehension, one of those men. I have enough respect for them and I know enough about them that I just don't think they would have anything to do with something like this and just let it go by if it did happen. That's all I have to say. Call it a character witnessing or whatever. That's all I have.

MR MACCRATE: Well, thank you. I would like to request to you at this time not to discuss your testimony before us or what we've been discussing here today with you. In the case of military witnesses they are directed not to discuss it. In the case of civilians, we request them to respect the confidentiality of the inquiry as we're trying to get the full story. We've examined over 300 witnesses, and we do have a great deal of information assembled which we trust can help put this whole story together. Any request that I make in that respect would not apply were you to be called before any judicial, administrative, or legislative body which is a possibility, but I don't know if you have been so requested to appear. We would not of course expect that our request to you would affect what you would tell them.

We will recess at this time.

(The hearing recessed at 1630 hours, 6 February 1970.)

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SUMMARY OF TESTIMONY

WITNESS: WHITE, Donald T.

DATE OF TESTIMONY: 27 January 1970

PLACE OF TESTIMONY: Pentagon

WITNESS SUSPECTED OF: N/A

COUNSEL: None

DUTY ASSIGNMENT ON 16 MARCH 1968: Aide to Brigadier General YOUNG.

1. DUTIES OF THE WITNESS.

The witness stated that he was responsible for assuring that General YOUNG's papers were secured for the evening and laid the plans for the day's travel each day (pgs. 3, 4).

2. KNOWLEDGE OF AN INCIDENT.

The witness could recall seeing much smoke on an operation in the Pinkville area, but he could not ascertain if this were on 16 or 17 March 1968 (pgs. 5, 12, 15). He stated that YOUNG mentioned that an operation was taking place (pgs. 12, 17). He vaguely recalled a mention of a great body count to weapon's count disparity, but nothing particular about it (pgs. 25, 28). He affirmatively stated that nothing occurred to make him suspect that an atrocity was committed by U.S. troops (pg. 29).

3. KNOWLEDGE OF AN INVESTIGATION.

The witness recalled a meeting of YOUNG with Colonels HOLLADAY and HENDERSON, Lieutenant Colonel BARKER, and Major WATKE at LZ Dottie, but did not recall them meeting in the TOC or in BARKER's van (pgs. 8-10). He was not present

(WHITE)

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during any discussion. He had not seen, nor was he otherwise familiar with HENDERSON's report (pg. 28). Although he could recall meetings of YOUNG with ARVN leaders and advisors, he could remember none in particular (pg. 28).

1970.) (The hearing reconvened at 1120 hours, 27 January 1970.)

IO: Hearing come to order.

RCDR: The following persons are present: LTG PEERS, MR MACCRATE, and COL ARMSTRONG.

Sir, the next witness is Mr. Donald T. WHITE.

(MR WHITE, the witness, was sworn and testifies as follows:)

Mr. WHITE, for the record, will you please state your full name, occupation, and residence?

A. Yes, sir. Donald Thomas WHITE, Newport News Virginia, and I am a school teacher.

IO: Mr. WHITE, have you had an opportunity to read the instructions?

A. Yes, sir.

Q. Do you understand them or have any questions concerning them?

A. No, sir, no questions.

Q. On my left, Mr. WHITE, is Mr. MACCRATE, who is a civilian attorney. He has volunteered his services to the Secretary of the Army to assist us in the conduct of this investigation. He also provides legal counsel to me and other members of the inquiry team. On my right is Colonel ARMSTRONG, who has been designated by the Office of the Chief of Staff as an assistant in the conduct of this investigation. We have other groups that are taking testimony from other individuals. It will be my responsibility to put together a report, weigh the evidence, and determine the findings and recommendations.

For your information, we have been ordering that the military personnel appearing before this inquiry not discuss their testimony with others, including others who may also provide testimony. In your instance, of course, being a civilian we cannot so order it. But we would request that

you not discuss your testimony with others including individuals who have appeared before this investigation. I would add, though, except as you may be requested and or required to do so before a competent administrative, judicial, or legislative body.

With respect to the latter, legislative, it is conceivable that you may be requested or required to appear before a congressional committee. The one most likely would be the investigating subcommittee of the House Armed Services Committee, in which event your testimony and appearance here would in no way preclude you from appearing and testifying before such a body.

To my knowledge, you have not been cited by the military judge in the general court-martial case of the United States v. Calley. Is that correct?

A. Yes, sir, that is correct.

Q. I see no reason why you should be cited offhand, but in the event you are, your testimony here or your appearance here would in no way change the effect or applicability of such an order, either by that military judge or by the military judge in any of the court-martial cases which may develop out of the My Lai incident of 16 March 1968. Do you have any questions at this time?

A. No, sir.

Q. Mr. WHITE, would you indicate what your duty assignment was in 1968 with the Americal Division in South Vietnam, including the time of your assignment, any reassignment you may have had, and also when you terminated your assignment?

A. Yes, sir. I became General YOUNG's aide on approximately 1 November. It could have been 2 November--1 November 1967, and remained as his aide until 19 May 1968. All during that time, I was his aide and remained in that position except for a brief period of time when he left for a 30-day leave which was to start on approximately 5 February, and 1 March or so, he returned.

Q. And had you had service in South Vietnam before then or subsequent to then?

A. Yes, sir. I entered country in South Vietnam 12 or 13 June 1967. I'm not exactly sure with the time changes and I was in the 3/18 Artillery which was attached to the Task Force Oregon at that time, which later became the Americal Division. From June until November, I was acting in the capacity of fire direction officer in C/3/18 Artillery.

Q. And then you became--

A. (Interposing) Then I became General YOUNG's aide. Yes, sir.

Q. Now since the My Lai incident became a matter of public knowledge in September or October 1969, approximately 4 or 5 months ago, have you had any discussions with anybody concerning the My Lai incident, reporting of the incident or the investigation of the incident. Here, I'm referring to individuals who may have been connected with the incident itself or connected with the Americal Division and the reporting in the investigation process?

A. No one sir, except this morning with the people to appear here. We just discussed briefly names and places to try to recall something that maybe we could help you with. That's all.

Q. I know generally what an aide does. As a matter of fact, I know specifically what an aide does, but all aides are handled different, depending upon the character of the general officer concerned and depending upon the aide himself. So I would ask you to give us a brief description of your duties, including, you might say, your handling of General YOUNG's personal affairs, his papers, who handled the radios on the helicopter, and things of this nature.

A. That was my duty. I felt the major duty was handling the radios and helicopter to insure that we got from one place to another without incident. He would tell me what he had planned for the day when we met in the division headquarters in the morning. Of course, I would make arrangements for the helicopter to be there and so forth and any other jobs he had for me to do. I would get on the telephone or what have you and make sure a person was there if he requested to see them.

As far as his paper work is concerned, he used to have an in and out box on his desk, and I would put it there in the morning. It was locked up at night in the division headquarters, and I would get it from the assistant chief of staff, Major BEASLEY, and take it and put it on his desk in the morning. Then at nighttime after he left, we would be cleaning up the office or his orderly would be cleaning up the office. I would take it and put it back out in the lock-box. I kept a record of where we went in a little green notebook. However, I gave it to General YOUNG when I left, because actually I kept it mainly for flying time to get the amount of time we spent in the air and where we were a certain time every day. I had that all in the green book. The reason I left it, I wanted to bring it home, but then it had a lot of the radio call signals and information that I probably shouldn't bring home, so I left it with General YOUNG-- the radio frequencies for all the different units, so I left that there.

Q. Well, you then also made arrangements for General YOUNG to visit these various places. He'd tell you generally where he wanted to go, and you would get in contact with them either by telephone or radio and make arrangements, tell them when he was coming in, as you say, make sure he had people there he wanted to talk to?

A. A lot of times he didn't want to be announced before he came in. He liked to come in without having a preparation at the base, so I just had to wait and find out what he wanted me to do. If he wanted me, say, to call ahead and arrange for a vehicle, then I would. Sometimes he used to radio himself.

Q. During this period, Mr. WHITE, which we are talking about, the period about a month and a half after Tet and so on, the division was pretty well spread out on operations down at Quang Ngai, and Quang Tin, and some other outfits way up north. What area in particular did General YOUNG focus upon?

A. When I first became aide, he handled the support end of it. Then when General RYDER left, he handled the combat part of it. Now we flew all over, and it is hard to tell exactly what period of time--I was an aide for 7 months or so--to isolate March and try to figure out where we were in March, but I know we did fly down in that area quite a bit. I just

don't know. If I had something to bring to mind, different instances, I might be able to recall.

Q. Well, this is what we might do in order to try to refresh your memory, to take you various places along with General YOUNG, to see if you recall them and any discussions or actions which may have developed. You were familiar with Task Force Barker?

A. Yes, sir. Of course, it is a little vague now, but I remember it at that time, yes, sir. I remember Lieutenant Colonel BARKER and approximately the area they were operating in.

Q. Do you remember going into LZ Dottie quite often?

A. Dottie is the one right near Highway 1. It is sort of flat, as I recall. I think the 4/3 took it over after Task Force Barker.

Q. To the best of our knowledge, that is correct. It is about 15 kilometers north of Quang Ngai City.

A. Yes, sir. We went there quite often.

Q. Do you remember their operation over into the area called Pinkville, which took place, starting about the middle of March? You notice, this is a blow-up there (indicating Exhibit MAP-1), on the map here which you can see, east-northeast of Quang Ngai City.

A. I remember landing at Buddha Mountain, north of Quang Ngai City across the river. It would be in here somewhere (indicating on Exhibit MAP-5), and I know there was an operation out in their area. I remember one time there was a big operation along here, especially, because I remember there was a lot of smoke flying over the area. A lot of villages were burned. I just saw a lot of smoke, but I don't know what period of time that was.

Q. Well, looking at this blow-up here (indicating on Exhibit MAP-1), looking across the river from Quang Ngai, north across the Song Tra Khuc River, about 3 kilometers to the north-northeast, you will see the mountain Nui Thien An. This, to the best of what we have been able to put together, is what they refer to as Buddha Mountain. There is Buddhist

monastery on top of it. Also there is a RF or PF outpost there, and people very often use it as a command post.

A. We landed there twice as I recall. I'm not exactly sure what was there. It seems to me there was artillery somewhere near there, but I just can't remember.

Q. Now coming back to the middle of March, the 16th, the day this operation was initiated by C/1/20, C Company assaulting in the area which you see there marked on the map (MAP-1) as My Lai (4), and Bravo Company air assaulting to the east from there, about 3 kilometers south of My Lai (1) or Pinkville, and then both of them converging at a night laager area just to the west of My Lai (1). That took place on the 16th. This was a Saturday. Do you remember Colonel HOLLADAY?

A. What was his capacity, sir?

Q. He was the aviation officer.

A. Yes, sir.

Q. He also commanded the 123d Aviation Battalion. Did you also know Major WATKE?

A. I can't remember him, sir.

Q. Major WATKE commanded the aero-scout company of the 123d Aviation Battalion at that time.

A. If I saw a picture of him, sir, I bet I could recognize him, because they had an aero-scout company, because it was different from the rest, and it was just sort of a make-shift command post. I remember we landed at the regular place at Task Force Barker. We took a vehicle and went around to where the aero-scout company was, and they had the command post just in a van. It was a van at first, and I don't know what it went to after that.

Q. That was down on the LZ?

A. Right. Just on the other side of the LZ. Of course, it wasn't a very big LZ. Anyhow, I think I would remember his picture if I saw it.

Q. Well, do you remember on Sunday morning, early in the morning, that Colonel HOLLADAY and Major WATKE, who we will try to show you a picture of in a little while, came to see General YOUNG early on the morning of the 17th?

A. I remember Colonel HOLLADAY came quite often. I'll have to see a picture of him.

Q. Who would make arrangements for somebody to see--

A. (Interposing) They would call me.

Q. Call you or the chief of staff?

A. General YOUNG did a lot of calling himself. For example, a call in the immediate area, in the Chu Lai area, he may just say, "Get me the TOC." Colonel HOLLADAY was over to the TOC most of the time as I recall-- could be reached at the TOC.

Q. Suppose the situation were reversed, where the initiative was on the part of Colonel HOLLADAY wanting to come in and see General YOUNG?

A. Then they would probably call through me to see if he was available.

(A picture of Major WATKE was given to the witness to identify. The photograph was not received in evidence.)

Yes, sir, he wore a funny hat. All the aero-scouts wore that or at least he had one. It was a shot hat, like a bush hat in a way. Yes, I remember him.

Q. That was an old hat that kicked up on the side?

A. Yes, sir.

Q. Now, do you remember them coming in?

A. I can't say specifically what date it is. I can remember Major WATKE coming to the division headquarters, and I can remember Colonel HOLLADAY. To be truthful with you, I can't remember them coming down, but I'm pretty sure they probably did. But that probably doesn't help you, I'm sure.

I know that General YOUNG was interested in his outfit, and we visited him like I told you.

Q. Now this was on the 17th. Do you have any idea what they were talking about? Did he ever comment to you or did any of them ever say to you what he wanted to talk to him about that you can recall?

A. No, sir. I remember that Colonel HOLLADAY would call, or has called, and it seemed urgent sometimes: "I'd like to see General YOUNG." There were a lot of personalities involved, but to me, I remember his personality. He was kind of hard to get to know. He was sort of a cold person, and I mean like he would say, "Lieutenant WHITE, I would like to see General YOUNG." I'd say, "Yes, sir, I'll see if he is available." It's hard to describe to you. I know that by that tone of his voice, it may just sound like it was urgent most of the time. I don't know if you can understand what I'm trying to say.

Q. Yes, I think I do. Rather than by words, it was by intonation.

A. It may be everytime he wanted to see General YOUNG it may be urgent. I guess it was. They all had a pretty big job.

Q. This was on Sunday, which was the 18th to the best that we have been able to reconstruct things. It's pretty well down in the log of Task Force Barker. Get me the log of Task Force Barker for the 18th.

(The recorder handed Exhibit M-16 to the IO.)

General YOUNG flew to LZ Dottie. I have here the log of Task Force Barker for the 18th, which is in the record as Exhibit M-16. I will show you this document and ask you to look at item number 10 and also item number 12.

(The witness reviewed the document.)

I think it says 9:10 and a part of it 9:30 now. If you notice number 9, item number 9, you also notice Colonel HENDERSON had arrived. Now, do you remember going down with General YOUNG on this occasion, and General YOUNG met with Colonel HENDERSON, with Colonel BARKER, with Colonel HOLLADAY,

and Major WATKE. Do you remember that situation?

A. It seems to me I do, sir. We landed there a couple of times, but very rarely did we land there with Colonel HENDERSON there. But I remember he did meet us at that LZ a couple of times. When was Colonel HENDERSON wounded? This was short after that he wore a cast?

Q. Somewhat after this.

MR MACCRATE: Five days.

A. Oh, I see.

IO: He was not in a cast at this time.

A. Not in a cast at this time. Vaguely, but I can remember Colonel HOLLADAY being there. That was rare when I met Colonel HOLLADAY at a fire base. Sometimes we took Colonel HOLLADAY around with us.

Q. But I understand Colonel HOLLADAY flew the aircraft. That wasn't the case this day.

A. I don't think he ever flew it with me. I don't remember. He may have.

Q. It is a question of these five individuals getting together in Colonel BARKER's van generally along side the TOC. Do you remember that now?

A. I remember meeting them on the path, but I can't remember all of them going into one place in the TOC. I don't believe they had a place to meet in the TOC.

Q. Not in the TOC, in Colonel BARKER's quarters or his van, which actually was a van, but it was dug in. It had sandbags all over. So for all practical purposes, it would look just like the dug-in van.

A. I'm sorry. I can't remember that. Where was it located in relation to the TOC?

Q. Oh, about 20 or 30 feet from it.

A. Which direction as you face the TOC? To go into the TOC, you went down in and into the TOC--

Q. (Interposing) I would understand this is to the right.

A. As you look at the TOC, it was to the right.

Q. Yes.

A. It seems to me it happened, but again I can't say for sure, sir.

Q. Well, it is not so much that it happened. We're pretty well aware of that, but what I'm interested in is whether or not there was any fallout of this that you can recall whether you talked to anybody or got any bleed off of what was discussed. Did you see any of the aviators, the pilots from the 123, or any of the other helicopter units around there?

A. No, sir.

Q. When you were there that day and this was going on, you probably landed at the pad that was on the hill, rather than the pad down at, well--

A. (Interposing) Where the aero scout company was? We also landed at the pad closest to the TOC or on the hill.

Q. Do you remember by chance whether you got down below to the CP down there at all or not?

A. To the aero-scout CP?

Q. Yes.

A. If we landed there and left at that time, I don't believe we would have time to do that. I don't know. We may have. I wish I had my green book. I should have brought it home.

Q. Your green book probably wouldn't tell you any more than I'm telling you right now.

A. I'm sure it wouldn't. Just tell me when I left, because it wouldn't say anything about it.

Q. If you remember, you were in LZ Dottie also the afternoon of the 17th. So you're coming back to Dottie fairly fast?

A. Yes, sir. Do you have a log of that, what time that was we arrived at Dottie on the 17th?

Q. Yes, I think I can find it.

A. See, Dottie was just below Chu Lai. The only thing really between Dottie and Chu Lai was a little village Binh Son or something like that. We had a major there we used to drop in and see. Anytime we went south coming back, Dottie would be convenient to stop by before we went into Chu Lai at the end of the day.

Q. You were there at 2:30, arrived at the location, departed at 1445. You were only there for 15 minutes.

A. The only time we stayed any length of time there was one time when we went over to visit the aero-scout company during this period. Another time later on when the 4/3 of the 11th was there, I think we stopped in I think they had a big weapons cache there. One time we stopped and looked at that. The only time we ever stayed any length of time there was to go and visit that aero-scout CP. I think we were waiting for Major WATKE to come in as I recall that time. But I don't know when that was.

Q. I want you to think back on that. I want you to see if you can recollect in your mind whether it was before or after this. Forgetting about that for a minute, we were talking about Colonel HOLLADAY and Major WATKE coming in to see General YOUNG in the morning. That afternoon, quite obviously after lunch, you took off and went to LZ Dottie, and the following morning you were back again to LZ Dottie. Now does this tend to refresh your recollection?

A. It's hard. It's a shame this didn't come up right after I got out of Vietnam, because I know I could remember a lot of it. Because just talking to the people outside, the guys that were there with me, you forget names until they start bringing them back, then you remember all kinds of things.

I can remember Colonel HOLLADAY and Major WATKE I believe coming in the division headquarters. But as far as going there that afternoon and then going back again the next morning, I can remember going there, maybe the two different times, but I didn't put them together as meaning

something really important like a big contact. But I do remember flying over the area. I don't know if this was the time, but I remember flying over the area along this part (indicating on Exhibit MAP-1). There was a lot of smoke. That may have been the time that we went to Buddha Mountain.

MR MACCRATE: Mr. WHITE pointed to the immediate Pinkville area of the map.

A. In here I don't remember anything in here.

IO: Do you remember anything burning to the south of Pinkville?

A. Down here?

Q. Yes, down toward what you see there as Co Lay (1), Co Lay (2), and Co Lay (3).

A. Down here?

Q. And then further inland about 2 clicks to the west My Khe (3), My Khe (2)?

A. Sir, I just know there was a lot of smoke and I was always looking to see if I could spot troops on the ground, but I just don't remember exactly where all the smoke was, but I can tell you it was in here for sure.

(The witness pointed to the immediate Pinkville area.)

Q. Do you remember General YOUNG asking any questions about what all this smoke was about?

A. He was just saying that there was an operation. I'm sure this must have been the time we went to Buddha Mountain because we circled the area a lot, and we went to the mountain, and we flew back up to the coast. We may have even dropped over to the province headquarters. We may have. I'm not sure. We may have at that time, because I'm sure the ARVN's were in on it, too. I believe they were.

Q. Not on this operation.

A. Not on this operation. When I went to Buddha Mountain, it seems to me there were ARVN's up there, too. They had a different CP. Maybe that was a different period of time.

Q. There were several operations. There was one operation in early February and the other one was in late February in which some ARVN did participate. This operation was with the exception of a few ARVN that were operating with them a sole, unilateral U.S. operation in the area which did have its headquarters at Buddha Mountain.

A. Wasn't this a refugee village? Let me look up here. (Looking at MAP-1) No, I'm wrong.

Q. I think you're looking at....

A. There was a refugee village that was held by the ROK, the Koreans. Now this may have been a different time. I'm just trying to familiarize myself with the area again. But I know we landed there, and I don't know whether it was here? Do you know what I'm talking about? They moved the whole refugee village up the coast.

Q. It was a refugee village at that time, down in northeast of--

A. (Interposing) Right here.

Q. Yes?

A. We moved them up the coast to one of these, this one or--

Q. (Interposing) I think you've got the right peninsula right there, northeast of Binh Son.

A. Right here. And there was already a big coast village right here, but they moved them in behind, and we visited there a couple of times.

Q. (Interposing) What was the name of that village up north?

A. This one?

Q. Yes.

A. Phouc Thuan. This is got to be it here (indicating).

Q. Well, we've had this described to us by the advisors from province who worked out there with those people.

A. But General YOUNG was directly involved with that, I believe, because I know we were probably the only one of the staff of the three generals, Colonel GALLOWAY--he was a colonel then--I know that he was there. We landed, and he was very concerned with the operation.

Q. When did this all take place?

A. I'm not sure in relation to the March thing. I don't know whether it was before or afterwards, it seems to me--

Q. (Interposing) Well, if General GALLOWAY was there, he arrived in March just a few days before this, about the middle of March.

A. I can tell you there was an American that worked with the villages there. This big, tall guy, who wore a cowboy hat, that we worked with these people a lot. He even helped them load on the big Chinooks. We were there on the ground, and the Chinooks came in. He was with them the whole day, and he even moved with them up to the village. He can maybe tell you what time it was. I can't remember his name. I saw him a lot. I guess he worked with Mr. MAY or something.

Q. They moved out of An Ky up to another refugee camp, maybe 25 kilometers to the north. Sort of a model refugee camp.

A. Yes, it was very nice.

Q. Well, the main thing about it wasn't so much the nicety of it, but they had much improved security.

A. Yes.

Q. But you do remember this area burning out down in the area to the south (indicating)? Do you remember

coming in, flying over at all on the 17th, for example, because both of these two companies were down in this area on the 17th, both B/4/3 and C/1/20? B/4/3 went right down the coastal strip to Co Lay (1), (2), and (3). C/1/20 leaving a laager area to the west of My Lai (1), proceeded south through My Khe (3), My Khe (1), and on down to north of the riverbank there toward the area of My Khe (2). Do you remember any comments that General YOUNG had to say?

A. I know that at this particular time there was a lot of smoke and that there had been a contact of some sort, because he did remark about it in the helicopter over the radio, about, "Lieutenant, look down here now; look at this." But, I don't remember exactly. You know. It was information that I wasn't privileged enough to know about, I guess. I mean I knew a lot of things about a lot of the contacts, but I just don't--were there any tracks in this operation?

Q. No, there were tracks in the previous operation, the operation of 23 February.

A. It just seems that I remember--

Q. (Interposing) In that operation they did have the ARVN involved.

A. Maybe that's the one I--

Q. (Interposing) And I think their headquarters was on Buddha Mountain where they operated from.

A. Maybe I've got a combination of the two in my mind. It seems to me that I remember tracks in here at one time. That was back outside of this village, right out in this area (indicating).

Q. Yes. They had to move in tracks to, well, one to overrun the position, but, secondly, to help extract another unit that was pinned down.

A. Where is LZ Uptight?

Q. Uptight is due north from there about 5 kilometers.

(IO further orients witness on Exhibit MAP-1.)

A. Here's where the helipad was (indicating location at LZ Dottie on Exhibit MAP-1). Right along in there, I believe. And down in here, I believe, was the aero-scout company. It was closer to the highway. The CP was approximately here. We always landed there.

Q. Did you land that far from--

A. (Interposing) Well, the reason that I say that is because--

Q. (Interposing) I understood that there was three places that you could land there. There was one place you could land out there at the end which was generally used as a refuel point for the aero-scout outfit, where you were pointing to.

A. Right here?

Q. Yes. Then there was a big landing zone to the west.

A. Right here?

Q. Yes. And then there was another pad just sort of right in the saddle between the two hills.

A. Right in here?

Q. Well, just a little further to the left, yes.

A. Well, as a matter of fact, a couple of times when we landed we did refuel there, right where we landed. Of course, they remodeled the pad once in a while. I don't remember exactly. Initially, though, didn't they get a hard top somewhere over here? An asphalt top?

Q. Well, it's sort of peneprime with some sort of black top on it.

A. About in this area?

Q. That's primarily for dust suppression. Well, I am interested in any comment that General YOUNG may have made concerning this burning down there on the 17th, the afternoon

of the 17th when you came in. Granted, you came to Dottie, but I imagine you could have seen what was going on over there, particularly if you flew down in the area, because we know all of our interrogations and so forth, that five of those villages were burned down that day on the 17th.

A. Were they burned before then, like on that operation before?

Q. No.

A. Okay. Then I remember that burning distinctly. But I can't remember what General YOUNG said except that he called my attention to it. I remember that. I mean a lot of times we'd see things, and he would just observe it himself. It just would depend what mood he was in. Of course, sometimes he'd like to show me things, I guess. I remember he did point to that. I don't know if Mr. NEWELL, who was our pilot the whole time, would remember these things as well as I would, because he wasn't as well oriented, you know, on the map. Of course, he knew where each place was, but he didn't know the unit and things like that. He was our pilot for the whole time I was there, our aircraft commander.

Q. You indicated that you remembered the tracks at My Lai (4).

A. Vaguely.

Q. And it is quite true that the tracks went in there on another operation, went in in February 1968 when another company of Task Force Barker, in order to be extracted, had to call for the tracks to come in and pick them up. Do you have any recollection of flying over the area at that time of that operation?

A. It seems to me there was something about the operation. There was somebody in there or one time where they were trying--there was something, not amusing, but different about an operation down in that area about getting the village chief out or--

Q. (Interposing) Well, now, this may be something that was later than 16 March. What I wanted to come to was trying to sort out these operations in your mind, and where you were on the 16th, and whether you were at any time

during the course of the 16th in the vicinity. Two, what were thought to be VC, were picked up by Colonel HENDERSON on the morning of the 16th and brought over to LZ Dottie. It was discovered that they were RF/PF and not VC after they had been brought back to LZ Dottie. Did that tie in with what you're thinking about?

A. I don't think so.

Q. Also in connection with the operation along the coast, they picked up some officials and a VC nurse. Does that bring back any recollections?

A. A VC nurse sounds familiar but I just can't--sir, I'm sorry.

IO: Well, a few days after this, it may have been as much as two weeks after this, do you remember General YOUNG going down into Quang Ngai City to talk to Colonel TOAN? Do you know who Colonel TOAN is?

A. Yes, sir. Is he a general now?

Q. He's now General TOAN.

A. Yes, sir.

Q. Commander of the 2d ARVN Division.

A. Yes, sir.

Q. Do you remember going in there?

A. There was a ceremony in Quang Ngai City where the Vietnamese honored the Americans and I think some Vietnamese also. I don't recall in relation to what time this was, usually we landed at the soccer field. Our business normally dealt with the province chief and Mr. MAY.

Q. Yes.

A. And very rarely did we land at the other pad inside of the compound.

Q. Yes, the Tropo pad.

A. Right. Very rarely did we do that, but once in awhile we did. Now I'm trying to think. I know we landed there, and we went to a ceremony. That was at Colonel TOAN's headquarters. He, of course, could have talked to him at that time. I don't know. Is that ceremony in this time frame?

Q. Well, it could well have been. That could have been a post-Tet type of ceremony to honor the ARVN that had distinguished themselves during Tet and also some of the--

A. (Interposing) Americans?

Q. American units came up around the area subsequently to have a show of force, mostly armored cav type units. Does that ring a bell with you? And also perhaps some of the Americans connected with province.

A. Who was the American advisor to Colonel TOAN at that time? Let's see, before it was the colonel who was there before I got there and stayed until his replacement--

Q. At that time was Colonel ULSAKER.

A. ULSAKER was the first one.

Q. Yes, and he was replaced by Colonel HUTTER.

A. HUTTER, yes. I'd know ULSAKER, but if I saw HUTTER's picture, I'd know him, too. ULSAKER was in command at that time?

Q. Until 1 April.

A. I'm trying to remember whether we went to his headquarters on 1 April. I know we went to see this Colonel ULSAKER. And Colonel TOAN may have been there.

Q. Well, you would generally call in to make the arrangements. But if you went to see General TOAN, who would you make the arrangements with?

A. Sometimes it's really difficult to say.

Q. Your normal course of events is to call the advisor?

A. The advisory group. That's normally who I would call. However, sometimes their frequencies changed, and it was hard to get their change. It was easier for us to land at the soccer pad where the soccer field was.

Q. Yes. Let's shift over from 2d ARVN Division then. Let's go downtown. Let's go down to the Quang Ngai Province headquarters. Do you remember along about this time having some meetings with Colonel KHIEN and Mr. MAY or Colonel GUINN?

A. GUINN?

Q. GUINN, G-U-I-N-N, who was the deputy senior province advisor, and the senior military there.

A. Do you have his picture? I mean if it's relevant. We met with the province chief quite frequently in Quang Ngai City.

Q. Did you ever attend any of these discussions?

A. One time I went in the office there with Colonel KHIEN, the province chief. I went in his office, and then I know that he came out and he flew with us in a helicopter, and we went west. There was an operation out west. That may have been near Tet, you know, because he flew with us, and he had his bodyguard with him. But that was the one time that I went in his office. Now usually we would go to Mr. MAY's office, and we would talk with Mr. MAY, and then Mr. MAY would make an appointment for General YOUNG to meet the colonel, the province chief.

Q. Were you ever aware, along in about this time, that the GVN or the ARVN were conducting an investigation of any kind? Did you ever hear of them investigating something? Did you ever hear of an investigation being made upon the U.S. side?

A. No, sir.

Q. General YOUNG never mentioned the fact that division or somebody else was going to investigate something that may have transpired down in this area which might have had to do with burning some villages or an excessive number of civilians being killed.

A. That stuff? Of course, you would ask me after I got out of Vietnam, but I can't remember that now.

Q. Extra artillery being used, or extraordinary amount of artillery, or a confrontation? Did you ever hear of a confrontation between some aviators and some ground troops in which it got pretty heated to the point where some machine-guns may have been directed toward some other American forces?

A. No, sir. The aircraft commander may have because they probably talk about it among themselves. John NEWELL, he may remember that. He was the aircraft commander.

Q. Here's a picture of Colonel HUTTER.

(IO handed witness a photograph which was not admitted into evidence.)

A. Right, yes, sir.

Q. Do you recall him?

A. Yes, sir.

Q. (Handing witness a second photograph) He's not in uniform, but here's the other officer we're talking about.

A. Yes, sir. Oh, yes, sir. Real well.

MR MACCRATE: Looking at Colonel GUINN.

(The photograph of LTC GUINN was not admitted into evidence.)

A. Yes, sir. Yes, sir. He was there. Did somebody take his place while I was there, because it seems to me he was there right at the first when I was in May, because I know we met him in Duc Pho. I remember him very well, and one time we had lunch. I'm sure it wouldn't be over that. We had lunch at, I think it was his residence, or maybe it was Mr. MAY's. I think it was maybe Mr. MAY's, but he was there.

IO: Mr. MAY lived in a house.

A. Yes.

Q. In town about, oh, roughly 3 blocks from the province headquarters.

A. Yes, sir.

Q. Does that sort of ring a bell?

A. Yes, sir. We all sat around, and then we had lunch. General YOUNG was there; and Colonel GUINN, I'm sure; Mr. MAY; and I don't think Colonel ULSAKER. He may have been, but I don't know.

MR MACCRATE: Can you recall anything that took place at the meeting at Mr. MAY's residence? Was Major GAVIN there? Major GAVIN was the district advisor of the Son Tinh District.

A. Son Tinh. Which one is that, General?

Q. Son Tinh is immediately across the river above Quang Ngai City.

A. Whereabouts? Could you point to that?

Q. The headquarters, directly across the river from Quang Ngai City.

COL ARMSTRONG: (Indicating on Exhibit MAP-5) It's pointed out there, too. It's labelled here. Just 4 kilometers north of Quang Ngai.

A. Major GAVIN. I'd have to see his picture. Truthfully, I don't think we ever landed there.

MR MACCRATE: Well, my question was directed to whether at the time of the visit to Quang Ngai City when Mr. MAY and Colonel GUINN were present, do you have any recollection of Major GAVIN being present at such a meeting?

A. I'd have to see his picture, sir.

Q. You indicated you recalled seeing Colonel GUINN at Duc Pho. Do you have any recollection of who was present at that time?

A. Well, It's hard to remember all these district advisors, you know, to place them in mind. But, I remember

the one that was at Duc Pho. I don't remember his name, but if I saw his picture I would know him. Of course, the one at Binh Son, I knew him real well. They got overrun one time. But the one at Son Tinh, I'm not sure about him because we never landed there.

Q. No, but I'm talking about--

A. (Interposing) I know what you're talking about.

Q. Your seeing Colonel GUINN at Duc Pho. I was trying to relate that to the circumstance when he was there and who else was there.

A. I believe this was much earlier, sir, like before Christmas or right after Christmas, because--

Q. (Handing photo to witness) Here's a photo of Major GAVIN, now Lieutenant Colonel GAVIN.

A. No, sir. I don't remember him.

Q. You don't remember seeing him?

A. No, sir.

(The photograph of LTC GAVIN was not received in evidence.)

Q. You referred to having pictures of a ceremony that you attended at Quang Ngai City.

A. Yes, sir.

Q. Do you have various pictures from this period?

A. I took pictures of the ceremony itself, and I don't know about, you know, any other pictures at that same time. It'd be hard to say.

Q. Do you remember a visit from General DOLEMAN?

A. DOLEMAN. Who was he?

Q. A lieutenant general that visited on or about this time in March 1968.

IO: General DOLEMAN at that time had retired from the Army. He had been the chief of staff and deputy of USARPAC, and he was on a special job which they had called him to active duty for, to make a special study on long lines of communication. STRATCOM. And he visited the Americal Division right about this time.

A. Right about this time. We had so many of them visit. That one doesn't ring a bell, the name doesn't.

Q. Did you make a practice of taking photos of visiting dignitaries?

A. Yes, sir, I have a couple of General WESTMORELAND and some that came with his party, but like we had a Congressional party that came, and we showed them around one time. I don't know what period this was. There were about five or six, I believe, Senators. I'm not sure, maybe they were Congressmen, House of Representatives. I just don't know. It must have been.

Q. Did you take pictures out on operations?

A. Once in a while. Yes, sir.

Q. Do you have these pictures?

A. I have them at home. I can look through them and see if any of them will ring a bell. I took some with General YOUNG's camera, too. He used to ask me to take some pictures for him. Of course, I never saw them. He always sent them home himself.

IO: Did you ever take any pictures out there that day when you were flying around the village?

A. I don't think so, sir.

Q. Did you ever take your enlisted aide with you?

A. No, sir. He flew with us one time, but he wouldn't remember anything, I'm sure. No, sir, he maybe went with us once or twice. General YOUNG just would take him maybe to take pictures with his camera and to fly around. He almost walked into the tail rotor one time. That scared General YOUNG so bad that he didn't take him anymore.

COL ARMSTRONG: You're an artilleryman. Do you remember an incident where artillery was credited with 69 casualties on a preparation, an LZ preparation? Does that ring a bell with you?

A. In a way it does because General YOUNG would comment about that. I mean I don't remember him commenting to me directly, but something like that he would comment. To me it seems that that is familiar.

Q. Would he ever comment about something like, "Damn it, 120 casualties and only 3 rifles picked up"?

A. Yes.

Q. Do you remember the time?

IO: Or more specifically, do you remember that evening after the staff briefing walking back up toward where General YOUNG or General KOSTER lived, if there was some discussion that ensued concerning 128 versus only 3 weapons?

A. That's familiar, sir. I remember that. I don't remember walking back and then discussing it, but I can remember that that did happen. I remember that there were a very small amount of weapons and a tremendous body count for that one incident.

COL ARMSTRONG: What was your reaction when you read about this incident in the papers?

A. Well, my first reaction was it could happen. It could have happened because, I guess, anyone that has been over there and seen a little bit could understand how feelings--well, maybe not as a bad as what the papers say has happened. But I know I've seen some or heard about, directly, some innocent people being, you know, hurt just because they happened to be in the way.

Q. Was this normally investigated?

A. Somebody told me about when I was in Duc Pho. I was stationed there for the first 5 months before I became an aide. One of the men in Duc Pho got in a track one time and went downtown and ran over some people in the track. He said he was being court-martialed and so forth. This was just

hearsay about things like that: "I just want to go down and kill some 'gooks'." You know the expression that was used. I mean from this I could see where this could happen, especially when say you're stepping on booby traps continually. And they're mad because the local villagers won't tell them that they're there or they feel like they know they're there, the booby traps, that is. I can't see just shooting a little child up.

IO: When you were there, did you get any degree of resentment at all of these people toward the Vietnamese out of personnel from Barker, for example? You talk while these fellows are wallowing in there. I know what these aides do, too, and you guys are out talking around. You're down in the TOC sticking your big nose in other people's business on this subject and the other. So I know what you do. So while you were there, did you get any feeling of resentment or ill feeling toward these people?

A. Well, there was another unit of the 11th Brigade that I got this feeling from. It was the one that was located south of Mo Duc but on the west side of Highway 1.

Q. South of Mo Duc.

A. In other words, just west of Duc Pho a little bit north of there. Just a little bit. There's a little LZ up on top of--

Q. (Interposing) 1/3?

A. 1/3, yes, sir. The battalion, I believe--

Q. (Interposing) Not the 1/3, the 3/1.

A. 3/1. The battalion commander had a southern drawl.

Q. I'm not even sure who was the commander at that time.

A. But they always had Vietnamese people with their hands tied behind their back sitting right outside the TOC, and it just seemed to me the battalion commander was always bragging about how they were getting control of the area by finding so many VC. In other words, they really went out,

and hunted for them, and searched for them. They weren't afraid to go after them was the impression that I got from this battalion, and they always had Vietnamese people outside tied up. When I say always I mean quite a bit, not every time of course.

Q. What about BARKER now?

A. I don't remember seeing any Vietnamese prisoners at the TOC.

Q. I'm not talking about Vietnamese prisoners, I'm talking about a feeling or an attitude of resentment, hate, vengeance?

A. No, sir, I never got that impression. You see, that's one place we never really stayed long enough to ever have talked with some of the guys. A lot of times when we spent some time, of course, I would talk with a contemporary of mine or someone, but we never spent much time there.

Q. Now when you were down looking at that aviation outfit, what was discussed down there? What was the big discussion there about?

A. We waited a long time for Major WATKE to come, I believe. Then when he came, he just wanted to know how he was doing, how was this working out. I believe this was a new thing at the time. I believe this just came in new, because I think Major WATKE was attached to somebody.

Q. The aero-scout outfit was new. The whole battalion was new, as you recall. Many of these aero-scout ships and pilots had been taken from the artillery and various other places.

A. That's what I thought. In other words, I thought this was formed within and was new. But he was just interested it seemed to me, interested in how they were doing, and does this work, is this effective. Was it Major WATKE's outfit that was involved in this, the aero-scouts?

Q. They were involved. As far as I can see, practically every aviation outfit in the division was involved including elements of the 14th Battalion. I have here a document which is Exhibit R-1, subject: "Report of Investigation,"

dated 24 April 1968, addressed to the Commanding General, Americal Division. I would ask you to look at the first two pages of the document and tell me whether or not this came into your office, or if you handled it in General YOUNG's office, or whether in any way, one way or another, it came to your attention, either the document itself or the contents of the document.

A. No, sir, I don't recall the document. I didn't read these things normally. I just took them out, and gave them to General YOUNG, and put them back. Once in a while the assistant chief of staff, Major BEASLEY, would have something interesting. If I happened to be around, or one of the other aides, he would say, "Look at this." We'd read it, but most of that concerned American prisoners of war that had escaped or were let loose by the VC or NVA.

Q. Major BEASLEY never showed you this document?

A. No, sir, not to my knowledge. However the large body count and the small weapons count is very familiar, and it just seems to me that General YOUNG remarked on this.

Q. Did you ever hear of VC propoganda coming into the headquarters of the Americal Division alleging that a large number of Vietnamese had been killed in the Son Tinh District, specifically Son My Village about the middle of March?

A. No, sir.

Q. Were you ever aware of a report by the village chief to the district chief?

A. No, sir.

Q. In your visits to 2d ARVN Division headquarters and also to Quang Ngai Province talking to Colonel KHIEN, or talking to Mr. MAY, or talking to Colonel GUINN, or to other people as you may have talked to them around the headquarters, were you ever aware that the ARVN were looking into what might have happened at Son My in about the middle of March?

A. No, sir. There was a friend, a Vietnamese, who went with the province chief wherever he went, and we became friendly, in other words, communicated as best we could in broken English and so forth. But this was before. This was

the time we went out west that he went in the airplane with us, and he looked after me. And when the general and the province chief went in to meet, he and I would talk about, you know, general things, nothing about that, though. No, no one ever said anything to me about this.

Q. In your time, then, from nobody at division headquarters did you ever hear a comment, or a statement, or rumors, nor for any reason one way or another have you any cause to suspect that something unusual may have happened down in this area?

A. No, sir, I can honestly say that.

MR MACCRATE: Did you ever have any recollection of Vietnamese documents in the group of documents that you were taking off General YOUNG's desk and putting back in the morning with translations? What was the practice with respect to Vietnamese documents, just get an English translation? And would you sometimes see the Vietnamese documents that came in?

A. I don't ever remember seeing a Vietnamese document, sir.

Q. You'd just see the English?

A. The English, yes, sir.

Q. You mentioned landing on Buddha Mountain two times.

A. It was very close. Either it was twice the same day or once one day and once the next day. I'm not exactly sure.

Q. By any chance was a chaplain traveling with you on either of those visits?

A. Chaplain LEWIS?

Q. Or one of the other chaplains.

A. I don't believe so, sir.

IO: We appreciate your coming in. Undoubtedly you put some thought to this matter already, and I would think as a result of this you would probably be thinking about it further. We have talked to a lot of people, and we're going

to talk to some more people still. So we have a pretty good picture of what transpired, and the whole reporting and investigative process. But any little bit and piece does help, so as a consequence, at a later date if you can remember anything further, we'd appreciate you getting in touch with our office or we can either see you or arrange to have you see us. In a similar sense, we could ask you to look through your pictures to see if you have any pictures which would be of value to us for the purpose of this investigation, or if you have any documents, if you find that green book, for example?

A. I gave it to General YOUNG.

Q. Or if you have any comparable diaries?

A. My wife has all the letters that I wrote. I can look through those for that period.

Q. You might take a check through those to see if you gave her any gems about that period which would be helpful to us.

A. Unfortunately, I never discussed anything over there with her. I didn't want to upset her.

Q. Well, if you do have anything such as that, we'd appreciate having it. You may rest well assured that if we did, for example, extract something from one of your letters, we would protect you as a person and your family relationships so that there'd be no lovey-dovey stuff in there. And so anything that you can think of that would be of help to us, we'd appreciate having that. At this time I would answer any questions that you might have or if you'd like to you may enter a statement into the record.

A. I don't believe I have any questions, sir, and everything has been covered. I'm just trying as hard as I can to remember. As you know it's very hard to remember such a long time ago. However, that was such an eventful 7 months that it's not easy to forget. But the little things, little specific things, that I'm sure you'd like to know, I wish I could tell you, but we've already hashed over all that.

IO: The hearing will recess at this time.

(The hearing recessed at 1238 hours, 27 January 1970.)

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SUMMARY OF TESTIMONY

WITNESS: WILSON, Melville C., Jr.

DATE OF TESTIMONY: 23 January 1970

PLACE OF TESTIMONY: Pentagon

WITNESS SUSPECTED OF: N/A

COUNSEL: None

DUTY ASSIGNMENT: Became Staff Judge Advocate, Americal Division, on 5 April 1968.

The witness heard nothing of the events in My Lai (4) (pg. 4), and did not recall discussing it with any division personnel (pgs, 5-7). He knew nothing about an investigation (pg. 7), and if he had seen the inclosures to Exhibit R-1 while the Americal SJA, he would have remembered it (pg.8) and would have contacted the CO to insure a claims investigation (pg. 9).

(The hearing reconvened at 1118 hours, 23 January 1970.)

IO: The hearing will come to order.

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

Sir, the next witness is Mr. Melville WILSON.

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

For the record, would you state your full name, your occupation, and residence?

A. Melville C. WILSON, Jr. I live at 141 Emmaus Road, that's E-M-M-A-U-S, Poquoson, Virginia. An attorney.

IO: Mr. WILSON, have you had an opportunity to read the instructions?

A. I have, sir.

Q. Do you understand them, or do you have any questions concerning them?

A. I understand them and I have no questions.

Q. Mr. WILSON, on my left is Mr. MACCRATE who is a civilian attorney who has volunteered his services to Secretary RESOR to assist me and other members of this inquiry in this investigation, and also to provide legal counsel to me. On my right is Colonel ARMSTRONG, who has been designated by the Chief of Staff to assist me in this inquiry. Besides myself, these two gentlemen may address questions to you this morning. We have other teams that are likewise taking testimony from other witnesses.

A. Yes, sir.

Q. In the final analysis, however, I will have the responsibility for putting this report together, weighing the evidence, and determining the facts, the findings, and the recommendations.

Are you a retired Army officer?

A. I am, sir.

Q. In a retired status?

A. I am in a retired status.

Q. In that capacity, I would direct that you not discuss your testimony in this investigation with others, including others that may have appeared before this investigation as witnesses, except as you may be required to do so in the performance of official duty, or before a competent administrative, judicial, or legislative body. I understand that you have already testified before the investigation subcommittee of the House Armed Services Committee?

A. Not the committee itself, but an attorney, Mr. John REDDEN. Yes, sir, that's true.

Q. Fine. Well, I was simply going to say whether it be that committee or any other committee, your testimony here would in no way preclude you from testifying before such a body.

On another matter, to the best of my knowledge you have not been cited or cautioned by the military judge in the court-martial case of the United States v. Calley, or by any of the other judges connected with any of the other general court-martial cases resulting from the My Lai incident?

A. No, I have not, sir.

Q. I bring this up only because, although it may be somewhat remote, if you ever are called or cited, your testimony here would in no way change either the effect or the applicability of the military judges' order.

A. I understand, sir.

Q. Colonel WILSON, when did you become the staff judge advocate of the Americal Division?

A. General, I believe the effective date was prior to it, but I arrived there physically on 5 April 1968.

Q. How long did you stay in that capacity?

A. I stayed there, sir, until my departure from Vietnam which was either the 26, 27, or 28 July 1968.

Q. What was your assignment prior to becoming the SJA of the division?

A. I was the deputy staff judge advocate at USARV.

Q. USARV?

A. Yes, sir.

Q. At Long Binh?

A. Long Binh Post.

Q. Fine. Colonel WILSON, the My Lai incident became a matter of public knowledge somewhere in the time period of September or October of last year, about 5 months ago, roughly. Have you had any conversations with anybody from the Americal Division, or from the province advisor staff and so forth, or any individual who may have been connected with the incident or the reporting and investigation of it since that time?

A. Since then?

Q. Since it became a matter of public knowledge?

A. No, sir.

Q. Other than your testimony?

A. Right.

Q. Were you familiar with the operation of Task Force Barker?

A. Only in the sense, General, that the name is familiar to me. I had no knowledge of its operational purposes. The task force itself was a name that I heard in the division.

Q. Were you familiar with the fact that this task force was disestablished on the 9 April, a few days after you became the SJA?

A. No, I was unaware of that, sir.

Q. Did you ever hear of any discussion concerning the results of that operation?

A. No, sir.

Q. To possibly refresh your memory, the first day of the operation the task force reported to the brigade and subsequently to the Americal Division a body count of 128 killed. Two U.S. were killed, eleven U.S. were wounded, and three weapons were captured. There had been some discussion, or some indications of discussion which existed at division headquarters and other places concerning the disparity between the three weapons and the 128 VC KIA. Do you remember any of that discussion going on in the headquarters while you were there?

A. No, sir.

Q. Did you ever hear through the grapevine, or in conversations, of a report which was submitted by one of the aviators concerning unnecessary killing in the Son My area during the period of about the middle of March 1968?

A. I heard of no such report, sir.

Q. Did General KOSTER ever talk to you about investigating an incident which involved perhaps the indiscriminate or unnecessary killing of noncombatants, of a possible confrontation of an air unit and a ground unit, or anything of this general nature?

A. General, it's possible, but I have no recollection of such a conversation. And, I think if General KOSTER would have, I'd remember it.

Q. Would you recall a possible conversation with General YOUNG, the ADC, the maneuver ADC?

A. I don't recall, sir.

Q. Or, the chief of staff, Colonel PARSON?

A. No, sir. I don't.

Q. Did the division chaplain ever talk to you about any report which he may have received?

A. It's possible that he may have mentioned it, General, but I have no independent recollection of anything that he may have said to me about this. I have no recollection of this.

Q. Did you know the division chaplain at that time?

A. Yes, sir. I did.

Q. Do you recall his name?

A. Not at the moment, sir.

Q. Would Lieutenant Colonel LEWIS ring?

A. LEWIS, yes, sir.

Q. Did you also know another chaplain by the name of CRESWELL who was the DIVARTY chaplain?

A. The name is familiar to me, sir. I don't recall him personally.

Q. Well, let me give you a few other names. I know going back 22 months is not easy.

A. No, sir.

Q. You probably know better than I do in your business, but I'll just give you the names of a few other people and see if you can recall anything that they may have said to you which may have indicated or implied something which would have indicated an unusual happening in this Son My area, which is the area just to the east-northeast of Quang Ngai City. You can see its location, if I may point here. Just to fix your location, Colonel WILSON, up to the north is Chu Lai where you were located with the Americal Division?

(IO is orienting the witness on Exhibit MAP-5.)

A. Yes, sir.

Q. Going south along Highway 1, you can see where the province headquarters is in Quang Ngai City?

A. Yes, sir.

Q. Then you can see the general area of interest out there, generally marked in the yellow? This is called Son My Village.

A. Yes, sir.

Q. There are other names that are associated with it. Some people refer to it as Pinkville. The Vietnamese use other terms for some of the hamlets, Tu Cung, Co Luy, and so on. I will ask you a few names and see if any of these people might have discussed anything with you along this line. The division aviation officer, then Lieutenant Colonel HOLLADAY?

A. No, sir.

Q. The commander of the aero-scout company, Major WATKE?

A. No, sir.

Q. On the staff with you, on the general staff, Colonel QUALLS?

A. He was our personnel officer. No, sir.

Q. How about your 5, ANISTRANSKI?

A. That's Pete. No, sir.

Q. Can you think of any, not necessarily coming to you officially, but even discussing matters around the bar before you go into dinner in the evening or something?

A. That would be concerning this My Lai incident?

Q. Yes.

A. Some matter which would indicate or put me on notice that it was unusual or out of the ordinary?

Q. Yes.

A. I have no recollection of such a conversation, General, either on duty or off duty.

Q. Were you ever aware that an investigation was underway within the Americal Division concerning, you might say, the killing of some women and children or a confrontation between U.S. forces?

A. General, 2 weeks ago, and I have to answer your question this way, but 2 weeks ago when I appeared over before Mr. REDDEN, he showed me a report which bore Colonel HENDERSON's signature dated sometime in April, which was after my arrival at the Americal, and asked me if I had seen that report before. My answer to him was that it was possible, but I had no recollection of such a report. The subject of this report was "Report of Investigation." Except for seeing it 2 weeks ago over at the Rayburn House, I have no recollection of having seen it before. But, I didn't want to give Mr. REDDEN the impression or you that I may not have seen it. I may have seen it. I saw many serious incident reports while we were over in Vietnam.

Q. Yes, but if you had seen that report as the staff judge advocate, would you not have been required to do something about it?

A. The report he showed me in addition to VC killed and weapons and so forth contained an entry that it was alleged or information had been received that some 20 innocent civilians had been killed. The same question was asked of me then, and I told him that it was my policy that had I seen this with this entry at least I or a member of my staff would have contacted the CO, at least with the view of insuring that he initiated a claims investigation. Death or personal injury or loss or destruction over there was certainly subject to foreign claims against the United States. That much I'm sure I would have done. Whether I did it or not, I have no independent recollection.

Q. Now, did you see the whole document? When you were with Mr. REDDEN, did he show you the entire document, or just the report?

A. As I recall, it was just the report. I don't know what the entire document looks like, General, so I

don't know.

Q. The entire document has two inclosures. Was that it?

(The IO handed Exhibit R-1 to the witness.)

A. He showed me these two top pages or at least two pages. I didn't examine them.

Q. Look at that next page then, recognizing that you have already seen the report. Now, these two are attachments to it. Were these called to your attention?

A. Well, without reading it I can answer your question. I did not see this document when I was over with Mr. REDDEN.

Q. Let me give you a hypothetical question then. Suppose you had been SJA and you had seen that document with that attachment and the next attachment, I would like you to tell me what you would have done.

A. Yes, sir.

Q. That is a statement and it stands by itself as an attachment.

A. There is no signature or anything like that on it.

Q. I recognize that.

A. But, it does allude to a report from the district chief and also the province chief, and also in the second paragraph a personal letter to the district chief.

Q. Now, if you would have seen that paper when you were the SJA, would you have remembered it?

A. I'm sure I would have, sir.

Q. I think you would have too.

A. Yes, sir.

Q. What would you have been obligated to have done at that point?

A. As a minimum, I would have contacted a member of my staff. My deputy or somebody in my office would have contacted the CO or the S1 of the unit involved, whoever that might be, the battalion or the brigade, to be sure that as a minimum a claims investigation and also a war crimes report which is required by army regulations and USARV and MACV regs and/or possible criminal action against any such individuals had been initiated. I think if it were me, I would also insure that the chief of staff was aware of this.

Q. Well, this report as you can see is addressed to the CG of the Americal Division.

A. Yes, sir.

Q. The next inclosure is a piece of Viet Cong propaganda.

A. Yes, I see, sir.

Q. Read the first page. Just glance at the first page. I'm sure that you saw more than a few samples of Viet Cong propaganda.

A. Yes, sir.

Q. It was also indicated that this came out as a broadcast and was taken down and then subsequently transcribed. But, you will notice that the first page is the rather standard kind of broad accusations, and so on.

A. Yes, sir.

Q. When you get to the second page, I think you will see that the tenor of it changes somewhat. The other attachment is just a forwarding memo.

A. Yes, sir.

Q. Having served in the USARV SJA, you have already indicated that you were familiar with MACV regulations and requirements for reporting atrocities of any form.

A. That's correct, sir.

Q. Actual or alleged. But, do you recall MACV Regulation 20-4?

A. Well, I can't be sure of the number of it. I know the one that you're talking about, General. It's about war crimes.

Q. I'll show it to you as a matter for the record. This is Exhibit D-1. I think that the parts that are particularly important are paragraph 2, which outlines the scope, and paragraph 5 on the second page which considers responsibilities and indicates what people must do, particularly the interest of the SJA.

A. Yes, sir.

Q. If you would have seen this report, would you have been obligated to report this to MACV or to have assured that this was reported through channels?

A. I would have been, yes.

Q. Even though this is a piece of propaganda coming from the enemy?

A. I'm not sure I understand. Are you referring, General, now to the last part of this?

Q. I'm referring to this together with the last part of the statement and together with the fact that 20 to 30 people were killed.

A. As indicated by Colonel HENDERSON?

Q. Yes.

A. Yes, sir. I would have.

Q. Let me ask you another hypothetical question. Let me rephrase that. Let me ask you a matter of professional opinion.

A. Yes, sir.

Q. If a chaplain of a command receives information of what might be a major atrocity, a report, although not substantiated, from an individual as to a lot of women and children and noncombatants killed unnecessarily, and also going into details on other matters related thereto, what should be his actions?

A. On the part of the chaplain?

Q. On the part of the chaplain.

A. In my opinion, to report it to the proper authorities, or in the case of the division chaplain, I'd say at least to the provost marshal, or better yet to see the proper staff officer or the chief of staff.

Q. Suppose he were assigned as part of a command? Let's say he was the chaplain of, hypothetically, support command. Whom should he report to?

A. Oh, I believe it should be the commander.

Q. There would be nothing wrong, however, in reporting it to the chief of staff or the provost marshal or the IG, any of the people that are in the investigative process?

A. I would think so, sir. They are primarily concerned with the type of action that should be taken in that area.

Q. How should it have been reported? Verbally, or should such an allegation be put down on paper?

A. Well, I think that should be up to the individual, sir, who is receiving the report. To me an oral report is as good as a written report if it has any credence at all.

Q. But, you would want to make it a matter of record, though?

A. I would. Yes, sir.

Q. Would it be proper to hold such information within chaplain's channels?

A. To hold it, to keep it within chaplain's channels?

Q. Yes. To investigate such matters within chaplain's channels?

A. Well, I would say that it would be irregular at least. I've never heard of any case, General, either for claims purposes or for war crimes purposes or proper criminal action, being conducted by the chaplain, sir. It's not within their area of responsibility in my opinion.

Q. Well, to check out, let's say, the validity even of such a report or allegation or complaint?

A. I've never heard of it, General. If I knew that was going on in my division, I'd do what I could to stop it. However, I wouldn't want the chaplain investigating something that might come to my office, and I'm sure the provost marshal wouldn't either.

Q. Aside from all this, let's think back, Colonel WILSON, to when you were SJA.

A. Yes.

Q. Do you remember any comment or rumor or any statement or anything of any kind which you heard or which you say which at that time would have caused you to be suspicious of something unusual that may have taken place in My Lai or Pinkville or Son My at about the middle of March 1968?

A. I can't recall any, sir.

MR MACCRATE: Colonel WILSON, now having seen Exhibit R-1 and the inclosures that are attached to it, can you state with any certainty whether or not you have ever seen the document before?

A. My answer, Mr. MACCRATE, is that I may have, but if I have, I have no independent recollection of it. And, for the benefit of you and General PEERS, these things were asked of me 2 weeks ago.

Q. Well, you indicated that. But, you indicated that you had been shown that previously without the inclosures. Now I'm asking you if after you have seen the attachments to it, does that further refresh your recollection as to whether you saw it or did not see it so that you can at this

time be reasonably clear as to what you did or did not see?

A. It would be the latter, sir. It would refresh my memory to the fact that I had not seen it, because it has facts that I'm sure I would remember even more than the first two pages.

Q. Did you ever hear about the time of April or May that such an investigation was being conducted?

A. Was I aware of it, sir?

Q. Yes.

A. No, I was not.

Q. Well, Colonel WILSON, we appreciate very much your coming in and I hope we have been able to accommodate you so you can fit your schedule. I would say to you, and I'm sure that you in your professional capacity recognize what we are trying to do to put this material or puzzle together, that if you ever recall anything that transpired subsequent to this time, we'd appreciate your getting in touch with us.

A. I will, sir.

Q. Also, if you can think of any documents or photos or maps or anything else that would be of assistance to us, we would appreciate that.

A. Very well, sir.

Q. Now, I'll give you an opportunity to ask any question that you may so desire.

A. I have none, sir.

Q. If you would like to enter a statement into the record, I'll give you this opportunity.

A. Nothing that I can think of, General, that would in any way assist you. If it would, I'd be happy to give it.

IO: The hearing will recess at this time.

(The hearing recessed at 1148 hours, 23 January 1970)

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SUMMARY OF TESTIMONY

WITNESS: YOUNG, George H., BG

DATE OF TESTIMONY: 13 December 1969

PLACE OF TESTIMONY: Pentagon

WITNESS SUSPECTED OF: N/A

COUNSEL: None

DUTY ASSIGNMENT ON 16 MARCH 1968: Assistant Division
Commander, Americal Division.

1. DUTIES OF THE WITNESS.

Prior to his coming to the Americal Division, the witness had been the DCSOPS of USARV. He joined the division on 1 November 1967 (pg. 5). He was serving as the assistant division commander for maneuver on the date of the incident in question (pg. 4).

2. PREOPERATIONAL PLANS AND BRIEFINGS.

The witness stated that, to the best of his knowledge, the operation of Task Force Barker in the My Lai area on the 16th of March had not been approved by division (pg. 6), and he was not aware of the operational plans personally (pg. 5).

3. KNOWLEDGE OF THE INCIDENT AT MY LAI.

a. Indications of an incident.

(1) Briefings.

The witness stated that he had no knowledge of the operation until the briefing on the evening of the 16th nor did he recall being in the My Lai area on the 16th (pg. 6). He stated that he did not recall the report of 69 killed by the artillery preparation, but did note that the total body count was the largest count of the 11th

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Brigade until that date (pg. 7). He remembered the kill ratio being extremely high (pg. 8), and also the division commanders being rather upset with the low weapons count in relation to the number reported killed (pgs. 8,9). He stated that it also struck him as rather strange (pg. 29). He recalled no mention of civilian dead at that time (pg. 30), and General KOSTER did not mention to him the possibility of civilian casualties (pg. 43). He added that he did not recall there being any discussion of the incident at the morning briefing on the 17th of March (pg. 37).

(2) Other indications.

The following information was at one time or another relayed to the Americal: indications that from six to eight, then later twenty-four to twenty-eight, civilians had been killed; a SITREP stating 128 VC killed with only three weapons captured and two U.S. losses; two later Vietnamese reports which indicated a large number of civilian deaths; and some VC propaganda which alleged civilian deaths reaching huge figures. General YOUNG stated that he could offer no explanation for the failure of the personnel of the Americal to piece this information together and realize that something out of the ordinary had happened at My Lai (pgs. 97,99).

b. First direct information of an incident to General YOUNG.

(1) The witness stated that Colonel HOLLADAY came to him after the briefing on the 16th and relayed to him the report of Warrant Officer THOMPSON (pgs. 10, 12, 37, 103). He was not sure who else was present at the time, although Major WATKE may have been (pgs. 10, 11).

(2) The witness recalled the report as being that a gunship pilot had observed U.S. forces firing into civilians. The pilot had landed and gathered up the civilians in order to protect them, had flown to the position of the U.S. forces and told them of his actions and that these persons were civilians and should not be fired at. He recalled Colonel HOLLADAY's report as being primarily that civilians had been caught in a crossfire, not that any civilians were purposely being fired upon. He did not recall the pilot having rounded up civilians and having lifted them out, nor any of the content of the conversation between the pilot and the ground commander, though he did

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state that he considered that meeting a "confrontation." As he recalled, the pilot told the ground troop leader not to fire at those persons or his men would fire on the ground troops (pgs. 10, 13-15, 40, 103).

(3) He noted that the landing of a helicopter in the midst of a fire fight was normally unacceptable, although in this instance he thought it was an admirable thing to have done. He stated that he did not recall any in-depth questioning on why the landing was necessary (pgs. 17, 18). As he recalled the report, the helicopter pilot had landed and rounded up the civilians and directed them to a cave or something of that nature for their protection (pgs. 13, 14, 17). He did not recall hearing that the civilians were lifted out (pg. 18). He did get the impression from Colonel HOLLADAY's relating of the incident that the pilot was quite concerned with what had occurred (pg. 16).

(4) The witness testified that he did not recall being told at the time, of the pilot observing any non-combatant dead (pgs. 14, 19, 103). Nor did he recall any relation that the pilot saw a colored soldier shooting into some noncombatants who were in a ditch (pgs. 18, 104), or that a captain was seen shooting a woman (pgs. 19, 104), and no impression was gained that there had been any indiscriminate firing by U.S. forces (pgs. 19, 103). He did remember hearing that the civilians' positions were marked with smoke (pg. 19).

(5) Upon questioning, the witness firmly reiterated that the impression that he had was that civilians were caught in a crossfire between U.S. and enemy forces and that in order to save them, the pilot landed his helicopter and took the aforementioned actions. He did not recall being informed of any noncombatant casualties due to the action observed by the pilot (pg. 19).

c. General YOUNG's actions on receipt of this report.

The witness asserted that he immediately informed General KOSTER of these allegations between 1800 and 1815 on that same evening, 16 March (pg. 10). He stated that he felt that he was the first person to bring the allegations to the division commander's attention (pgs. 36, 42). The witness testified that he put Colonel HOLLADAY's allegations together with the body count-weapons count and

kill ratio and as a result recommended to his commander that an investigation be directed (pg. 37). When questioned as to why an Article 32, UCMJ investigating officer from another unit was not appointed to conduct a formal investigation, he replied, "I don't know" (pg. 38). The Americal Division did follow this course of action upon the receipt of an allegation of an atrocity at a later date (pg. 38). The witness stated that he did not recall mentioning the possibility of court-martial charges against Mr. THOMPSON, the pilot who alleged the events reported (pg. 109).

4. DIRECTIONS TO INVESTIGATE THE INCIDENT AT MY LAI.

a. General KOSTER's instructions to General YOUNG.

The witness stated that General KOSTER told him to contact Colonel HENDERSON, have him investigate these allegations, and submit a report as soon as possible (pgs. 10, 31). General KOSTER did not mention to him that there had been a report of civilian casualties due to artillery fire from Colonel HENDERSON, nor did he tell him that he had countermanded an order of Colonel HENDERSON that his men sweep back through My Lai (4) and conduct an accurate body count categorized by age and sex of the dead (pgs. 29, 30, 33, 43). The witness added that he related to General KOSTER the allegation of the noncombatants being caught in a crossfire and the confrontation of the pilot and the ground troop commander, but the division commander specifically directed the investigation to be concerned with the shooting toward the noncombatants (pgs. 39, 40). The investigation was to include gunship and artillery fire (pg. 40). Although he was required by his commander to order Colonel HENDERSON to conduct an investigation, the witness stated that he never got the idea that he was to personally supervise the investigation (pg. 119).

b. The meeting at Landing Zone Dottie.

(1) The meeting itself.

The witness testified that he saw Colonel HENDERSON on the morning of the 17th of March and instructed him as General KOSTER had directed (pgs. 11, 12, 47). He noted that Major WATKE and Lieutenant Colonel HOLLADAY, as well as Lieutenant Colonel BARKER, were present (pgs. 12, 23). He allowed that he was not too sure if Major WATKE

were there (pg. 24). The meeting was held in BARKER's living quarters at LZ Dottie and the others remained there when General YOUNG left the meeting (pgs. 25, 26, 85). The witness testified further that to the best of his recollection, the meeting at LZ Dottie lasted for only five to ten minutes (pg. 44). The witness reiterated that the meeting at LZ Dottie was rather short and that he recalled his having done most of the talking (pg. 107).

(2) Relation of further information to General YOUNG.

General YOUNG stated that the main thrust of the conversation at Landing Zone Dottie concerned U.S. troops catching noncombatant civilians in a crossfire (pg. 27). He did not recall the mention of civilian casualties, of a colored soldier shooting at civilians in a ditch, or of a captain shooting a woman (pgs. 26, 27, 29, 30, 45, 76). He noted that Lieutenant Colonel BARKER was surprised at the allegations, although BARKER stated that he had heard something on the 16th, had looked into it, but did not believe it (pg. 31). He did not think that BARKER's cursory check amounted to an investigation (pg. 32). The witness added that he did not hear of General KOSTER's countermand of HENDERSON's order at the meeting (pgs. 33, 34). The witness reiterated that the main object of the proposed investigation was to determine if U.S. forces fired into noncombatant civilians while engaging an enemy force (pg. 111), although the confrontation between the pilot and the ground troop commander was also to be considered (pg. 110). He further asserted that he felt that an investigation was warranted even on the sketchy information he had which did not include the other allegations about which he was being questioned (pg. 85).

5. REPORTS OF INVESTIGATION.

a. Reports submitted.

(1) Colonel HENDERSON's investigation.

(a) The witness stated that he saw Colonel HENDERSON on the 18th of March and HENDERSON told him that he was in the process of personally investigating (pg. 48). The witness noted that General KOSTER appeared surprised when he heard that HENDERSON was personally conducting the investigation, but could recall no comment by the General

(pg. 49). HENDERSON stated that he was interviewing several people and had spoken to the commander of Charlie Company (pgs. 48, 52, 121). He told the witness that he had interviewed some people and would interview others and would forward the investigation as soon as possible (pgs. 48, 55). The witness asserted that he got the impression from HENDERSON that he would interview officers and men who participated in the operation before submitting his report (pgs. 52, 72, 121).

(b) The witness added that he had the impression that HENDERSON had taken written statements from those he had interviewed (pg. 72). The witness further stated that he had never relayed information of the investigation to General KOSTER from Colonel HENDERSON, except for the status report prior to the original report being submitted, nor did he recall telling HENDERSON that he was to put his oral report in written form (pgs. 121, 123).

(c) The witness was sure that HENDERSON had never related to him the reports of a captain shooting a woman or the shooting of civilians. He stated that had he heard this he would have recommended an Article 32 investigation (pgs. 78, 79). Further, General YOUNG at no time recalled telling HENDERSON that he recommended that General KOSTER accept his report (pg. 80).

(2) Colonel HENDERSON's oral report.

The witness stated that although he did not hear HENDERSON's oral report, General KOSTER told him that one had been received and that he had told HENDERSON to submit it in writing (pgs. 49, 124). He asserted further, that he had contemplated a written report when he had spoken with HENDERSON and he believed that General KOSTER had also (pg. 50). He had not thought of the oral report as an interim report at the time it was rendered, but as a final one (pg. 51). He stated that he had not relayed the order to compile a written report from the oral one (pg. 123).

(3) Colonel HENDERSON's written report.

Although he had never seen it, the witness stated that he was certain that Colonel HENDERSON submitted a written report subsequent to his oral report (pgs. 49, 54, 124). He believed that this was done two or three days after the oral report at the direction of General KOSTER (pgs. 57, 124). He testified that he had not seen Exhibit R-1 or any of its inclosures; that he had not seen an earlier report from Colonel HENDERSON; and that he had not discussed the adequacy of HENDERSON's report with either KOSTER or HENDERSON (pgs. 51, 54, 60, 61, 65, 73, 80, 128). He did add that he thought that he had seen HENDERSON in the Division Commander's office delivering a written report (pg. 53). He reiterated that, to the best of his knowledge, the oral and written reports were rendered within days of each other, and he added that he was certain that neither was as late as 25 April (pg. 67). He asserted, however, that he did not believe that HENDERSON submitted two written reports (pg. 68).

(4) Other reports.

(a) The witness stated that if another report of an investigation had come into division headquarters from a subordinate commander, it normally would have gone to the chief of staff, the IG, or possibly to the JAG (pgs. 54, 65).

(b) He stated that he had never seen Exhibit R-2, a report from Lieutenant Colonel BARKER concerning his task force's actions on the 16th of March 1968, and added that he could not explain why a combat action report would cover only one day's operations rather than the complete operational time (pgs. 57, 58).

(c) He also noted that General KOSTER had never shown him any three-by-five cards containing a breakdown of civilian casualties (pg. 53).

(d) The witness stated that although he had never seen inclosure 1 to Exhibit R-1, he was familiar with the contents of it through a report from Lieutenant Colonel GUINN, the Deputy Senior Province Advisor (pgs. 61, 65). He remembered the area involved in the information from GUINN as being to the northeast of Quang Ngai City and recalled the names "Tu Cung" and "Co Lay" (pg. 63). He

stated that he believed he got the report from GUINN in the latter part of May , after the date of HENDERSON's report, Exhibit R-1 (pgs. 64, 65).

(e) The witness asserted that he was unaware of another report being submitted to division around the 20th of March 1968, or of an investigation conducted by the division staff (pgs. 87, 88). He added that he could not recall General KOSTER mentioning anything about having a formal report prepared, or his going to Duc Pho to speak to HENDERSON about the requirement, or his okaying BARKER as the officer to conduct the investigation (pgs. 91-94, 126). Further, he said that he knew of no Americal directive concerning the preparation of a formal report (pg. 94). He stated that he had seen no formal report with signed statements, nor did he know of anything which would have required a formal report after HENDERSON's written report (pgs. 94, 95, 127). He asserted that he had never seen Exhibit M-5, a letter from the Son Tinh District Chief to the Province Chief, concerning alleged civilian deaths (pg. 91).

b. Substance of the reports.

Although General KOSTER never spoke with the witness of the adequacy of HENDERSON's report (supra, para. 5a(3)) he was apparently satisfied with it. He did indicate that the report showed that the allegations were groundless (pgs. 51, 73). The witness added that were Exhibit R-1 submitted to him as HENDERSON's written report, he would have deemed it inadequate and recommended that it not be accepted (pg. 60). Colonel HENDERSON had spoken with several persons and determined that noncombatant deaths in the area of My Lai were due to artillery fire (pgs. 71, 72). The witness testified that he was told by both HENDERSON and KOSTER that the investigation uncovered no indiscriminate killing of civilians and that there was no indiscriminate burning of homes in My Lai (pgs. 112, 113). He did not recall relaying to KOSTER the results of HENDERSON's investigation (pg. 116). The witness did assert that he never got the impression that the division commander was keeping the information concerning the investigation to himself, although he added that he did not feel as if he were as deeply involved in the affair as either KOSTER or HENDERSON (pg. 120).

c. Actions taken upon receipt of the reports.

(1) The witness testified that as a result of discussing the investigation with Colonel HENDERSON he received the impression that the allegations were unfounded and that the acts alleged had not occurred (pg. 73). This was bolstered by the fact that General KOSTER was apparently satisfied with the report (pgs. 73, 87). He seemed unsure of whether or not he had informed Colonel HOLLADAY of the results of the investigation, but believed he did (pgs. 69-71). He stated that he believed that he had told HOLLADAY and that HOLLADAY had reacted as if maybe the allegations were unfounded (pgs. 68, 69). He added that he did not believe that General KOSTER had spoken to HOLLADAY of the report's findings (pg. 69). He also noted that he believed that he discussed the findings of the report with Colonel PARSON, General GALLOWAY, and Colonel TREXLER (pg. 112). He also allowed that he did not recall ever discussing My Lai with Colonel TOAN or General LAM (pg. 97).

(2) General YOUNG testified emphatically that he made absolutely no attempt to cover up the allegations or the incident (pg. 98). He added that although information could have been kept from him and General KOSTER, he did not believe that this happened (pg. 81). He asserted that had he thought that the allegations were in any way supported, he would have recommended that an officer from outside of the 11th Brigade be appointed to conduct a formal investigation as was done on the receipt of another allegation in June (pgs. 38, 78, 80).

6. OTHER INFORMATION.

a. Knowledge of regulations.

The witness stated that he recognized MACV Directives 20-4 and 525-3. He noted that he was not familiar with III MAF Order 5820.1 (pg. 95). He was also familiar with the Americal Regulation 525-4 (pg. 59). He stated that he was familiar with the Americal letter of the 24th of March which concerned the safeguarding of non-combatants, but did not associate it in any way with the incident at My Lai (pg. 59).

b. Opinion of Lieutenant Colonel HOLLADAY.

Although Lieutenant Colonel HOLLADAY's efficiency report was 15 months late in being processed and signed, this was administrative error and in no way reflected on the caliber of the man (pgs. 89, 90). The witness opined that HOLLADAY was a fine officer (pg. 89).

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SUMMARY OF RECALL TESTIMONY

WITNESS: YOUNG, George H. BG

DATE OF TESTIMONY: 17 February 1970

PLACE OF TESTIMONY: Pentagon

WITNESS SUSPECTED OF: Failure to obey and violation of general regulations, dereliction of duty, withholding of information, falsely testifying, suppression of information, and conspiracy to suppress information.

COUNSEL: None

DUTY ASSIGNMENT ON 16 MARCH 1968: Assistant Division Commander, Americal Division.

1. KNOWLEDGE OF THE OPERATION AND THE WITNESS' ACTIONS DURING THAT TIME PERIOD.

a. Recall of the witness' activities.

The witness testified that he recalled not being in the area of the Task Force Barker operation on 16 March 1968 (pg. 135). He did not recall Lieutenant General DOLEMAN visiting his division on the 16th, though he stated it was possible that he was there (pg. 136). He noted that on the 17th of March he may have flown over the area of operation and possibly seen some fires, but he did not recall it (pg. 146). He did not recall what happened at Landing Zone Dottie on the 17th, although a log entry showed him there for a period (pg. 145). He added that he recalled no briefing there at that time, including the mention of civilians having been killed by artillery (pgs. 184, 185). He did not recall riding in a helicopter with Chaplain LEWIS on the day following the alleged incident and being told of Warrant Officer THOMPSON's allegations made to another chaplain (pg. 189).

b. Conversation in helicopter with Colonel TREXLER.

The witness stated he could not recall any conversation

with Colonel TREXLER in which he indicated that units had burned villages and hootches indiscriminately (pgs. 148, 149). He stated that if the conversation took place in a helicopter as averred he might have been speaking of burning he was then seeing (pg. 149). He reiterated that he was not speaking of action of 16 March 1968 (pg. 149). He noted he was concerned over any unwarranted destruction of private property (pg. 149).

c. Prior knowledge of the operation.

The witness stated that he seemed to recall the commander's briefing on the morning of 16 March when it was reported that the operation had begun (pg. 181). He also noted that he believed that either Colonel HENDERSON or a member of the staff briefed them on the operation prior to the 16th (pg. 181). The witness asserted that at the morning briefing on the 16th, they were told of the general concept of the operation, the objectives, and the location of the landing zone; however, he stated he had no specific recollection of this (pgs. 182, 183). He averred that he was not aware that the operation had no planned provision for the handling of civilians found in that area (pg. 183).

d. Division approval of operations.

The witness testified that he could not recall the policy specifically, but believed that operations required division approval, either through the G3 or verbally from General KOSTER (pgs. 181, 182). He could not recall personally discussing the planned operation with the 11th Infantry Brigade commander (pg. 182).

2. INITIAL MEETING WITH HOLLADAY AND WATKE.

After being oriented as to the chronology of events as determined by other testimony, the witness reiterated that he did not recall the name of the pilot concerned; that he still thought the discussion between KOSTER and him took place on the afternoon of the 16th; and that the report he received from Colonel HOLLADAY and Major WATKE was that a helicopter pilot had observed ground forces firing into an area occupied by noncombatant civilians caught in a cross-fire as the U.S. forces engaged the enemy (pg. 137). The witness added that he had no indication that there had been noncombatant casualties as a result of

a cross-fire or on Highway 521, or that had there been any smoke used to mark wounded noncombatants. He recalled no mention of a ditch (pg. 138). He stated that he told HOLLADAY to meet him at Landing Zone Dottie (pg. 139). He testified to the interrogators that the above was his recollection, and noted that he could not substantiate HOLLADAY's contrary testimony (pgs. 142, 143).

3. YOUNG's INITIAL REPORT TO KOSTER.

The witness stated that he informed General KOSTER of HOLLADAY's report at his first opportunity (pg. 143). The witness added that in his conversation with General KOSTER no mention was made of civilian casualties nor was anything said about an order for a body count which was countermanded by KOSTER (pg. 144). No consideration was given to involving the Judge Advocate or the Inspector General of the division staff in the investigation which General KOSTER told General YOUNG to direct Colonel HENDERSON to initiate (pg. 143). The witness noted that he did not know whether anyone else in the division headquarters knew that he had been instructed to direct HENDERSON to make this investigation (pg. 144). The allegation of the helicopter pilot that noncombatants had been caught in a crossfire of U.S. troops was considered by the witness to be such a serious occurrence that he brought it to the attention of the division commander and recommended that an investigation be initiated (pgs. 148, 154). The witness allowed that he did not know personally whether there was any offense committed by this action, and he stated that he preferred to stand on his prior testimony as to what possible offenses KOSTER thought might have been committed (pg. 154).

4. INSTRUCTIONS TO COLONEL HENDERSON.

The witness testified that when he met HENDERSON, HOLLADAY, BARKER, and WATKE in the van at Landing Zone Dottie on the morning of the 18th, which he had previously thought to be the 17th, he instructed HENDERSON according to KOSTER's direction and he told HENDERSON that the others present could brief him on what had been reported (pg. 147). The witness asserted that he did not recall being present when HENDERSON was thus briefed, and affirmatively added that he could not recall this being done in his presence (pg. 147). When questioned about the possible subject of this investigation, the witness reiterated that it would

not only cover the civilians being caught in the crossfire, but also the confrontation between the U.S. pilot and the ground platoon leader (pgs. 153, 154). He added that his prior testimony included to the best of his knowledge the instructions he related to HENDERSON upon KOSTER's direction (pg. 188, 189). The instructions given to HENDERSON were considered to be adequate since they conformed to the directions of General KOSTER, according to the witness (pg. 147). The witness admitted that when he instructed HENDERSON to initiate an investigation, he did not go into the matter any further, but just assumed that the investigation would be conducted formally. (pg. 148).

5. INVESTIGATION OF THE INCIDENT BY COLONEL HENDERSON, AND THE WITNESS' INVOLVEMENT.

The witness stated that he questioned HENDERSON as often as he saw him in order to determine the status of the investigation. HENDERSON replied that he was conducting the investigation personally and speaking to various participants, although he did not mention the names of the people he had spoken to (pg. 150). The witness did not recall HENDERSON saying that he had spoken with Captain MEDINA or to a large number of men of C/1/20 (pg. 150). The witness added that HENDERSON told him that he had spoken to personnel of the aviation unit, although he named no names (pgs. 150, 151). The witness asserted, when confronted with the previous impression of the committee that he had dropped out of the picture and allowed KOSTER to keep in touch with HENDERSON personally concerning the investigation, that he honestly did his best to follow-up on the investigation and keep General KOSTER informed of the investigation's progress (pg. 151). He added, that he did his best to check with HENDERSON and insure that the division commander's instructions were followed (pg. 153). He noted, however, that KOSTER told him that he, too, had spoken with HENDERSON (pg. 151). After learning of HENDERSON's original oral report, the witness stated that he, on one occasion, questioned HENDERSON about when he would submit his written follow-up of that oral report (pg. 156).

6. KNOWLEDGE OF THE REPORTS OF THE INVESTIGATION.

a. Knowledge of the submission of the reports.

The witness stated that once when he spoke with HENDERSON, he was told that a verbal report had been submitted.

When General KOSTER was asked had he received this report, he answered affirmatively and added that he had directed HENDERSON to place this in writing (pgs. 152, 153). The witness noted that this order was not transmitted through him, and added that he had no knowledge of anyone else being familiar with the instruction to prepare the written report (pg. 153). The witness related that to the best of his knowledge HENDERSON personally delivered his written report to KOSTER in the division commander's office. He said that KOSTER had told him that he had received HENDERSON's written report based on his oral report (pgs. 157, 172). The witness reiterated that all he actually knew of the written report was that General KOSTER had received it (pg. 170). The witness asserted he did not recall any instruction to Colonel PARSON concerning the report (pg. 172).

b. Information from Lieutenant Colonel BARKER concerning the report.

The witness stated that he attempted to visit each fire base every day, and although he did recall speaking to Lieutenant Colonel BARKER about the operation he did not specifically recall the conversation. The witness added that he did not recall ever speaking to BARKER about the investigation (pgs. 157-159). The witness offered that since HENDERSON was conducting the investigation, he thought it best to wait and see the results of that investigation before personally asking questions about the operation (pg. 159).

c. Knowledge of substance of the reports.

The witness stated he did not recall KOSTER telling him of the substance of HENDERSON's report (pg. 152). He added that he recalled the result of the investigation being that the allegations of friendly forces engaging noncombatants in a crossfire were untrue and that the civilians had been killed by artillery fire (pg. 159). He did not recall the written report specifically mentioning the allegation of the warrant officer, but stated he thought it had said that approximately 29 noncombatants were killed by artillery fire (pgs. 155, 156). The witness asserted that to the best of his recollection HENDERSON told him later that his findings were essentially the same as he himself had seen contained in HENDERSON's written report (Exhibit R-1) which he had seen during his prior

interrogation (pg. 155). Upon further questioning the witness again stated that to the best of his knowledge the written report which he believed HENDERSON made was the one dated 24 April. When it was pointed out to the witness that the report dated 24 April was not based on the original oral report which he had given General KOSTER, the witness stated he was under the impression that the oral report was the basis for this 24 April written report (pg. 156).

d. HENDERSON's report, dated 24 April.

The witness testified that the only written report of HENDERSON's that he had seen was that dated 24 April, and if it was not based on HENDERSON's oral report, the witness stated he has not seen the report in question (pg. 157). The witness pointed out that the first time he had seen HENDERSON's report, dated 24 April (Exhibit R-1), was when it was shown to him on the 13th of December when he was testifying (pg. 173). The witness admitted that after being briefed he could see that Exhibit R-1 was clearly not related to HENDERSON's oral report as he had thought, but added that it was his impression that there was a written report containing the same information as the oral report. That information was that there was no basis for the allegations (pgs. 164, 172). The witness asserted that he had never seen HENDERSON's report dated 24 April before appearing before the Peers Inquiry (pg. 164). He added that he recalled no instruction issuing from KOSTER to HENDERSON to conduct a formal investigation as the result of the receipt of that report, nor any directive issued by KOSTER as a result of that report (pgs. 173, 174).

7. KNOWLEDGE OF REPORTS FROM LIEUTENANT COLONEL GUINN AND SUBSEQUENT ACTION.

a. Letter in GUINN's possession alleging atrocities.

The witness testified that GUINN told him of a letter he had in his possession from a village chief to his province chief alleging atrocities by U.S. forces (pgs. 161-164). The witness stated he did not connect this with the Son My area, but believed that the incident alleged was said to have occurred to the northeast of Quang Ngai in May (pgs. 161, 162, 166). He did not tie it in with the 16 March operation or the low weapons to body count ratio of that day (pg. 166). He recalled that GUINN told him that the province chief was going to investigate this information (pgs. 162, 167, 170, 171). The witness added that he personally never saw a copy of this letter (pgs. 165, 168). Although GUINN did not pass the letter off as containing only VC propaganda, he did not

seem to be too concerned about it, and did not appear that he had connected this information with the 16 March operation (pgs. 163, 169). The witness asserted that he did not recall GUINN saying that he would personally investigate the information in this letter, nor saying that he would have the Son Tinh District Advisory Unit look into the matter (pgs. 167, 177, 178).

b. Action upon receipt of this information from GUINN.

The witness testified that he informed KOSTER of the information he received from GUINN, but he has no specific recollection of that conversation (pgs. 163). The witness stated further that he did not recall KOSTER telling HENDERSON to investigate these allegations, nor giving him further instructions about these allegations (pgs. 163, 166). Further, he did not recall KOSTER telling him of the meeting with Colonel KHIEN or HENDERSON concerning this incident (pgs. 165). He added that he himself did not give GUINN any instructions, and noted that the information did not strike him as being too strange, although it did now (pgs. 163, 167). The witness knew of no report having been entered at division headquarters about these allegations (pg. 167).

8. CONVERSATIONS AND OTHER INFORMATION CONCERNING THE INCIDENT AT MY LAI.

The witness testified that he did not recall ever speaking to Colonel TOAN or to Colonel KHIEN about the incident at My Lai (pg. 161). He testified further that he had no knowledge of KOSTER ever speaking with Colonel TOAN, no knowledge of the Viet Cong propaganda enclosed in Exhibit R-1, and no knowledge of a letter from the Son My Village Chief (Exhibit M-34) (pgs. 160, 161). He added that he had never seen Colonel TOAN's directive to the Quang Ngai Sector dated 15 April and mentioned that GUINN did not tell him of this (pg. 177). As concerns the upsurge in activity between the 2d ARVN Division, Quang Ngai Province, and the Americal Division in the period around the middle of May, the witness stated he could not recall it (pgs. 164, 165).

9. OTHER INFORMATION.

a. Exhibits.

Exhibits noted by the witness are listed, infra.

b. Briefing on a matter of VC propaganda.

The witness recounted that either Colonel TREXLER or Colonel ANISTRANSKI briefed the division staff at a morning briefing concerning a piece of propaganda. He did not recall this being specifically related to the incident of 16 March. The witness indicated that the matter briefed could have been either Exhibit M-33 or M-35, the former being a transcript of a Viet Cong propaganda tape and the latter being a Viet Cong propaganda leaflet (pgs. 179, 180).

c. Formal report concerning the incident of 16 March.

The witness asserted that he could not recall seeing a formal document coming into the headquarters around 20 May 1968 containing from 20 to 25 signed statements concerning the incident of 16 March (pgs. 174, 175).

d. Functioning of Americal Division staff.

The witness opined that the division staff, in particular the G2, G3, and G5 worked well together and had no particular conflicts (pgs. 190, 191). He stated further that he believed that KOSTER properly utilized the staff and was not over centralized. He believed that KOSTER had confidence in Colonel PARSON, General GALLOWAY, himself, and the other members of the staff, but could not name any particular staff member upon whom General KOSTER relied more heavily than any others (pgs. 190-193).

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EXHIBITS

EXHIBIT NUMBER	DESCRIPTION	NOTES	PAGES
M-30	Statement of RODRIGUEZ	Wit had no knowledge and could not account for similiarity to R-1.	178
M-31	Census Grievance Report, 18 Mar 68	Wit had no knowledge.	179
M-34	TAN's letter to KHIEN, 11 Apr (trans) (Quang Ngai Prov).	Wit had no knowledge.	160, 161.
M-32	TOAN's directive to investigate.	Witness had no knowledge.	177
M-33	Transcript of VC propaganda tape.	Recalled possibility that this was briefed at div.	180
M-35	VC propaganda leaflet	Recalled possibility that this was briefed at div.	179
M-36	Memo for DC, 2d ARVN Div, 12 Apr 68	Wit had no knowledge.	175
M-116	Chronology of activity: YOUNG	Admitted into evidence.	134, 135
R-1	HENDERSON's report	Wit had no knowledge of this, including prop inclosure, he had seen incl 1.	160, 161, 172, 173, 164,166
MAP-1	Wall map	Wit observed.	138
MAP-9	Map showing various operational areas.	Admitted into evidence.	130

(YOUNG)

9

SUM APP T-19A

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(The hearing reconvened at 1141 hours, 13 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 MILLER, and MAJ LYNN.

Sir, the next witness is Brigadier General George H. YOUNG.

(BG YOUNG was called as a witness, was sworn, and testified as follows:)

IO: General YOUNG, I wish to inform you of several matters. This investigation was directed jointly by the Secretary of the Army and the Chief of Staff, U.S. Army, for the purpose of determining facts and making findings and recommendations concerning two matters:

(1) the adequacy of prior investigations and inquiries into and subsequent reviews and reports within the chain of command of what is now commonly referred to as the My Lai (4) 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 the incident. This investigation is not being conducted to investigate all the facts and circumstances surrounding what happened at My Lai on 16 March 1968. It is directed at those specific purposes that I have just stated.

Do you have any questions, General YOUNG, on these two purposes?

A. No, sir.

Q. I have had made available to me and have reviewed official statements obtained in other official investigations of the My Lai incident. Your testimony today will be taken under oath. A verbatim transcript will be prepared by the reporter. A tape recording is being made in addition to the verbatim notes being taken by the reporter. Although the general classification of the report will be confidential, it

is possible that the testimony or at least parts of it may, at a later date, become matter of public knowledge.

There are several people in this room who may ask you questions. I will indicate these. Sitting directly across from you is Mr. WEST. Mr. WEST is an assistant general counsel with the Department of the Army. He has been appointed as my deputy and is authorized to ask questions on my behalf. On my immediate right and in the chair beyond Mr. WEST is Mr. MACCRATE and the other gentleman is Mr. WALSH. Mr. MACCRATE and Mr. WALSH have volunteered their services to serve as legal counsel to me and other members of the investigation team and they, too, may direct questions at you. We have one other individual present in the room at the time. This is Colonel MILLER, from The Office of The Judge Advocate General. Colonel MILLER will have some instructions to offer you in terms of legal guidance and then he will leave the hearing this morning.

I should inform you that, in the final analysis, 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 of this investigation, except in the performance of official duties or as you may be required so to do by a competent judicial or administrative body. In addition, you are cautioned that if you are subject to the orders 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 the effect of these orders. Do you have any questions up to this point?

A. I don't understand that last statement, General PEERS.

Q. The military judge, who I believe is Lieutenant Colonel KENNEDY, put out an order that anyone who has been cited to appear in that case as a witness will not discuss the incident with anybody connected with the case in any way.

A. Yes, sir. I understand. I understand.

Q. Do you have any other questions?

A. No, sir.

Q. I have some additional guidance which I will give you. I have just stated the scope and the purpose of this investigation. You were the assistant division commander of the Americal Division at the time, and for some time after the My Lai incident you were the senior officer in the chain of command. Furthermore, evidence received to date indicated that you were personally informed about several of the events which were of importance in the investigation and that you issued instructions and received reports concerning alleged indiscriminate shooting, after action reports, and other relevant facts and information. There is now some evidence tending to raise suspicions that during and after the My Lai (4) incident you may have been negligent or derelict in complying with, or even in direct violation of, orders and regulations pertaining to the reporting and the investigation of the alleged wounding and killing of civilians, parenthetically, war crimes. And, further, that you either may have suppressed, or contributed to the suppression of, information pertaining to the possible unlawful killing of civilians at My Lai (4) and its vicinity on or about 16 March 1968. Such acts would be in violation of orders or regulations and would also constitute dereliction of duty. I am calling this to your attention because you have been called as a witness before this investigation. Before any questions begin I want you to be informed as to my suspicions. And I want to give you time to think over and to determine in your mind whether you wish to seek qualified legal counsel and to decide whether you are willing to give testimony in this investigation.

A. I am willing, sir.

Q. Colonel MILLER, will you provide the additional legal guidance, please?

COL MILLER: General, before we proceed with questions, it is necessary that we determine whether you fully understand your rights. I have certain additional information to give you.

First of all, you certainly have the right to remain silent and not to answer any questions.

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

You have the right to consult with counsel. Counsel in this sense means qualified legal counsel. You may retain such counsel at your own expense or counsel will be appointed for you at no expense to you. In as much as you are subject to the Uniform Code of Military Justice, this appointed counsel can be of your own selection if reasonably available, or another person if you have no counsel of your own choice.

If you decide to continue now and to answer questions without having any counsel present, you may stop the questioning at any time and you may request the appointment of counsel. If you elect to have counsel, you may have counsel with you here at the hearing and you may consult with him, and he with you, at any time. Do you understand?

A. Yes, sir.

Q. Would you like to have me explain it any further?

A. No, sir.

Q. Do you at this time desire to have counsel?

A. No, sir.

Q. Are you ready to proceed then and to answer questions?

A. Yes, sir.

IO: Colonel MILLER, you are excused.

(COL MILLER withdrew from the hearing room.)

General YOUNG, subsequent to the time that the incident of My Lai (4) of 16 March 1968 reached the press and became a matter of some public knowledge, have you talked to any other individuals connected with this incident or to a member of the division, to discuss this particular operation or circumstances relating to it?

A. Not to the best of my memory, sir. No, sir.

Q. What was your duty assignment on the 16th of March, 1968?

A. I was the assistant division commander for maneuver, I believe, at that time. May I explain further, please?

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Q. Yes.

A. I returned from CONUS leave on or about the 6th of March. Shortly thereafter, General RYDER departed. I don't recall the exact date, General PEERS, but as soon as he departed I became the assistant division commander for maneuvers. Evidently, I was in that capacity on the day of 16 March.

Q. What were your duties as the maneuver ADC?

A. My job was to assist the division commander, primarily with the maneuver elements, the infantry maneuver battalions, and the armored cav squadron, to assist him in operational matters and to advise and assist him in other matters, as he might direct me to do.

Q. What was your assignment within the division prior to becoming the maneuver ADC?

A. I was the assistant division commander for support.

Q. When did you join the division?

A. On the 1st day of November, 1967.

Q. Within South Vietnam, had you had any other assignments?

A. Yes, sir. From the 3rd of March, 1967, through the 31st of October, I was the Deputy Chief of Staff for Plans and Operations, Headquarters, U.S. Army, Vietnam.

Q. Plans and operations?

A. Yes, sir.

Q. With respect to the operations of Task Force Barker into the area of Tan My in the eastern portion of the Son Tinh District on 16 March, were you involved in the planning of this operation?

A. No, sir. Not any degree to speak of. No, sir. I was not involved.

(YOUNG)

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Q. Had the concept of the operation been approved at the division headquarters, to your knowledge?

A. Not to my knowledge. No, sir.

Q. This operation went on for 3 days and some of the units stayed in the field after 3 days. Were you present with any of the units or with Headquarters, Task Force Barker, or the 11th Brigade during any part of the operation?

A. Yes, sir. I don't recall being present in the area of operations of Task Force Barker on the date of 16 March. On that date--I went there the following day, I know that, --to Task Force Barker headquarters the following day. And I'm sure I went to Duc Pho, to the 11th Brigade, the following day, also.

Q. This is one thing we do want to straighten out. You can perhaps be very helpful in trying to get the sequence of events of certain things which will come to light later on.

A. Yes, sir.

IO: May I have the Americal Division Log?

(The recorder produced Exhibit M-6.)

General YOUNG, throughout the day, results of this operation through stepped-up reports had been reported to division headquarters and were logged in the official log of the Americal Division. I have indicated some of the primary entries, which I would like you to look at, and then I would finally call your attention to the final item, number 84, which is the wrapup as of midnight on that date. I would refer you to item number 15, as well. With this information filtering into division headquarters, when would the logical time have been when this information was called to your attention and to the attention of the command element of the division?

A. To the best of my knowledge, General PEERS, it was called to my attention at the evening briefing that took place on about 1700 hours on that date.

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Q. I would like to substitute item number 28 for item 15.

A. Yes, sir.

Q. For the sake of the record, I will call it to your attention.

A. Yes, sir.

Q. With respect to item number 28, at the evening briefing, was this matter called to the attention of the command element?

A. To the best of my memory, General PEERS, this operation was briefed to the command element and there was indicated a significant number of enemy KIA.

Q. Was it brought out that these people had, at least in accordance with this report, 69 VC KIA's as a result of artillery fire?

A. I don't recall it being presented in that way. I recall it being presented in the total number of enemy KIA, with the total number of weapons captured and with a description of the friendly casualties, also. I don't specifically recall that the briefing indicated that 69 VC were killed, as indicated in item number 20 of the journal.

Q. Was the final operational reports, which indicated 128 VC KIA, included in the briefing?

A. I'm quite sure it was, sir. I don't recall the number 128, but I know it was a significant number.

Q. From the information that we have, General YOUNG, this was perhaps up to that time the largest body count, by far, that the 11th Brigade had ever reported.

A. Yes, sir, I believe that is correct.

Q. At that time was any consideration given to the ratio of weapons versus enemy KIA?

A. Yes, sir. I discussed this matter with the division commander. Both of us--I know I was completely surprised and disappointed. I might add that only a very few weapons were captured. I don't recall the exact number, but I would say it was very few.

Q. Well, in accordance with the information, there were three weapons captured and there were also only two friendly that were killed.

A. Friendly casualties were extremely light, yes, sir, compared to the significant body count that had been reported.

Q. When you recall that operation being briefed, did they indicate where the majority of the enemy out of the 128 had been killed?

A. I don't recall that being in the briefing, General PEERS. I would, I'm sure, had the briefing indicated the location, but I don't recall it, sir.

Q. Checking the other statistics, within the company Charlie Company had reported somewhere in the order of 100, or in excess of that, and they had one man wounded throughout the course of the day--self inflicted. And this is the reason this is somewhat important.

A. Yes, sir. I understand.

Q. At that time, when you were discussing the ratio of the weapons to the number of VC KIA, and the ratio of VC KIA with the number of friendly KIA, what developed out of that discussion with the division commander?

A. Well, as I recall the sequence of events, General PEERS, after the briefing was over, while the division commander and I were walking back to the command building, I stated that I was extremely surprised that our forces had been able or had found and made contact resulting in that significant an enemy body count. I was also surprised and disappointed by the fact that we had captured only a very few weapons, because in the

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Americal Division, I think the record will hold the ratio of enemy KIA to weapons captured was quite good, and when you have a significant contact and only capture such a few number of weapons this is not the--it naturally brings up your ears a little bit. As a result of this conversation, I think that the division commander generally agreed that he was also surprised by the action.

Q. Did he say to you to do any thing, or did he indicate that he was going to take any action?

A. To the best of my memory at that time, no. At that time, no, sir. But subsequent to that conversation, later on that afternoon, he certainly did.

Q. That afternoon?

A. If I remember correctly, that afternoon, later on. Yes, sir.

Q. At this briefing which took place at 1700 and terminated at 1800 or thereabouts...?

A. I would say it terminated about 1730. Now this is assuming that it started about 1700.

Q. At that briefing, do you recall any report of civilians casualties being given?

A. No, sir. I do not.

Q. Subsequent to that time, and perhaps later on in the evening, or the following morning, did General KOSTER talk to you about the civilian casualties?

A. I don't recall that General KOSTER talked to me about civilian casualties, per se, but there is something I'd like to say and inform you of, because a moment ago I said that later on we discussed this matter. If I recall properly, shortly after the completion of the evening briefing and after the division commander and I had returned

to the command building, Colonel HOLLADAY, who was the division aviation officer, came to me--I don't believe that there was anyone else present--possibly General GALLOWAY may have been in my office when Colonel HOLLADAY came in, or possibly the chief of staff, but I don't really recall who else was present, and Colonel HOLLADAY informed me that he had received a report. He may have been specific and told who made the report, but to the best of my knowledge I can't recall who he received the report from. He said that the report was from a gunship pilot who had observed, while he was covering this operation--he observed friendly forces firing into civilians. Now he did not state, to the best of my ability, that this pilot had observed any civilian casualties. He did inform me that, I believe, the pilot had landed. He had flown over the enemy, supposedly the enemy, and I believe he said the pilot landed the helicopter and gathered the civilians up in order to protect them. And then the pilot flew from there back over to the friendly forces, landed his helicopter, and told the platoon leader that there were friendly forces over there; that there were no enemy over there; that he had just left there; and that he should not take them under fire. I immediately informed General KOSTER of this. And this, I would say, General PEERS, was in the vicinity of 1800 or 1815 hours. General KOSTER instructed me to contact the brigade commander, inform him of this, and to require an investigation be initiated immediately and the results reported to him as soon as possible.

Q. Do you recall Colonel HOLLADAY having somebody along with him in reporting this incident to you?

A. He may have, sir. I don't recall.

Q. Do you remember a Major WATKE?

A. Yes, sir.

Q. He commanded the aero-scout company of the 123d Aviation Battalion?

A. Yes, sir.

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Q. Was he present?

A. I couldn't say whether he was or was not, but I don't recall his being present. I recall, to the best of my memory, Colonel HOLLADAY made the report to me. Major WATKE may have been there, General PEERS, and he may have participated in the conversation, but I don't specifically recall Major WATKE being present.

Q. Could this conversation, or reporting to you, have occurred the following morning instead of after the briefing?

A. I don't believe it did, sir. I believe it occurred after the briefing that very day, because the following morning I contacted Colonel HENDERSON and related to him the instructions of the division commander. That is the sequence I recall it in. We had the briefing. After the briefing was over, I had talked to Colonel HOLLADAY, and then the following morning I talked to Colonel HENDERSON. I believe I called Colonel HENDERSON on the telephone that night and told him that I had to get with him early the next morning, in order to pass on the instructions of the division commander.

Q. There has been a little confusion as to the exact time and place. However, for your information, we have talked to Colonel HOLLADAY, and we have talked to Major WATKE, and we have talked to Colonel HENDERSON.

A. Yes, sir.

Q. Both Major WATKE and Colonel HOLLADAY recall Major WATKE reporting to Colonel HOLLADAY somewhat late in the evening, almost late at night, talking over this situation, and determining whether or not it should be reported to either you, or to General KOSTER, or to the command. The indication which they have is that this information was given to you sometime early in the morning of the next day, which would have been the 17th in your office.

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A. I don't recall it that way, General PEERS. I recall it late in the evening and then the next day, when I went to relay the instructions of the division commander. I'm quite sure that I saw Major WATKE at that time, and I believe that it's very possible that Colonel HOLLADAY could have gone with me to go to LZ Dottie in order that he could personally tell Colonel HENDERSON just what he had told me.

Q. Let me back up just a little bit, if I may. I want to be quite specific and I'm going to search your brain as to what was told you by Colonel HOLLADAY or anybody else --Major WATKE or anybody that may have been there to tell you about this incident, when it was first reported to you.

A. Yes, sir.

Q. Are you sure that he said it was a gunship pilot?

A. I think it was. I got the impression that it was a gunship pilot and not a aero-scout. I got the impression it was a gunship pilot. It could have been an aero-scout, who, I'm sure that you know, normally flew the H-33 and H-13. If my memory serves me correctly, I thought it was a gunship pilot.

Q. Was the name of the pilot who provided the information, or the names of other members of that crew, or other crews, provided at that time?

A. It could have been, sir. I don't recall the name of the pilot. I don't recall.

Q. I don't want to put words in your mouth, but would the name Warrant Officer THOMPSON have any meaning towards that discussion?

A. It wouldn't have any meaning, other than what I have read in the newspapers, no. It could have been very possible that that name could have been mentioned, but I don't recall a name being mentioned. I just don't.

Q. Was any mention made there to your recollection

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of a large number of civilians, noncombatants, being dead in a ditch?

A. Not to my recollection. That was not mentioned, sir. As I stated before, if my memory serves me correctly, I got the impression that the noncombatants were more or less in a line of fire, between the enemy forces and the friendly forces. I don't recall any mention being made of any observing of any killed noncombatants.

Q. Was there any mention made of a confrontation which took place between the pilot of a helicopter and the ground forces on the ground?

A. Yes, sir. As I recall, the incident that took place, after the pilot had left the area where these civilians--and he rounded up these civilians, in an effort to protect them.

Q. To protect them from what?

A. To get them out of the line of fire, out of the rifle fire. That was my understanding.

Q. Did you get the impression that the friendlies were directing fire into the noncombatants?

A. I got the impression from my conversation with Colonel HOLLADAY that the friendly forces were directing fire into the noncombants, but that they were in the crossfire. My impression was that they were firing into an enemy and the noncombatants were in a crossfire. Does that answer your question, sir? Have I explained it properly?

Q. Yes. Did you get the impression that it was indiscriminate, or unnecessary firing and killing of noncombatants?

A. No, sir. I didn't get that impression it was purposely being directed towards the noncombatants. No, sir.

Q. Was any indication given to you as to the number or the order of magnitude of the noncombatants who were killed or who were observed to be dead in the battle area?

A. There were no indications given to me that the pilot had observed any dead noncombatants, to the best of my memory. What he observed was the fact that they were being fired into by the friendly forces, and in the effort or attempt to save the noncombatants, he flew his helicopter over there, landed there, and put them in protected area. Then he flew back to the friendly forces and advised the platoon leader what he had done, and he told him not to fire into the noncombatants. That's what the impression was that I got from my discussion with Colonel HOLLADAY.

Q. You did not get the impression then, that the action which the pilot of the helicopter took, and the confrontation, was to protect these civilians from the Americans.

A. Sir, I got the impression that the action the helicopter pilot took was a most commendable action in an effort to protect these civilians and to get them out of the way so that they would not be injured.

MR MACCRATE: When you were receiving this information from Colonel HOLLADAY, do you recall his description of the landing by the pilot at the time that he went down to rescue the civilians?

A. To the best of my memory, sir, the pilot landed, rounded up these civilians, and I believe there was a mention of a cave or something, and tried to get them into there. That's what I can recall.

Q. Were they going into a cave or was he taking them from the cave?

A. I got the impression that he was trying to get them into the cave in order to get them out of the line of fire.

Q. If there was a line of fire between the friendlies and the enemy how was he able to put his aircraft down at that point? Was that explained to you at any time?

A. No, sir. It wasn't. I assumed that when the friendly forces saw the friendly helicopter land they stopped firing.

Q. Well, you say that he went back and talked with the lieutenant after he--did he lift civilians out of the area with his helicopter?

A. I don't recall any mention being made that he brought any of the civilians out, sir.

Q. But you do recall that he landed in one place, then took off and came down in another place?

A. This is my memory. He landed in the vicinity of the civilians. He did what he could do to protect the civilians. He then flew over to the friendly platoon and informed them of what he had done and instructed them not to fire in that direction any more.

Q. What do you recall as to what was reported to you by Colonel HOLLADAY, as to the conversation between the pilot and the platoon leader?

A. I don't recall any conversation, other than the fact that the pilot told the platoon leader what the situation was and told the platoon leader that he was going to continue to circle over the area and he should not under any means fire into those civilians.

Q. Well, was there any account of what the platoon leader said to the pilot?

A. I don't recall that any conversation was reported to me as to what the platoon leader told the helicopter pilot.

Q. If there was what has been described as a confrontation, this as you describe it at the moment, sounds like an amicable discussion, between the pilot and the platoon leader. Did you get the impression it was an amicable discussion, or was it a confrontation?

A. I didn't get the impression it was an amicable discussion. I got the impression that the pilot was

quite concerned and quite serious in the protection of the civilians.

Q. And what was the attitude of the platoon leader?

A. Well, he was, to the best of my memory, sir, he was quite assured in his own mind that he had not inflicted any casualties. That's the memory I have, sir.

Q. I just don't seem to see any confrontation in that. I mean, there was no antagonism between the Americans on the scene? As you see it, it was just a report being made by the pilot to the platoon leader?

A. If I can recall it, the pilot was quite serious, quite concerned, and quite positive in his actions, but I cannot sit here and in this testimony tell you, sir, that the platoon leader and the pilot almost came to blows, because to my memory that was not reported to me.

Q. Was there any reference to threats being made by the pilot against the platoon leader?

A. I do recall, I believe, that after the pilot had told the platoon leader of the situation, he told him he was going to stay over him, that he had better not fire into the civilians and that if he did he was going to fire into him. That's the only point that I can recall, sir. There was a confrontation.

Q. So the pilot did indicate--

A. (Interposing) That if he fired into the civilians he would take them under fire. I do recall that, sir.

IO: General YOUNG, was it reported to you that when the helicopter went in to see these people you are referring to, was it reported to you, also that, one of the gunships landed to lift out civilians?

A. It was my impression, General PEERS, that what landed was a gunship, as I mentioned before. I got the

impression that the pilot we are speaking of was in a gunship. I'm speaking now of a UH-1B model, not a bubble. I didn't get the impression that the aero-scout was the one that made the confrontation that we spoke of a moment ago. I got the impression that it was a gunship.

Q. Were you informed that this gunship made two trips to evacuate women, children, and old men?

A. I don't recall. I don't recall it, sir. Very possibly that was reported, but I don't specifically recall it at the moment.

Q. Would the landing of a gunship in the crossfire of U.S. and enemy forces raise any great concern?

A. I don't understand you.

Q. Well, a gunship, and you and I are familiar with gunships, a heavy immobile aircraft landing in a fire zone, for the purpose of doing something.

A. Yes, sir.

Q. Is this an acceptable practice?

A. No, sir. It's not an acceptable practice and I think the reason it landed there was in an effort to protect these civilians.

Q. Well, recognizing that this--even if it were a gunship that landed we are talking about a very expensive and a very dear item.

A. Yes, sir.

Q. We are also talking about the lives of a pilot, and a crew chief, and a doorgunner, and a copilot. We are also talking about an instrument that is very heavy and quite unstable. For such a machine and for those occupants to land under those conditions, would that not be considered most unusual?

A. Yes, sir. It would be considered most unusual.

Q. Was there any questioning in depth as to why was such a thing allowed to exist?

A. I don't recall any questioning in depth being conducted by myself or when I received the report. I certainly do recall that it was considered to be a very commendable action on the part of the crew. I recall that.

Q. Would you say commendable, but stupid, under the circumstances just described?

A. I would say I don't think I'd use the word "stupid," but very hazardous, I'd certainly agree to that.

Q. "Stupid" may not be the exact word. More than hazardous--an act that should not and simply cannot be tolerated.

A. Yes, sir.

Q. In your recollection of it, this gunship was not used to evacuate the civilians, is that correct?

A. I don't recall any conversation, General PEERS, which indicated to me that any civilians had been evacuated. That's to the best of my memory. I don't recall any statement being made that civilians had been evacuated. Very possibly they had been, but I don't recall it.

Q. Do you recall ever hearing a statement to the effect that a colored soldier was observed firing into a ditch with noncombatants in the ditch?

A. No, sir. I do not.

Q. Do you recall the marking of wounded noncombatants with smoke by the aero-scout team and calling, giving direction, to the ground elements to go over and give medical assistance to them?

A. I seem to recall the first portion of that statement wherein the aero-scouts did mark with smoke the locations

of the civilians, but I don't recall the medical support thing that you mentioned, sir.

Q. Well, maybe it wasn't to give aid, but they were using, do you recall their marking--

A. (Interposing) I do recall that, sir, now that you mention it.

Q. Do you recall any statements or impressions to the effect that instead of giving medical assistance they were going over and killing them?

A. No, sir.

Q. Was there any indication in the discussion of one woman being killed by a captain?

A. No, sir.

Q. And you gained no impressions concerning indiscriminate firing into and killing of noncombatants?

A. I gained the impression, General PEERS, that the civilians were in a crossfire between the friendly forces and the enemy forces; that in an effort to save the civilians and to insure that they were not injured, the pilot landed his airplane and took the action which I described. To the best of my knowledge, there was no mention of any noncombatant casualties. I cannot recall being informed of any noncombatant casualties because of this action which I have described.

IO: Mr. WEST?

MR WEST: General YOUNG, I think it might be helpful to you if I gave to you some of the evidence we have received up to this point, concerning a visit to you by Colonel HOLLADAY and what he testified he told you at that time. In his testimony Colonel HOLLADAY stated that on the night of 16 March 1968, somewhere between 10 and 11 o'clock, Major WATKE came to see him and said that something unusual had occurred during the day. What he was talking about was that Mr. THOMPSON, a helicopter pilot, had witnessed, he said, a lot of killing of

civilians at My Lai (4). He was very disturbed about this and at one point he set his helicopter down, the H-23, and threatened to shoot some soldiers if they didn't stop advancing on some civilians, largely women and children. He was able to get the soldiers to stop firing in the direction of the civilians and he then had one of his gunships come down and evacuate them. This was done and one gunship came down and made two trips to take them out to safety. Now, this was the general background of it. Then there was some particular testimony of Colonel HOLLADAY which I will give in more detail. Colonel HOLLADAY was asked this question:

"Q. Are you sure that he (Major WATKE) indicated to you that Mr. THOMPSON had reported to you that he had seen the killing of noncombatants?

"A. Yes, sir. One phrase sticks in my mind: that there was a sergeant standing on the bank of a ditch firing an M-16 or an M-60 rifle into the civilians who were standing in the ditch-- the people who were in the ditch hiding. Two things remain in my mind from that conversation. It was the shooting in the ditch and his threatening to fire upon American soldiers that were advancing towards this cave.

"Q. Did he give any indication how many people were in this ditch?

"A. A great many. I can't recall the numbers offhand. I can't recall the number revealed.

"Q. But he did give the impression that a large number of civilians were in the ditch, and did he indicate what kind of sergeant it was?

"A. No, sir. At least I don't remember.

"Q. Aside from that particular incident, did he (Major WATKE) relate how many additional civilians he might have seen killed or wounded?

"A. I would hesitate to say, but the figure 120 sticks in my mind. But I don't know whether it evolved from that conversation or as a later figure.

"Q. So he related to you basically the two things that stay in your mind. Would you

please repeat those again? These are important to us here.

"A. Two things stand out in my mind about that conversation and I might point out that we talked for some time, not just for 5 minutes. Mr. THOMPSON had seen many civilians being killed. One group in the ditch being fired on from the bank by a sergeant. Another group of 12 were either trying to get to a cave or he took them to a cave were being advanced on by a group of American soldiers, and he put his helicopter down and threatened to shoot the American soldiers if they advanced further. He either got them into a cave or out of the cave to comparative safety, and as I recall he evacuated a child to the hospital.

"Q. Do you recall any other thing about the conversation that night, about 10 or 11 o'clock on the night of 16 March with Major WATKE, that could shed some light on this investigation?

"A. Well, we agonized, if I can use that term, about this, and I tried to impress upon Fred that the ramifications of this thing could be very bad. I guess that's about it.

"Q. In your mind did you recognize that at that time if what was reported was true, that this was a major war atrocity?

"A. I would hesitate to use that term. I don't think I would refer to it as an atrocity.

"Q. What was your primary concern at that point in time?

"A. I believe my primary concern was whether I should go and wake up General YOUNG--at this time it was about midnight--or whether I should wait until the following morning to pass this on.

"Q. With respect to what happened on the ground, was your big concern--were you more concerned with the confrontation which existed between your forces and the American forces on the ground, or was it the fact that the Vietnamese, a certain number of

Vietnamese noncombatants, had been killed?

"A. I don't believe, sir, that I could separate the two. I think the fact that a large number of Vietnamese were apparently killed prompted one of my people to do what he did, and I think they are inseparable. They are not separable, clearly defined acts. One prompted the other, sir.

"Q. All right. You were then faced with the decision whether that night you went to General YOUNG or you waited until the following day?

"A. Yes, sir.

"Q. What was your decision?

"A. To wait until the following morning.

"Q. And at that time did you report to General YOUNG or to General KOSTER or to anybody else at the headquarters division? What did you tell them?

"A. I got a hold of Fred about 0730, as I recall the time, perhaps earlier, and we went to General YOUNG's office.

"Q. Did you take Major WATKE with you?

"A. I took him with me, yes, sir. I went to General YOUNG's office at Chu Lai about 8 o'clock, as I recall the time, and told him that I had something I felt he should know, and we went in to his office and I had Major WATKE relate the same story he related to me the night before to General YOUNG.

"Q. So did you and Major WATKE tell General YOUNG exactly what you have just indicated here?

"A. Yes, sir.

"Q. Completely informing him of both incidents?

"A. Yes, sir.

"Q. What did General YOUNG say? And what did he do?

"A. I, of course, cannot recall verbatim what he said. He was very concerned with the probability of Americans shooting other Americans. At that time either through his aide or the chief of staff he ordered that Colonel HENDERSON, the 11th Brigade Commander, and Lieutenant Colonel BARKER of Task Force Barker meet him at LZ Dottie, at about 10 o'clock. I'm trying to think it was later. It was before noon. It was somewhere between 1000 and 1100. He also ordered that I be there and bring Major WATKE with me."

That was about the extent of Colonel HOLLADAY's testimony as to coming to see you and concerning his conference with you. Without going through it, Major WATKE's testimony is in agreement with this. Does this help to refresh your memory of what Colonel--

A. (Interposing) Yes, sir. I would like to say, as I stated at the outset, I was under the impression that, if my memory still serves me correctly, that this took place after the evening briefing, rather than early in the morning. Again I know that the following day, I did go to LZ Dottie. I did talk to--may I say that very possibly Major WATKE was present with Colonel HOLLADAY, as I indicated before. On the following day I did go to LZ Dottie, I did talk to Colonel HENDERSON and Colonel BARKER. And I'm sure that Major WATKE and Colonel HOLLADAY were present. I believe they were present. Because Colonel HOLLADAY often went with me.

Q. All right, I think General PEERS is going to get into that phase pretty soon.

IO: I think right now for the benefit of all concerned that we are going to have to take a noon break anyhow and this does provide us a good cutoff. We'll take a recess at this time and we'll reconvene at 1400 hours.

A. Yes, sir.

(The hearing recessed at 1249 hours, 13 December 1969.)

(The hearing reconvened at 1403 hours, 13 December 1969.)

IO: The hearing will come to order.

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

The hearing recalls Brigadier General YOUNG.

General YOUNG, sir, you are reminded that you you are still under oath in this hearing.

IO: When we recessed, General YOUNG, we were just concluding acquainting you with some of the testimony of some of the previous witnesses concerning their discussion as relates to the incident reported to you. We have had this recess now. From what has been brought out, have you recalled any particular incident or discussion to your mind?

A. No, sir, not other than what I have told you before.

Q. When you proceeded to Dottie, I think it is referred to as Fire Support Base Dottie, isn't it?

A. Yes, sir.

Q. Most people refer to it as LZ Dottie--

A. (Interposing) With the fire support team.

Q. What happened there?

A. I went to Fire Support Base Dottie and got Colonel HENDERSON, Colonel BARKER and Colonel HOLLADAY. I know that Major WATKE was at the fire support base, but I cannot say whether he was in the conversation. I told Colonel HENDERSON that the division commander had directed that the investigation be initiated immediately and that Colonel HOLLADAY was present and could inform him of the allegations. I told Colonel HENDERSON immediately to investigate the allegation, should smoke out the facts, and inform the division commander as soon as possible. It was a very short conversation and I left. Colonel HOLLADAY and Colonel

BARKER and Colonel HENDERSON were there when I left. That's generally what took place, General PEERS.

Q. When you talked to General KOSTER, General YOUNG, what was your impression of the kind of investigation that General KOSTER desired?

A. Well, my impression was that he wanted the allegations completely investigated and reported to him with the facts as quickly as possible.

Q. Where did this meeting at Fire Support Base Dottie take place?

A. Where, at Fire Support Base Dottie?

Q. Yes.

A. It took place either inside or in the close vicinity of Colonel BARKER's quarters. I think it took place inside.

Q. What form did that take--his quarters?

A. He had, as I recall, a ton-and-a-half trailer built up with a bed in there, and a table, inside the trailer.

Q. A van?

A. A van, yes, sir. I believe it was a trailer really.

Q. On that occasion did you--in your presence did you give Colonel HOLLADAY and/or Major WATKE an opportunity to explain what had been reported to them?

A. I believe, General PEERS, that I relayed the instructions of the division commander and told Colonel HENDERSON that these gentlemen were available to give him additional details.

Q. I'm interested in knowing what information Colonel HENDERSON received from Colonel HOLLADAY or Major WATKE?

A. While I was present he received, essentially, the information which I have provided in this testimony. Now, I don't know what he received after I left, because as I recall Colonel HOLLADAY and Major WATKE were still there with Colonel HENDERSON and Colonel BARKER when I departed.

Q. I know it's a long time ago, but can you state to the best of your recollection exactly what you told Colonel HENDERSON with respect to an investigation?

A. Sir, to the best of my recollection I told Colonel HENDERSON that the division commander had directed that he initiate an investigation immediately into the allegation which had been reported to me by Colonel HOLLADAY, and that he should smoke out the facts, get the details, and give the division commander the details as quickly as possible.

Q. Was it your intent at that time that Colonel HENDERSON himself conduct that investigation, or that he, should have an investigation conducted?

A. To the best of my memory the division commander did not specify for Colonel HENDERSON to personally conduct the investigation. I don't recall that in the division commander's instructions, and I don't recall passing on such instructions to Colonel HENDERSON.

Q. In this meeting in the van, or headquarters, or office, whatever it may be, was there any focus put on the fact that an American captain had been observed by an aeroscout pilot killing a woman?

A. I do not recall that in the conversation, no, sir.

Q. Even if it had been a part of the conversation, would it have been the central thrust of the conversation? This was really what was to be investigated?

A. I don't know, General PEERS. I think that the central thrust was the fact--the allegation of the troops' engagement. I don't recall this being discussed at this time.

Q. Was there any statement made in this meeting which might tend toward cautioning against any loose talk until this matter had been thoroughly investigated?

A. Yes, sir. I think that it was clearly pointed out that it was necessary to make this investigation as quickly as possible in order to dispel any rumors or the like.

Q. Do you recall a statement being made to the effect that, "It's only the five of us here that know about this."

A. No, sir, absolutely not, because that wouldn't have been true.

Q. Is there anything else about this meeting in Colonel BARKER's quarters that stands out in your mind now, that you think can help us in our inquiry?

A. No, sir, I don't think so. I can't recall anything at this time that could be of any assistance to you.

Q. Did you put a time limitation on this investigation, when it was to be completed?

A. Sir, I think I made the statement "as soon as possible." I don't recall any time limitations.

IO: Mr. MACCRATE, do you have any questions that you would like to address to General YOUNG concerning the meeting in the van?

MR MACCRATE: General YOUNG, by way of clarification, I think that in response to General PEERS' question you said "central thrust" related to the troops' engagement. I think I know what you allude to, but if you would clarify what--

A. (Interposing) I'm speaking of the previous testimony where I indicated the platoon--finding the civilians in the crossfire, that's what I call it. That's what I was speaking of, sir.

Q. Where the pilot spoke to the platoon leader?

A. Yes, sir.

Q. Do you recall any discussion in this meeting, which you say may have taken place in the van, about a Negro sergeant firing into a ditch? Any mention at that time?

A. No, sir. I do not recall that being discussed at any time in my presence. It possibly could have been discussed after I departed there. I do not recall that in our discussion.

Q. Was there any discussion at that time about the civilian casualty figures of the preceding day?

A. Not while I was present in this meeting, sir.

Q. Was there any discussion of the effect that this might have upon the effectiveness of the operation of Task Force Barker? The morale of the personnel?

A. I think that it was clearly pointed out that if this allegation was true it would certainly have serious implications. Therefore, it was necessary to make a thorough investigation.

Q. Was there any reference to the fact that Colonel HENDERSON had just taken command the preceding day?

A. Not that I recall, sir.

Q. Did he refer to this fact at any time that he was new in command, just having on the 15th, actually, of March, assumed the command from General LIPSCOMB?

A. I cannot remember any remark of this nature, sir.

Q. When you had spoken with General KOSTER, did he refer to the fact that there was a new commanding officer of the 11th Brigade?

A. No, sir, I do not recall General KOSTER making any such remark.

Q. Well, was there any reference to whom you were going to speak about who would make this investigation?

A. By General KOSTER, sir?

Q. Yes.

A. No, sir, not that I can recall. General KOSTER instructed me to direct Colonel HENDERSON to conduct the investigation immediately. He did not specify that Colonel HENDERSON would investigate it, to the best of my memory.

Q. Either in the preceding conversation with General KOSTER or the discussion that followed with Colonel HENDERSON, was there any reference to the general matter of relations with the local population?

A. I don't recall that, sir.

Q. Or in relation to the overall pacification program, and the importance of the--or the seriousness of killing of civilians to that program?

A. I don't recall any reference. However, it did, very possibly, take place. I don't recall it though, specifically.

Q. By the time that you had this meeting at LZ Dottie, in addition to a report by Colonel HOLLADAY, what other information had you received about the operations of the preceding day that was discussed in the meeting?

A. I don't recall any other topic that I discussed, other than the passing on of the instructions of the division commander, to the best of my knowledge.

Q. Well, you had the preceding evening, you recalled observing the KIA to weapons ratio and expressed some concern about this. Was this at any time, up to this point, related to civilian casualties--the possibility of civilian casualties?

A. Very possibly it was. I made reference to the fact that it appeared rather strange, the lack of weapons that were captured with the significant report of enemy killed.

Q. Can you recall having at that time figures relating to civilian casualties of the day before?

A. Civilian casualties, sir?

Q. Yes.

A. I don't believe that figure or any figure of civilian casualties was discussed. I can't recall a figure.

Q. Did you ask either Colonel HENDERSON or Colonel BARKER any question, that you can recall, about civilian casualties?

A. I asked if there had been any reported, but I don't-- and I was assured at that time that this allegation--that they were unaware of this allegation.

Q. What is this allegation?

A. This allegation of the civilian casualties, sir.

Q. Well, hadn't there come in the SITREP of the day before, or in other communications received during the day, other information as to civilian casualties?

A. Are you speaking of the reported civilian casualties due to artillery fire?

Q. Or any other cause.

A. This--I believe I can recall a report, in the log or maybe it came from Colonel BARKER or Colonel HENDERSON, of some civilian casualties due to artillery fire. That's the only thing that I can recall. I can't recall whether this was discussed at this meeting or not.

Q. Well, had you any directive at that time for either Colonel HENDERSON or Colonel BARKER with respect to investigating those civilian casualties? Those that were reported that day?

A. Sir, to the best of my memory, I was instructed by General KOSTER to pass on the word to Colonel HENDERSON

to conduct the investigation based upon the allegation which came from Colonel HOLLADAY. To the best of my memory, General KOSTER gave no instructions, to me at least, to investigate the civilian casualties. The investigation was to focus upon the allegation reported by Colonel HOLLADAY.

Q. Did you ask Colonel BARKER what he knew about the incident as reported by the pilot?

A. Yes, sir

Q. What did Colonel BARKER say?

A. He acted quite surprised and gave every assurance that there had not been any casualties resulting from his troops.

Q. Are you quite sure that he expressed surprise at that time?

A. Yes, sir.

Q. Did he indicate that he had not heard this before? That he was hearing it for the first time?

A. No, sir. He had indicated that he had received this report, but he indicated that he did not actually believe what had been reported.

Q. Did he indicate when he had received the report?

A. I think that, if I recall, sir, this--he indicated that he received this report during the conduct of the operation on the previous day.

Q. Did you ask him what he did after he received the report, either to confirm or to find out more about it?

A. Yes, sir, I'm sure this was asked and I think--

Q. (Interposing) What did he say?

A. That he had questioned, I wouldn't say questioned, that he had looked into the matter and he didn't find any

basis for it.

Q. Did he say how he looked into the matter?

A. I don't recall that, sir.

Q. Did he tell you to whom he had spoken?

A. I don't recall that either, sir.

Q. Did he indicate that he had spoken to the pilot?

A. I don't recall his speaking to the pilot, he may have. I don't remember that.

Q. Well, do I understand that it was your understanding that at this time Colonel BARKER had already investigated the matter?

A. No, sir, I wouldn't say investigated the matter. It was the understanding at this time that he had been informed of the matter and had looked into it, but as of that moment he had found no basis for the allegation.

Q. Well, did you indicate to Colonel HENDERSON what you wanted him to do that Colonel BARKER had not already done?

A. Yes, sir. I indicated to Colonel HENDERSON exactly what the division commander had stated and that was to conduct a thorough briefing into this allegation immediately.

Q. And what did you expect him to do in response to that directive?

A. I expected him to do exactly what the commander had said, sir, and that was to conduct an in-depth investigation to determine whether or not the allegation was true or false.

Q. And what would such an investigation include?

A. What would such an investigation include? It would include a detailed on-the-ground interview, and statements, possibly statements from those who were

familiar with the operation.

Q. And that would include such people as?

A. The people who were involved in the operation. The company commander, the platoon leaders, the NCO, the enlisted men, the artillery FO who was on the ground, the aviation support personnel who supported the operation.

IO: General YOUNG, in your discussion with General KOSTER about the--I'm referring back to the evening of the 16th, anytime during that evening and prior to your going to Fire Support Base Dottie. Did General KOSTER inform you that he had interposed himself to countermand an order which had directed C/1/20 to retrace its steps and return to My Lai (4) and make a count of the civilian casualties by age, by sex, and by how they were killed?

A. I don't remember that, sir. I don't believe he did.

Q. Mention it to you?

A. To me, yes.

Q. Was this brought up in the meeting?

A. No, sir. At Fire Support Base Dottie the following day?

Q. Yes.

A. No, sir. I do not recall that.

Q. You directed that Colonel HENDERSON conduct this investigation and Colonel HENDERSON was the one who initiated the order to return the company through the area and he was, in his words, trying to seek a reason why the company had not been allowed to return and my question is, whether or not he raised the question during this particular discussion that you had with him and with the other three individuals in Colonel BARKER's quarters?

A. I do not recall, General PEERS, that Colonel HENDERSON mentioned this fact whatsoever.

Q. Do you recall anything that Colonel HENDERSON or Colonel BARKER might have said at that time? Did Colonel HENDERSON, for example, state that he had talked to Captain MEDINA, the unit commander, and that there was no foundation for the allegation?

A. I do not recall Colonel HENDERSON saying that at that time. He stated this to me a day or so later, but on that date I do not recall him stating that he had talked to the company commander of C Company.

IO: Mr. WEST?

MR WEST: General YOUNG, we have of course talked at some length to Colonel YOUNG (sic) (Colonel HENDERSON), Major WATKE, and Colonel HOLLADAY concerning the complaint of Warrant Officer THOMPSON and their passing this complaint on to you, and then about the meeting in Colonel BARKER's van where this matter was discussed. Their testimony is in considerable variance with yours. On the matter of emphasis as to the subject which was to be investigated, Major WATKE testified that when he got THOMPSON'S report he was concerned with the confrontation between his people and the infantry. He thought this was something very serious and should not be tolerated and should be looked into. He was asked if he was concerned about the reports of the unnecessary killing of civilians and he said, "Yes, that was a part of it," but right or wrong, he was more concerned about the command aspect of the confrontation between soldiers--some American soldiers threatening to shoot others. However, when he passed on THOMPSON'S story to Colonel HOLLADAY, he discovered that Colonel HOLLADAY was much more concerned about the complaint of the unnecessary killing of noncombatants--civilians. He was questioned closely on this and said, "Yes, that's the way it was." He was asked what your reaction was when Colonel HOLLADAY and Major WATKE called on you, and according to the testimony of both of them, Major WATKE told the story to you. He said that while you were concerned about both aspects, you were primarily concerned with the allegations of the unnecessary killing of

noncombatants, and that later when the five of you met in the van, by that time the confrontation aspect was practically forgotten. The entire emphasis was on investigation of the allegation of killing of noncombatants--that being a considered a very serious matter. Major WATKE and Colonel HOLLADAY agreed that you directed an investigation and that you turned to Colonel HENDERSON and said, "I want you to investigate this;" that you were talking about the allegation of unnecessary killing of noncombatants; and that that was all that was to be investigated. Colonel HENDERSON's testimony agrees with that. It is in variance with the testimony of others with respect to Colonel HENDERSON's recollection that conducting the investigation was his idea, not yours. Colonel HENDERSON states that he told you he was investigating--he had already started--and you approved this. General KOSTER's statement on the 24th of November to the CID says, as I recall, nothing about confrontation between the troops. He says that he directed an investigation be made into the charges of indiscriminate shooting of civilians. This was what was to be looked into. It is not certain just how this was to be passed on. He gave the direction either to Colonel PARSON or to you. This is his recollection. He didn't quite recall all of it, but he was rather positive about Colonel HENDERSON's being directed to investigate this. I think you can understand, General YOUNG, why we are pursuing this line of questioning and why we are concerned about the variance. I think you can appreciate the implications. If correct, this would be a most serious thing: the killing of possibly a large number of noncombatants, women and children, and that these matters were brought to your attention and you did nothing about it and you directed some other aspect be investigated. I think you can appreciate the implications. In view of the testimony I have given you does this refresh your memory in any respect as to what was discussed in the van--in Colonel BARKER's van--when the five of you were present and you issued the orders about conducting an investigation?

A. Sir, the orders that I issued were from General KOSTER and the investigation was directed by General KOSTER. The information that I passed on to Colonel HENDERSON was to investigate the allegations that U.S. forces were firing into noncombatants and it was my understanding that this was the primary thrust here, not the confrontation between the helicopter pilot and the platoon leader wherein a threat was made. Does that answer your question, sir?

Q. Well, it leads to another question. Do you think you could possibly be mistaken as to what General KOSTER said to you about the subject of the investigation?

A. I don't believe I could, sir. I believe that General KOSTER--it was quite clear to me what was to be done.

MR MACCRATE: When you first told General KOSTER of Colonel HOLLADAY's report, did he indicate that he had heard anything prior to that time about the unnecessary killing of civilians--this is in the course of the operation on 16 March?

A. No, sir, not that I recall.

Q. Did you understand that you were the first one to bring any such information to his attention?

A. It was my impression that this was the first he'd heard of it, sir.

Q. And you would fix this as sometime after the evening briefing session?

A. I would fix this sometime in the vicinity of 1830 hours, as I said before. It could have been possible that it was the next morning, but as I remember the sequence of events I stated, we had the briefing, General KOSTER went back to his office, I went back to my office, and that is when Colonel HOLLADAY came. That's my memory, sir.

Q. At that time of the evening briefing was there any consideration given to the possibility that the high KIA to weapons ratio reflected civilian casualties?

A. I think it can best be stated that the--it was surprising. I know I was surprised and I feel certain the others were surprised.

Q. But in relation to noncombatants, was there any discussion as to the ratio in those terms and the possibility that it might involve civilians rather than VC KIA?

A. At the evening briefing there was none, sir.

Q. Well, on Sunday mornings do you--did you have an early morning briefing?

A. Every morning we had a briefing in General KOSTER's office.

Q. Do you recall the briefing on the morning of 17 March, which was a Sunday?

A. Not particular, sir. I don't recall if this matter was discussed.

Q. Would you fix for us again, as best you can, when it was that General KOSTER gave you the directions to take to Colonel HENDERSON?

A. Well, to the best of my memory this occurred on the evening of the 16th, not on the morning of the 17th. I stated before that my memory tells me that I was visited by Colonel HOLLADAY after the evening briefing, on the afternoon of the 16th.

Q. And you had no recollection of this matter being discussed in the morning briefing on the 17th?

A. I have no recollection of its being discussed on the morning of the 17th. It could have been discussed, but I think I would have remembered.

IO: You have indicated, General YOUNG, that there had been some discussion concerning this unusual kill ratio to weapons--125 to 3 or thereabouts. And also from Colonel HOLLADAY and Major WATKE there was some indication that U.S. personnel were firing into or at civilians. At any time were these two put together?

A. It was put together in my own mind that this was certainly a serious offense and if it were true it would be serious and we'd better make an investigation. Therefore, I went to the division commander and recommended that he direct the investigation.

Q. What I'm referring to is that you had 128 KIA and

very few weapons and you got a report of either firing into civilians or noncombatants or killing of noncombatants. Was any consideration given to the fact that some of the people of this 128 could have in fact been civilians, or noncombatants? That's the point I'm raising.

A. Sir, the thought certainly hit my mind that this was a possibility and therefore it was essential that it be investigated.

Q. Did the division have a policy that when a serious allegation such as this was raised that it immediately cut orders to appoint an investigating officer?

A. I don't recall that policy being made, but I would like for the record to relate another instance where this course of action was followed. May I have that permission, sir? I merely want this inquiry to be aware, undoubtedly you already aware, of a similar instance that took place in late May or early June wherein an allegation was made that two nurses, civilians, were raped and killed. This occurred during the interim period between General KOSTER and General GETTYS when, I was acting division commander. I immediately appointed an Article 32 investigating officer and I think the record is clear that the individuals in this instance were court-martialed, subsequent to the completion of the investigating and the filing of charges. To answer your question, General PEERS, I'm not aware of any specific division policy which required the appointment of an investigating officer, but this is a course of action that I elected to follow in the instance that I just related to you. It's a very good possibility that this was a division policy.

Q. I am aware that in the latter instance that an investigating officer was appointed by division order.

A. Yes, sir, I appointed him.

Q. It is for this reason that I am asking why three months before, approximately, in the face of a serious allegation, that an investigating officer was not appointed and why an appropriate investigation was not made?

A. I don't know, sir.

IO: Do you have any more question concerning the conference in the--in Colonel BARKER's quarters?

MR WEST: Do I understand you to say that when Major WATKE and Colonel HOLLADAY came to see you to make this report to you, they didn't discuss or describe in detail the complaint of killing of civilian noncombatants?

A. To the best of my knowledge, sir, the report that Colonel HOLLADAY gave me was, as I stated here before the noon break, I do not recall the report being made as it was brought out in his testimony which you read to me.

IO: Let me phrase that in a different way if I may? Did you receive a report in the HOLLADAY-WATKE briefing that they had seen a large number of civilian or noncombatant bodies which had been killed throughout the area?

A. I did not, sir. I do not recall that statement being made.

MR WEST: And then General KOSTER's instructions to you were to have an investigation made of this confrontation between the troops?

A. This was my understanding. Yes, sir.

Q. It was not to investigate the indiscriminate killing of civilian noncombatants?

A. No, sir. No, sir. My understanding was that the investigation which General KOSTER directed would be of the allegation of the friendly forces having the civilians in the crossfire; not the confrontation of the helicopter pilot flying--threatening the ground troops.

Q. I think I must have misunderstood you. What was the problem there? Was the problem of lack of control of the troops on the ground? The commander on the ground was not keeping his troops under control, their marching fire? What was it that was to be looked into?

A. I don't understand your question, sir.

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Q. Well, I guess I don't understand what was to be the subject of the investigation. Would you mind giving me that again?

A. Yes, sir. It was my understanding that the purpose of the investigation, which was directed by the division commander, was to investigate into the fact that the helicopter pilot had reported that friendly forces, while engaging an enemy, had fired into or had these noncombatants in crossfire. The investigation was not designed to investigate the confrontation between the helicopter pilot and the ground platoon leader. That was my understanding, Mr. WEST.

MR MACCRATE: May I ask at this point a question of clarification? Was it an investigation then of the conduct of the ground forces, essentially--of the infantry platoons that were involved?

A. The conduct of these infantrymen having the civilians in the crossfire, sir.

MR WEST: Hadn't you been informed that there had been a helicopter pilot, and his people had threatened to fire upon the infantry soldiers on the ground, if they didn't stop advancing towards the civilians?

A. I was informed of this by Colonel HOLLADAY, sir.

Q. Didn't you tell General KOSTER that?

A. Yes, sir.

Q. And he didn't ask you to have that investigated?

A. He didn't direct me specifically to have that investigated. My instructions were the primary purpose was to investigate the other facet of this operation.

MR MACCRATE: Was there any reference to the firing by gunships upon civilians, or by artillery upon civilians? Was this to be included in the investigation?

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A. Yes, sir, I would think so.

Q. Was this referred to in the conversation with Colonel HENDERSON?

A. It was. I believe that while I was present this point was brought to Colonel HENDERSON's attention--this allegation that the helicopters had fired into the group of people. I don't recall it specifically, but I believe it did.

Q. Was there any reference to the effect of artillery fire?

A. None that I recall, sir.

Q. General YOUNG, on 24 November General KOSTER gave a statement on this matter and I would read you a short series of questions and answers relevant to what you have been testifying about.

"Q. General KOSTER, what position of command did you occupy on 16 March 1968?"

And he stated then that he was the commanding general of the Americal Division at that time.

"Q. Did you receive allegations that Vietnamese noncombatants were killed during a combat assault upon My Lai (4) which was conducted by elements of Task Force Barker?

"A. Yes, I heard about these allegations about midday on the day of the operation on 16 March 1968. I had returned to division headquarters and it was reported to me that a helicopter pilot had complained through the commander of the aviation battalion of the indiscriminate shooting of Vietnamese civilians. I received this information through Colonel PARSONS or General YOUNG, although I might have heard it directly from Lieutenant Colonel HOLLADAY, the aviation battalion commander. At the time I was at my headquarters at Chu Lai.

"Q. What action did you take on receipt of these allegations?

"A. The allegation that I received was that some U.S. troops had fired indiscriminately in the heat of battle. The firing appeared to be more than was needed. I directed my chief of staff, Colonel PARSON, or the assistant division commander, Brigadier General YOUNG, to have an immediate investigation to find out just what happened."

Does that clarify your memory at all as to what you passed on to General KOSTER and what he directed you to do?

A. I didn't--I don't recall that General KOSTER knew about this at noon on that date. It was my impression--at least he did not tell me that he had known about it, when I reported to him on what I had learned. As I stated before, I thought that this was the first time he had known about it. As a result of that it was at that time that I was told to contact Colonel HENDERSON and direct him to make an investigation.

Q. You can appreciate that General KOSTER's memory may be playing him tricks. We're probing--

A. (Interposing) I understand, Mr. WEST.

IO: I will again refer back to item number 28 in the log which, as you recall, reported that as of 9:30 in the morning that in addition to other body counts which had been made--actually there was another entry of 14--it states that as a result of artillery fire--69 VC KIA's were a result of this artillery fire this morning. I should tell you also, for your benefit, that General KOSTER was at Fire Support Base Dottie that morning about this time and he did then talk to Colonel HENDERSON who had been flying over the area and had picked up what was suspected to be two VC's who had escaped from a crowd of people moving down the road. In the process of this operation he had seen what he had considered six or eight dead, generally along the road but to the south of My Lai Village. In Colonel HENDERSON's words--not his words, but an interpretation--this was not met with a great deal of pleasure by General KOSTER, the fact that noncombatants were being killed either by artillery fire or otherwise. There was no explanation of how they were

killed at that time, but General KOSTER at that time in the morning was upset about this, so I don't want to--in all fairness to what Mr. WEST has brought out, to indicate that General KOSTER was completely uninformed about what was going on. I don't think that he knew all the details that were known in the command but he did know certain things and this is why we are also probing your mind, General YOUNG, to find out, that evening in the briefing when this matter of the 128 KIA came up or in your discussion with him, if he brought out any consideration of civilians possibly being included in this body count?

A. General PEERS, I can't recall that he brought this out at the briefing or subsequent to the briefing. I can only state that when mention was made of the high body count, my impression was that he was surprised quite a bit. He did not inform me that he had been at Fire Support Base Dottie that morning. I have no doubt that he was there because he traveled throughout the entire division.

Q. Did he inform you, either before or after your conversation with him, that Colonel HENDERSON had contacted him by telephone to inform him that this body count was not 6 or 8 as he had reported previously, but was at least 20 and maybe more?

A. No, sir, I don't remember General KOSTER stating that.

Q. At this time again, General KOSTER was not pleased at all and so indicated to Colonel HENDERSON, in Colonel HENDERSON's testimony to us. It has been a general consensus in the testimony, unanimous, that your discussion in the trailer lasted for some time. You indicated that it was very brief. Quite obviously, the situation that was to be discussed from what Colonel HOLLADAY told you, that it couldn't have lasted just a couple of minutes and then broke up. Would you care to elaborate on what you know or recall as to the approximate length of this meeting?

A. I don't believe it lasted for more than 10 minutes.

Q. Well, your previous statement was 5 minutes.

A. Five or ten, it wasn't any lengthy meeting, General PEERS.

Q. But this was a very grave matter that was being discussed--to the point where you would order an investigation of it and it just seems in my mind that a detailed exploration right there was necessary. It may have in fact taken place, to make sure that everybody knew what the problem was--what was known and what was reported. Again, I recognize that this was some time ago, this is a year and half ago, and it may in fact have been the 5 or 10 minutes that you speak of and it could, on the other hand have been considerably longer, because time does go by fast in a situation like that. But from what I know, from what testimony I have heard of how the situation was described, I would almost defy anybody to even just tell in a matter of 5 to a few minutes what the allegation was that had been made by Warrant Officer THOMPSON and, I might say, other individuals within the aero-scout team. The one thing that everybody agrees on is that, after you had indicated what they were there for, and after more discussion, your direction to Colonel HENDERSON was that, "You are to investigate this." That is just about the statement. "You are to investigate this." There was--everybody was also unanimous in the fact that it was not just something to be gotten to whenever he could get to it. It was to be a matter of considerable priority. In some cases, people can put a time frame on it--a mental time frame on it, "as soon as possible" is the phrase you used. Others said you were to report the findings to the division commander within 72 hours--within 3 days. That may be somebody's interpretation of what you wanted "ASAP," but the unique thing is what comes out of this in the interpretation of the people that we have talked to. On the one hand, Colonel HOLLADAY and Major WATKE were of the impression that Colonel HENDERSON was to investigate the indiscriminate killing of civilians and also to investigate this really major confrontation of the air unit with the ground unit. Colonel HENDERSON, on the other hand, it sticks in his mind that the main thing he was to look into was the allegation that an American captain had killed a Vietnamese woman. So, this is what we get out of it, and why we are trying to clarify it. This is not the only thing that is germane in the investigation or investigations, but this is one of the critical points; this is the reason we are asking you to search your brain to see if you can recall all the facts as they were reported to you, all of the facts as they were transmitted

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from Colonel HOLLADAY or Major WATKE to the people you had in the trailer with you, and what specific instructions were given to Colonel HENDERSON.

A. I'll try again, General PEERS. Evidently I left a tremendous amount of doubt in your minds. Now, to the best of my memory the meeting that took place at Fire Support Base Dottie while I was present was a short one. I can't put a specific time on it, but I remember that, to the best of my knowledge, I got there and issued the instructions that the division commander told me to issue and I left there and the party was still out in front of Colonel BARKER's trailer. At the meeting to the best of my knowledge--

Q. (Interposing) May I ask you a question?

A. Yes, sir.

Q. You say that the "party" was out in the front of Colonel BARKER's trailer. Who, specifically?

A. I'm referring to those who had attended the meeting other than myself and I think--

Q. (Interposing) Did all of them come out or did Colonel BARKER, or Colonel HOLLADAY come out--

A. (Interposing) I believe they all came because-- sir, I can't answer that. I don't recall specifically. At the meeting I do not recall any discussion that Colonel HENDERSON was to investigate the allegation against a captain. I don't recall knowing that. Now, this may have come out after I departed there. I don't recall any discussion concerning a captain and, as you stated, firing at a woman civilian. To the best of my memory Colonel HOLLADAY and Major WATKE stayed at Fire Support Base Dottie and I left there by myself. It certainly was my understanding that the matter to be investigated was, as I reported, the ground troops firing into the noncombatants. I was not under the impression that the confrontation between the helicopter pilot and the U.S. troops was merely the concern, the first point I mentioned was. And I believe this meeting took place on the morning of the 17th. As I stated before, I thought it took place earlier than has been reported here by the previous witness.

Q. What time would you indicate?

A. I thought, sir, that it took place between 9 and 10 in the morning, rather than has been indicated here previously.

Q. Well, I think our indications are that it did take place around 9 o'clock. If we have indicated otherwise I believe we have been erroneous.

MR MACCRATE: There was a reference to a meeting that was thought to have taken place in Chu Lai with you, sir, on the morning of the 17th. It was the recollection of Colonel HOLLADAY and Major WATKE that they had gone to see you at Chu Lai at 0700 or 0730 on the morning of the 17th, but the meeting at LZ Dottie has in the prior testimony been fixed around 9 o'clock.

IO: One thing that we might do for a moment is to explore, and it really, as far as the discussion is concerned, as far as your testimony is concerned, it is not too germane; but I think it would be wise to explore it because, irrespective of which day it took place, whether it was on the 17th or whether it was on the 18th, the fact remains that the meeting did take place and it did transpire as we have tried to establish here this morning. When we first talked to Major WATKE and to Colonel HOLLADAY they indicated that they had talked together in the evening and had talked to you early in the morning of the 17th, and then they were of the impression subsequent to that time that you had called for a meeting at Fire Support Base Dottie, where people got together about 9 o'clock. Initially, Colonel HENDERSON'S recollection was that it was the 17th. Recognizing now that the 16th is a Saturday, the 17th was Sunday, and, of course, the 18th was Monday; there is documentary evidence which would show that on the 17th, after the meeting with you, Major WATKE continued to perform his normal duties and did a couple of jobs with his aero-scout company and that later in the day he and Colonel HOLLADAY flew to Duc Pho--Fire Support Base Bronco--to talk over the deployment of the 123d Aviation Battalion with Colonel HENDERSON, not to discuss the situation at My Lai (4), but to discuss the employment of the aviation assets to make sure that they were getting the full utilization out of them. Everybody remembers this meeting. There is some question as to whether or not it took place that day, or whether it was 3 or 4 days before, or 3 or 4 days afterwards,

but it could have taken place in the sequence of them getting together in the evening, or in the night, of the 16th and talking to you sometime on the early morning of the 17th-- subsequent to which you talked to General KOSTER and received his direction, and subsequent to which you called the meeting at Fire Support Base Dottie early on the morning on the 18th.

A. Sir, I believe the meeting took place in the morning following the briefing which was on the 16th wherein it was indicated that there were slightly more than 100 enemy KIA. I could be mistaken. I believe the sequence of events as I have stated here, the briefing, then the visit by Major WATKE and Colonel HOLLADAY, then the instructions by the division commander, then the meeting the next morning subsequent to General KOSTER'S briefing.

Q. As you can see what we were interested in, as far as you are concerned, is not exactly when the meeting was held, because that is very difficult to establish a year and a half ago. What is of prime importance to us is what information passed back and forth and specifically what instructions were given by you. I think we have that at the moment. So if anything comes to light on the timing we would appreciate it, but as far as I'm concerned that is not the crucial issue at the moment.

Mr. WEST, do you have anything further that you would like to discuss?

MR WEST: No, sir.

IO: General YOUNG, would you tell us what transpired next within this investigating and reporting channel?

A. To the best of my memory the next thing that I can recall is the day following, or the second day, which would be the 18th or 19th. I saw Colonel HENDERSON at LZ Bronco and during the conversation which I initiated with him I asked him the status of the investigation, because I had issued instructions in General KOSTER'S name that it be conducted immediately. He informed me that he was investigating this matter. I asked him first who was the investigating officer and he informed me that he was investigating the matter himself, personally, and I asked

him when he was going to get it finished because the division commander had indicated to me a sense of urgency and he said he was working on it just as fast as he could; he would get it to the division commander within a day or so; that he had a number of people that he wanted to talk to. That's the next thing that I can recall that took place after the meeting at Fire Support Base Dottie.

Q. Did you think it was unusual that here you have a man that has just taken over a brigade and who is as busy, perhaps, as a cat on a hot tin roof at the time with his three battalions and the record would also indicate that there was one battalion which he had to ship north to go up into the area of Khe Sanh, another battalion was moving into his area and would it appear logical that under those circumstances he should appoint or designate himself as the investigating officer?

A. Yes, sir. I questioned that and he told me that he thought it would be--that he was in the area when the operation took place. He was the best qualified man in his command to make the investigation. The action that I took--I informed General KOSTER that Colonel HENDERSON was making the investigation personally.

Q. Do you recall any counterplay between yourself and General KOSTER at that time? Why is he doing that, or shouldn't we get an investigating officer to help him out?

A. No, sir, I don't recall that. I do recall that I expressed to General KOSTER that I was surprised that he--"he" being Colonel HENDERSON--was making the investigation himself, personally. But I don't recall General KOSTER's comment.

Q. When you did talk to Colonel HENDERSON did he indicate how he was making this investigation?

A. He only indicated to me, sir, that he was personally talking to a number of individuals who had participated in the operation. That's the best I can remember, the only thing that he indicated.

Q. Did you ever at that time or subsequently have an opportunity to check into the adequacy of that investigation?

A. No, sir, I did not.

Q. Who did he report his findings to and in what form?

A. I believe the form that he used initially was an oral report, and he reported it orally to General KOSTER. Then, I believe, he made a written report.

Q. Were you present when he gave his oral report to General KOSTER?

A. No, sir.

Q. What was reported to General KOSTER?

A. I asked General KOSTER had he received the report. He said he had. I believe at that time General KOSTER told me he had received the oral report and had directed Colonel HENDERSON to submit it in writing.

Q. Did General KOSTER indicate what the findings or conclusions and recommendations were in the oral report?

A. I don't recall whether it was at the oral report or when he got the written report and I do think he got a written report. To the best of my knowledge, General PEERS, I did not see the written report either. I was not present at the oral report and I do not believe I saw the written report. General KOSTER had indicated to me that, to the best of my memory, there was no--or little if any, grounds for the allegations that had been made. I do recall, I believe, that General KOSTER indicated that there had been some noncombatants killed by artillery fire.

Q. Concerning only the oral aspect of the report, Mr. MACCRATE, do you have any questions which you would like to ask at this time?

MR MACCRATE: Well, when you spoke originally with Colonel HENDERSON about making a report, did you have any idea that this would simply be an oral report that he was to give to General KOSTER?

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A. No, sir, I was thoroughly convinced that he would make a thorough investigation in depth and prepare a written report.

Q. And did you express your surprise to General KOSTER when General KOSTER told you it had been an oral report that Colonel HENDERSON had made?

A. I can't say that I expressed my surprise, sir, because General KOSTER indicated that, to the best of my memory, he had received the oral report and he wanted it in writing.

Q. Well, did General KOSTER ask you whether or not Colonel HENDERSON had reported in accordance with the instructions that you had given to Colonel HENDERSON?

A. General KOSTER ask me?

Q. Ask you.

A. I can't recall that he did, because I'm sure that he also--at least I feel that he wanted a written report.

Q. My difficulty, General YOUNG, is this: that the only instructions that Colonel HENDERSON had received with respect to his investigation had come from you and now he makes an unsatisfactory report to General KOSTER, and normally, when that occurs I would expect the person receiving the report at that time to say to the individual who had given the instructions, "What did you tell the man to do?" And there was no such conversation between you and General KOSTER?

A. No, sir, I can't recall any conversation wherein General KOSTER asked me if I directed an oral report rather than a written report. I think that General KOSTER, when he issued the instructions to me, was expecting a written report.

Q. Did General KOSTER indicate what had been covered in this oral report?

A. No, sir, not specifically. He indicated that he

(HENDERSON) had made the oral report, and that he had directed, I believe, that this be put in writing, an official report.

Q. He indicated no question about the adequacy of what Colonel HENDERSON had done?

A. I can't recall that he did, sir.

IO: Mr. WEST?

MR WEST: No, sir.

IO: I have one further question at this time and this is on the matter of procedure in investigations. How long--recognizing the magnitude of this particular thing--how long had you really expected it to take to prepare such a report? To do it the way you would expect it to be done, with supporting evidence and testimony--from what you said, if I interpret you correctly, that when he is to report he is to have a report of investigation. Is that your interpretation?

A. Yes, sir.

Q. How long would you expect that?

A. Well, for the magnitude of this problem I would say 4 to 7 days.

Q. What we are talking about here is a report that was perhaps rendered maybe 2 days after he was given the instruction, or a day and a half. In your mind could--I believe it follows logically that this could be accepted in terms of an investigation that is under way. This is simply an interim report; not final conclusions, but an interim report.

A. General PEERS, I don't recall that the report which Colonel HENDERSON made was considered an interim report by any other party.

Q. Your interpretation then, is that when he reported to General KOSTER he had looked into this thing thoroughly and had talked to all the people concerned--who had knowledge of this particular incident and the facts bearing upon the problem--and that he had come to his findings and conclusions and so reported to the commanding general.

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A. Sir, it was my interpretation after he made his submission that he had talked to a number of individuals-- I don't remember the number that he indicated that he had talked to--and that he had submitted his report and this completed the directive that he had received. I wasn't under the impression either from General KOSTER or from Colonel HENDERSON that an additional report was required.

Q. Did anybody at all ever check into exactly what had transpired in the course of making this investigation?

A. Colonel HENDERSON informed me that he had personally interviewed and talked to a number of the officers and men in C Company during the conduct of his investigation.

Q. Did he specifically tell you who in Charlie Company he had talked to?

A. I don't recall his talking in specifics, other than the fact that he had talked to the company commander. I don't recall the names of other individuals he mentioned.

Q. From our indications he was correct in saying that he talked to the company commander. We also have indications that he talked to Colonel BARKER and that he talked to Major GIBSON of the 174th. We know that he talked for at least a time--very shortly--to Major WATKE and very briefly to Warrant Officer THOMPSON, which did not shed much more light on the problem. We also know that he greeted the unit when they came back from the field. We can find no other definite facts in this so-called investigation upon which you could determine the adequacy of an investigation other than personal feeling and a trust in humanity.

A. Well, I was under the impression that he had talked to a number of the officers and men in C Company who had participated in the operation.

Q. Now, mind you, I'm talking only about his so-called first investigation--the result of what we have been speaking about here. You told him that the commanding general wanted this looked into and he wanted it done as soon as possible. That's the action I'm talking about.

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A. Well, to the best of my memory, he informed me that he had talked to a number of the officers and men who were actually on the ground in the operation. I cannot recall that he indicated to me whether he talked to anyone out of the aviation support--anyone out of the aviation battalion. I cannot recall that he informed me if he talked to the artillery FO. Undoubtedly he talked to Colonel BARKER, who, of course, was connected with the operation.

Q. We're interested in all of these investigating aspects. When did he submit his written report?

A. Sir, I don't know for sure. I believe it was shortly after when he, I think, made his oral report. I don't recall the time span between the oral report and the written report, but I believe it was quite short, if my memory serves me correctly.

Q. Did you ever see the written report?

A. I don't recall seeing the written report, sir. I recall seeing Colonel HENDERSON in General KOSTER's office several days after I had been told that he had made his oral report and he had a paper with him--some papers with him--and that is the only time I can recall seeing the report. I don't recall, I'm sure I didn't read the report, because this was a matter between Colonel HENDERSON and General KOSTER.

Q. Did General KOSTER, as a result of Colonel HENDERSON's oral report to him, show you a 3-by-5 card or a piece of paper indicating civilian casualties on it?

A. No, sir. I don't recall seeing it.

Q. When a report of investigation is submitted to the division headquarters does it become a matter of official record?

A. It certainly should, yes, sir. To answer your question, yes, sir. It becomes a matter of official record.

Q. What log would that be entered into if he submitted his report to either the chief of staff or the division commander?

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A. I believe, in this instance, he submitted the report personally to the division commander.

Q. Would a report of investigation such as this be turned into the inspector general or to the JAG for checking as to validity or legality, or would it go to the AG, or to the chief of staff log, or exactly where would this be looked at and recorded as a matter of record?

A. I would think that after a report of this nature was submitted from commander to commander that it would go from the commander who was receiving the report to the chief of staff, to the inspector general, and to the--possibly to the JAG officer. That's how I would answer that question, sir.

IO: We will take a 10 minute recess.

(The hearing recessed at 1540 hours, 13 December 1969.)

(The hearing reconvened at 1551 hours, 13 December 1969.)

IO: The hearing will come to order.

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

Q. General YOUNG, when we recessed you were speaking of the written report which was submitted, ostensibly by Colonel HENDERSON, and you indicated that you had not seen the report.

A. To the best of my knowledge, I do not remember seeing the report.

Q. Do you recall anybody ever telling you about seeing the report and the contents of the report, the size of the report and what it involved?

A. I recall that I asked General KOSTER, and that I don't recall General KOSTER'S description as to the size of it. I do recall that he informed me that Colonel HENDERSON had completed the investigation. I believe these are the words he used. He had talked to a number of individuals who were involved in the operation and that

other than the noncombatants who were killed by the artillery fire that the allegations--the other allegations were unfounded. I believe these are the words he used, sir.

Q. Did he indicate to you whether or not this report of the investigation included sworn statements?

A. No, sir, he did not. I don't recall his indicating that there were any sworn statements included in the report.

Q. Do you recall anything else about the report, how it was handled, or anything else in the headquarters?

A. To the best of my knowledge, sir, the report was hand-carried to the headquarters by Colonel HENDERSON and given to General KOSTER. I don't know what happened to the report after that.

Q. I'd like R-1 and R-2. I'd like the other two documents from the headquarters of the Americal Division, dated 16 and 24 March 1968.

(The documents were handed to IO.)

Q. Had you seen Colonel HENDERSON at LZ Bronco in the intervening period? You indicated you saw him once there.

A. Yes, sir, I had seen Colonel HENDERSON at LZ Bronco during the time that the investigation was being conducted.

Q. Did he give you any kind of report as to his progress or what he was finding up to that time?

A. As I stated previously, sir, I asked him what was the status of the report and he stated that, as I previously testified, that he personally was making the investigation, and that he was in the process of talking to or looking into the matter, and talking to a number of the individuals who were involved in the operation, and I reported these facts to General KOSTER.

Q. Subsequent to the submission of his written report and his oral report and his written report, had you had additional discussions with Colonel HENDERSON concerning his report and its conclusions?

A. I don't recall additional discussions with Colonel HENDERSON after the submission of the--both reports to the division commander. I do recall after submission of the oral report asking Colonel HENDERSON again what was the status of it.

Q. The oral report?

A. Yes, sir. He informed me that he had submitted the--talked to General KOSTER and that he had been directed to make the written report. And that he had talked to a number of individuals who were involved and other than the noncombatants who were casualties due to artillery fire--the allegations made were, he could not find a basis to accept the allegations.

Q. Did you ever recall having discussed these findings and conclusions of the oral and/or written report with Colonel HENDERSON and the general conclusions of that report and saying, "I think General KOSTER will buy that"?

A. Your question is, sir, that I discussed the oral and written with General--

Q. (Interposing) I said did you ever discuss with Colonel HENDERSON the findings and possibly the conclusions and the recommendations of the oral and/or the written report? And indicate or imply to him that you think General KOSTER would "buy" those?

A. No, sir. I did not indicate my opinion on his report to Colonel HENDERSON.

Q. In neither circumstance, as far as the report is concerned, did he report to you. Is that correct?

A. That is correct, sir. He reported to General KOSTER and I--as I indicated before, I'm quite sure that he made his written report--he hand-carried his written report to General KOSTER into his office because I can recall about this time seeing Colonel HENDERSON in General KOSTER'S office, and I believe they were discussing this matter.

Q. You were not made privy to the conversation?

A. I merely spoke to them, sir, and departed. I was not engaged in the conversation.

Q. You indicated, General YOUNG, that this was perhaps 4 or 5 days later. Could it have been a greater lapse of time as long as, say 10 days, possibly even 2 weeks or more?

A. I don't believe, General PEERS--I don't believe it was that long. I think the oral report most probably was submitted within 4 or 5 days and then the time span between the oral report and the written report, in my opinion, was quite short--by that I mean 1 or 2 days, possibly 3. I wouldn't say, in my opinion, that 10 days to 2 weeks expired.

Q. General YOUNG, I have here a document which has been entered into the record (Exhibit R-2) entitled, "Combat Action Report." It originated in Task Force Barker, dated 28 March 1968. I'll show you this document and ask you if you have ever seen it?

A. I don't recall seeing this report.

Q. I call your attention to, particularly, paragraph 15.

A. Yes, sir.

Q. Have you seen that?

A. I don't recall seeing that paragraph, sir.

Q. General YOUNG, in general terms, what were the requirements within the Americal Division for submitting after-action reports?

A. If I recall properly, the requirement was that an after action report for all combat operations of a company or larger in size were required to be submitted in writing. I don't recall any specified time limit in the submission. But I'm sure that there undoubtedly was a--subsequent to an operation that they would be required by the division headquarters within a specified time limit.

Q. Would these after action reports generally cover complete operations?

A. Yes, sir.

Q. And within a task force, which may have been a battalion, which is an organic part of a brigade--how would those reports normally be submitted?

A. The reports were normally submitted from the battalion or a task force organization to the brigade and from brigade through operational channels to division.

Q. Would the brigade normally forward those directly in, or would they consolidate them into their periodic combat reports?

A. Sir, I believe they did both. I believe they submitted them as the operations were completed, and then they would consolidate them and, if I recall properly, on a quarterly basis they submitted consolidated reports of their operations.

Q. I'll ask you to look at paragraph 2 and ask if that was the normal combat after action report for the period for the Americal Division, unless it has been established by special requirements?

A. It could very well possibly have been, General PEERS, because this involved a company operation and it covered--but the thing that strikes me as strange here is the--well, I guess it's not strange, because the time here as indicated--but this could very well have been a requirement of the Americal Division.

Q. You recognize that this is a coverage of only 1 day, that is, from the time when the operation was initiated until late daylight, until 1800 hours of the daylight operation. This is a part of the operation that was ongoing and continued for an additional 2 to 4 days.

A. Sir, I can't explain the--I have no explanation for the date--

Q. (Interposing) Would it appear that somebody specifically asked for this report?

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A. It very possibly could have happened; but not, to my knowledge, that it did happen.

Q. General YOUNG, I have here another document, which is Regulation 525-4, prepared by the Americal Division, dated 16 March 1968, subject: "Combat Operations." Would you look at that document quickly?

(Exhibit D-5 was handed to the witness.)

Q. Are you familiar with that document?

A. Sir, I wouldn't say I'm familiar with it. I'm aware that this document did exist in the Americal Division.

Q. I have another document here from the Americal Division Headquarters, dated 24 March 1968, subject: "The Safeguarding of Noncombatants," addressed to all commanders. I show this document to you.

(Exhibit M-9 was handed to the witness.)

A. Yes, sir.

Q. Are you familiar with this document?

A. I remember this document. Yes, sir.

Q. Can you indicate why General KOSTER was so inclined at this particular time, roughly a week after My Lai (4), why he would be so inclined to prepare a document such as this?

A. No, sir. I cannot indicate any clear explanation. I know that General KOSTER was very conscientious and very concerned about assuring that noncombatants were properly safeguarded. I cannot tie this document directly to the alleged incident which took place on the 16th of March.

Q. Did General KOSTER make it a habit of signing memoranda?

A. General PEERS, I wouldn't say it was a habit. General KOSTER signed a number of memoranda himself concerning the overall

performance of the division, the operations of the division. He took a personal interest in the--extremely personal interest in a number of matters which pertained to the division.

Q. Would you say that this is more in the form of a letter than a memorandum, a commander's letter to commanders?

A. Yes, sir, I would judge it as being in that form if I were one of his subordinate commanders. If I received this with his signature on it, there wouldn't be any doubt in my mind that this was the boss doing the speaking.

IO: Before I go on, Mr. MACCRATE, do you have any questions at this time?

MR MACCRATE: No, I'll wait.

Q. General YOUNG, I have here a document which has been entered into the record as an Exhibit R-1, subject: "Report of Investigation," dated 24 April 1968. It is signed by Colonel HENDERSON. Now I ask if this document has been called to your attention? Look at the document itself, the first page and a half.

(Exhibit R-1 was handed to the witness.)

A. Yes, sir.

Q. Have you seen that document?

A. Sir, I have not seen this document. The content of this document is generally what I was informed of by Colonel HENDERSON, and generally what General KOSTER relayed to me. I have not seen this document.

Q. In accordance with the allegation that was made concerning the killing of innocent civilians or shooting at innocent civilians and the other matters which came up in your discussion when you gave Colonel HENDERSON his directive that he was to "investigate this," would that piece of paper suffice to provide the answer to what you had directed him to do in the name of the division commander?

A. No, sir. I would have recommended to General KOSTER that he not accept this. I haven't looked beyond the first page here, and I don't know whether any attached statements or any other matter--

MR MACCRATE: (Interposing) I believe you referred to the second page when you said you had not looked beyond the first page--

A. (Interposing) I have not looked beyond the second page. I don't know whether there are any statements here or not.

Q. Well, we have a difficulty. We do not know whether the attachments that are with this exhibit were originally with it, and it's just the first two pages that General PEERS had directed you to.

IO: It is the letter, the covering letter, the two-page report--not the attachments--that I call your attention to.

A. Yes, sir.

Q. You have not seen that?

A. I have not seen the first two pages of this document, sir.

Q. Now, would you please turn to the third page, or the first attachment.

A. Yes, sir.

Q. Have you seen that?

A. No, sir.

Q. Would you read it please?

(The witness did as requested.)

A. Yes, sir.

Q. Have you ever seen that particular piece of paper?

A. I don't recall seeing this particular piece of paper. I do recall having been told of the contents of this, I do recall that, sir.

Q. By whom and under what circumstances?

A. Sir, I think it was either by the province advisor of the Quang Ngai Province or the deputy advisor. I believe Mr. MAY had departed as the Quang Ngai Province advisor and I believe that during the interim period, before a replacement arrived, a Lieutenant Colonel GUINN told me of the contents of this piece of paper.

Q. Colonel GUINN was--what was his capacity with Mr. MAY?

A. I think that when--if I recall properly, Colonel GUINN was the deputy advisor on the military side of the advisory team. But I believe Mr. MAY had departed. As I recall he had departed in February and that during the interim period I believe that Colonel GUINN was the acting advisor to the province chief.

Q. Would it be proper to say, about that time, that he was acting as province senior advisor?

A. Yes, sir. I believe that would be proper.

Q. Under normal circumstances he would be referred to as the either the deputy province senior advisor or the sector advisor.

A. Yes, sir. I believe that's proper.

Q. And where did Colonel GUINN give you this information?

A. Sir, I made numerous visits to Quang Ngai City and checked in with the province advisor, or the military people, on numerous occasions, and I think he told me of this matter at Quang Ngai City, during one of these visits.

Q. What did he tell you?

A. He told me that the province chief had received a statement--I don't know whether he received a letter or he received reports--of an allegation that took place sometime previously, I don't recall how long it had been before, and generally in the area that is mentioned here, to the north and to the east of Quang Ngai.

Q. Did he say who this report had been submitted by?

A. I don't know that he did say who had submitted the report. My understanding was that the province chief had gotten the information. I don't remember who submitted the report. I don't remember Colonel GUINN's telling me who submitted the report.

Q. To refresh your memory, could it conceivably have been the hamlet chief or the village chief?

A. It could have been, sir, but I don't want to say that it was. It is very possible it could have been. I think I recall asking Colonel GUINN if it had come to the 2d ARVN Division Commander, because I was interested also in finding out had it come through that source.

Q. What did he say to you?

A. I don't recall what he said to me. I don't recall that he actually knew, sir.

Q. Did he give you the order of magnitude of the number of people which could have been killed that were reported to have been killed in the village of Tu Cung or Co Luy?

A. No, sir, I don't recall that he gave me the order of magnitude and I don't remember the two villages which you indicated there.

Q. To your recollection, was it in the operational area of Son My or the Task Force Barker operation? Was that brought into focus?

A. To my recollection, when he told me this I immediately wondered where the area was and I think, on questioning, he possibly told me the villages. There were, I believe, north and east of Quang Ngai City.

Q. Correct. These names are cited in the report. In one instance, the VC name Tu Cung is the Viet Cong name for the village of My Lai (4) or the hamlet of My Lai (4).

A. I didn't recall that, sir. I didn't know that.

Q. Did he give you a written report from anybody to show you what had been received?

A. No, sir. Not that I recall. He merely informed me of this, sir.

Q. What did you have in your mind or what was he telling you. How many people, was it just one or two, or a large group of people that had been reported or alleged to have been killed

that he was telling you about?

A. I had in my mind that there was certainly a significant number, yes, sir. By "significiant," I mean a sizeable number.

Q. Did you report this information to the division G2?

A. No, sir, I did not. I reported to the division commander that I had received this information at Quang Ngai City.

Q. Did you pinpoint where the instances were supposed to have taken place?

A. To the best of my knowledge, General PEERS, I did not pinpoint the two villages as you pointed out to me here. But I did clearly indicate that they had allegedly taken place north and east of Quang Ngai City.

Q. When you discussed this with General KOSTER, did you point out the possible implication that this was associated with the operation into My Lai (4) on the 16th of March, which you had already been informed of, and transmitted it to the division commander, which he in turn directed that you have investigated?

A. I don't recall that I did, sir. Because, if I recall properly, this information was sometime after the incident which allegedly occurred on the 16th of March. I don't recall exactly the date, but to me it was even later than the date of 24 April. I'm thinking in terms of possibly May or the end of May.

Q. You notice this report (Exhibit R-1), however, the inclosure. I call your attention to the date on the inclosure.

A. Yes, sir. But if my memory serves me correctly, I thought that this information here was reported at a later date than the month succeeding March. I thought this information became available later than the date of 14 April here.

Q. Well, that's the date that's indicated here. I now refer you to the second inclosure, which is reported to be VC propaganda. This, of course, is the English translation of it.

A. Yes, sir.

Q. The pertinent part would be the second or third paragraph on the second page. Have you ever seen that before?

A. No, sir.

Q. These two documents, prior to this date, were reported

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to have been sent to the headquarters of the Americal Division by the 11th Brigade, and possibly ended up in the G2 or conceivably the G5 section. These were not called to your attention?

A. No, sir. Not to my knowledge, sir. They were not called to my attention.

Q. Were they ever cited in one of the evening briefings or the staff briefing?

A. Not that I recall.

Q. You've indicated that you have never seen this report before?

A. I have indicated, General PEERS, that I have never seen this report before.

Q. This report which has the normal--I would say the normal, identification symbols on it for the brigade. At least the XICO would indicate the commanding officer of the brigade, and the symbols behind it become somewhat illegible. If this were submitted, would this normally be entered into the log and made a matter of official record?

A. I would certainly think it should be, sir.

Q. Would it be normal that reports such as this would be circulated and made available to you as the maneuver area commander responsible for this unit, and to the staff judge advocate and to the inspector general?

A. I would think it would certainly be available to the inspector general and judge advocate, and I would think the chief of staff would certainly be aware of it. And I would think that I would have been aware of it too, sir.

Q. General YOUNG, about this time you took over, I believe as the acting division commander for a few days.

A. If I recall, General PEERS, I took over a few days in early May when General KOSTER went on R&R. And I believe he

went in early May and I know he was gone on the 5th of May when we had some action up north in the northern section of our area.

Q. Do you have any records which would indicate the period that General KOSTER was absent?

A. I don't have any records that indicate the period he was absent or anything. I believe he went the 30th or almost the end of April. He was gone for about 8 or 10 days, as I recall it.

Q. Did he have a period of R&R along in about here?

A. Yes, sir. As I indicated, if I recall correctly, his R&R was at the end of April and the first week in May.

Q. In the time that you were there and within the general period we are talking about, did he have to go to the northern part of I Corps for coordination purposes or for command purposes? Did you have another operation in that area which caused him to be absent?

A. We had the 196th Brigade placed OPCON to the 1st Air Cav Division located north of Hue. And I'm trying to think of the time frame, I think this took place prior to his R&R, the movement of the bridge up there. And both General KOSTER and myself visited the brigade while they were OPCON to the 1st Air Cav Division. But, I believe, it took place in April.

Q. But he was still available and still commanding the division?

A. Yes, sir.

Q. Still retained his base at Chu Lai? He did not go on TDY to Khe Sanh or up in the Hue area?

A. I can't recall General KOSTER going away and being away for any period of time--by period of time, I mean overnight--while this other brigade was OPCON to the 1st Cav Division. He would go up in the morning and come back in the afternoon.

Q. Well, it's what, maybe an hour or an hour and a half flight?

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A. About an hour and a half flight, I believe. The 196th headquarters was located at Camp Evans, I think that is the right name. He would go up in the morning, visit with the brigade commander, and go out and visit a unit or so, and come back in the afternoon.

Q. If he did go on R&R, then, maybe the last day or so of April or first of May, and came back roughly a week later, he would have been present in the headquarters when this report was received?

A. Yes, sir, he would have.

Q. This report is dated the 24th and from indications that we have it was submitted on the 25th or thereabouts.

A. And I believe that his R&R took place subsequent to the 24th or 25th, near the end of the month. I know that he was away on the 5th of May, I remember that and I know that he was back on the 12th of May. If I recall, the 12th of May in 1968 was Mother's Day, because we had a significant operation out to the west of Chu Lai on Mother's Day.

Q. I'd like to stay on this just a minute.

A. Yes, sir.

Q. You had no knowledge that this report had been submitted?

A. Sir, I had knowledge that this report was submitted. And I believe it was submitted by personally being delivered by Colonel HENDERSON to the division commander. I believe that the report was submitted on the occasion when I mentioned before, when Colonel HENDERSON was in General KOSTER's office. Which date, I cannot remember. I thought it was sometime near the, within the--a much earlier time than indicated here. But to the best of my knowledge I have not seen that report.

Q. Could there have been two reports submitted?

A. I don't believe there could have been, sir.

Q. This report refers to an inclosure and makes no reference to the allegation that you referred to by Warrant Officer THOMPSON. It certainly isn't responsive to what you've indicated to him. It doesn't say that this is in response to a directive which had been given orally to him by you for the division commander or state what he is investigating.

A. That's why I said before, General PEERS, had I seen this report I would have recommended to General KOSTER that it was inadequate to respond to his instructions.

Q. Yes. But I'm citing the possibility that maybe there was another report before this, possibly.

A. Possibly.

Q. General YOUNG, at this time--now we are talking about the end of April. We're talking about roughly a month and a half after a very serious allegation had been given to you, that you had informed the division commander of, and that you, in turn, in the name of the division commander had ordered investigated. This report came to you from the commanding officer of the 123d Aviation Battalion. Did you or did anybody else ever talk to the 123d Aviation Battalion, to Colonel HOLLADAY or Major WATKE and tell them that these allegations were unfounded?

A. I believe that after I had learned or after I had been advised by General KOSTER that he had received the report, and the allegation made by the helicopter pilot, I believe that I informed Colonel HOLLADAY that Colonel HENDERSON had completed his report and had submitted it to General KOSTER and that there was no basis for the allegation. I believe that I did make this comment to Colonel HOLLADAY.

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Q. Are you sure you made it?

A. I'm not sure, no, sir. I believe I did. I believe that Colonel HOLLADAY and I had a discussion.

Q. What events do you attach this with? When you make a statement such as this, you certainly must associate it with something. And what did Colonel HOLLADAY say?

A. To answer your first question, I associate it with the time span when Colonel HENDERSON submitted his report to General KOSTER. And I can't recall the place where the conversation took place and I'm unaware if General KOSTER ever discussed it with Colonel HOLLADAY or not. Your second question is what was the time span, is that correct, sir?

Q. What was the time span and what was Colonel HOLLADAY's reaction?

A. The time span, if I recall correctly, was before General KOSTER went on R&R. I thought it was before this date here. Colonel HOLLADAY's reaction was that maybe the allegations were unfounded, that's generally the reaction I gathered from him.

Q. Are you sure you ever talked to Colonel HOLLADAY?

A. I believe I did, General PEERS. I believe so, but I could be mistaken. If I did not, I'll say it this way: if I did not, I certainly gave it consideration, but I think I spoke with him about it.

Q. Colonel HOLLADAY and Major WATKE felt so strongly about this particular thing that after long periods of discussion and long periods of agonizing they reported it to you. And there were additional feelings within the unit. Evidently strong feelings within the unit. And I feel that if you had told Colonel HOLLADAY that these allegations were unfounded, I don't believe he would have had a mild acceptance.

A. General PEERS, I cannot -- I am not aware of another discussion with Colonel HOLLADAY and Major WATKE as to whether they expressed their strong feelings on this matter. I do believe that I discussed the matter with Colonel HOLLADAY, but I do not recall discussing it when they came to see me and expressed strong feelings.

Q. I'm talking about when they first came to you and reported it to you they had to have strong feelings in order to make an allegation of this nature to the division commander. When they talk to you they are talking to the division commander. You were his assistant, so they were talking at that level. So when people from that level make an allegation such as that they have to have strong feelings. And they had discussed this at considerable depth before they came to see you. And they knew that if they were wrong their heads were on the chopping block.

A. I get it from your remark, General PEERS, that they had come back to see me.

Q. No, no. I'm asking you. They had made this allegation to you or to the division commander, as the case might be. But I'm trying to find out if anybody ever went back and told them, "No, it isn't so."

A. As I stated before, to the best of my memory I informed Colonel HOLLADAY of what I had been told by Colonel HENDERSON and by General KOSTER. I don't know if General KOSTER discussed it with Colonel HOLLADAY or not, but I think that I did.

Q. We have a real crucial point here again, another critical point in the feelings and interpretations of people and things. Because, if you say he accepted it and accepted it mildly, then we have some serious problems. I'm not sure that you ever talked to him, but I think I know how he felt about this situation as far as the investigation is concerned, and I think I know how his unit felt about it. And I think if you or anybody else had gone to him and said, "No, it isn't true," it wouldn't have been a mild, "Well, I guess that may be right."

A. As I said, General PEERS, I think that I did inform him of this matter; possibly I did not. Possibly, I cannot remember properly. But if I did not, I certainly had intentions, because, after all, he had brought me the allegations. I felt that I had an obligation, or someone had an obligation, at least to produce the results.

Q. And believe me, I agree with you. I agree with you 100 percent. And that's why I'm asking you for the specifics of when you reported, when you gave

him this information, how you gave it to him, and specifically what his reaction was.

A. As I have stated before, sir, I believe that I gave him the results of this generally, as I had been informed by Colonel HENDERSON and General KOSTER and I don't, I can't recall any extreme displeasure or disbelief of the information which I related. Possibly, I did not inform Colonel HOLLADAY, but if I did not I certainly intended to.

Q. Well it seems to me, General YOUNG, if you did it you would remember.

A. Well, I believe I did, sir.

MR MACCRATE: General YOUNG, so that we may be clear, what were the results given to you by Colonel HENDERSON of his investigation?

A. As far as I can recall, his results were that he investigated the matter -- that he had discussed the matter with a number of individuals that were involved in the operation, and that the only noncombatants who were casualties were those which were attributed to artillery fire.

Q. Did he indicate the number of individuals with whom he had spoken? Did he identify any of those individuals?

A. He identified the company commander, sir. I remember that.

Q. That's one and that's not a number. He must be talking about many more than that. Did he indicate in any way that he had in fact talked to a number of people?

A. I don't recall whether or not he used a number but he indicated a number of the officers and NCO's and enlisted men, to include the company commander. I don't recall his mentioning the artillery FO.

Q. Can you place in location and time when he gave you this information as to what he had done, the people with whom he had spoken, the information he had gotten from them?

A. Time, I would say, sometime in the vicinity of 3 to 5 days after he received the instructions. Place, I don't recall whether it was Fire Support Base Dottie or at LZ Bronco, but it does appear that it would have been most probably at LZ Bronco.

Q. Did he tell you that he had spoken to noncommissioned officers and soldiers in connection with this investigation?

A. He indicated, sir, that he had talked to a number of officers and men who had participated in the operation.

IO: When he told you that, what did you think that he had done?

A. I thought that he had taken statements and had received a detailed description of what had occurred. I didn't get the impression, General PEERS, that he merely mentioned the subject to them. I thought that he was in the process of carrying out the division commander's directive.

MR MACCRATE: Well, this conversation you had at LZ Bronco, which you would put within the month of March, I understand-- was it based on this conversation that you think you had with Colonel HOLLADAY, reporting or advising him of what had taken place with respect to the investigation?

A. No, sir, I think that conversation was probably generated by my discussion with General KOSTER on the operation.

Q. Well, when you say your discussions with General KOSTER on the operations, are you talking about General KOSTER receiving a written report from Colonel HENDERSON?

A. I'm talking about, Mr. MACCRATE, after the submission of a report--now I cannot recall if it was the submission of the oral report or the submission of the written report--but I'm talking in the month of March, and not on the 24th of April.

Q. Was there any comment that you can recall by General KOSTER as to the scope of this report?

A. No, sir. I don't recall his making any specific comment as to the scope of it.

Q. Well, were you satisfied in your own mind at that time that there was no substance to the allegations that had been made to you some days earlier?

A. Yes, sir. I was satisfied, based upon what General KOSTER had told me, that there was no basis for the allegation which was reported to me by Colonel HOLLADAY. I didn't believe it occurred.

Q. Which allegation did you feel there was no basis for, which had been so vividly communicated by the pilot.

A. The allegation that there had been -- that the pilot had observed the friendly forces engaging noncombatants.

Q. But you had no information other than the statement by General KOSTER that he was satisfied that there was nothing here? Or did you have some of the information that had been gathered by Colonel HENDERSON?

A. Sir, after discussing this matter with General KOSTER I felt that he was satisfied. He didn't direct me to conduct a reexamination and that's my memory on the matter, sir. I can't recall his informing me that he was dissatisfied with what he had received other than the fact that he had gotten an oral report and wanted it in writing.

Q. But you had never received and you did never receive, a copy of any written report made by Colonel HENDERSON with respect to the allegations that had been brought to you?

A. Sir, to the best of my knowledge this report was carried by Colonel HENDERSON to the division commander.

Q. I understand that, but at no time thereafter did you ever receive a copy of any report from Colonel HENDERSON with respect to this matter?

A. No, sir, not that I can recall.

O. And are you not aware of any such report being circulated to anyone else, at division headquarters, other than General KOSTER?

A. To the best of my knowledge the report went directly from the brigade commander to the division commander, and there were no other reports other than the operational reports that I can recall being circulated in the division staff, sir.

IO: Did you see that operational report?

A. I don't recall seeing this operations report.

MR MACCRATE: Exhibit R-2, is it?

A. Yes, sir.

IO: I'm really questioning--before you had indicated you had not seen it.

A. That's what I said sir, I don't recall having seen this report. Evidently it was submitted, but I don't recall my having seen it.

Q. This of course was addressed to the commanding officer of the 11th Brigade.

A. Yes, sir.

Q. But it was found in the files of the Americal Division. Now it could have been an attachment to a periodic report; we are going to have to sort that out.

A. Yes, sir.

MR MACCRATE: General YOUNG, you indicated that you thought the information relating to the civilian casualties at Tu Cung which has been identified as My Lai (4), became available later than the 14 April date that appears on the inclosure to Exhibit R-1. Can you indicate for us what it is that you now recall that suggests it was later than 14 April?

A. It just appears to me, sir, that between the time of issuing the instructions to Colonel HENDERSON to initiate the investigation for the alleged incident on 16 March, and the time that I learned of this other information, there were several months -- I'm speaking of two possibly three months. I cannot recall this time span being this short.

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IO: I'd like to go back for just a minute, General YOUNG. During this discussion in the trailer do you recall any discussion concerning the warrant officer who had submitted this report of allegations?

A. I recall that the report had initially been submitted by a warrant officer pilot, evidently to Major WATKE and in turn to Colonel HOLLADAY, yes, sir. But I recall no specific discussion other than the fact that Major WATKE knew who he was and that he should certainly be interviewed.

Q. To your recollection, was there any statement or any inference made to the effect that we should check into the action of this warrant officer?

A. To the actions of the warrant officer?

Q. Yes.

A. Yes, sir.

Q. Not to what he reported, but his actions -- implying instead of investigating perhaps what he was reporting, to investigate the warrant officer himself?

A. No, sir. I don't recall that. I issued no instructions to investigate the warrant officer himself. These were not the instructions I received from the division commander -- to investigate the warrant officer.

Q. Was there any inference by anybody that the warrant officer should be investigated?

A. No, sir, not that I can recall, sir. I'm sure I would recall it, because these were not the instructions of the division commander, to investigate the warrant officer.

Q. I get the impression from your testimony, General YOUNG, that during this period of 16, 17, 18 March 1968 you were never told of an allegation that a substantial number of civilian noncombatants were killed during the operation of My Lai (4). Is this right?

A. Sir, to the best of my knowledge I was not told that there had been civilian casualties resulting from either ground troops engagement or helicopter engagement. I had been told what I related to you earlier this morning concerning the action of the warrant officer, but after the report was made to me and in light of what you told me this morning of the testimony of Major WATKE and Colonel HOLLADAY, I was not aware that friendly casualties, I mean noncombatant casualties, had occurred.

MR WEST: And General KOSTER did not ask you to have an investigation conducted into this, the indiscriminate killing, perhaps, of noncombatant civilians? That was not the subject to be investigated?

A. Sir, the subject to be investigated in my opinion was the firing by the ground troops at the enemy, but in so doing shooting into civilians.

Q. That is not the killing of civilians, but the shooting at them, is that right?

A. Yes, sir. I was not aware of any casualties. The subject was to the fact of the ground troops shooting into the, or over the, civilians.

Q. I want to run over a portion of Colonel HENDERSON's testimony, which has a bearing on this. He testified here on 2 December, and I believe General PEERS brought this out to some extent earlier, that on the morning of 16 March, about 0900 or 0930, Colonel HENDERSON brought back to LZ Dottie two men that they had picked up -- suspected VC -- and left them at Landing Zone Dottie. At that time Colonel HENDERSON talked to General KOSTER, who was there, and told him that he had observed six to eight dead civilians in the town. At this time the operation had been going on for an hour and a half or 2 hours. General KOSTER gave evidence of considerable surprise and shock and instructed Colonel HENDERSON to determine the number of civilians killed and to break it down into men, women, and children, and the causes of their deaths. Subsequently, according to Colonel HENDERSON's testimony, he spoke to Lieutenant Colonel BARKER on several occasions during that afternoon on the matter of getting this information which General KOSTER wanted. And later, late in the afternoon or early evening, he received from Colonel BARKER an update on the number of civilians killed. This was

now a total of 20 dead civilians, according to Colonel BARKER'S report. There were men, women, and children, their deaths thought to have been caused by artillery or gunship fire. Colonel HENDERSON asked Colonel BARKER to give this to him in writing. Colonel BARKER later did so. This was written on a 3-by-5 card. That evening Colonel HENDERSON called General KOSTER and gave him the new figure, 20. At the time he called, he didn't have a breakdown into men, women, and children and was asked for that. That, subsequently, was supplied to Colonel HENDERSON. Now, Colonel HENDERSON further stated that on the morning of 17 March he spoke to you at Landing Zone Dottie--he doesn't recall the exact time. It was during the morning of 17 March. By this time he had also seen Captain MEDINA and he told you about his efforts to obtain more information about civilians being killed at My Lai (4), and that he either showed or gave to you a copy of the 3-by-5 card that BARKER had given him. This time it showed the 20 deaths and was broken down into men, women, and children. Do you recall that occasion of being shown that 3-by-5 card by Colonel HENDERSON?

A. Sir, I do not recall seeing any 3-by-5 card or any piece of paper containing this information.

MR WEST: All right, sir. On the matter of the complaint of Warrant Officer THOMPSON, Colonel HENDERSON testified that he talked to Warrant Officer THOMPSON fairly early on the morning of 17 March before he met you. And that THOMPSON told him three things, this is according to Colonel HENDERSON: extremely wild shooting by ground and gunship elements in and around My Lai (4) and the situation out of control; that he saw Captain MEDINA shoot a Vietnamese woman, a girl lying on the ground; and that he saw a number of wounded civilians lying on the ground; that he, THOMPSON, dropped smoke to mark their location so that friendly troops could give them medical assistance, but that instead he saw troops of Company C move in and kill them. It was later on in the morning, as I said earlier, that he saw you. Now in his testimony on 2 December 1969, he was questioned and stated this:

"After I had talked to Captain MEDINA and to Captain MICHLES, I returned to Landing Zone Dottie. I again talked to Colonel BARKER. General YOUNG arrived at

Fire Support Base Dottie and I related to him everything I had gotten up to this point and told him.

"Q. I would like to know specifically what you related to him to the best of your recollection.

"A. To the best of my knowledge, I informed him of the allegations made by Warrant Officer THOMPSON and that I had so far looked into the one aspect of this--this was concerning Captain MEDINA's shooting the wounded woman--and that I accepted Captain MEDINA's explanation of this. To me it appeared plausible. However, I was going to look into this matter further and that I directed Colonel--

"Q. What matter were you going to look into further?

"A. His allegations. Warrant Officer THOMPSON's allegations concerning wild shooting."

Do you recall Colonel HENDERSON telling you about Warrant Officer THOMPSON's allegations, I mean, of course, about the wild shooting, and seeing the dead civilians, and seeing the captain shooting this woman?

A. Sir, I do not recall Colonel HENDERSON relating that to me. And I do believe that I would recall it. Because I would have strongly recommended to the division commander at that time this be more than an investigation of what he had instructed me to go down and tell Colonel HENDERSON about. I'm referring specifically to appointing an Article 32 investigating officer.

Q. You were, then, thinking in terms of court-martial charges?

A. Thinking in terms of something in that order. Yes, sir.

Q. You refer to Article 32 of the Uniform Code of Military Justice?

A. Yes, sir. Formal investigations. I do not recall Colonel HENDERSON relating that information to me.

Q. Then you had been aware of the possibility of a substantial number of noncombatant civilians--men, women, and children having been killed at My Lai(4) about this time, you would have directed a formal investigation?

(YOUNG)

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A. Sir, I would have recommended to General KOSTER that a formal investigation be conducted by a noninterested or nonassociated member of the command. I'm speaking now of-- my idea would be a senior individual who was not a member of the 11th Brigade.

Q. In other words, you wouldn't have asked Colonel HENDERSON to investigate a serious incident of this nature which occurred within his command during an operation by troops under his command?

A. I don't believe that I would have accepted that. I would have gone to General KOSTER and made this recommendation as I indicated before.

I'd like to say, Mr. WEST, that at the time this incident took place I had completed some 26 years of service. I had served in, I was in my third war. I'm well aware of the rules of ground warfare, I believe. And I don't believe that I could have accepted the fact that the noncombatants had been purposely killed without making an appropriate recommendation to the division commander.

Q. Well, I appreciate that and that is just why I have been going over and over this testimony, because we have received a great deal of testimony to the effect that you were told of such allegations and that this is what General KOSTER wanted investigated. You see the difficulty in trying to resolve this testimony.

A. Yes, sir.

Q. Another inconsistency that concerns me somewhat is with reference to the report which you have seen, Exhibit R-1, Colonel HENDERSON's report dated 24 April 1968. Colonel HENDERSON has testified concerning this report that he submitted this report in writing. He went in and saw General KOSTER and handed it to him personally and discussed it, along with the recommendation. And that you, a few days later, came to him and told Colonel HENDERSON that you had read the report, you had discussed it with General KOSTER, and that you recommended that General KOSTER buy the report, that you thought it had all the pertinent details in it.

This has been called to your attention earlier. Does this refresh your memory at all.

A. Sir, as I stated before, I don't believe I ever saw the report. Had I seen the report I feel certain I would have recommended to General KOSTER that this was not responsive to his directive, and that a more in-depth investigation should be conducted. I do not recall and, I am sure, I had no conversation with Colonel HENDERSON wherein I said I had read the report and that I had recommended to General KOSTER that he "buy" the recommendation. Undoubtedly, I mentioned to Colonel HENDERSON that I had discussed the matter with General KOSTER, but as far as the other statements made by Colonel HENDERSON, I'm quite sure I did not make those statements.

Q. Well, of course, these are his remarks. He may not have quoted you correctly. Well, General YOUNG, let's assume that there were a substantial number of noncombatant civilians killed in the hamlet of My Lai (4), in and around the hamlet, on the morning of 16 March 1968 in the area through which C/1/20 moved on its combat assault, and that this was made known in various ways, to the senior officers of Task Force Barker of the 11th Infantry Brigade, Americal Division. On that assumption, and there is a great deal of evidence to support that that is the fact, would you say that the inquiries into that situation and the reports made on that situation were adequate--constituted an adequate investigation?

A. Sir, on that assumption I would say the inquiries were inadequate and that the report was inadequate. I think I would have recommended the same course of action that we followed in early June when we heard of the other atrocity, wherein a member, a senior officer in the division, not a member of the unit which conducted the offenses, was appointed an Article 32 investigating officer, and the appropriate members in Headquarters, USARV, were advised. That is the course of action we followed in June, and it certainly would have been appropriate here, on the assumption you gave me.

Q. Very possibly you are aware that this My Lai (4) incident began receiving intense publicity beginning around the middle of November. One of the first things that was asked in the media about the incident was: "Why did a year pass before any investigations started? What happened in the field, in the Americal Division, in the brigade, in Task Force Barker? Was there a coverup?"

(YOUNG)

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And I think you realize that's one reason this investigation is being conducted. Was there a coverup? Do you have any knowledge of any such thing? Would you say there had been a coverup of this incident?

A. At the time that we are discussing here, I don't consider there had been a coverup. Possibly, had I seen this report here or had there been other allegations, I could have certainly felt differently. But, based on the information that I had at that time, I do not feel that the Americal covered this up.

Q. Have you given this some thought since the publicity started on this incident?

A. Certainly, Mr. WEST. I have given this considerable thought.

Q. Have you thought about this specific aspect, the possibility of a coverup?

A. I've certainly thought about it. It's a matter of great concern to me.

Q. Could facts have been withheld from you and from General KOSTER?

A. Facts could have been withheld from me and General KOSTER--could have been.

Q. Did you get any indication at a later time that there was a coverup from anybody?

A. I can recall no later action which brought me to this conclusion.

IO: We will take several minute's break.

(The hearing recessed at 1728 hours, 13 December 1969.)

(The hearing reconvened at 1746 hours, 13 December 1969.)

IO: The hearing will come to order.

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

IO: General YOUNG, we still have this wide variance in your statement as to what you heard from Colonel HOLLADAY and Major WATKE and what was given to the group that assembled in the quarters of Colonel BARKER. We simply must explore it further.

A. Yes, sir.

Q. These individuals have indicated that they did considerable soul-searching before going to talk to anybody else, which meant that they had to have a strong and serious reason for going. Their careers were on the block if they were wrong. They have both indicated, separately, that they did in fact advise you that there had been indiscriminate shooting and that there had been unnecessary killing of civilians in comparatively large numbers: in one instance about 120; in another instance they thought the order of magnitude was about 50. They also indicated that they had pointed out that they had seen an individual firing into a ditch which contained noncombatants, either dead or alive. They also went on further to indicate that they had gone into considerable detail about a confrontation which took place between Warrant Officer THOMPSON and Lieutenant CALLEY on the ground. Your testimony is very much milder in that sense, than either one of theirs. So, I would like you to again try to reconstruct in your mind what they told you and what you in turn reported to General KOSTER.

A. General PEERS, I can truthfully state that, in my mind had an allegation of this seriousness been reported to me, I certainly would have reported it to the division commander, and to the best of my knowledge and to the best of my belief, this was not reported to me. What was reported to me was the fact that the pilot, and I still believe it was a gunship pilot, that was the impression I got, had observed

friendly ground forces firing in noncombatants-- civilians--while engaging the enemy. The pilot, as reported to me, landed, took extraordinary effort to do everything he could to protect the noncombatants. He then flew to the friendly ground commander and told him what he had done and told him under no conditions should he fire into those people, and further told him that he was going to circle above him and be sure that followed out his instructions. I cannot figure and tell you that it was reported to me that there had been indiscriminate shooting of civilians. I cannot sit here and tell you, General PEERS, that I left--that I was aware that these individuals, the noncombatants, had been purposely killed. I cannot tell you that it was related to me that a sergeant had fired into a number of these civilians in a ditch. I cannot tell you that the pilot had observed the company commander firing at a noncombatant female. That is my honest opinion and my best recollection, because I feel that had it been told to me, I would have made a strong recommendation to General KOSTER, in my best memory, exactly what had been told to me. If I recall, I had notes. To the best of my knowledge that is exactly what I told General KOSTER. General KOSTER directed me to instruct Colonel HENDERSON to immediately initiate the investigation. That's the best of my recollection, sir. I did not leave the meeting with Colonel HOLLADAY, or Major WATKE or the meeting at Fire Support Base Dottie--I left neither one of those two meetings under the impression that noncombatants had been purposely killed.

Q. Or "unnecessarily" may be another word.

A. Unnecessarily, yes, sir. By friendly ground troops, by American ground troops.

Q. Was any reference made to helicopters shooting into civilians?

A. No, sir, not to my knowledge. There was reference made to the fact that the aero-scouts had dropped some smoke to mark the civilians. I recall that. But, I recall no statement made to the effect that the helicopters had fired unnecessarily into civilians.

Q. Colonel HOLLADAY and Major WATKE are of the opinion, and they so testified, that at the meeting which was held in Colonel BARKER's quarters and after your introduction, Major WATKE again repeated for the third time what had been told him by Warrant Officer THOMPSON and by other members of the crews.

A. At the meeting held at Fire Support Base Dottie, as I recall the conduct of the meeting, I told Colonel HENDERSON in the presence of Colonel BARKER, Colonel HOLLADAY, and Major WATKE the allegation that had been reported to me. I relayed the instructions of the division commander to Colonel HENDERSON and I told Colonel HENDERSON that Colonel HOLLADAY and Major WATKE were available and he could immediately conduct his investigation and I left Fire Support Base Dottie. Possibly it was related to Colonel HENDERSON, but to my knowledge, General PEERS, it was not related to the group while I was present.

Q. From what you just stated the allegation then is of a comparatively mild nature in contrast to the actual facts of the situation.

A. Sir, I would like--

Q. (Interposing) Facts which might have been developed through testimony and subsequent events.

A. I would say that the allegation is certainly a serious one, one of great concern, but if the facts are as discussed here, which you and the other members of the panel have brought out, it certainly is much more serious that was my impression.

Q. Were you ever informed that this pilot landed alongside a ditch, had also an altercation with a colored individual on the ground--maybe that is the wrong word--a discussion with him, and subsequently returned to the ditch which contained in his judgment somewhere between 50 and 100 bodies of non-combatants?

A. I was not, sir. I had not heard that until you made the statement. I was--my impression was that the pilot had landed twice, first, in the vicinity of the noncombatants and out in front of the friendly forces and, second, when he went over to the friendly forces and told them what I related.

Q. From what we know of the situation it is probable that he landed three times.

A. That was not my impression, sir.

Q. When you first started to discuss this situation in Colonel BARKER's quarters, you indicated that it was very short, 5 minutes, and we still come around to its being a comparatively short meeting, 10 minutes. Do you remember the discussion that ensued in the quarters where this was described?

A. Sir, I remember when I related to you that I contacted Colonel HENDERSON and instructed him to be at Fire Support Base Dottie; that I carried to him the directive of the division commander, because of the allegation, as I have stated; and told him to initiate the investigation immediately, and report his results as soon as possible to the division commander. I also told him that Major WATKE and Colonel HOLLADAY were available and when I left Fire Support Base Dottie they were still there.

Q. Were they talking together?

A. They were together and I assumed that they were talking about the situation which I had described. I don't recall instructing Major WATKE or Colonel HOLLADAY to describe to Colonel HENDERSON what had taken place. If this had occurred--it is my opinion that this occurred after I departed from the fire support base.

Q. But still, it's your judgment that, based upon the information you had, it was of sufficient severity that it should have been treated as a full investigation.

A. Yes, sir, this--there wasn't any doubt in my mind that the division commander wanted the matter to be investigated in depth. Yes, sir.

Q. What I am trying to reconcile in my own mind--putting myself in the position of Colonel HENDERSON at that time, what am I supposed to do? What is my directive? Am I to investigate some little incident, some confrontation of people or somebody firing at somebody? What am I supposed to investigate?

A. I think Colonel HENDERSON was directed to investigate the allegation that his forces had fired into noncombatant civilians while engaging an enemy force.

Q. Well, General YOUNG, although you did not see this report--and it is not too detailed--based upon this information it would show that it was concluded that "20 noncombatants were killed when caught in the area of preparatory fire and the crossfires of U.S. and VC forces on 16 March. It is further concluded that no civilians were gathered together and shot by U.S. soldiers. The allegation that U.S. soldiers shot and killed 450 to 500 civilians was obviously a VC propaganda move to discredit the United States in the eyes of the Vietnamese people in general, and the ARVN soldiers in particular." So he is saying: "No, nobody was killed; the allegation that they were shooting at Vietnamese civilians is completely erroneous. They were killed by artillery fire, that's all there is to it." That's apparently all that is required in this situation.

A. Well, I would have thought that there would certainly have been statements attached which would indicate he had conducted this investigation in depth.

Q. But this can be interpreted as an assumption on your part, can it not?

A. I think if I were making the investigation I would have included some substantiating evidence.

Q. That may well be the case, but the problem is that it was not done and the allegation was allowed to die.

A. Yes, sir.

Q. There is an indication that between the time of the incident and submission of this report, and after the oral report which was supposed to have taken place on the 20th of March, there was another report submitted to division headquarters--described as a three, four, or five-page report, stating the allegation which had been made by Warrant Office THOMPSON to the effect that there had been unnecessary killing of women, children, old men, and noncombatants and then going into detail within those three, four, or five pages explaining the situation in the report. Have you ever heard of this or seen it?

A. Sir, to the best of my knowledge I am unaware of this report existing.

Q. Based upon the fact that these officers had come to you with an allegation, even though the division commander had indicated that Colonel HENDERSON had concluded that there wasn't any unnecessary killing of civilians and so forth, or they hadn't fired into them, were you prepared to accept that based upon their coming to you and presenting this case to you, and, in turn, your going to the division commander?

A. I was prepared to--I accepted the division commander's conclusion, yes, sir.

Q. Can you state why you accepted it?

A. I accepted it, General PEERS, because he was the division commander. I felt he probably knew much more about this than I did. That's basically the reason I accepted his decision.

Q. Yes, but didn't you have such a degree of rapport with the division commander that you could sit down and go into this, and he would explain what was told him by Colonel HENDERSON, and in terms of casualties and how they came about and the whole story?

A. Yes, sir, I think I had that rapport with General KOSTER. I felt that General KOSTER was satisfied--evidently he was satisfied and I accepted his opinion on the matter because I felt that he knew much more about it than I did. He had talked to Colonel HENDERSON about it. He was my commander and I accepted his evaluation.

MR MACCRATE: General YOUNG, I would like to see if you can straighten out something that comes from the statement given by General KOSTER on November the 24th, and I would say right away that he subsequently supplemented this statement on December 2nd and made a revision in the sentence which I am going to read to you. "It was my intention initially that the division staff would do this," that is, conduct the investigation "but the brigade commander, Colonel HENDERSON, was told to conduct the investigation." He then states in

the December 2 supplement, "My reference to have an investigation involving the division staff applies to one of the subsequent investigations directed, not to this preliminary one." Do you have any knowledge, any recollection whatsoever, of a subsequent investigation or investigation to be conducted by the division staff?

A. Not to the best of my knowledge. I was unaware that General KOSTER was considering having a subsequent investigation conducted by the division staff.

Q. Have you at any time, subsequent to the spring of 1968, corresponded with or communicated with General KOSTER regarding this matter?

A. No, sir, I don't believe I have. I think I corresponded with General KOSTER on one occasion, which was in December 1968, after I arrived in Germany, involving the submission of an efficiency report; but I am quite sure to the very best of my knowledge that this incident of 16 March was not mentioned.

Q. We have examined many files and records, as you understand, and we find that the efficiency report of Colonel HOLLADAY was in fact delayed in signature many, many months--in fact, some 15 months, which in view of the movement of yourself and General KOSTER is understandable. Do you have any recollection of anything relating to Colonel HOLLADAY'S efficiency report which I believe was signed only in June of 1969 by yourself and by General KOSTER for the period ending in March of 1968, about 15 months later?

A. This is the efficiency report that I was referring to, but I thought it was before June--I thought it was about the time I arrived in Germany, very possibly it was in June of 1969. Mr. MACCRATE, I don't know the reason for the 15 months' delay in the submission of the efficiency report on Colonel HOLLADAY. Undoubtedly, it was administrative error, but as far as I'm concerned I can truthfully tell you that the alleged incident on 16 March had nothing to do whatsoever with the administrative delay in the submission of Colonel HOLLADAY'S efficiency report.

Q. Did it have, so far as you are aware, anything to do with your evaluation or the evaluation by others in the Americal Division of Colonel HOLLADAY?

A. As far as I'm concerned the incident of 16 March had nothing whatsoever to do with the late submission of Colonel HOLLADAY'S efficiency report--nothing whatsoever.

Q. Well I'm asking the broader question, because we are concerned about the individuals who are involved as we try to put this story together, and I was asking whether this delay in the efficiency report had anything to do with your evaluation of Colonel HOLLADAY, not Colonel HOLLADAY related to the 16 March incident, but in your general evaluation of him?

A. Would you say that again please? I don't understand your question.

Q. Well, I think that I would state for you at this time what General PEERS had indicated yesterday, that matters of this character would be regarded as of a confidential nature and therefore we ask the question just for our enlightenment to see if we can get some evaluation of the individual concerned. Seeing this delay in the efficiency report we naturally ask the question, is there something reflected in there relating to Colonel HOLLADAY that should concern us or be of interest to us at this time?

A. Not as far as I'm concerned, sir. When I served with Colonel HOLLADAY I had the utmost respect for him and I still have the utmost respect, and if I can recall the efficiency report which I rendered on Colonel HOLLADAY it was certainly above the average efficiency report.

IO: Would you mind, General YOUNG, telling us what period did this efficiency report cover?

A. I don't recall the period, but I believe it covered the period from his assignment to the division, and I think this was--I've forgotten when he was assigned to the division, through the early portion of March 1968. I could be mistaken. What I recall about the report is the late submission of it, and when I received it I did my very best to expedite it on to General KOSTER.

Q. Was that the only efficiency report that you had referred to you that was late?

A. That's the only one I had that was that late. I believe there were others--by others I mean two or three, that were sent to me after I departed the Americal Division and was at Danang, but nothing of the lateness of the magnitude of Colonel HOLLADAY's case.

Q. Why would you be filling out a report for Colonel HOLLADAY or anybody else as of early March?

A. I don't know, sir. As I said, I don't recall the date covered by the efficiency report, but that was my recollection.

Q. Let me ask you another question. Up until the 13th, the 14th, and 15th of March, what was your job?

A. That's undoubtedly the reason for it, right there. Subsequent to the departure of General RYDER, I took over as ADC for maneuver. It is possible that the rating system was changed between when I was the ADC for support and the ADC for maneuver, after General RYDER's departure.

Q. As ADC for support, were you responsible for overseeing the activities of the 123d Aviation Battalion?

A. I believe that I was, sir, and I believe that the rating scheme for the division will indicate that I was.

Q. Were you also responsible for DIVARTY?

A. Yes, sir, I was responsible for DIVARTY.

MR MACCRATE: Do I understand that this was handled by itself, but you have no explanation of the period of time that it took to reach you?

A. I have no explanation as to why it took so long to reach me, sir. I can only assure you that as far as I am concerned the administrative delay in the submission of the report was not in any way whatsoever related to the alleged incident of 16 March 1968.

Q. In addition to communications with General KOSTER, have you had any communications with Colonel HENDERSON?

A. I don't recall any correspondence that I've had with Colonel HENDERSON.

Q. Have you had any conversation with him?

A. The only time that I've seen Colonel HENDERSON since his departure from the Americal Division was last night. When I left this building last night I rode in the same sedan with Colonel HENDERSON. I did not discuss with Colonel HENDERSON any of the testimony that he had provided this panel. I discussed with him matters pertaining to his family, and matters pertaining to his job at Norfolk, but I did not discuss with him any of the testimony which he had provided. After I left the Americal Division and went to Danang and assumed command of the Danang Command. I did return on a very frequent basis to Duc Pho, because I had some troops there, and on several occasions I saw Colonel HENDERSON. I went to him to be sure that he was receiving the logistical support that was necessary as I contacted other commanders throughout the area.

Q. Was there ever any conversation with him subsequent to March or April 1968 relating to the incident at My Lai (4)?

A. Not that I can recall, sir.

IO: General YOUNG, I have here a document, Exhibit M-5, dated 28 March, Son Tinh District, Quang Ngai Province from Lieutenant TAN to the Quang Ngai Province chief. This is the English translation of the Vietnamese original which is attached hereto. I show that to you and ask you if you have ever seen it (handing the document to BG YOUNG)?

A. To the best of my knowledge, I have never seen this document before.

Q. General YOUNG, after the report was submitted by Colonel HENDERSON to the division on or about 24 April 1968, do you recall any other investigation after that, directed by the division or by the division commander?

A. Not to the very best of my knowledge--I do not recall.

Q. Was there a directive, oral or written, to the effect, that a formal investigation of this incident was to be conducted?

A. There was certainly no directive issued by me to this effect that I can recall, and I'm unaware of any that the division commander issued.

Q. On or about the 8th of May, 1968, did you go to Duc Pho and meet with Colonel HENDERSON and tell him that the division commander wanted a formal investigation made of the My Lai incident of 16 March 1968?

A. No, sir, I did not. I would have no reason to, in my opinion, General PEERS, because I believe that at that time General KOSTER was in Hawaii. I cannot recall General KOSTER giving me those instructions.

Q. I use the period about 8 to 10 May. Was General KOSTER in Hawaii, let's say during that period?

A. I believe that General KOSTER returned from Hawaii at about that time--at about the 8th or 10th, but I know he was back on Mother's Day, on the 12th.

Q. Did General KOSTER talk to you about having a formal report prepared?

A. The only thing that General KOSTER stated to me was that he had received the oral report and that he had directed it be put in writing. That's to the very best of my recollection. As to any subsequent report, I cannot recall this being directed.

Q. You do not recall going to Duc Pho about the 10th of May and directing, in the name of the division commander, that a formal investigation be conducted of the My Lai incident of 16 March 1968?

A. I do not recall any such directive.

Q. Do you recall, after having issued such a directive, that in talking it over with Colonel HENDERSON he indicated that he was going to appoint his executive officer, Colonel BARKER, as the investigating officer?

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A. I do not recall any such conversation, and I believe at that time his executive officer was Colonel FRANKLIN. I'm incorrect--TF BARKER--I don't know when Colonel FRANKLIN assumed the position of executive officer, it was probably subsequent to that. But I'm positive that I recall no conversation where it was indicated that Colonel Barker was going to make a formal investigation.

IO: I would like to recess for a few minutes.

(The hearing recessed at 1845 hours, 13 December 1969.)

(The hearing reconvened at 1850 hours, 13 December 1969.)

IO: The hearing will come to order.

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

IO: I come back again to a formal report. Do you recall ever having been asked a question which, in essence, asked: "What new has developed that would generate a formal report?"

A. I do not, General PEERS. May I ask who asked the question?

Q. Colonel HENDERSON. This is the discussion-- I am still back to the discussion with Colonel HENDERSON on or about 10 May in which you told him to conduct a formal investigation and the question was asked, "What new information has developed?"

A. I do not recall his asking me that question, sir.

Q. You recall going into his office alongside his van to discuss the development of a formal report?

A. No, sir.

Q. Do you recall any directive which was issued in writing by division, directing a formal report or appointing an investigating officer?

A. No, sir, I do not recall a directive in writing from the Americal Division to that effect.

Q. Did you, subsequent to the 10th of May, ever see a formal report which was submitted to division headquarters covering the My Lai incident of 16 March 1968?

A. Not to my best recollection, I did not, sir.

Q. A report which included signed statements from company commanders, several of the officers, personnel within the unit, from other officers associated with the operation, a total of about 15 to 20 testimonies, signed as attachments to the report?

A. No, sir. I do not recall seeing that. I think that, had I seen it, I would recall it.

Q. You know of no action, then, requiring the submission of a formal report subsequent to this report of 24 April?

A. Sir, I know of no action, to the best of my recollection, which required Colonel HENDERSON to submit a report subsequent to the submission of that report there. To the very best of my knowledge, I did not on or about the 8th of May place this requirement on Colonel HENDERSON.

Q. General YOUNG, how long were you planning on being in Washington?

A. I'll be here as long as necessary, General PEERS.

Q. I'm still hanging on this matter of what information you received from HOLLADAY and WATKE, and what was given to the division commander, and what information was put out at that meeting on the 17th or 18th of March, 1967 (sic). I'm also hanging on another point--and this is your belief, that you had notified the commanding officer of the 123d Aviation Battalion to the effect that there were no conclusive findings to prove the allegation which had been made.

General YOUNG, I have here a directive from Headquarters, MACV, dated 14 October 1966, Number 525-3, Subject; "Combat Operations, Minimizing Noncombatant Battle Casualties." I show you this document and ask you if you have seen it before (handing Exhibit D-6 to General YOUNG)?

A. Yes, sir. I believe I have seen this document before.

Q. You are familiar with the fact that it was the intent of the commanding general of the military forces in Vietnam that civilian casualties be held to an absolute minimum?

A. Yes, sir.

Q. I show you another document, also Headquarters, MACV; Directive Number 20-4, dated 27 April 1967, and ask you if you have seen this document (handing Exhibit D-1 to General YOUNG)?

A. Yes, sir, I think I have seen this document.

Q. I call your attention particularly to paragraph 5.

A. Yes, sir.

Q. For the sake of the record paragraph 5 states: "It is the responsibility of all military personnel having knowledge or receiving a report of an incident or act thought to be a war crime to make such incident known to his commanding officer as soon as practicable." I will not quote the remainder of the paragraph.

I have another exhibit, General YOUNG, from Headquarters, III Marine Amphibious Force, Force Order 5820.1, dated 3 June 1967, and ask you if you are familiar with this document (handing the document to General YOUNG)?

A. Sir, I can't say that I have ever seen this document before. It is very possible that I did read it, but I don't recall specifically seeing this document before.

Q. I will state here, for the record, an extract from this particular document, paragraph 5a: "Upon receipt of a report of an alleged war crime the commanding officer to whom the report has been submitted will submit a serious incident report in accordance with reference (c) to the III Marine Amphibious Force, Combat Operations Center (Parchment COC)."

IO: You have any questions that you would like to address to General YOUNG, Mr. MACCRATE?

MR MACCRATE: No, I do not.

IO: Mr. WEST?

MR WEST: When was the last time you communicated with General KOSTER, General YOUNG?

A. I believe the last time I communicated with him was when I forwarded Colonel HOLLADAY's efficiency report to him.

Q. You haven't been in touch with him at all since the My Lai(4) incident has been in the news media?

A. No, sir. I have not.

Q. What about Colonel HENDERSON? You mentioned the other night in the sedan; have you been in touch with him recently?

A. No, sir.

IO: General YOUNG, when you were with the Americal Division did you ever have occasion to discuss this operation, or the My Lai (4) incident of 16 March 1968, with Colonel TOAN, later General TOAN, the division commander of the 2d ARVN Division? Or General LAM, the commander of I Corps?

A. General PEERS, to the very best of my recollection I did not discuss this with Colonel TOAN, later General TOAN, and I am positive that I never discussed this with General LAM, the CG of I Corps. I don't--I'm quite sure I didn't discuss it with Colonel TOAN and almost positive about this matter with General LAM.

Q. Were you ever aware that ARVN was conducting an investigation of this incident?

A. No, sir, I was not aware of that.

Q. General YOUNG, I have shown you here today and we have discussed--I would like to go over several matters to show you what was available as time progressed. On the 16th of March there were indications that six to eight civilians had been killed. There were subsequent reports to the effect that 20 or more had been killed, possibly 24 to 28. There was also an after action--a SITREP--indicating that 128 VC had been killed with 3 weapons captured and 2 U.S. killed. In the early part of April reports came in, of which you saw the one writeup, to the Son Tinh District from the village chief, and also a census grievance team report to the effect that numerous civilians had been killed. This report, likewise, was sent to division headquarters. There was also a bit of VC propaganda which came out indicating that something unusual had taken place in this area. This likewise was sent to division headquarters. There was also a report from the district to the province of which an English translation was sent to division headquarters. All of this evidence comes in to indicate that something unusual has happened. Can you explain to me how it could possibly be that nobody put all these facts together?

A. No, sir, General PEERS, I certainly can't explain to you why the facts were not put together. It certainly appears that, had all this information been known, they should have been put together.

Q. Every indication is that they were known.

A. Yes, sir. I cannot explain to you why they were not put together.

Q. This is the sort of thing that leads to suspicion. Was there a coverup?

A. Sir, the only thing I can tell you is-- I honestly, truthfully, sincerely made no effort to cover up the alleged incident. I am positive that this is the truth. I made no effort to cover up this alleged incident. I don't know what more I can say other than that, General PEERS.

Q. Let me ask you another hypothetical question? Knowing a few of these things and receiving that report of 24 April, if you had seen it and if you had known that no action had been taken, wouldn't you have suspected that something was either radically wrong that must be checked into, or that there was a coverup some place?

A. This being known, I believe I could have pieced this matter together.

Q. Were these matters within the staff held so secretive that nobody really knew what was submitted to the headquarters, or what was going on?

A. You refer to these matters, are you referring to--

Q. (Interposing) Here we have--we know that 20 people or so have been killed. These statistics never appeared in any official document of the Americal Division, 20 individuals, never. You can read Exhibit R-2 and I call your attention to this. Here are the casualties. You show me where one civilian casualty is shown in that document (handing the document to General YOUNG). We know, and it was well established and the report says it, over 20 casualties--civilians were killed. The report of 24 April, this report, doesn't say it. Nothing is reported to MACV. All MACV knows is 128 enemy were killed, 3 weapons were captured and 2 U.S. were killed, and that is what was reported back here to the NMCC. Nobody put in the fact that the village chief reported--granted he isn't living in the village, he's living in Quang Ngai or thereabouts--but he has contact

with his people. Nobody reports the fact that he is complaining about the killing of 450 or 500 people in his village or considers this fact with the other unusual happenings. Nobody puts together the fact that there might be some validity to the VC propaganda or that the district chief was passing on additional reports, and the fact that ARVN investigated it clear up to General LAM. My question is, what did the staff know about all this?

A. Sir, I don't know what the staff knew about all this information that you have provided-- have indicated here. I can only say that I don't believe there was any effort whatsoever on the part of the staff to cover up anything. There might have been mistakes made, because they didn't piece the information together and arrive at a logical conclusion, or a possible conclusion; but I am unaware of any effort by the staff to cover up any alleged incident of 16 March.

Q. By my statement I am not necessarily accusing your staff. I hope you understand that.

A. I understand that, sir.

Q. I am asking why, in the normal functioning of a staff, this wouldn't be going into an operations center or at least into a command element, where these things would be looked at?

A. It should have.

Q. On these two points, General YOUNG, that I mentioned to you, I am hanging, way up high on it. I wish you would give this some thought overnight, to see if you could conceivably bring back to life some of these facts that we all have to store in the back of our heads under these circumstances; because we are earnestly trying to piece together all of this evidence that we can--the facts and the circumstances-- in order to arrive at our findings and conclusions on this particular situation. I am sure you understand the gravity of this situation and the problem which we are faced, so I would ask you to do that. I am going to be here between 11 and 1 o'clock tomorrow. I would like for you to give me a call here from wherever you may be. If you have something, I would like for you to come and see me. If not, subsequent to that time, you are free to depart.

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A. Sir, I'll come in--I will certainly give it considerable thought and effort and I won't telephone you; I'll come in personally and tell you the results--I'm attempting to remember more--

Q. (Interposing) I don't want you to telephone, because if you do have anything I do expect you to come and see me, but if you can't reconstruct any additional information then there's no use for the trip. But on second thought come on in to see me here--it should somewhere about 12 o'clock tomorrow. I'll be here between--during 11 to about 1 or maybe 2.

A. Yes, sir.

Q. You have any further questions?

A. No, I do not.

IO: This hearing will be recessed until 0900 Monday morning.

(The hearing recessed at 1915, 13 December 1969.)

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(The hearing reconvened at 0927 hours 23 December 1969.)

IO: The hearing will come to order.

RCDR: The following members are present: LTG PEERS, MR WEST, MR MACCRATE, MR WALSH, COL MILLER, and MAJ LYNN.

Sir, the first witness is General George H. YOUNG.

(BG George H. YOUNG was recalled, reminded of his oath, and testified as follows:)

IO: Colonel MILLER, do you have anything to say at this time?

COL MILLER: Before you testified previously you were informed of your testimonial rights under Article 31 of the Uniform Code of Military Justice and your right to counsel. Would you like to have a reexplanation of that in any way?

A. No.

IO: General YOUNG, one of the things that has quite a bit to do with our activities is just trying to work out a schedule of events as they took place. One of the keys, as far as timing is concerned, has to do with the timing of the meeting that took place at LZ Dottie, and we have quite a bit of testimony and records which would indicate that this meeting took place on the morning of the 18th. This was brought out in the testimony of Colonel HOLLADAY and Major WATKE, and in checking the records we have been able to substantiate their testimony and some of the other evidence which they had. I would like to show you here a couple of documents which bear upon this. We have here Exhibit

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M-16, which is the log of Task Force Barker and if you look at the 18th and if you will notice at 0905, Colonel HENDERSON arrived, at 0910 you arrived, and at 0930 you departed. In addition, one of the points that was taken up was where were Major WATKE and Colonel HOLLADAY on the 17th. Their previous testimony indicated that they had gone to LZ Bronco or Duc Pho to talk to Colonel HENDERSON. Not about the operation, but about the employment of the aero-scout units to get better utilization out of them, and so on, and their testimony and also written evidence would establish them as being there. In addition, at a recent date we have obtained some extracts from the journal of the 11th Brigade, and if you will notice, the top item indicates that such a meeting was scheduled for the afternoon at 1400, which tends to put everything into focus in that regard. In addition, in talking to General KOSTER, he is not sure of the date that you reported to him, but he is quite sure of the time being around noontime. So, if we put all of these things together we visualize them as having taken place something like this, but this isn't necessarily putting words in your mouth or putting thoughts in your head. The activities, of course, took place on the 16th, and it was on the 16th also that General DOLEMAN was visiting the area of the Americal Division. Exactly where he stayed overnight, right now, is not absolutely certain. Whether he stayed at the Americal Division or he stayed down at Duc Pho is quite immaterial, other than the fact that he was at Duc Pho on the morning of the 17th, because they recall taking him out, touring fire bases, and so forth. Sometime on the night of the 16th Major WATKE reported to Colonel HOLLADAY and it is their recollection that they would, rather than come to you around midnight or thereabouts, when they finished their discussion, they had come to you early in the morning on the 17th, and had so reported to you. And then the next thing that comes up is that they met with you at LZ Dottie on the morning of the 18th. In the meantime, according to General KOSTER's statement, if he were to be informed around noontime it could have been only around noontime on the 17th, and that's about the sequence of events as we see them now. This is important to us at least for several reasons. So, irrespective of the

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time, as far as you're concerned, there are certain things that we definitely want to talk about. We would again like you to review for us what was reported to you by Colonel HOLLADAY and Major WATKE and how long this conversation lasted and we would like to get as much of the detail of this as we possibly can.

A. Yes, sir, should I respond now?

Q. Please do.

A. Well, I assure you, General PEERS, and members of your board, that I have racked my brain for hours trying to reconstruct the events that evidently took place. I say again, sir, that to the best of my recollection Major WATKE and Colonel HOLLADAY -- Colonel HOLLADAY and Major WATKE rather, came to my office and I still feel that it was in the afternoon of the 16th after the briefing. There they related to me that a helicopter pilot, whose name I do not recall and very well could have been Mr. THOMPSON, had reported to Major WATKE that he had observed some noncombatant civilians in a crossfire between ground infantry forces and supposedly enemy. He had landed his helicopter in the vicinity of the civilians and had taken what action he could to protect them, then flew from that location over to the friendly forces and informed the friendly forces that the civilians were in the area and that they should not fire into them; and he further told the platoon leader, and I don't recall whether it was an officer or a platoon sergeant, the platoon leader is what I think was used, that he was going to keep circling them and he had better not fire into them. If he did he would put his own weapons on the friendly forces. Now, I think this conversation took place in my office on the afternoon of the 16th. Now, whether it was the 16th, I don't know. To the best of my memory I immediately informed General KOSTER of this. It could have taken place, sir, on the morning of the 17th. In any event, I believe, that as soon as the meeting took place in my office I informed General KOSTER. I believe that he directed me to contact Colonel HENDERSON and direct Colonel HENDERSON to initiate an investigation immediately. I felt that we went to LZ -- Fire Support Base Dottie immediately after the meeting, if it took place on the morning of the 17th. I can't dispute the log here. I could be mistaken. We're talking about one day many months ago, but I can see no reason why we would wait another day before we took the word to General KOSTER. Now, General PEERS, that's the best of my recollection that I can tell you.

Q. Let's come back just to your discussion with Colonel HOLLADAY and Major WATKE. You've indicated that the discussion was primarily centered upon what we might refer to as a "confrontation" of U.S. personnel, ground forces, and the aviation element.

A. Yes, sir.

Q. Was there anything said about unnecessary killing of civilians?

A. Sir, I do not recall any mention made of the fact that there were any atrocities committed. I recall the fact that the civilians were in the line of fire -- in the crossfire. This I feel, I'm certain about, is what -- let me say it this way. To the best of my recollection there was no mention there that an alleged war crime had been committed.

Q. Well, to possibly refresh your memory, was there any mention of a colored sergeant firing into a ditch occupied by civilians -- noncombatants?

A. To the best of my recollection that was not -- I was not informed of that fact. It was not mentioned. What was mentioned was the fact that the civilians were in the crossfire between the friendly forces and an alleged enemy force. There was no mention made, that I can recall, of any war casualties resulting at that time.

Q. Was there any indication to the effect that the pilot was marking wounded civilians with smoke and the American forces were then coming over and instead of providing medical assistance were finishing them off?

A. Sir, I do not recall that fact being presented by either Colonel HOLLADAY or Major WATKE or anyone else.

Q. Do you recall any figure as to order or magnitude of the number of civilians which may have been killed?

A. No, sir.

Q. Before we go on further. Do you have some questions at this point, Mr. MACCRATE?

MR MACCRATE: General YOUNG, as I have listened to the testimony, so far as I know you're the only witness who has suggested that there was enemy crossfire at this time.

A. Sir, I'm relating to you what my recollection brings out from my mind, and I'm relating to you what I recall of the conversation that took place.

Q. Do you relate to any individual and his description of this event what was told to you anything that suggested there were enemy forces firing at the time this friendly helicopter landed?

A. The only thing that I can relate to you, sir, is what I have stated previously. This is the way I remember the report that was submitted to me.

IO: Along this line, General YOUNG, in response to a question concerning the helicopter pilot and the situation which developed there, General KOSTER responded:

"As I recall, at that time, I would have said we were essentially without opposition but I am not sure what it had been prior to the landing of the helicopter. I never got the impression that there was a great deal of firing at our ground troops. In other words, this wasn't in any sense a heavy action but there could have been sporadic rounds coming at them, and as for the helicopters landing in a crossfire, I don't know that I ever had that impression."

Now, he's pointing to the helicopter and the helicopter is at this moment working with the civilians in front of the combat forces.

A. Yes, sir.

Q. Was this point brought up and clarified?

A. Which point is this, General PEERS?

Q. Where the helicopter went in to contact the civilians that he was trying to protect from friendly fire.

A. The impression that I got was that the helicopter went in in front of the friendly forces in an attempt to do what he could for the noncombatants.

Q. The impression that General KOSTER has is there wasn't any crossfire going on at this time.

A. My impression was that there was firing going on -- sporadic fire going on.

Q. Well, would you relate to us -- Do you have any questions at this point Mr. WEST?

(MR WEST indicates in the negative.)

Q. Mr. WALSH?

(MR WALSH indicates in the negative.)

To go on would you now indicate what you relayed to General KOSTER and what his instructions were.

A. To the best of my recollection, General PEERS, I related to General KOSTER exactly what I had just previously related here. I recall that he told me, "You contact Colonel HENDERSON immediately and direct him to initiate an investigation." This is the way I recall the conversation.

Q. Yes, do you recall how you did this?

A. How I did this?

Q. Yes.

A. I don't recall whether I called Colonel HENDERSON on the telephone and told him to meet me at LZ Dottie or Fire Support Base Dottie, but I do recall that after I got airborne I determined that Colonel HENDERSON was at Fire Support Base Dottie and therefore, I went there and that's where I passed on General KOSTER's instructions.

Q. Well, evidently you had done some thinking about getting together at LZ Dottie or someplace because arrangements had been made for five individuals to assemble there, including Colonel HOLLADAY from your headquarters, Major WATKE, who happened to be there, and Colonel HENDERSON, who also moved to LZ Dottie.

A. Yes, sir.

Q. My question really was, at that time, whether or not you can recall directing a report to be made by Colonel HENDERSON over the telephone and then saying something to the effect, "Well, I'll see you tomorrow at LZ Dottie"?

A. No, I don't believe that took place. What I believe took place, and evidently I'm a day off here, my impression is that as soon as it was reported to me I informed General KOSTER. I still think this took place on -- in the afternoon, late in the afternoon. Possibly not, it could have been in the morning. I believe that I reported this to General KOSTER. I also recall telling Colonel HOLLADAY to be there. I don't know whether Colonel HOLLADAY went with me to Fire Support Base Dottie or went by himself. He often, not often, but frequently did go with me in visiting various units, but on this day I cannot recall. The meeting then took place, according to my memory, sometime around 9 o'clock in the morning, but I thought it was on the day following the operation. Evidently from the log here it didn't, but I can't explain the difference between the 24 hours difference, sir.

Q. Now, would you again recount for us what took place at the meeting at LZ Dottie? Who did the talking? The time involved and the instructions that were issued? As much of what really transpired as you possibly can.

A. Yes, sir. According to my recollection, General PEERS, we got to Fire Support Base Dottie, we utilized the trailer that Colonel BARKER used as quarters, and went inside. I told Colonel HENDERSON what the division commander had directed. I told him very briefly what Colonel HOLLADAY had related to me and I told him that he should initiate this investigation immediately and inform the division commander of the results as soon as possible. I also, I believe I told him, that Colonel HOLLADAY and Major WATKE were available for him to initiate his investigation right then and there and, as I have stated, before according to my memory, I did the talking and it was a very short meeting. As I have said before, 5 or 10 minutes. It indicates in the log that I was there a little longer, but

this is understandable. I could have gone, I think at that time I had an 8-inch artillery battery there, at Fire Support Base Dottie. I could have gone there. I often did go there when I went to Fire Support Base Dottie. I believe also at this time we had a platoon of engineers doing some work on a helicopter pad at Fire Support Base Dottie and I often visited this unit. But according to my recollection, sir, it was a short meeting and there was little if any discussion. I related the instance as reported to me by Colonel HOLLADAY to Colonel HENDERSON and I left there and, I believe, Colonel HOLLADAY was still there when I departed.

Q. One of the points that people do seem to be in agreement on is the fact that at this time Major WATKE repeated for the third time the story which he had received from Warrant Officer THOMPSON. That is, prior to this time he had talked to Colonel HOLLADAY. It was indicated that it was passed on to you, their discussion the night before, which makes the second time WATKE told the story. Then at LZ Dottie he again, for the third time, repeated the account of what Warrant Officer THOMPSON had indicated. That part seems fairly conclusive or fairly well indicated. When you told Colonel HENDERSON to make this report did you indicate to him any particular kind of report?

A. I can't recall indicating any specific kind of report, sir, whether it was -- I don't recall I was given any definite instructions as to whether it was to be a formal report or an informal report. I think I told him to conduct--to initiate an investigation immediately and to report the results to the division commander.

Q. I would like to repeat for you some testimony which we have obtained from Colonel HENDERSON.

"Q. Can you remember any of the other discussion that took place at this meeting?

"A. No, we discussed the dropping of smoke grenades to mark civilians, as opposed to VC; that they had worked out with the 174th Company. This was their system and the Warlords had used another system and we were sure that this was the proper system. We discussed the fact that Warrant Officer THOMPSON did not have communications--direct communications with the ground, although he was dropping these smoke gre-

nades to mark civilians. We discussed the machine-gun confrontation, and I know General YOUNG was very unhappy over this and said under no circumstances was this to occur and he wondered why charges should not be preferred against the warrant officer. As I recall most of the conversation centered over this than it did over other items that Warrant Officer THOMPSON had seen in the area, and I do not recall those being brought up. I am sure that they were just were--I just do not remember.

"Q. You said it was brought out that there was some discussion that the general initiated, as to why charges should not be preferred against Warrant Officer THOMPSON?

"A. Yes, sir."

Do you recall that conversation?

A. General PEERS, I do not recall that conversation whatsoever. The thought never went across my mind to bring charges against the warrant officer. As I have indicated before in this testimony here, I admired the warrant officer for the action he took, for the fact that he did what he did. I do not recall any conversation that I made concerning charges against any warrant officer.

Q. When you met with Colonel HENDERSON there with the others, were you of the impression that Colonel HENDERSON was aware of any of these things that were being discussed, that he knew about this ahead of time?

A. No, sir, I was not aware of it. I can't recall his indicating that he was aware of it.

Q. I would just like to check one other point again before we go on. We have heard of a statement in essence to the effect that, "Only the five of us here in this van know about this."

A. Sir, to the very best of my recollection that was not made, because the division commander undoubtedly knew about it by that time. To the very best of my knowledge that statement was not made.

Q. On the meeting at LZ Dottie--Mr. MACCRATE, do you have any questions that you would like to address on this subject?

MR MACCRATE: Against the background, General YOUNG, of what you now recall as to the meeting at LZ Dottie, would you state for us as you now recall it, what was your understanding of the instructions that you were giving to Colonel HENDERSON as to what was to be investigated? Just what was to be the subject of his investigation? What were you anticipating would come out of this investigation? Here's a man being given a charge that you have been asked to give by General KOSTER and just what were you looking for from him? What were you seeking to communicate to him that he was to do?

A. Sir, I was looking for a report for him to initiate or to have initiated and to report it to the division commander which would clearly state, with substantiating statements or affidavits or whatever it might be, to the effect, did or did not the friendly ground troops engage noncombatant civilians in a crossfire while engaging an enemy force? That was the first thing. And the second thing, was there a confrontation between the helicopter pilot and the ground force platoon leader? I didn't give any specific instruction, that I can recall, as to what type of report was to be initiated, but in general that's my recollection, sir.

Q. On the first point, did they engage noncombatants in a crossfire? Is that properly translated? Did they shoot noncombatants?

A. Did they fire into them while engaging an enemy force? Yes, sir, I guess you could say that.

Q. Well, were you only concerned if they did it while engaging an enemy force or were you asking the question, "Were they engaging an enemy force? Or were they just shooting at noncombatants?" Were you asking the question that was directed to getting an answer to--disregarding the enemy force at the moment, were you seeking information as to the shooting of noncombatants, or the way in which noncombatants might have been killed? Was this the nature of your inquiry?

A. To the best of my recollection, sir, the nature of the inquiry was to determine had the friendly forces fired into a group of noncombatant civilians while engaging an enemy force?

Q. Well, the "while engaging an enemy force" wasn't really the subject of the investigation. That was just the surrounding circumstance, as you understood it. There has been an operation against the enemy on 16 March and you were seeking certain information as to what had gone on and wasn't the information you were seeking directed to "had civilians been shot at?" Wasn't it as simple as that?

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A. No, sir, I don't think I could say that, Mr. MACCRATE. I think, as I previously stated, "did they fire into noncombatant civilians while engaging an enemy force?"

Q. Well, if the answer had been yes what would that mean to you?

A. Well, I think if the answer had been yes, it would certainly require an explanation of what were the results. That's the way I would interpret it, yes, sir.

Q. And if the answer had been no, what would have then been necessary?

A. I don't know, sir.

Q. Well, if the answer was that they were not engaging at that particular time an enemy force, but, yes, they were shooting civilian noncombatants, what would have then been required?

A. Well, I certainly think it would then require some additional investigation, statements to determine what were the results.

Q. If the same civilians and noncombatants had been shot but it was while engaging an enemy force would the same further investigation be necessary?

A. I would think so, yes, sir.

Q. So the question of whether they were engaging an enemy force or not wasn't really the center of this investigation. The question was whether they were shooting noncombatants, wasn't it?

A. Sir, I think it's like I stated previously. Did the friendly forces engage noncombatant civilians while engaging an enemy force? Were noncombatant civilians fired into while engaging an enemy force?

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Q. Did Colonel HENDERSON, at any time thereafter, tell you that he found that there was no indication of shooting into noncombatant civilians?

A. Sir, I recall that I asked Colonel HENDERSON a day or so later what was the status of his investigation and he told me that he was conducting the investigation, that he was in the process of talking to a number of individuals who had participated. I do not recall any conversation to the effect that--of what you stated, sir.

Q. Well, did you ever hear at any time from anybody that there had been a finding, that there had not been firing by American forces into noncombatant civilians?

A. I heard both from Colonel HENDERSON and General KOSTER that there had been no noncombatants indiscriminately killed. This is to the best of my recollection, sir.

IO: Mr. WEST?

MR WEST: No, sir.

IO: General YOUNG, do you ever recall having discussed this operation and the investigation with anybody else in the headquarters other than General KOSTER or possibly Colonel PARSON?

A. Sir, I'm positive I discussed it with Colonel PARSON and I probably discussed it with General GALLOWAY, but I don't specifically recall the conversation. I possibly discussed it with some member of the staff, some members of the staff.

Q. Do you recall having discussed this matter of My Lai (4) with Colonel TREXLER, the G2?

A. I don't recall the time and place, but I possibly did discuss it with Colonel TREXLER.

Q. Let me read for you what he had to say. The question was:

"You indicated a while ago that as the situation developed you had heard about something going on concerning this. Would you explain that please?"

The response was:

"I used to make frequent trips about

once a week and this is really the way I got out to see the troops. I would go out principally with General YOUNG. I'm sure this was within a day or so after this happened. General YOUNG discussed this operation with me. I don't specifically remember just what he said, but he did talk to me for about 5 to 10 minutes. I had really thought they had gone to the extreme and I really thought they had burned houses which they should not have done. Certainly, from what I remember General YOUNG had told me, I did not get an indication that there had been really any extensive killing of civilians, although it was enough that it disturbed him. That is why I realized that it was fully within the command channels. General YOUNG, I felt, was following up on it quite aggressively. This is really the total of my knowledge of the incident.

"Q. Do you recall the date and the circumstances of this discussion with General YOUNG?

"A. In the helicopter and shortly after we took off he just told me that he wanted to discuss this operation. As to the specific date I do not remember. I do firmly believe that it was within 1 or 2 days after it happened."

Do you recall that discussion?

A. I don't recall that specific discussion with Colonel TREXLER, General PEERS, but it very possibly took place and Colonel TREXLER frequently accompanied me to visit the various combat units. I was concerned about it. I was concerned about it, yes, sir.

Q. Well, two things come out here, General YOUNG, one concerning the "really extensive killing of civilians although it was enough to disturb him." That's the first point. So there is an indication here that you had knowledge that the civilians had been killed.

A. No, sir.

Q. I'm only repeating--

A. (Interposing) I understand General PEERS.

Q. And the other point, "I thought at least that they had gone to extremes and really I thought that

they had burned houses which they should not have done." This is another aspect of this operation. This is the first time that this had come to light in the command channel. Were you aware that this burning had taken place?

A. No, sir, I cannot recall that. I may have said it. I don't know what reason I would have used to say it if I did say it. I do recall looking at the place from the air and it certainly appears that a number of the buildings on previous occasions had been burned, but I don't recall this as to this operation any knowledge of burning of houses indiscriminately.

Q. As you checked on the progress of Colonel HENDERSON's inquiry, did you keep General KOSTER informed of the various aspects as they had been reported to you?

A. I believe I did, sir, to the best of my ability.

Q. For example, did you relate to General KOSTER what Colonel HENDERSON had indicated to you of his interview of Warrant Officer THOMPSON?

A. I don't recall relating that to him. No, sir.

Q. Did you relate anything to him concerning Colonel HENDERSON's discussion with Captain MEDINA, or with the men of the company?

A. Sir, the only thing that I recall relating to General KOSTER was the fact that I had delivered his instructions and I still think that this was on the morning of the 17th, although evidently it was the 18th. The next day or within a few days I had a conversation with Colonel HENDERSON as to the status, which I've reported here, and I'm quite sure that I related to General KOSTER the status of it. As to the conversations with Colonel HENDERSON and the individuals that he was interviewing or talking to about the operation, I do not specifically recall relating this to the division commander.

Q. Let me read just a couple of things that came out. Here he is talking about, this is Colonel HENDERSON, when he's talking to the men when they returned from the operation

back to LZ Dottie:

"A. I didn't really expect, I don't think, in words; but I expected, if anything, in actions. And I watched these men especially for any action or reaction that I got from them. I generally swear I talked to these men. I did not believe at that time, and I still don't believe, that these men were soldiers that had just come out of an area after killing a bunch of women and children. Their heads were held high and there wasn't any dog-tail about them, and I know I passed on to General YOUNG the reaction that I had gotten out of these men. I don't mean that they were whooping and hollering; they were tired. Probably hadn't had any sleep within the past 2 or 3 days. There wasn't a man who was trying to hide or failing to meet my eye."

At another time he was asked if he would have known a whole lot more about this situation if he had talked to Captain MEDINA:

"A. I believe that I passed to General YOUNG at that time, Captain MEDINA's reaction to this accusation that he had killed a woman."

Now those are just a couple of statements coming from Colonel HENDERSON with respect to General KOSTER on this particular subject. We had been discussing this with General KOSTER and I asked:

"Q. Could you be mistaken as to General YOUNG's giving you the report on Colonel HENDERSON's interrogation? It is General YOUNG's recollection that while he gave your direction to Colonel HENDERSON for the initial inquiry, that the report then came directly from Colonel HENDERSON to you, sir."

His response was, and I think all of us can remember this quite vividly from the way General KOSTER was indicating it:

"A. This is one of the few things on which I am very positive because I can see General YOUNG

sitting right here (indicating a chair in his office) and telling me about the interview with the helicopter pilot, as conducted by Colonel HENDERSON."

I went on to say, on this specific subject:

"Q. General KOSTER, you indicated in your mind that General YOUNG was to follow through on this, or words to that effect?

"A. Yes, sir.

"Q. Did you ever issue instructions to General YOUNG that you wanted him to follow through and keep you completely informed on this and to report to you?

"A. I believe I did, with words along the line, 'You will ride herd on this thing,' something on the order of that, not to the extent that he conduct the operation himself, much as 'You conduct the inquiry' or 'You do this' and so on, but I always looked to one of my assistant division commanders to look after the southern area, primarily, as I was concerned to a greater extent with the north. I'm sure I gave him the message that I felt he would supervise this and check it.

"Q. General YOUNG's discussion with you then, the following discussion was more or less a fallout of Colonel HENDERSON's discussion with the warrant officer of part of this?

"A. Yes, sir."

Now, this is just pertaining to one part of it, keeping General KOSTER informed as to the progress, after you had told Colonel HENDERSON to get this investigation under way, and between that time and such time as he may have reported to the division commander. Do you recall these?

A. Sir, I do not recall any knowledge that Colonel HENDERSON talked to this organization when he returned to Fire Support Base Dottie. I do not recall relating that to the division commander. I do not recall relating--I do not recall hearing from Colonel HENDERSON the results of this interview with the helicopter pilot and I do not recall relating that to the division commander. To the best of my recollection, what I did relate to the division commander was as I have stated. His instructions were carried out--were issued, delivered and several days later I had told him that Colonel HENDERSON personally was conducting the investigation. To the best of my recollection Colonel HENDERSON reported directly to General KOSTER. I do not recall sitting with General KOSTER any place discussing this matter, other than going in and reporting to him what was the progress and what was the status of it. And my interpretation of General KOSTER's testimony to the effect that I was to "ride herd" on it is slightly different. I feel

that he possibly felt that way, however. I do sincerely believe that the report was made directly from Colonel HENDERSON to General KOSTER.

Q. I'll read you some additional discussion.

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A. Yes, sir.

Q. Because of General KOSTER's appreciation that he was looking to you to direct this thing and that you were informed throughout, the question was what time Colonel HENDERSON reported to him. The question was:

"Q. He was reportedly to have come to you on or about the 20th to report the results of the inquiry which he had initiated. Perhaps it is wise, instead of taking the question which I have just addressed to you, to ask the question, what did Colonel HENDERSON tell you at that time orally?

"A. As I indicated, I don't specifically remember him coming up and saying, 'This is my report of the allegations.' We got much of it as he finished interrogating certain people; he either apprised me at one place or another or informed me through General YOUNG. He could have very well have been there and outlined the individuals as he had talked to them. His conclusion, based on the inquiries as I recall, was that there had been casualties caused by needless firing, excessive firing, and that he had interrogated the people he felt were principally involved and certainly many people on the operation and I felt he would have uncovered anything of much less magnitude than presently being alleged....At such time as he told me all of this, I felt that he had interrogated the people most concerned and I believe that throughout all of this General YOUNG probably got as many facts as I did, some of this being relayed through him."

Then we later talked to General KOSTER and this is a carrying on:

"A. As I indicated previously, I cannot specifically recall Colonel HENDERSON coming up to make a formal oral report to me, so to speak. I talked to him several times myself.

I gathered much of the information that I specifically recall from discussions with General YOUNG, who had brought me back information that had been given to him. I felt that General YOUNG was as fully informed of the investigation and results of the investigation as I was. As I recall, Colonel HENDERSON did give me details about his interviews with leaders, the fact that he did talk, as I indicated, to all the aviators that had been there. This may have been his method of expressing it, as opposed to each and every one of a number of men involved. The details of the interview with the helicopter pilots I still consider was given to me by General YOUNG on the same day the interview had taken place....Again I

relate this more to General YOUNG's telling me of this than I do to Colonel HENDERSON, but I would assume that it would be a portion of his discussion with me at the proper time, not knowing that General YOUNG passed it on to me. But this was my impression of the results of the investigation of the helicopter pilot, first obtained from General YOUNG. Nothing came up after this to change that.

"Q. Were you satisfied with the report of Colonel HENDERSON?

"A. At that particular time I felt it was and I was satisfied that General YOUNG knew as much about it as I did and he was satisfied as well, that this was after we had the continuing report from Colonel HENDERSON."

And he goes on with a statement which provides information concerning what you had indicated. General KOSTER replied:

"A. As I indicated yesterday, I have very firmly in mind that he made a recommendation to me that what we had in the first written report was not adequate as covering all of those things that Colonel HENDERSON looked into, and this type thing on a verbal basis, which resulted in our going back and asking for a formal investigation.

"Q. How was this directive put out on a formal investigation?

"A. I believe I informed Colonel PARSON and General YOUNG together that I wanted this done. It's conceivable that I might have talked to Colonel HENDERSON directly, but this is not my recollection. As I indicated I even visualized there would be a written directive to have this accomplished."

And then we go on. In terminating this discussion we asked General KOSTER if he had anything that he would like to add for the record. He said:

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"A. Only that I can't imagine why there isn't some recollection of one of these written reports as a minimum, because I'm positive in my own mind that a few of them discussed it with me as I mentioned and I don't see how I could have built this up in my mind to the extent I have. I feel that this is the sequence and the way it was. I don't feel that the written report of investigation, what I have been calling the second investigation, came before the subsequent one. I would say that it's conceivable that I would have told Colonel HENDERSON, 'You have given it to me orally, now put it into writing and give me the statements of the people concerned.' That isn't the way I remember it. I do recall a conversation with General YOUNG very specifically, about a report that wasn't adequate. After seeing the one here on display I am sure that we must--that that must have been the one we discussed. I am sure

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that the final one that we had or the one with statements was the one that I gave to Colonel PARSON."

And again, when I asked about the relations with you, whether or not you were outside the handling of the investigation, General KOSTER responded:

"A. That's not the way I remember it. I thought I had pretty firmly placed him in the position of looking into this, or at least supervising this, the looking into it. I don't see how that could have happened. It would appear from his testimony either he does not recall or perhaps he didn't."

Now, those are portions from General KOSTER's testimony which seems quite different from your interpretation of how things were handled, General YOUNG.

A. Yes, sir. I can't agree with the things General KOSTER stated there. To the best of my recollection this investigation was conducted as I indicated, General PEERS. I never got the impression that I was to supervise the conduct of the investigation.

Q. In your command relation there, had he pretty well turned over the southern area to you? Asking you to look after it while he was busily engaged with the operations going on to the north?

A. No, sir, I don't think so. I went to the northern area probably just as frequently as I went to the southern area. This was never a matter of any great instruction. What I normally did, every day I would tell the division commander where I intended to go and what I intended to do, and if he had any different instructions or other matters he would so direct me. I can't remember any clear line of demarcation between the southern area and the northern area. I think the record will show that I probably went into the northern area just as much as I went to the southern area.

Q. Since General KOSTER had ordered this investigation to be initiated through you as a median, would it not appear logical that he would expect you to follow through on it to keep him advised?

A. Yes, sir, it would appear logical that he would expect that, and I think I did that. I kept General KOSTER

advised on the information that I obtained to the best of my ability, sir, but I cannot recall relating to General KOSTER any results of an interview that Colonel HENDERSON had with a helicopter pilot. I cannot recall relating to General KOSTER any results or the mere fact that Colonel HENDERSON had talked to a group of individuals that had participated in the operation, and I believe that this may have possibly come directly from Colonel HENDERSON to General KOSTER and not through me.

MR MACCRATE: General YOUNG, General KOSTER at one point in an answer to a question stated, "As far as I was concerned, I felt that General YOUNG was involved in the investigation to the same extent I was." Would you agree or disagree with that statement?

A. Sir, I believe I would disagree with that statement, in answer to your question. I got the impression that this was a matter which was being responded to by the brigade commander in compliance with the instructions from the division commander and I did not get the interpretation that I was involved as deeply as Colonel HENDERSON or General KOSTER was.

Q. Did you ever get the impression that General KOSTER was essentially keeping this to himself?

A. No, sir, I can't say that I did get that impression.

Q. You did feel, at the same time, that he was sharing with you whatever information he was receiving?

A. I don't recall General KOSTER's telling me of any conversation he had with Colonel HENDERSON concerning the investigation. What I do recall is what I've tried to relate here, of trying to tell General KOSTER the results of what information I was able to obtain from Colonel HENDERSON about the status of investigation.

Q. You never had the feeling that you were being left out of the thing?

A. No, sir, I can't say that.

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IO: Well, when you informed him in terms of the status of the investigation. What would be some of the specific things that you would inform him about?

A. Well, sir, as I recall, the first thing was the fact that Colonel HENDERSON personally was conducting the investigation. Secondly, that maybe, I don't recall the time span, several days later, that he had talked to a number of individuals who had participated and he was still in the process of investigating. These are general type things that I recall that I informed General KOSTER of. I don't recall informing General KOSTER of anything specific, because I don't believe I was told anything specific, General PEERS.

Q. General YOUNG, our reconstruction of these events as far as the investigation was concerned in the early days, the 16, 17, and 18th, indicates that some-time around noontime you would have talked to General KOSTER. I would ask you to turn to the log of Task Force Barker on the 17th and look at item number 21, which would indicate that you arrived at 1430 and departed at 1445.

A. Yes, sir.

Q. Do you recall this visit?

A. No, sir.

Q. You'll notice that there is no previous entry here concerning your having visited the brigade at any time other than this, on the 17th. The next entry appears when you arrived about the same time that Colonel HENDERSON did, on the 18th.

A. Yes, sir.

Q. Do you recall any discussion at this time, at 1430 on the 17th, with Colonel BARKER or members of his staff?

A. I can't recall any specific conversation that took place at that time.

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Q. With respect to the action subsequent to Colonel HENDERSON's reporting orally to General KOSTER, what is your indication or recollection of what was to take place?

A. As I have indicated previously, General PEERS, to the best of my recollection Colonel HENDERSON made an oral report of the investigation to General KOSTER. General KOSTER desired that the report be put in writing and he so directed, according to my recollection, that the oral report be made into writing.

Q. Your statement is consistent with what you have previously stated. I would like to read for you statements by Colonel HENDERSON. The question was to Colonel HENDERSON. This is at the time of the oral report:

"Q. What transpired subsequent to that time that you had recommended that a formal investigation not be conducted--

"A. Yes, sir.

"Q. And General KOSTER indicated that he wanted to discuss the matter further with General YOUNG.

"A. Yes, sir.

"Q. What did you hear next?

"A. The next I heard was from General YOUNG and this is a point that I can't put into proper perspective whether General YOUNG--it is my feeling right now, honest impression, it was about 10 days to 2 weeks after I had given my report, oral report to General KOSTER. General YOUNG advised me that General KOSTER wanted me to report in writing because I recall very vividly asking General YOUNG, 'Has there been some new development or is there something that I do not know about?' No, there was nothing new developing. General KOSTER wanted it for the record, the report, and this was even before I got the VC propaganda message or discussed it with Colonel TOAN. I feel that although we had never apparently been able to find it that I wrote at that time a three-to five-page document on the investigation that I had conducted concerning this incident, and submitted it...."

"A. Yes, sir, and I base that primarily on the fact of the inclosure. This information contained here I was generally familiar with, so I knew it either when the situation developed or I read it after it was submitted. I'm not certain. I cannot swear that I sat down and prepared from scratch a report, but I know that according to my instructions from General YOUNG I was to prepare a written report of the oral report that I had given to General KOSTER, and this would not have satisfied that requirement, and I know I did what I was told to do."

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So we get a statement from you to the effect that General KOSTER had advised you--informed you--of a requirement for an oral report. Colonel HENDERSON acknowledges receiving a requirement but he acknowledges receiving it from you rather than General KOSTER.

A. Sir, to the best of my recollections I did not relay the instructions of General KOSTER to put the oral report in writing.

Q. Now, with respect to the written report, I would like to have R-1. At this time, General YOUNG we are discussing this document. Do you recall any discussions with General KOSTER concerning the findings of this particular report?

A. No, sir, I do not.

Q. Let me read a little bit of what General KOSTER has to say:

"Q. When did you see this report dated 24 April? We have indications that it was submitted to your headquarters on the 25th of April and hand-carried to you.

"A. I'm a little uncertain whether I saw it before I departed for 10 days in Hawaii or whether I saw it immediately upon my return. If I saw it I do not believe I took any action on it, but turned it over to General YOUNG for his consideration. It is really my feeling that I saw it after I came back from Hawaii, but I'm not positive.

"Q. Who did you issue the instructions to, to conduct a formal investigation?

"A. I believe it was again a question of instructing General YOUNG and Colonel PARSON, probably at the same time: that this is what I wanted done.

"Q. Do you remember instructing specifically either General YOUNG or Colonel PARSON or both of them?

"A. No question in my mind that I instructed one or both that I wanted a formal investigation.

"Q. Did you tell them you wanted a formal investigation?

"A. I know General YOUNG was in agreement that what we had here wasn't what we had in mind when we asked for a written report of investigation. He specifically said, we want statements of witnesses, all these people that HENDERSON has talked to, and it should be incorporated into a formal investigation, and we wanted the witnesses testimony there to show what we had done in this case.

"Q. Do you know whether or not, in fact, General YOUNG had seen the document?

"A. Again, this is one of the things that I seem to have a better recollection of than many of the other things that transpired, because I seem to tie it in with my return from Hawaii and the fact that we finally had what we had been waiting for, the HENDERSON report, and it didn't amount to much and it would never do, and it was the recommendation that we get a formal investigation, and I agreed completely and I seem to fasten this with General YOUNG."

He went on to say in a subsequent discussion:

"One thing on the timing. I recall I related it to the first written investigation as really being brought to my attention after I returned from Hawaii. It is conceivable that I saw it before I went to Hawaii. It is conceivable that if I had seen it before I went to Hawaii I would have directed the subsequent investigation, and that's what they had waiting for me when I came back, but as I recall, as I came back, Colonel PARSON and General YOUNG told me about what had transpired. They said, 'We have the report of HENDERSON.' I've been of the opinion that it was this first written one, that it was at this time the question, that it was just not adequate, came up."

Do you recall this?

A. Sir, as I have indicated previously, according to the best of my recollection, the sequence of events was that I delivered the instructions of the division commander to Colonel HENDERSON at Fire Support Base Dottie to initiate and to conduct an investigation. Subsequent to that, I believe that I was told by both Colonel HENDERSON and General KOSTER that Colonel HENDERSON had made an oral report and that the division commander directed that it be placed in writing. I believe that subsequent to that I was told both by Colonel HENDERSON and General KOSTER that the report was placed in writing and taken by Colonel HENDERSON to General KOSTER. I don't recall the specific time of the fact that I saw Colonel HENDERSON in General KOSTER'S office, and I assumed at that time--it was certainly before he went on R&R, and they were discussing this report. I do recall that General KOSTER went on R&R, I believe in late April, and came back subsequent to the 5th of May, but before the 12th of May. That's my best recollection, General PEERS, and I'm telling you the truth, so help me God.

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Q. Now, I have read you some of General KOSTER'S statements concerning a formal report. I would like to read you just a little bit more. We're talking about the formal report. First, we have a statement from General KOSTER in which he'd indicated that he wanted the formal report. I'll have to read a little here from Colonel HENDERSON in regard to that report, which is Exhibit R-1:

"Q. What was the next time that you heard about this particular report from division or from anybody?

"A. This report here?

"Q. Yes.

"A. To the best of my knowledge the next thing that I received was a personal call from General YOUNG that General KOSTER desired formal investigation--and this was in early May--a formal investigation of the incident of 16 March.

"Q. What was the purpose of the formal investigation? Were you ever given any reason for it?

"A. I was not, sir. I believe that at the time I asked General KOSTER if there were new developments or any reports that he was knowledgeable about. I believe that the reaction I got from him was, 'No, we had not.' General KOSTER desired a formal investigation and we conducted it....

"Q. Did you receive either a written or electronic transmitted directive?

"A. No, sir.

"Q. What is the normal procedure for a formal investigation?

"A. The normal procedure is, if I were designating someone to conduct a formal investigation, I would request division to cut the orders and give them basically the information that is required in the order and that the individual conducting the investigation would then report to the division JAG office and receive personal instructions and then comply with the order.

"Q. Did this happen?

"A. I assumed that it did. I have no knowledge that it did. When General YOUNG gave me the order I replied. I informed him that the only one I had available to do it was my executive, Colonel BARKER, and this was acceptable, and General YOUNG and I went into the mess hall for a cup of coffee and told Colonel BARKER then what the requirement was.

"Q. What did you tell him?

"A. The requirement was that he was to conduct a formal investigation of the 16 March incident. I believe also I told him that as far as I knew nothing new had developed. This was to have first priority and either at that time or a few days later I told him it was to be completed before he went on R&R the 20th of May or on or about the 20th of May when he departed on R&R, and he did submit the report prior to that date.

"Q. What date was it approximately that you issued the instructions to him?

"A. I would estimate that it was somewhere between the 6th and the 10th of May."

Do you recall this incident with Colonel HENDERSON?

A. Sir, I do not recall that incident with Colonel HENDERSON.

Q. Now, I would like to come back to General KOSTER about the formal report:

"Q. Did you discuss this report with anybody else or did you show the report to anybody else?

"A. Yes, sir, General YOUNG and Colonel PARSON read it and looked at it.

"Q. What were their comments?

"A. As I recall, it was the concensus of our opinion that this was sufficient investigation for the time being, unless something further developed and was provided by the Vietnamese.

"Q. Is this to say that in your view at that time the report rendered to you was acceptable?

"A. I recognized that this had not been carried out in quite the way I had visualized it. It had produced the statements of the individuals that I thought were important to have filed away and kept, and having plowed this ground the way we had, I thought there wasn't a requirement to go any further upon this information....

"Q. Subsequently, now, you have indicated that Colonel HENDERSON was an appropriate investigating officer, since he was one step removed at the brigade level from those who were actually involved in this whole operation. Now, this report came to you and you found that rather than being the work of Colonel HENDERSON it was the work of Lieutenant Colonel BARKER. Did you raise any question or challenge dropping the investigation down right into the unit being investigated, in effect?

"A. I felt I discussed this with General YOUNG and Colonel PARSON and evidenced disappointment that this is the way it had come out, but having the testimony in there I didn't feel it was warranted to go through it again."

A. May I ask a question, sir? Was he referring to this report here?

Q. No, he's referring to another report. This report, you will notice, is dated the 24th of April. He is referring to a formal report of investigation with sworn statements and

so on, which came up in his initial discussion, which I read previously and when we were discussing this document he'd indicated that he had discussed this with you and the two of you considered it unsatisfactory and he then indicated that he wanted a formal report made. The next indications which I read to you were the statements made by Colonel HENDERSON, where you had directed him to have a formal investigation conducted, and the final thing that I was reading had to do with the report of the formal investigation that was supposed to have been submitted to General KOSTER.

A. General PEERS, I can only say that General KOSTER may have passed these instructions directly to Colonel HENDERSON to conduct a formal investigation. To the best of my recollection I cannot recall his directing me to pass these instructions to Colonel HENDERSON, and I have no recollection of the matter to which Colonel HENDERSON testified, where I did so direct. I'm not aware that a formal investigation was conducted. I cannot recall a formal investigation being conducted. Possibly it was conducted. Possibly it was conducted upon the personal directive of the division commander to the brigade commander.

MR MACCRATE: General YOUNG, as you have heard, we have testimony from General KOSTER indicating that he did consult with you at various times with respect to this matter. With a view to this entire period, did you ever state to General KOSTER in words or in substance that any written report of Colonel HENDERSON's on this matter was in your judgment inadequate?

A. I don't recall making that statement to General KOSTER, sir.

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Q. Did you make any such statement with respect to any oral report of Colonel HENDERSON?

A. I can't recall making any oral report of that nature to General KOSTER. I think I indicated to General KOSTER that I was a little concerned about the time required by him--this sense of urgency wasn't as I had expected. Possibly I mentioned this to General KOSTER, but I don't recall making any statement to General KOSTER as to the accuracy of the report.

Q. So that I am clear on this. I understand that at no time do you recall ever questioning General KOSTER as to the adequacy of any report made by Colonel HENDERSON on this event?

A. To the best of my recollection, Mr. MACCRATE, I cannot recall this statement.

IO: Would you state for the record, General YOUNG, which reports you specifically know about as made by Colonel HENDERSON or by anybody concerning the My Lai incident of 16 March 1968?

A. Sir, the best of my recollection, as I recall, an oral report was made by Colonel HENDERSON to General KOSTER. Instructions by the division commander upon receipt of the oral report were to put the oral report in writing. I am unaware of any other report.

Q. As I recall from your previous testimony, you were not present when the oral report was rendered?

A. I was not present when the oral report was rendered, no, sir.

Q. Did General KOSTER ever talk to you about the adequacy of the findings, conclusions, and recommendations of the oral report?

A. Sir, to the best of my recollection, he did not discuss this matter concerning the oral report. What he did discuss was the fact that he had instructed Colonel HENDERSON to put the oral report in writing.

Q. Before we conclude this session of the inquiry, I give you this opportunity, General YOUNG, to make any statement or to bring forth any additional information, or we will attempt to answer any questions that you may have.

A. No, sir, I have nothing further.

IO: This hearing will recess at the present time.

(The hearing recessed at 1103 hours, 23 December 1969.)

(The hearing reconvened at 1628, 17 February 1970.)

IO: The hearing will come to order.

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

(Exhibit MAP-9 entitled, "South Vietnam, I Corps, Military Region, Administrative Division," and annotated to show operational areas for Delaware, Wheeler, Burlington Trail, Muscatine, and Norfolk Victory operations was introduced into evidence.)

Sir, the next witness is Brigadier General George H. YOUNG. I remind you that you remain under oath at this hearing.

IO: I think you know all of these gentlemen at the table here, Mr. MACCRATE on my left, and Mr. WEST on my right, and Mr. WALSH on my far right.

Since we last talked to you, General YOUNG, in about mid-December, we have assembled quite a bit of information. All told, from the time we started this investigation up to the present time, we have talked to 350 people or more. And we have assembled quite a large amount of documents having to do with the incidents, some with the reporting of the incidents, some with the investigation of the incident, and you might say the review phase of such investigation.

In addition to that, we have had an opportunity to visit South Vietnam, to visit headquarters MACV, USARV, III MAF, and the Americal Division. In each instance, we have had a search made for all documents that may pertain to these activities, and we had a team of our own to look for documents to go through the headquarters with their assistance. We had the opportunity to talk to General LAM at I Corps, and we subsequently visited the 11th Brigade at Duc Pho. Our people went through that headquarters for documentation. We visited the ARVN authorities, General TOAN who commands the 2d ARVN Division. I talked to him and had certain documents made available by him as well as talking to some of his advisors who were there. In the same sense we talked to Colonel KHIEN, who was then the province chief, and subsequently talked to the new province chief, a Lieutenant Colonel BINH. We talked to quite a few of

the advisory personnel there. The same thing is true of Son Tinh District where we talked to the district chief, Lieutenant TAN, now Captain TAN, who is the intelligence officer in Quang Ngai.

We had a chance to visit Task Force Barker and Landing Zone Dottie and then over-fly the operational area generally, of Son My Village. We had an on-the-ground inspection of My Lai (4), better known by the Vietnamese as Thuan Yen subhamlet, to verify the locations, the settings of certain incidents that we had taken down in testimony.

I think the point is that at the moment we have quite a wealth of information available to us, and I am sure that we will be able to direct our questions with a much better wisdom and knowledge than we had before. In many cases we were fishing for information, but at the moment, we have quite a bit of information of all of these events I have been discussing. With that as background, I will ask Colonel MILLER from the Office of The Judge Advocate General to provide you the necessary instructions and also to warn you as to the suspicions which we have at this time as pertaining to you.

A. Yes, sir.

COL MILLER: General YOUNG, when you appeared before General PEERS on 13 December, you were informed that you were suspected of having committed certain offenses in violation of the Uniform Code of Military Justice, and you were advised as to your right to legal counsel and of your testimonial rights accorded under Article 31, Uniform Code of Military Justice.

To refresh your memory, I will just read what General PEERS said at that time.

"I have some additional guidance which I will give you. I have just stated the scope and the purpose of the investigation. You were the assistant division commander of the Americal Division at the time, and for some time after the My Lai incident you were the senior officer in the chain of command. Furthermore, evidence received to date indicated that you were personally informed about several of the events which were of importance in the investigation and that you issued instructions and received reports concerning alleged indiscriminate shooting, after action reports, and other

relevant facts and information. There is now some evidence tending to raise suspicions that during and after the My Lai (4) incident you may have been negligent or derelict in complying with, or even in direct violation of, orders and regulations pertaining to the reporting and the investigation of the alleged wounding and killing of civilians, parenthetically, war crimes. And, further, that you either may have suppressed, or contributed to the suppression of, information pertaining to the possible unlawful killing of civilians at My Lai (4) and its vicinity on or about 16 March 1968. Such acts would be in violation of orders or regulations and would also constitute dereliction of duty. I am calling this to your attention because you have been called as a witness before this investigation. Before any questions begin, I want you to be informed as to my suspicions. And I want to give you time to think over and to determine in your mind whether you wish to seek qualified legal counsel and to decide whether you are willing to give testimony in this investigation."

Immediately after that you waived your right to counsel and you did testify. On the 23rd, when you appeared again you stated that you did not need your right to counsel or your testimonial rights explained, and again you testified without counsel.

Before we go on, I want to go through these matters again. I do inform you that you are suspected of the following offenses, which I will relate in a few minutes. These are not charges nor are they allegations in the formal sense. These are offenses of which you are suspected on the basis of all the evidence which is now before General PEERS.

First, you are suspected of failure to obey or the violation of general regulations concerning the reporting of knowledge, information, or reports pertaining to alleged, suspected or apparent war crimes. More specifically, this would be MACV Directive 20-4 and similar directives in the chain of command which require such reporting.

Second, dereliction of duty with respect to your actions and failure to act on reports and information concerning alleged unlawful killing of civilians by American troops in the Son My, otherwise known as the My Lai or Tu Cung area of Vietnam on or about 16 March 1968. The suspected dereliction is

not limited to those dates but extends also to the subsequent actions or failures to act contrary to what you may have been required to do in the proper performance of your duty.

Having appeared before General PEERS on both the 13th and the 23rd of December, you testified under oath to tell the truth and the whole truth. You are now suspected of having withheld relevant and material information about matters concerning which you were asked questions and of having testified falsely under oath. The giving of false testimony under oath constitutes false swearing in violation of Article 134, Uniform Code of Military Justice.

Finally, suppression of, and conspiracy to suppress, information and reports concerning, and investigation of, unlawful acts allegedly committed by American troops, that is Task Force Barker, during the operations in the Son My area of Vietnam during the period of about 16 to 18 March 1968.

The information, and the reports and the investigation which you are suspected of suppressing or conspiring to suppress concerned alleged and reported serious offenses in violation of the laws of war and the Uniform Code of Military Justice. These acts referred to are unlawful acts allegedly committed by Task Force Barker personnel and include such offenses as the killing of civilians, murder, arson, and the destruction of both public and private property.

Before you are asked any questions, I shall again explain your testimonial rights and privileges with respect to giving testimony and your right to counsel.

You have a right to remain silent. Any statement you make may be used as evidence against you in a criminal trial.

You have the right to consult with counsel. By counsel I mean a qualified lawyer. You have the right to have this counsel with you during any questioning.

You may retain civilian counsel at your own expense, or military counsel will be appointed for you at no expense to you. Appointed military counsel may be military counsel of your own selection if he is reasonably available.

If you wish, you may have both civilian counsel and appointed military counsel. You may have them here, and you may consult with them at any time, and they with you.

You may wish to testify and give testimony today without having counsel present. If you do, you may stop answering questions at any time and you may request at any time that counsel be appointed for you, or that you be given an opportunity to seek counsel.

Do you have any questions of what I have covered thus far?

(The witness shakes his head in the negative.)

Do you understand that?

A. I understand.

Q. At this time do you wish an opportunity to seek civilian or military counsel?

A. At this time, no.

Q. Are you willing now to make any statements and to answer questions?

A. I am.

IO: General YOUNG, we know that we have asked you, and we are asking you, to testify concerning events and activities which transpired almost 2 years ago. We know it's very difficult to keep track of days, places and things. But we do have, based upon what I have told you, quite a bit of information, and we are able to put together most of the things that pertain to this particular activity and the investigation of it. I have put together a short paper here which I believe will assist you in determining a few of the facts. Frankly, it's at variance with your prior testimony as far as dates and things. I can explain this to you so that it will leave no question in your mind. We can support what is on this paper. It's called a "Chronology of Activities Relating to Brigadier General YOUNG," and I would like this entered into the record as an exhibit.

RCDR: This is entered into the record as Exhibit
M-116.

(The witness reads the document to himself.)

A. All right, sir.

IO: I would like to go back again to the date of the 16th. The only thing we have to go on with respect to the 16th pertaining to you is the fact that you did not appear in the operational area of Task Force Barker. I believe you testified that you were probably elsewhere with one of the other brigades. Now that you have had time to think this over, General YOUNG, can you tell us where you might have been on the 16th?

A. As I indicated, General PEERS, to the best of my knowledge, I was up in the Que Son area on the 16th. To the best of my recollection, I was not in the area of operation of Task Force Barker on the date of the alleged incident.

A. Coming down now to the briefing on the evening of the 16th, you have testified, and we will review a brief bit of your testimony having to do with the night of the 16th:

"Q. At that time, when you were discussing the ratio of the weapons to the number of VC KIA, and the ratio of VC KIA with the number of friendly KIA, what developed out of that discussion with the division commander?

"A. As I recall the sequence of events, General PEERS, after the briefing was over, while the division commander and I were walking back to the command building, I stated that I was extremely surprised that our forces had been able or had found and made contact resulting in that significant an enemy body count. I was also surprised and disappointed by the fact that we had captured only a very few weapons, because in the Americal Division, I think the record will hold the ratio of enemy KIA to weapons captured was quite good, and when you have a significant

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contact and only capture such a few number of weapons this is not the--it naturally brings up your ear-points a little bit. As a result of this conversation, I think that the division commander generally agreed and that he was also surprised by the action.

"Q. Did he say to you to do anything, or did he indicate that he was going to take any action?

"A. To the best of my memory at that time, no. At that time, no, sir. But subsequent to that conversation, later on that afternoon, he certainly did."

What I would like to point out to you on this particular evening, this is the night of 16 March. You had in your division headquarters a visitor, Lieutenant General DOLEMAN. General KOSTER had picked him up at LZ Bronco, and at 1645 in the afternoon, he was at LZ Dottie, where he and General DOLEMAN were briefed by Task Force Barker. They departed there at about 1715. I ask you under those circumstances, would the briefing be held up, would there be a staff briefing, or how would the commanding general received his operation briefing?

A. I can't answer your question directly, I don't believe, General PEERS, but oftentimes the briefings were postponed, sometimes to 1730, but I don't remember having one later than that.

Q. What I am doing is putting these two instances together. You indicated that you talked to General KOSTER about that thing that evening.

A. To the best of my knowledge and recollection, my previous testimony is true, sir.

Q. I wonder if you now remember, perhaps, that General DOLEMAN was there in this kind of a conversation. This is the kind of environment you are in when you have a visiting senior officer.

A. I don't recall General DOLEMAN being there at the present. He may have been. He may have spent the night

there, but I don't particularly remember. He made several visits over, but I can't recall; I do believe that my previous testimony is as I stated, sir.

Q. You indicated in your testimony that you were quite certain that Colonel HOLLADAY reported to you concerning what Warrant Officer THOMPSON observed on the evening of the 16th. All of the information that we have is from the two individuals concerned, and I can tell you basically what they went through. Major WATKE, having waited some time to inform Colonel BARKER of his observations at LZ Dottie, late in the morning of the 16th after returning to Chu Lai, had thought this over at considerable length before he went to Colonel HOLLADAY. According to his testimony, he did not go to him until sometime around 2130 or 2200 at night. They discussed it until about midnight, or as they put it, "agonized" over it.

The following morning at about 0800, and this is where it picks up, is when they came down to see you. At this particular time General KOSTER was not present. I don't see how he could have been present because at 0820 or shortly thereafter, he is at LZ Bronco, Duc Pho, with General DOLEMAN. But the facts remain, and to the recollection of Colonel HOLLADAY and Major WATKE, they reported to you on the morning of the 17th. The time is quite immaterial. I do want you to repeat for me, and for the benefit of the people here, exactly what Major WATKE told you had been reported to him by Warrant Officer THOMPSON.

A. Sir, in the first place, I don't recall whether Warrant Officer THOMPSON's name was mentioned. It possibly could have been. I want to make this clear now. I don't recall the name of the pilot being used. As I told you before, sir, and this very well could have happened on the morning of the 17th rather than the afternoon of the 16th. I still think it took place on the late afternoon of the 16th. The time does not matter, but to the best of my knowledge, it was reported to me that a helicopter pilot had observed ground forces firing into an area occupied by noncombatant civilians, engaged

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in a crossfire as they engaged the enemy. This is to the best of my knowledge and my recollection.

Q. Was there no reference to the fact that a large number of civilians had been killed?

A. At no time at that instance, or any other instance to the best of my knowledge and recollection, was there any indication there had been noncombatant casualties, and this is what I have told you before, General PEERS.

Q. And we've rechecked it.

A. Yes, sir.

Q. There were no mention of any dead noncombatants on Highway 521?

A. I don't recall where Highway 521 is.

Q. That is the main road that runs out from Quang Ngai to My Lai (1).

(The witness looked at Exhibit MAP-1.)

A. Yes, sir. Not to my knowledge or recollection.

Q. Was there any mention of the use of smoke to mark wounded noncombatants?

A. Not to my knowledge or recollection, sir.

Q. How about a ditch where somebody was firing into a ditch?

A. I don't recall a ditch being mentioned. I recall a cave or a shelter. I don't recall a ditch, sir.

Q. The two things that stand out in both Colonel HOLLADAY's mind and Major WATKE's mind was, one, the unnecessary killing of noncombatants and two, confrontation between an aviation unit and the ground forces. And they are, at least Colonel HOLLADAY was, of the opinion that the idea of a large number of noncombatants being killed was certainly brought out.

A. Sir, to the best of my knowledge and recollection, it was not.

Q. Was there any discussion concerning civilians or noncombatants being killed by artillery or gunships?

A. I don't recall, sir.

Q. What instructions did you issue to Colonel HOLLADAY and/or Major WATKE?

A. At the time of the initial meeting?

Q. Yes.

A. Is this the question, sir?

Q. Yes.

A. To the best of my knowledge and recollection, I instructed Colonel HOLLADAY that as soon as I could get this information to General KOSTER, and I think this was later after HOLLADAY's visit to my office, then I think that either he went with me to Fire Support Base Dottie or he met me there. I don't recall exactly, but he was at Fire Support Base Dottie. So the instruction I issued to him was, as soon as I reported to General KOSTER, to go to Fire Support Base Dottie. Now I don't recall whether he went with me or whether he met me there.

IO: The hearing will recess at this time.

(The hearing recessed at 1657 hours, 17 February 1970.)

(The hearing reconvened at 1707 hours, 17 February 1970.)

IO: The hearing will come to order.

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

IO: Just to be a little specific on the interpretation of what transpired in the meeting, the initial meeting that took place between yourself, Colonel HOLLADAY, and Major WATKE, and then a subsequent meeting where you were together with four other individuals in the van at LZ Dottie, I'd like to read you just a little bit of Colonel HOLLADAY's testimony. This question is posed to him:

"Q. To begin with, I'd like, in your words and the detail that you can remember, what you and Major WATKE told General KOSTER as relates to the My Lai (4) incident on 17 March; what you told General YOUNG on 17 March.

"A. We went into General YOUNG's office, Major WATKE and myself, as near as I can recall, about 0800 in the morning on the 17th. Quite possibly it might have been a few minutes earlier than that time. I said to General YOUNG first, 'May I see you, sir,' or something to that effect. Then I said, 'Something occurred yesterday that you should know about.' He said, 'What is that?' A normal response. 'Go ahead,' whatever. I turned to Major WATKE and said, 'Fred, will you please tell General YOUNG the same story that you told me last night.' Whereupon Major WATKE related the story. Do you want me to repeat that story that Major WATKE told that morning?

"Q. Yes.

"A. This is essentially the same story that he told me the preceding evening and that was that Mr. THOMPSON, Warrant Officer THOMPSON, had brought a story back to him of the indiscriminate and unnecessary, I think both of those terms were

used at one time or another, killing of civilians. This included, as one of the incidents or part of his conversation, Mr. THOMPSON had seen a sergeant standing on the bank of a ditch and firing into a group of civilians, a large group of civilians as I recall, hiding in the ditch. At one point in this affair there was a group of people, Vietnamese people, women and children, who were either in a cave or were trying to get to a cave to seek cover and Mr. THOMPSON at this point warned the advancing Americans. There was an officer here, I recall. Rank I don't recall. He warned them that if they continued to advance or if they harmed these people in the cave he would fire upon them. They elected to discontinue their advance. In any event they never harmed these people in the cave and at one point in this action he evacuated a small child to a hospital and ushered people in the cave to a point of relative safety. These are the salient features of this conversation.

"Q. Did Major WATKE say anything about a crossfire at any time?

"A. No, sir. Not that I can remember.

Q". Let me ask you this, before and it's hard for you Colonel HOLLADAY, but how about numbers? What magnitude of noncombatants or bodies are we talking about or were talked about that day by Major WATKE?

"A. Well, the number 120 sticks in my mind ever since this occurred. I feel safe in saying that that number was mentioned from time to time throughout the story, 120.

"Q. About how long did it take to tell this story to General YOUNG?

"A. I would say we were in there the better part of 45 minutes, his office.

"Q. What was his reaction? Was he questioning, breaking in, did he listen to the whole thing and then question, visibly upset?

"A. Yes, sir, he was. He was very, very upset. Very concerned about the possibility of Americans shooting Americans. Very concerned about this. He was visibly shaken about the incident, to use the phrase, at the aspect of this happening.

"Q. How about the indiscriminate and unnecessary killing of civilians?

"A. In my appraisal of that morning he appeared to be in my judgment less concerned, which sort of surprised me, because my own personal emotions were the other way around.

"Q. You say less concerned. You're not saying unconcerned?

"A. No, sir, no, sir. I'm not saying unconcerned. I'm saying less concerned. I would weight that in that the things that he said most frequently concerned the possibility of Hugh THOMPSON and his people firing at the American infantry soldiers."

Now, does that bring anything back to mind?

A. Sir, I don't recall that report whatsoever, and as I've indicated in my previous testimony to you, to the best of my knowledge and recollection, I can not support the portion that you read to me from Colonel HOLLADAY's testimony.

Q. The essence of all this, because Major WATKE's testimony gets mixed up between Colonel BARKER's discussion and what he told Colonel HOLLADAY, and what he told you about what transpired down in the van. Major WATKE initially was leaning towards the confrontation, but it's been made clear by Colonel HOLLADAY, and both of them have agreed on this, that what they agonized over that night of the 16th, when the story came to Colonel HOLLADAY, Major WATKE, to be very honest with you, was concerned about the confrontation. He told Warrant Officer THOMPSON's story to Colonel HOLLADAY and Colonel HOLLADAY brushed aside, completely brushed aside, according to both of them the confrontation. That was not the prime issue, the prime issue to him was that Warrant Officer THOMPSON had seen, and had reported the indiscriminate and unnecessary killing of a large number of civilians.

That is what they agonized on until about midnight. That is the story reported to have come to you.

A. Sir, that story did not come to me, to the best of my knowledge and recollection.

Q. Well now, General YOUNG, after you received this story in the morning what action did you take then?

A. To the best of my knowledge and recollection, I informed General KOSTER as soon as I saw him.

Q. Yes, and I'll tell you this is why I have this time down here, about noontime on that day is about the time that General KOSTER remembers you relaying the information to him. This would pretty well fit in accordance with the logs that we have where General KOSTER was with General DOLEMAN and then perhaps getting back to Chu Lai sometime around noontime. Now, can you remember anything about your discussion with General KOSTER? How did this strike him?

A. I reported to General KOSTER according to my recollection and knowledge, exactly the report that I had received from the two individuals you just mentioned, Colonel HOLLADAY and Major WATKE. He shared the concern that I felt too.

Q. Was there any consideration given at that time to having this investigation with such a serious allegation, conducted by an independent party?

A. Not that I recall, sir, I recall that he directed me to inform Colonel HENDERSON to initiate an investigation immediately.

Q. No consideration was given at that time, to getting the JAG, or the IG, or any other agencies into the act then?

A. I don't recall, sir.

Q. When you talked to General KOSTER either that night when you were referring back, or when you were talking about this ratio of 3 to 128 and so on, was there any mention at all about civilian casualties?

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A. Not that I recall, sir.

Q. None at all?

A. Not that I recall.

Q. Was there any mention the following day?

A. Not that I recall.

Q. Did he mention to you or to anybody at the briefing that evening, or did he tell you the following day about his countermanding an order by the brigade commander for C/1/20 to return to the area of My Lai (4), to make a body count?

A. I don't recall that, sir.

Q. A body count by ages, by sex, and by manner of death?

A. I do not recall that.

Q. Was anybody else present when you discussed this with General KOSTER? Was the chief of staff present?

A. I don't believe he was, General PEERS. To the best of my knowledge and recollection, the only one present was General KOSTER.

Q. Do you know whether anybody else in the headquarters was informed at that time that you had been instructed to direct Colonel HENDERSON to make an investigation?

A. I don't know sir. I don't know whether anyone else was or not.

Q. I want to show you something, General YOUNG, and that is the fact that the meeting at LZ Dottie took place on the morning of the 18th.

A. I thought it took place on the 17th. You showed me a log when I was here on the 23rd, where evidently it took place on the 18th.

Q. That's right. As a matter of fact at the time you were at LZ Dottie on the afternoon of the 17th, which was at 1430. According to their log, you arrived there at 1430, stayed for 15 minutes and departed at 1445. At that particular time Colonel HENDERSON was conferring with Colonel HOLLADAY and Major WATKE in Duc Pho. This is a matter of information in the log as well, and also according to both of the other witnesses and by some letters they have which were written at the time. The letters substantiate they were at Duc Pho that afternoon discussing problems not of this incident. Uniquely enough, this incident was not mentioned. They were discussing problems of better utilization of the aero-scout assets of the 123d Aviation Battalion. Now what I'd like to know from you at this time is what happened when you went to LZ Dottie the afternoon of 17 March?

A. I don't recall what happened when I went to LZ Dottie on the afternoon of 17 March.

Q. We know some things that happened. We know, for example, that Major CALHOUN indicated that he briefed you and this is the only time that he could have briefed you on the operation, so it's very likely that he did brief you at that time. My question is, whether you had an opportunity at that time to talk to Colonel BARKER, or who you talked to, and what instructions you may have issued, and so on? See, at this time you had already talked to General KOSTER.

A. General KOSTER, right. I don't recall discussing the conversation I had with General KOSTER with anyone at Fire Support Base Dottie on that afternoon. I recall the first discussion that happened subsequent to General KOSTER's was a meeting I had with Colonel HENDERSON where I related the instructions of General KOSTER.

Q. It just so happens that in the log of Task Force Barker it does have you appearing there at this particular time. This is what I'm asking.

A. And sir, I'm telling you to the very best of my knowledge and recollection, I don't recall what took place on the afternoon that you are referring to here.

Q. Do you remember Major CALHOUN?

A. I remember the name and I think he was the operations officer.

Q. He was the executive officer and the S3 of Task Force Barker.

A. Yes, sir. And I think I could describe him, but I haven't seen him.

Q. When you went down to Dottie that day, on the afternoon of the 17th, did you fly over the operational area at all?

A. I don't know whether I did or not. I probably did, sir. I don't recall specifically. I can't answer your question yes or no.

Q. Let me ask you, did you see any burning going on down there that may have attracted your attention down in the area of Son My? It may have caused you to fly down and take a look at it.

A. I don't recall seeing any burning going on, but it's highly possible I did. To the best of my knowledge I didn't land there.

Q. We know that at that time, as a matter of fact, the visibility was such that even at LZ Dottie, with the visibility being what was reported on the weather forecasts and the meteorological report, it should have been quite obvious that there were some huge fires down in the area east of Hill 85.

A. I possibly did see some, sir. As I said before, I don't recall it.

Q. Coming down to the morning of the 18th, when you came into LZ Dottie and Colonel HENDERSON had arrived, actually about 5 minutes before you. Major WATKE and Colonel HOLLADAY had already arrived there. Would you explain again what exactly transpired in the van?

A. Sir, as I have indicated to you before to the best of my knowledge and recollection, I passed on to Colonel HENDERSON the instructions of the division commander which were that he should initiate an investigation immediately to determine whether or not this alledged report, that had been given to me by Colonel HOLLADAY was valid. Present in the van to the best of my knowledge were Colonel HENDERSON, Colonel BARKER, Colonel HOLLADAY, and I think Major WATKE was there, and myself. I instructed them to do exactly, in my opinion, what the division commander had directed, and I told Colonel HENDERSON that while Colonel HOLLADAY and Major WATKE were there he could initiate, he could talk to them immediately. And to the best of my knowledge and recollection, that essentially what took place in the van.

Q. You indicated in your prior discussion that you stayed there only for a few minutes. We've had other witnesses, however, that testified that Major WATKE again retold the story, and subsequently you issued the instructions to Colonel HENDERSON to conduct the investigation.

A. That's not the way I recall it taking place, sir.

Q. We have from Colonel HOLLADAY and from Major WATKE indications that there was a confrontation discussed. Also a sergeant firing into a ditch, the indiscriminate firing, the unnecessary killing of noncombatants, which is essentially the story which they had told to you the day before.

A. That discussion did not take place in my presence, sir.

Q. Having had this rather serious allegation, General YOUNG, do you consider the instructions you gave Colonel HENDERSON to have been sufficient?

A. Yes, sir. They were the division commander's instructions and I considered them to be adequate.

Q. Did you specify to Colonel HENDERSON exactly what you wanted him to do in the sense that you wanted a full-fledged investigation?

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A. To the best of my knowledge and recollection, General PEERS, I instructed Colonel HENDERSON to initiate an investigation immediately. Now I don't believe I went into any detail as to what type investigation, but maybe I just assumed that he would conduct a formal investigation. That's exactly the way I looked at it.

MR MACCRATE: General YOUNG, my problem is this: you indicate that you were, at General KOSTER's direction, instructing Colonel HENDERSON to conduct an investigation as to the validity of Colonel HOLLADAY's report to you. Now what would have been the offense if his report had been sustained as you describe it? I fail to see what everyone was upset about, why there was anything to investigate, and what you really were asking Colonel HENDERSON to investigate as you describe it to us today.

A. Well, I don't share that opinion, sir, if I may.

Q. What was the problem? What was the serious occurrence that had to be investigated in this way?

A. Were noncombatants engaged in a crossfire by friendly ground forces?

Q. If it were a crossfire and noncombatants were caught in it, there would be nothing to investigate. This is one of the unfortunate things that happens. You don't establish an investigation just because civilians happen to be caught in a particular situation. This is one of the unfortunate burdens of war which we all recognize. There's nothing in that description that suggests to me anything to be investigated. I say that as a civilian.

A. Right, sir.

IO: Going on just a little bit, in his testimony Colonel TREXLER stated, and I quote:

"A day or so after this, that is after the My Lai (4) operation happened, I was riding the chopper with General YOUNG, and I don't remember specifically what he said, other than it made sufficient impact on me that I remember that much.

Units had indiscriminately burned hootches and burned villages. He was most concerned. He certainly gave me the impression that he was following up on it. They had been more destructive than the situation called for."

Can you explain that to me?

A. No, sir, I cannot explain that to you. Are we speaking now the Quang Ngai area?

Q. Yes.

A. No, sir. I cannot explain it to you.

Q. Do you remember discussing this matter with Colonel TREXLER?

A. I don't remember exactly, but it's possible that this discussion did take place.

Q. Well what--

A. (Interposing) I don't recall it specifically, General PEERS. Evidently he's referring to the burning that was still going on in the area.

Q. Not necessarily. He's rather speaking of something in the past tense: "had indiscriminately burned villages and burned hootches. He was most concerned." He's talking about you.

A. Yes, sir.

Q. "He...gave me the impression that he was following up on it."

A. Well, I think anytime I saw private property being destroyed I wanted to try to eliminate all of this I possibly could, sir.

Q. But this is a direct violation of the division commander's orders and policy. What followup action was taken?

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A. I don't know, sir.

Q. Do you recall reporting this or discussing this with General KOSTER?

A. I do not recall, sir.

Q. Now then, after you issued the instructions to Colonel HENDERSON on the morning of the 18th in the name of the commanding general for him to conduct an investigation what follow up action did you take to insure that a proper investigation was in fact being conducted?

A. As I've indicated before, sir, I questioned Colonel HENDERSON as often as I saw him to determine the status of the report. He informed me that he was in the process of making the investigation, that he was going to conduct the investigation himself, and that he was talking to the various participants concerned.

Q. Can you recall whom he told you he talked to?

A. No, sir, I can't recall whom he told me specifically he talked to. I asked him at one time if he had talked to aviation support, the helicopter people, and I believe he told me that he had. I don't recall any names of people he indicated to me that he talked to.

Q. Did he subsequently tell you that he had flown out and talked to Captain MEDINA?

A. I don't believe he did, sir. I don't recall that.

Q. Did he indicate that he talked to a large number of participants in the company, that is C/1/20?

A. No, sir, I don't think he did. I think on my previous occasion here you mentioned to me that he had talked to some of the men that participated, but I don't recall him telling me that he had.

Q. Was this done on one occasion or was this done on a continuing process, that you were following up on this?

A. Sir, I was doing my very best to follow up on the report, and each day, after talking to Colonel HENDERSON, I would inform General KOSTER that I had talked to him. On several occasions General KOSTER told me he had talked to him also. I was trying to insure that the division commander's directive was followed.

Q. To your knowledge, General YOUNG, did anybody, ever go down and talk to the pilot who made this observation?

A. I don't know, sir.

Q. The pilots, I should say?

A. As I said before, to the best of my knowledge and recollection Colonel HENDERSON had told me that he was talking to the aviation support people, and I assumed that these were the people who were actively engaged.

Q. I think I'm going to have to speak a little frank on this one, General YOUNG, because in your prior testimony you gave the impression to me, and I can also say you gave it to other members of the inquiry, that generally once you had issued the commanding general's instructions to Colonel HENDERSON pretty much, not pretty much, it almost solely became a matter between Colonel HENDERSON and General KOSTER, and you dropped out of the picture.

A. Could you read me that testimony, sir.

Q. No I'm telling you the impression I got.

A. As I stated, I honestly and truthfully believe that I did my best to follow up on the investigation. I questioned Colonel HENDERSON to determine what progress he was making. He reported to me as I've indicated here, and on each occasion, to the best of my recollection, I informed General KOSTER that I had talked to Colonel HENDERSON and tried to keep him posted on what progress was being made.

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The next occasion it happened was once when I questioned Colonel HENDERSON on this matter, he told me he had given a verbal report to the division commander. I asked the division commander had he received it, and he said he had and directed that it be placed in writing.

Q. He had directed? Did he say how he directed?

A. No, sir. To the best of my knowledge and recollection he stated that he had received a verbal report and that he wanted it in writing.

Q. What did General KOSTER say about these allegations which had been made by the warrant officer? Had he refuted those in his oral report?

A. Sir, according to my memory, on one day I saw Colonel HENDERSON, and I cannot recall where I saw him. I believe it was at Duc Pho or the area of operation, but I asked him, "What's the status of your report?" He said: "I've just seen General KOSTER. I've given him an oral report." And I said, "What did he say?" And he said, to the best of my knowledge he said, "That he wanted it in writing." And that's what I recall about the verbal report.

Q. You don't know what he told the commanding general? General KOSTER certainly must have told you something about this. After all, you're rather competent in that sense. You're working together, and you're eating together. You must have had some discussion?

A. If we did, I can't recall it, General PEERS.

Q. General KOSTER and Colonel HENDERSON both advised you that General KOSTER had directed him to submit his formal report in writing?

A. To the best of my knowledge and recollection, yes, sir.

Q. This instruction was not issued at a later time by General KOSTER through you to Colonel HENDERSON?

A. To the best of my knowledge and recollection this instruction was issued by General KOSTER to Colonel HENDERSON upon receipt of the oral report.

Q. Do you know whether anybody else was familiar with either the oral report or the instructions which had been issued? Was Colonel PARSON or was any other responsible individual made aware of it at that time?

A. I do not know, sir.

Q. Now, just consider Colonel PARSON and the fact that he is chief of staff. Up to this point, we've been going for quite some time in this matter, for about a week. Can you indicate what Colonel PARSON's participation was in this? Whether he had any knowledge of it? Whether he was taking an active part in it?

A. I don't believe that you could say he was taking an active part in it, sir. I don't know whether he had a knowledge of it or not. In other words, I don't believe I can answer your question.

Q. Well, certainly as primary ADC and one that had been directed by the commanding general to issue the instructions, your responsibility was to follow through and make sure that an adequate report was submitted to the commanding general. I take it from your testimony that you did check with Colonel HENDERSON from time to time and kept General KOSTER fully informed. I have not gotten that impression previous to this time.

A. I did my very best to see that the division commander's instructions were followed, sir.

MR MACCRATE: General YOUNG, coming back to just what were the division commander's instructions. You indicated that you had various conversations with Colonel HENDERSON about whether he was getting the report ready. Just what was he to cover in his report? What was he to report on? Yes, there were two opposing forces; and yes, there was crossfire; and yes, there were civilians caught in the crossfire? What else could he say, if those were in fact the allegations he was investigating? I mean, why all the talk with him? What was he trying to find out? I just fail to see what was being investigated if that was the sum and substance of the allegations.

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A. Well, that was certainly part of it, sir. I think also the confrontation between the pilot and the ground platoon leader. This was certainly a portion of it also.

Q. What was the nature of the confrontation? What was the offense there?

A. I don't know how to answer your question on that one, quite frankly.

Q. Well, was this an inquiry to determine whether there had been a violation of some regulation or some provision of the Uniform Code of Military Justice? What was he investigating? What offense did the commanding general, on the basis of the information that you had given to him, fear had been committed?

A. Sir, I would prefer to stand on my previous testimony. I've done my very best to explain this to you, but apparently I haven't done it.

Q. No, sir. This is the terribly serious thing for us to understand. Your earlier testimony has not come to grips with this question of just what it is that Colonel HENDERSON was being charged by you on behalf of the commanding general to investigate? Were there allegations of offenses? Was someone supposed to have violated the regulations? If so, what was the nature of the alleged acts?

A. As I've stated, sir, I've done my very best to explain to you in my previous testimony. Evidently I haven't been very successful.

Q. Well, let me ask you, do you feel that there is any violation of any regulation if ground forces are returning fire and there is a crossfire between two opposing forces and civilians are hit in that? Is there any offense there that would warrant investigation?

A. I don't know whether there is any offense. But could this have been prevented? What were the details surrounding this alleged incident? These are types of questions that should have been answered if the allegation was valid.

Q. Was this a serious allegation, as you understood it, coming from the helicopter pilot?

A. I think both portions of the report that I received were serious. It was serious enough that it was brought to the attention of the division commander and recommended that an investigation be initiated.

Q. To determine if certain individuals should be charged with responsibility for improper conduct?

A. To determine whether or not certain allegations as reported to me took place. What were the results of it?

Q. The allegation which you state was reported to you was that civilians were caught in a crossfire.

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I see nothing there that Colonel HENDERSON or anyone else could add to by investigation. A further allegation, you say, is some sort of a confrontation between the air unit and the ground forces. So they had an argument. What is the offense in that argument?

A. Mr. MACCRATE, I've done my very best to explain to you on the two previous occasions this matter. I've been unsuccessful to date, and I would prefer not to answer your question, sir.

Q. Well, General YOUNG, I cannot see how Colonel HENDERSON could investigate it if you can't explain to me what was to be investigated. And this is the difficulty. It seems to me a complete failure of instruction to Colonel HENDERSON as to what he was to investigate.

A. I have no comment, sir.

IO: Well, when you talked to Colonel HENDERSON, what did he tell you that he had found? Not just that he had reported to the division commander, but he must have told you something about what his findings were? What did he say, for example, concerning civilian casualties that day?

A. To the best of my knowledge and recollection he told me essentially what was contained in the written report.

Q. What did the written report say?

A. I think that the written report said that there were approximately 20 people, noncombatants, killed by artillery fire. What you showed me here several weeks ago.

Q. But that report has nothing to do with that allegation of the warrant officer. That particular report has to do with an allegation, if you recall the date of that, that was 24 April. We're talking about the time period now of about a month earlier, as a matter of fact sometime about the 20th or 24th or that time frame of March. What did that written report say?

A. Which written report, General PEERS?

Q. Well, the written report that he made on the warrant officer's allegation of the confrontation and of even as you put it down in these terms, it seems civilians, unnecessary firing at civilians, and so forth. What did his report say to that allegation?

A. To which allegation?

Q. The allegation or the complaint of the helicopter pilot. It was in the form of a complaint. This helicopter pilot was very, very mad, very mad. I'll tell you, General YOUNG, he told this not only to Major WATKE, he told it to other people. He was a very mad warrant officer and pilot. Colonel HENDERSON said he submitted a written report on that allegation.

A. I don't know if he did or not, sir. To the best of my knowledge the written report I'm talking about is 24 April.

Q. There is a report of 24 April, but I don't think you'd wait a month to get a written report back in on an allegation from a warrant officer one month previously.

A. Well, the written report that I saw before your panel was dated 24 April.

Q. Right, and I'll show you the basis for that report in the very near future.

A. I was under the impression that the basis of that report was the oral report.

Q. No. I'll show you very specifically that the basis of that is not the oral report. Now, forgetting about that report, then, did you see a report of any kind focusing upon the allegation of the warrant officer that came into the headquarters? We've had two descriptions of it. One, that it was three to five pages in length. Another one is that it's about three-quarters of a page in length.

A. Not to my knowledge or recollection, sir.

Q. During this time, General YOUNG, if we can assume that even if this 24 April report were in response to that, which it is not, somebody must have been doing some checking to find out. What's the status of this written report? Did you ever talk to Colonel HENDERSON about this written report, when he was going to submit it?

A. Yes, sir. I think I did. I don't recall the time and place, but I believe that I did.

Q. Do you know how it was submitted? Did he show you a copy of it?

A. To the best of my knowledge, he delivered this to General KOSTER in General KOSTER's office. This is what I think took place.

Q. Did General KOSTER mention the fact that he had received a written report concerning the oral report, covering the oral report?

A. He mentioned the fact that he had received Colonel HENDERSON's written report.

Q. I'm not talking about the one of 24 April, now. I'm talking about the written report covering the oral report.

A. That's the report that to the best of my knowledge and recollection I haven't seen, sir.

MR MACCRATE: General YOUNG, in addition to going to Duc Pho, did you, up to the time of the termination of Task Force Barker, also make periodic calls at LZ Dottie?

A. Yes, sir.

Q. And following this immediate time frame of the 16th to the 20th, which General PEERS is focusing on, were you in to LZ Dottie talking with Colonel BARKER or possibly others there?

A. I tried to go to all the fire support bases and landing zones that I possibly could every day, sir. It's quite obvious that I did. I don't recall exactly, but I tried to visit them all at least once a day. Many times I couldn't visit them all. The ones I didn't visit today, I'd visit the next day.

Q. On any of these visits that you made to Colonel BARKER during the time that this investigation of his operation was pending, did you have any conversation with him regarding the events of that operation?

A. No, sir, none that I can recall. As I indicated, I talked to Colonel HENDERSON about this matter as often as I saw him, but I couldn't say that I talked to Colonel BARKER about it.

Q. You indicate on the day of the operation you had been up north.

A. Yes, sir.

Q. You finally got down there on the 17th and you had spent a lot of time with Colonel BARKER. We have some very excellent photos of you visiting with Colonel BARKER. And we know how closely you did follow his operation. We know that you had the reputation for being the man on the spot, wanting to find out what had taken place. You were on the go all the time checking up on things.

Here is the largest operation that the 11th Brigade had been involved in according to their reported body count of that day. You come back to LZ Dottie for the first time after that, and you have just been told of an allegation against the task force and what took place on that operation. And my question is: either on the 17th or on the 18th, or 19th, as you visited there and inquired about this operation, what did Colonel BARKER tell you about that operation?

A. I don't recall, Mr. MACCRATE, what Colonel BARKER told me about this operation.

Q. Did you get the impression that it was as successful an operation as the statistics might suggest?

A. I don't know, sir.

Q. Didn't you make it your business to find out? Here you had a disparity of KIA and weapons captured, something that note was taken of. And you're going down, talking to the commanding officer of the task force, and you didn't inquire about how solid his body count was? You didn't raise any questions with him about this operation?

A. I may have, but if I did, I don't recall the conversations, sir.

Q. Did you ever talk with him about Colonel HENDERSON's investigation, ever breathe a word of that to him?

A. I don't recall having any conversation with Colonel BARKER about Colonel HENDERSON's investigation, sir.

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Q. That is, except for the occasion in the van, you never talked about it again? Here you had spoken to Colonel HENDERSON about looking into something that Colonel BARKER's unit had done, and you never had any further conversation with Colonel BARKER?

A. I could have, sir, but I don't recall my specific conversation. As I indicated before, Colonel HENDERSON was making an investigation. I thought that it would probably be better to wait and see what the results of the investigation were.

Q. And then you did get the results of the investigation, and what were those results?

A. To the best of my knowledge and recollection, there was no basis for the allegation.

Q. That there had not been a confrontation?

A. No, sir. I don't recall any discussion on the confrontation. That the allegation of the friendly forces engaging the noncombatants in a crossfire was not true, that's to the best of my knowledge, sir.

Q. Civilians had been killed, but they had not been killed in a crossfire?

A. There had been, as I recall, there had been some civilians killed by artillery fire, sir.

Q. And this was the report of Colonel HENDERSON, and did you speak with Colonel BARKER about that?

A. I don't believe I did, no, sir.

IO: General YOUNG, as indicated on that sheet, according to previous testimony, on or about 20 March Colonel HENDERSON delivered his oral report to General KOSTER. On the 21st, Colonel HENDERSON was involved in a grenade incident in his helicopter in which he was wounded in the foot and subsequently his leg was put in a cast for the next 2 weeks or so. Does this bring back into focus any of your discussions with Colonel HENDERSON?

A. No, sir. I remember the incident. I can tell you generally where it took place. I remember the fact that he did have his leg, almost from his knee down, in a cast.

Q. Well, if he had prepared this written report during the time frame that he indicated he prepared it, he would have still been in a cast at the time of the delivery of the report to the commanding general. Would you remember that, him coming into the headquarters with his leg in a cast?

A. I don't recall that, sir. It's very possible he was in the headquarters with his foot in a cast. I can't tell you the time and date that he came to the headquarters with his foot in a cast, if he came. The commanders normally came every 5 to 7 days.

Q. All right, moving on to some time in the middle of April or shortly thereafter, General KOSTER is reported to have visited with Colonel TOAN, the division commander of the 2d ARVN Division. Colonel TOAN informed him of a letter which he had received, which had actually been addressed to the province chief, but he had received an information copy. He discussed this particular letter with General KOSTER. Did General KOSTER discuss this with you?

A. I don't recall General KOSTER discussing this letter with me. I don't recall discussing it with Colonel TOAN.

Q. This is a letter by the district chief, based upon a letter from the village chief of Son My to the effect that in about the middle of March a large number of civilians had been killed in Tu Cung and Co Luy Hamlets of Son My Village. It is my understanding, as previously indicated, that Colonel TOAN gave General KOSTER a copy of this.

A. I'm not aware of that, sir.

Q. This is Exhibit M-34, dated 11 April 1968 and has been entered into the record as Exhibit M-34. On the back you find the Vietnamese version. You will notice the distribution here and in the distribution you will note, in the translation, a copy was sent to the 2d ARVN Division headquarters and a copy

to MACV, Quang Ngai Sector. Also, a copy was sent to Major, U.S. Advisor, Son Tinh Subsector. At this time General KOSTER was also acquainted with a piece of Viet Cong propaganda which I'll refer to you, which is an inclosure to Exhibit R-1. It takes two pages. This is a piece of propaganda which I referred to you previously. Did General KOSTER show you these documents?

A. No, sir. He did not.

Q. You have no knowledge of him talking with General TOAN, Colonel TOAN, on this subject or any discussion concerning a letter from the village chief to the district chief, and on forward to the province chief?

A. I have none, sir.

Q. Or relative to VC propaganda which alleges that on 15 March, in Son Tinh District, the American enemies used machineguns and every other kind of weapon to kill 500 people who had empty hands?

A. I don't recall any discussion of this matter at all.

Q. Now from people that we have talked to, as I think was indicated by Mr. MACCRATE, you were well known by General TOAN, Colonel TOAN, and also by province. As a matter of fact, we've had testimony, including Mr. MAY, that indicated that you were the one who carried on a great deal of the business with the province and the 2d ARVN. Did you discuss this matter with Colonel TOAN?

A. Not to my knowledge, General PEERS. I didn't have near as much dealing with Colonel TOAN as I did with Colonel KHIEN, who I believe was the province chief, and Mr. MAY, because I tried to assist province with a lot of their logistical support. But I don't have any recollection of ever discussing this with Colonel TOAN, division commander of the 2d ARVN Division.

Q. How about Colonel KHIEN? This paper is actually addressed to Colonel KHIEN.

A. As I indicated to you before, I think that Colonel GUINN mentioned this paper. I do not ever remember discussing this paper with Colonel KHIEN, the province chief.

Q. What did Colonel GUINN say? You'll notice he's a recipient of this paper.

A. As I indicated before, I think that time-wise I'm surprised at the date here. It appeared to me to be later, some time in May, that he had told me that the province chief had received a letter. I don't recall the area. I did not connect the letter with the alleged incident. To the best of my recollection, it concerned north and east of Quang Ngai City. I do not recall any connection between this and the alleged incident on 16 March.

Q. Well, did he not show you a copy of this?

A. Not to my knowledge, he did not, sir. He told me that the province chief had received a copy and that he was going to investigate it. Now, I don't know what took place, but I would conjecture that the province chief went to the 2d ARVN Division commander and asked him to investigate. I'm just conjecturing there.

Q. You are conjecturing. At a later date, on the matter of follow up, what did Colonel GUINN tell you was the result of his investigation? You said he was going to investigate it.

A. The province chief was going to investigate it.

Q. But you said Colonel GUINN.

A. No, sir, I meant, to the best of my recollection, Colonel GUINN told me that the province chief was going to investigate it. I would conjecture that the province chief went to Colonel TOAN and asked him to investigate it.

Q. Well, we know the sequence is just opposite from that. Colonel TOAN told Colonel KHIEN to investigate it.

A. As I said, I'm just conjecturing. There were some other occasions that always appeared to me that Colonel TOAN did most of the investigating, most of the work. Colonel KHIEN leaned heavily on Colonel TOAN. That was my impression.

Q. At that time he was under him. He received instructions from him. Did you mention the fact to General KOSTER that

you had been informed of this allegation by the district chief to the province chief that a large number of civilians had been killed in Son My Village?

A. To the best of my knowledge and recollection, I informed General KOSTER of what Colonel GUINN had informed me, which was to the effect that the province chief had received a letter from the village chief indicating that a number of innocent civilians had been killed north and east of Quang Ngai City. But as I said before, to my recollection, this was later, and not mid-April or thereabouts.

Q. Colonel TOAN directed this on the 15th of April. When you told this to General KOSTER, what did he say?

A. I don't have any specific recollection of anything that he said, sir.

Q. Did he tell you that he already knew that?

A. Not to my knowledge, he did not, sir.

Q. Doesn't it seem strange that an allegation of this particular magnitude which KHIEN has from a village chief to the district chief, that you would not demand to see the paper and have something done about it? It's a serious allegation, a very serious allegation against U.S. forces.

A. At the time it didn't strike me as being strange. Looking back on it, I can see it was strange, and we should very possibly have dug into it deeper than we did.

Q. Was there any discussion by Colonel GUINN to the effect that this is really nothing but VC propaganda?

A. No, sir. I don't think there was. Not this letter here.

Q. That's the letter that we know that Colonel GUINN had.

A. As I said before, according to my own recollection, this was a longer period of time than mid-April. But evidently it was about mid-April.

Q. Well, this is when the papers came in, about this time, or maybe a little bit after the middle of the month. When Colonel TOAN came to General KOSTER, I would ask if you recall General KOSTER writing a directive to Colonel HENDERSON saying something to the effect that Colonel TOAN had informed him of a serious allegation?

A. No, sir. I do not recall that.

Q. After directing that Colonel HENDERSON conduct an investigation?

A. Sir, I do not recall that.

Q. I will show you the basic report of 24 April again. You will see that it's directed solely at this paper. It has no orientation toward the allegation made by Warrant Officer THOMPSON. You can see it on the first page of the exhibit that you have. I'd like to come back to this statement. Had you seen this before?

A. Sir, I saw this here at your headquarters.

Q. You had not seen it in headquarters of the Americal Division?

A. To the best of my knowledge and recollection I saw this when I appeared before your board before.

Q. But never as an independent document or never as part of a report of 24 April?

A. No, sir, not to my knowledge and recollection. I saw this when you showed it to me, I think on the 13th or the 23rd of December.

Q. About this time, General YOUNG, there was quite a stir of activity in headquarters of the Americal Division according to testimony that we've received. There were also some frequent telephone calls between headquarters of the Americal Division, the province, and to the 2d ARVN Division. Individuals, including yourself and also General KOSTER, went to Quang Ngai City and that area. Colonel PARSON was reported to have been down in the area. Mr. MAY and Colonel GUINN were reported to have also been in the headquarters of the Americal Division. A Colonel HUTTER and others were reported to have been. Can you explain this upsurge of activity between the Americal Division and Quang Ngai City about this time, along about the middle of May, when this paper is coming into being.

A. Sir, I can recall no upsurge in the activity between the 2d ARVN Division, Quang Ngai Province, and the Americal Division at this time. As I mentioned before, I frequently visited the province chief, Mr. MAY, his people. I did everything I possibly could within my resources to assist them in their endeavor. I can recall no specific upsurge in activity between these three parties.

Q. Going back to your discussion with Colonel GUINN concerning this document, did he show you this document?

A. No, sir, not to my knowledge. He did not.

Q. Why do you suppose he wouldn't have?

A. I don't know, sir. I can't answer that question.

Q. Well, here's a most serious allegation. We start talking about 490 people killed by the Americans on the 16th, and he tells you about it, but doesn't show it to you?

A. I don't recall that he used any specific numbers. He told me that it was received and that there was an allegation made. I don't recall him using any specific numbers. I don't recall him using any specific location. I recall it being to the north and east of Quang Ngai City.

Q. That's what we are talking about. Did General KOSTER ever talk to you about his visit with Colonel KHIEN, or did Colonel HENDERSON ever talk to you about his visit with Colonel KHEIN concerning the paper that GUINN had?

A. That General KOSTER had with Colonel KHIEN? Colonel HENDERSON or both?

Q. Either or both?

A. I don't recall any discussion between General KOSTER and myself about this matter, sir. I know that General KOSTER visited Colonel TOAN occasionally and Colonel KHEIN.

Q. Well, if we think through this thing, we've gone through this operation which you were frankly somewhat dubious about, this body count of 128 versus 3 weapons to the point where

you talked to the division commander. We also had an allegation of a complaint by a warrant officer into this area. Then we're getting a report from the village chief through the district chief to the province chief complaining of a large number of Vietnamese having been killed in this area. You never put this together to get a feel for the fact that something unusual had taken place in that area?

A. No, sir. I did not.

Q. Now, in your previous testimony when you talked about Inclosure 1 to Exhibit R-1 in here, you indicated that you were familiar with it from your discussion with Colonel GUINN. I'd like you to go on a little bit more in detail. What did Colonel GUINN tell you about that statement?

A. To the best of my knowledge and recollection, on one of my visits to the Quang Ngai Province, Colonel GUINN in our discussion stated to me that the province chief had received a letter from the village chief concerning the Americans killing civilians. I don't recall any number being given. I don't recall the villages being stated. I do recall, to the best of my recollection, it was conducted north and east of Quang Ngai City. As I said before, I thought this conversation took place later in April or in May, and not the time interval between 16 March, which was greater than indicated here. That is to the best of my recollection the conversation that took place. I informed General KOSTER of my conversation and the information I had received from Colonel GUINN. That is the best of my recollection, sir.

Q. Concerning this piece of paper here, you had indicated that you were familiar with it through a report from Colonel GUINN. Who prepared that particular piece of paper?

A. I don't know who prepared this piece of paper, sir.

Q. After you advised General KOSTER of this, what did he say and what instructions did he issue? You have an allegation of Americans killing civilians. What instructions were issued to allay these allegations?

Q. I can recall that he accepted this as information. I do not recall any instructions that he issued.

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Q. You're familiar with General WESTMORELAND's and everybody's great concern about the killing and the treatment, and the handling of noncombatants. When an allegation of the killing of Vietnamese and so forth comes in such as this, nothing is done with the information?

A. I can recall no issuance of instructions to me or anyone else.

Q. Did you issue any instructions to Colonel GUINN to insure that this was probably reported through Corps channels?

A. No, sir. I did not.

Q. Was there any report of this made at division headquarters to the effect that such an allegation had been made by the village or the district chief?

A. Not to my knowledge, sir.

MR MACCRATE: Did Colonel GUINN tell you what he was doing about the district chief's letter?

A. The village chief's letter?

Q. The district chief's letter. That letter, you'll notice, is from the district chief to the province chief. Did he tell you what he was doing about that letter?

A. Not that I recall, Mr. MACCRATE.

Q. He told you about the letter, but didn't say a word about what he was doing or had done?

A. Not what he was doing. To the best of my knowledge, he told me that the province chief was going to investigate it.

Q. And he didn't say a word about what he was doing?

A. Not that I recall, sir.

Q. I wish you would think hard about that.

A. I'm thinking hard, sir.

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Q. Because when you have a man tell you about a document in the position of Colonel GUINN to yourself, sir, and he is doing something about it, it is very strange indeed that he wouldn't share with you, or at least ask, what he should do about it.

A. I cannot recall what he told me that he was doing about it, sir, other than the fact that the province chief was going to look into the matter.

IO: Frankly, General YOUNG, it seems very improbable to me that you as an efficient and effective assistant division commander could have had somebody tell you that he had received a letter, and tell you something about the contents, without you having seen the contents because the first question is "Where's the letter?"

A. General PEERS, to the best of my knowledge and recollection, I did not see that letter.

Q. I think you can see the problem that we get into here in a discussion such as this. An officer such as yourself, and knowing that an officer talks about a document, out of the blue-- that doesn't sound right at all. You would want to know. How many Americans were killed? Where were they? How were they killed? I know what you would have asked.

A. I don't recall that I asked those questions, sir.

Q. It says in that document where they were killed, how many were killed, and when they were killed.

(Witness gave a negative response.)

MR MACCRATE: What information did you take to General KOSTER about it?

A. As I stated, sir, the information, to the best of my knowledge, that I obtained from GUINN to the effect that the province chief had received a letter indicating that Americans had killed civilians in that area, location northeast of Quang Ngai City. I don't recall any names or the number of people involved, and I don't recall if I informed General KOSTER of any numbers involved, or the names of the villages, other than it was located north and east of Quang Ngai City.

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Q. How did it arise to anything more than irrelevant gossip at that time? It isn't related to anything? You hadn't gotten sufficient information from Colonel GUINN at that point that would seem to me to make it worthy of passing it on to the commanding general. Didn't you get anything from Colonel GUINN? Didn't you ask him for anything on paper?

A. No, sir. I did not. Not that I recall. I did not ask him for a copy of the letter. This was brought up in the discussion, and I don't think this was the only topic that we discussed during the meeting when I was there with Colonel GUINN.

IO: Who else was present?

A. I don't recall, sir. We met in the back, normally, of the province headquarters and there are some chairs and a sofa set up there. And there could have been someone else present, but I don't recall who was present, sir.

Q. Did Colonel GUINN about this time make any mention about getting a battalion in the Americal Division?

A. I think he made mention of this before this occasion, sir. I don't recall exactly when he first approached on the battalion situation. It does appear to me that he had some difficulty in getting released from MACV. I believe, that he replaced Colonel BEERS sometime in June. In the meantime, he had gone home for several weeks.

Q. That part is about correct. He actually took over the battalion on the 4th of July.

MR MACCRATE: What did Colonel GUINN indicate as his attitude about this? Was he concerned about it?

A. I think it would be better to state, Mr. MACCRATE, that he may have passed that information to me that the province chief had received. I don't recall any great concern expressed by Colonel GUINN when he told me this information. I don't recall that he linked up this information with the alleged incident on 16 March. I don't know whether he had known about the alleged incident on 16 March. He may have.

(YOUNG)

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Q. He knew that Task Force Barker was operating out there on 16 March.

A. I'm sure he did. He knew where Task Force Barker was located. I don't recall seeing him at Task Force Barker.

Q. They were the ones responsible for obtaining the AO clearance in tthe 2d ARVN Division, the advisors.

(Witness gave a negative response.)

MR WALSH: I'd just like to ask, General, when you heard this, didn't you put together in your mind this allegation with the operation on that date, and the high body count, all the low weapons ratio? Wasn't there any discussion of this when you reported the fact of this letter to General KOSTER?

A. No, sir, Mr. WALSH, to the best of my knowledge and recollection, I never tied these two factors together. I think the reason was that I was under the impression that the time length was greater, and I didn't tie them together.

MR MACCRATE: I understand, General YOUNG, that you have previously indicated that you did hear about this report of investigation of 24 April and that you had been told about that?

A. I had been told, Mr. MACCRATE, that the division commander had received the report.

Q. And that report says right in it, "Son Tinh District chief does not give the allegations any importance. He pointed out that the two hamlets where the incidents are alleged to have happened are in an area controlled by the VC since 1964." Now, this is talking about this letter that Colonel GUINN spoke to you about, the allegations contained in that letter.

Here is a report that you understood came in to General KOSTER relating to those very allegations and in the preceding paragraph talking about the operation of 16 March, and yet you say that you never linked these things

together. Everyone else seems to have linked them together and had no difficulty: Colonel KHIEN, Colonel TOAN, Colonel HENDERSON, Colonel GUINN and General KOSTER. They all had no difficulty in linking these things together.

(Witness gave a negative response.)

In connection with the statement of 14 April, the first paragraph expressly states that it is in reference to the letter dated 11 April 1968. Have you any explanation as to how this statement could come into division headquarters with this report and no request be made for a copy of the 11 April letter?

A. No, sir. I have no explanation.

Q. Have you any explanation as to why an unsigned statement, without any identification as to its source, purporting to be an evaluation of the district chief's reaction to the village chief's report, would be accepted at division headquarters without any questions asked?

A. No, sir. I have no explanation.

Q. Is there anything in what Colonel GUINN said to you that would suggest in any way that he was preparing such a statement as this statement of 14 April?

A. I don't recall that he indicated to me that he was preparing a statement, sir.

Q. Or that he was having one prepared for him?

A. Or that he was having someone prepare it for him. I don't recall this.

IO: Or that he had asked to have it investigated? He, Colonel GUINN, had asked to have it investigated and checked into?

A. As I indicated before, sir, to the best of my knowledge and recollection, he told me that the province chief was going to investigate it. I do not recall that he was going to investigate it.

Q. With respect to this report, General YOUNG, the report is dated 24 April (Exhibit R-1). Was this report called to your attention when it was delivered to headquarters?

A. Not to the best of my recollection; it was not, sir.

Q. Do you recall, and I believe it shows on the event sheet that I prepared for you, on the 27th General KOSTER departed and you were in command of the division for about 10 days until about the 7th of May? Did Colonel PARSON or anybody mention to you the fact that General KOSTER mentioned prior to his departure that he had received such a report? Did Colonel PARSON come to you and ask you for instructions on what to do with it?

A. Not to my knowledge, sir. To my knowledge, Colonel HENDERSON delivered this report to General KOSTER. I don't know when it was. I thought it was before General KOSTER went on R&R. You've indicated and extracted from General KOSTER's testimony that it was after he returned.

Q. He indicated that he thought he looked at it after he returned.

A. I do not recall this report coming in during his absence, nor do I recall giving any instructions to Colonel PARSON about the report. My understanding and my recollection is that this was handed by Colonel HENDERSON to General KOSTER.

Q. What did General KOSTER tell you about the report?

A. He told me he had received a written report from Colonel HENDERSON. I thought he was talking about the oral report, and that the oral report had been placed in writing and received. There was no basis for any allegation or words to this effect.

Q. You can see by no stretch of the imagination that this particular report would be related to the oral report.

A. Yes, sir.

Q. They aren't related. They are two separate acts. One has to do with the allegation of a warrant officer. The other has to do with the allegation which had to do with that of the village chief to the district chief to the province chief and to the commanding officer of the 2d ARVN Division. Did he show you that report at that time?

A. Not to my knowledge, at that time. I saw this report when I reported before your panel. I believe you showed it to me on 13 December. To the best of my knowledge that's when I saw this document dated 24 April (Exhibit R-1).

Q. I can recall quite vividly General KOSTER when we were talking about this paper with him, about the headquarters. I can visualize it myself. He explained it to us and the general was sitting right there, and we were discussing this particular paper.

A. Yes, sir. That's what you read me in his testimony.

Q. What I'm telling you is consistent with what I read before. What did he say about this, any additional action?

A. Not to my knowledge, sir. He appeared to accept it. To the best of my knowledge and recollection, there was no directive issued as a result of the receipt of this piece of paper here.

Q. Having seen that piece of paper, and now knowing what the situation is, do you consider that statement to be anywhere near satisfactory and responding to an allegation of this magnitude?

A. Which statement, sir?

Q. The statement that is shown on the inclosure 1 to Exhibit R-1.

A. I can't answer the question, General PEERS. I don't know where this statement came from. I don't know who made this statement.

Q. But the allegation, it does state very clearly that the village chief and the district chief have alleged that 490 civilians were killed by Americans on 16 March. Irrespective of whoever wrote that, to try to write it off as VC propaganda is totally unacceptable, particularly since you do not have the letter of 11 April. Unless you have the letter of 11 April, this paper can in effect become a white-wash, a coverup. General, in your discussions with General KOSTER, was he pleased or satisfied with this report?

A. I don't recall General KOSTER indicating any dissatisfaction with it, sir. I don't recall that he indicated or issued any instructions as a result of receiving this report.

Q. He made it very clear to us, General YOUNG, that he found this report most unsatisfactory. He directed that a formal investigation be made and he assumed that his staff was going to do it.

A. I don't recall a directive, sir. I am not saying that he didn't direct somebody to do it, but I don't recall that directive.

Q. Do you recall ever having again performed the function of relaying the instructions from the commanding general to Colonel HENDERSON to conduct a formal investigation?

A. No, sir. I recall relaying instructions to Colonel HENDERSON in the van, on, I thought, 17 March, the day following the operation. From the log it appears to be 18 March, which could be in error. I think the log could be in error. Very doubtful, but it could be.

Q. You would have had a hard time getting the people there on the 17th. That would be the problem. Did you ever see a written report that came into the headquarters? A formal report?

A. No, sir.

Q. Along about the time of 20 May?

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A. I don't recall Major EARLE's name offhand, sir.

Q. Major EARLE was the G2 advisor of the 2d ARVN Division, an intelligence officer, a rather tall chap. Here is the question that was posed to him, and I quote:

"MR MACCRATE: Major EARLE, you have told us that you heard from Colonel GUINN about the VC propaganda leaflet, that you heard from Colonel GUINN something about the district chief's report, that you heard from Colonel GUINN that the province chief had someone looking into it, that you heard from Colonel GUINN that he was passing it up through his channels, and that you finally heard from Colonel GUINN that he was seeking additional information about this matter. You said all these things to us this afternoon.

"A. Yes, sir.

"Q. Now I've noted them down as you said them. Have you any further recollection of what Colonel GUINN said to you other than these things that I've just listed to you?

"A. No, sir. I don't have any additional information.

"Q. Have you anything that you can tell us having heard these five things of Colonel GUINN as to what you did, anything that you said to anyone, anything that you did about it, any indications that you did anything other than just put it out of your mind?

"A. I didn't put it out of my mind. As I said, I discussed it with Major PHO and he said it was VC propaganda. I remember it being mentioned that morning about how ridiculous it was for that many people to be killed, 500 people. As I said, it was an American unit operation and the 2d ARVN Division wasn't involved in the operation."

This indicated the things that Colonel GUINN knew at that time when he was talking to you.

A. Yes, sir.

Q. I'll show you another document, Exhibit M-32, which is Colonel TOAN's directive to the Quang Ngai Sector, dated 15 April. Did Colonel GUINN mention these things to you?

A. Not to my knowledge, sir. No, sir.

Q. Did you ever stop by and talk to the people at Son Tinh District headquarters?

A. I don't recall ever going to Son Tinh District headquarters.

Q. About 3 kilometers north of Quang Ngai.

A. It sits on top of a hill just to the east?

Q. Yes.

A. I don't believe I ever stopped there, sir. I often went to the one just out of Chu Lai there, but I don't believe I ever went to Son Tinh District headquarters.

Q. Do you know Major GAVIN?

A. I know who he is. I think I have met him at Quang Ngai Province headquarters.

Q. Would you know his assistant, Captain RODRIGUEZ?

A. I don't recall having met him. I may have met him at the province headquarters also. To the best of my knowledge, I do not recall ever having stopped at the Son Tinh District headquarters.

Q. When you were talking to Colonel GUINN, did he ever mention to you that he was having the Son Tinh District check into this matter?

A. I don't recall that he was doing that. No, sir.

Q. When I say "Son Tinh District," I am talking about the advisory element.

A. I don't recall that he indicated that he was. He indicated to me, to the best of my knowledge, that the province chief was going to look into this.

Q. I have here a document which has been entered into the record as Exhibit M-30. You will note that the front page is not very clear. You can note here that it is a signed copy by Captain Angel M. RODRIGUEZ and it is also dated 14 April. On the second page you can see a true copy of it.

A. Yes, sir.

Q. Looking back at the first inclosure to R-1, can you give any reason why that piece of paper would be delivered to the Americal Division with the signature not included?

A. No, sir. I cannot.

Q. Can you think of any reason why a deception such as this would have been conducted?

A. No, sir. I cannot.

Q. Can you think of any additional statements that General KOSTER may have made at that time concerning that paper?

A. No, sir. I cannot.

Q. Did you ever hear of any other paper that Colonel GUINN indicated that he had shown to Colonel HENDERSON, a report from a static census grievance team or committee out of RD cadre which indicated that about 1,000, 1,200, or 1,500 civilians had been killed in that area by the American forces in the middle of March 1968?

A. This is from whom, sir?

Q. Static census grievance personnel.

A. No, sir. I cannot.

Q. I have here Exhibit M-31, dated 18 March, which comes from the census grievance cadremen. I'll ask if this paper was ever called to your attention?

A. No, sir, it was not.

Q. You have no knowledge of any report of this nature having been submitted by static census grievance personnel?

A. I have no knowledge that this was submitted.

Q. I have no knowledge that this reached the headquarters of the Americal Division, but we do know it was in the files of the static census grievance committee or personnel at Quang Ngai. I have here one more piece of paper which is Exhibit M-35 dated 28 March 1968. It is a notice published by the Quang Ngai National Liberation Front. The Vietnamese version is attached and you will notice it takes a strange format, or unusual format. I would ask you to review that document to see if you have ever seen that document in the headquarters or a document comparable to it.

You will notice there's one strange thing on the first page. This is talking about something that may have happened at Quang Ngai, and yet in the middle of the first paragraph, or down toward the bottom of it, you will see that it talks about the 3d Brigade of the 82d Airborne. This document did reach division headquarters according to some of the people we've had testify. This is one of the things that was picked up which they recall as having seen in this document when it arrived in the headquarters.

A. There was a document, and I can't say whether this is the document or not. Let me try to reconstruct the events. To the best of my knowledge, a document came into the G2 and he analyzed the document, as I recall it. I believe at one of the morning briefing sessions in General KOSTER's office Colonel TREXLER, if I'm not mistaken, gave a translation or gave a resume of the document that he had received. It does appear that this could have been the document. I'm not saying that it is, but this could have been the document. I don't recall the 3d Brigade, 82d Airborne, that's mentioned there, but it very possibly could have been.

Q. Well, if you just go on reading the document, if it is this document, it is a very specific indictment.

A. Yes, sir. I can't say that this is the document, but I seem to recall that a piece of propaganda came in and this--I don't recall the time. I can't recall the time, sir.

Q. What was said about it? What did Colonel TREXLER say?

A. I can't inform you how the document got into the headquarters. Very possibly he got it on one of his rounds. I don't recall exactly the details of that, sir, but it seems to me that I can recall a piece of propaganda coming in, and I don't know whether it related to the 16 March incident or not. It did appear that there were some allegations. Let me try to think about that. It appears that it was in the morning briefing. The reason I say that was because very few people were present. I don't recall the time that it took place either. But I do seem to remember a piece of propaganda being translated and being reported upon, but I don't recall the exact time or the details of it, sir. Here again, I didn't tie this in to the alleged incident of 16 March. I don't recall it being this specific.

Q. Here is Exhibit M-33, which is also a piece of propaganda which we understand arrived in the headquarters. You might look at this one and see if this was what was being briefed by Colonel TREXLER, the G2 briefer.

A. I can't tell you which one, whether this one or that one, that was at the briefing, or either one. But I do seem to recall at a morning briefing with a small number of people together, there was a piece of propaganda briefed. I don't recall the time or the relation to the alleged incident of 16 March.

Q. Did Colonel ANISTRANSKI attend these briefings?

A. Yes, sir. He normally was there.

Q. Would he have been the one to have briefed it?

A. He very possibly could have been. Yes, sir. But I would have thought the G2 would have done it. But it could have been Colonel ANISTRANSKI.

Q. Well, it would be helpful for us to know specifically what this was. Even after we recess, I would like you to see if you can put together the pieces so we can have a better understanding as to what was briefed.

A. I can't recall the time that we're talking about here. Right now, I can't pin it down.

MR WEST: General YOUNG, as the ADC for maneuver, were you familiar with this Son My operation that kicked off on 16 March 1968? The Task Force Barker operation?

A. Was I familiar with it before it took place?

Q. That's right.

A. Mr. WEST, to the best of my knowledge and recollection, I don't recall receiving a specific briefing or specific information that the operation was going to take place on a given date. I do seem to recall that on the morning of the operation, in the CG's office that a report was made that the operation was in progress, words to this effect, sir.

Q. Was that the first knowledge of the operation at division headquarters?

A. No, sir. I don't believe that was the first knowledge division headquarters had that the operation was to take place. I think that my previous testimony would indicate that this was probably briefed or presented, maybe by the staff or maybe by Colonel HENDERSON, prior to the morning which I referred to.

Q. We've received testimony that this operation was scheduled for an earlier date, and then it had been cancelled when a report was received that the VC, apparently the object of the operation, had left the area. Then it was rescheduled to kick off on 16 March. For an operation of this size, the equivalent of a battalion, what kind of approval is necessary by the division?

A. I don't recall the policy that we had at the time, sir, but I believe our policy was to the effect that

it should receive a division approval for an operation of this size. I don't recall the specific details.

(IO leaves the hearing room.)

Q. We asked Colonel HENDERSON about this, and of course, he had just assumed command on the 15th. The planning had been going on for some time before that. He said he believed that General LIBSCOMB had obtained some kind of approval of the operation. Do you recall that, for example?

A. No, sir, I do not recall that. Very possibly he did, however.

Q. Well, would he obtain that from you or from General KOSTER or the G3? What would have been the procedure?

A. I believe this could have been accomplished in two ways. He could have obtained it from General KOSTER through conversation. Or the staff could have submitted it to the division G3 for approval. Most likely, I would think, if this is so, General LIPSCOMB obtained this verbal approval from the division commander prior to initiation of the operation. To the best of my knowledge and recollection, I never discussed this proposed operation with General LIPSCOMB.

Q. I see. I should have stated that there was no written order. The plan was made, and there may have been an overlay prepared, but there was nothing other than that. I was going to ask you if you had participated in the concept or the planning of the operation, but you seem already to have answered that.

A. Yes, sir.

(IO enters the hearing room.)

Q. Were you aware of what the objective of the operation was in advance, though?

A. I'm sure I was informed at the least, at the morning briefing on the 16th, of where the LZ's were, what the objectives were, what the general concept of the operation was.

Q. You're sure of this, but you have no specific recollection?

A. I have no specific recollection. This would normally have been covered, sir.

Q. You were familiar with the fact that an AO extension had been obtained into which the operation was to be launched?

A. I don't recall, Mr. WEST, that an AO extension had been obtained.

Q. Yes, it had. Were you familiar with the two prior operations of Task Force Barker in this area, in February?

A. No, sir, I was not there. I left the Chu Lai area on or about 4 February, if I recall. I arrived in San Francisco on the 5th. I do recall that because that happened to be a wedding anniversary. I returned on or about 5 to 8 March. I know I left Kansas City on 5 March.

Q. Well, were you at all familiar with the area in which the operation was conducted?

A. Yes, sir, I was generally familiar with the area.

Q. You were aware, then, that there were inhabited villages in the area?

A. Yes, sir.

Q. Were you aware that the plan contained no provision for handling the civilians that were going to be living in the hamlets and were going to be subject to attack?

A. No, sir, I can't say that I was aware that the plan was faulty in that respect.

Q. Moving to 17 March 1968, it was mentioned earlier that the Task Force Barker log showed that you arrived there in the afternoon about 1435 or 1430. You departed about 15 minutes later. We've talked to Major CALHOUN two or three

times. We questioned him about whether he had briefed General KOSTER at Landing Zone Dottie on the 16th. General KOSTER was there at 0935, and then in the afternoon he came in with General DOLEMAN. He cannot recall briefing General KOSTER, but he remembered briefing you. We just pointed out to him that you had been there, according to the log, on the afternoon of 17 March, and he wasn't at all certain of the date, but he was certain that he had briefed you, and it was in the general time frame right after the operation, 16, 17, and 18 March. One of the big things about this operation was the 69 VC reported killed by Charlie Company purportedly killed by artillery fire. I asked him this question:

"Q. Could you tell us just what you told General YOUNG on this morning, your suspicions that some of the 69 were civilians?

"A. Sir, I remember, to the best of my knowledge, briefing General YOUNG on the operation and telling him that to the best of my knowledge, the 69 were killed by artillery fire. I thought that possibly some of those were civilians that had been killed by the artillery fire. That's as much as I can remember.

"Q. Think of the setting there just for a minute, Major CALHOUN. Was he by himself?

"A. Sir, I thought he was with Colonel HOLLOWAY.

"Q. HOLLADAY?

"A. HOLLADAY, to the best of my knowledge, he was. And I briefed him on that and I told him that I thought there were some civilians killed and he (BG YOUNG) reported to the best of my knowledge something that they were aware of some incident. And that I don't know whether-- that's what I remember. I don't know whether he said anything else at all. That's all I can remember, sir."

We then pointed out to him that it was improbable that Colonel HOLLADAY had been there since he was down at

Duc Pho at this time. Do you recall being briefed by Major CALHOUN that afternoon?

A. Sir, to the best of my knowledge and recollection, I cannot recall being briefed by Major CALHOUN on the afternoon of the 17th. However, I would like to add that normally every time I went to an LZ or fire support base, either the commander or the G3 or some one, gave me a rundown on what had happened, what they were doing, and generally what was the current status. I don't recall any mention of any civilians being killed, and I don't recall Colonel HOLLADAY being with me; he could have been but I don't recall that, sir. As I say, he could have been, because frequently he did go with me.

Q. I understand that. Let's move now to the meeting in Colonel BARKER's van on the morning of the 18th. As you realize, we've had considerable trouble with your testimony about this meeting. There were five of you there, and BARKER's dead, leaving four. The other three witnesses simply don't agree with your version of what transpired there. Even Colonel HENDERSON doesn't. Colonel HENDERSON insists that what he was investigating was Warrant Officer THOMPSON's story. This is not a story about the confrontation either. In fact I'll read a little bit of his testimony in which he says that he thought that confrontation business was handled separately. At this time when he was talking to us, he had it fixed in his mind that he had talked to THOMPSON before the meeting with you and the others in the van. He described to us what Warrant Officer THOMPSON had told him:

"A. He also told me he saw a lot of dead civilians in the area. I recall asking him if he knew what were the results of the infantry units he had supported in the operation. And I informed him what the results were, that 20 civilians had been killed and 128 VC. And he said, 'No, he did not.' I said, 'Well, that's a hell of a lot of bodies on the ground.' And he said, 'Well, yes,' he agreed there was, but that the civilians that he saw on the ground were not these, were not VC, that they were old men, old women and children. At no point did I pin him down to numbers, nor do I believe he

gave me any numbers....I do not recall him telling me about any machinegun confrontation and I do not believe he told me anything about a group, of seeing any group of civilians or large group of civilians."

Then they go into a long quotation from THOMPSON's prior testimony. Then I asked him:

"Q. On that point, Colonel HENDERSON, I believe that what you just said is borne out by your prior testimony, because on examination I couldn't find where you had ever mentioned the so-called confrontation between THOMPSON and CALLEY, the officer on the ground.

"A. Sir, I'd completely forgotten about that. A week or two weeks ago, I read something in one of the newspaper, and I did remember that instance. In my mind this is a completely separate incident, and I don't even recall that THOMPSON was involved in that. I believe it was a problem of the Warlords and Task Force Barker having to work together. I believe I told BARKER, 'Well, you get together with WATKE, and somebody get that thing resolved, and get your rapport reestablished there.'

"Q. That was not what you were investigating, I take it?

"A. No, sir. Although it happened perhaps the same day or part of the same operation I did not tie this in with the report I had from Warrant Officer THOMPSON."

A little more on the same line:

"Q. Major WATKE and Colonel HOLLADAY have testified that when you, WATKE, HOLLADAY, and BARKER got together with General YOUNG, the main concern was about the killing of civilians and looking into that. Does this fit in with your recollection of that meeting? This business of confrontation was discussed, but it was more or less a subordinate issue.

"A. I felt that from General YOUNG's comments, I'm not really certain of what they exactly are now, that he was more concerned about the machinegun confrontation. I do recall him making one statement that we were not going to have U.S. soldiers from different units going around shooting each other up.

"Q. But you did not leave there to investigate that aspect, I take it. But you were left there--"

And Colonel HENDERSON interposed:

"A. That is correct. It was the other aspect that I felt I was investigating."

His subsequent testimony, about his third session with us, was that he made an oral report to General KOSTER around the 20th concerning Warrant Officer THOMPSON's allegations of indiscriminate and needless killing of civilians. Now you followed this up with a written report, he said, around 4 or 6 April, something like that. I believe you've testified you've never seen that particular report?

A. That's correct, sir.

Q. Nor has anybody else. I read this background to you because I wanted to ask you once again what you were told by General KOSTER to investigate and what you told Colonel HENDERSON to investigate. Before we go into that, I wanted to give you a couple more things. You've spoken of looking into a crossfire, civilians getting caught in a crossfire between our troops and enemy troops. This is very troublesome because there wasn't any crossfire that day. This was supposed to have happened in Charlie Company's operation in this place called on the map My Lai (4). The only evidence, really, that there were any VC in that village that day was in a report obtained by an interpreter from an old man in the village early in the morning. He said there had been 30 to 40 VC in the village, and they had left at 0700 and headed east. All that Charlie Company found in My Lai (4) that morning were old men, women and children. They moved in and they methodically killed everyone they came upon, methodically. There wasn't any crossfire. There wasn't a man in Charlie

Company that was wounded, except the man who shot himself in the foot, a man named CARTER. There was no crossfire. There wasn't any problem with civilians getting caught in a crossfire between our troops and the hostile forces. Our troops were never fired upon.

The confrontation, so-called, between Warrant Officer THOMPSON and some troops on the ground was to keep the troops on the ground from killing some civilians who had taken refuge in a hole or a bunker. He had spoken to the officer on the ground about it and he said the only way you can get them out is with a grenade. So, THOMPSON intervened and found it necessary to get his gunners out of the plane and threaten to shoot the troops if they interfered with his rescue of these people.

So you see why we have difficulty in understanding your insistence on what General KOSTER told you to investigate and what you told HENDERSON to investigate, the civilians being menaced by the crossfire between our troops and the opposing troops. This is a fantasy. No such thing happened. I ask you once again, could you tell us what General KOSTER directed you to have investigated and what you told Colonel HENDERSON to investigate.

A. Sir, my previous testimony, which I gave to you or gave this panel on the 13th or 23d of December, is to the best of my knowledge and recollection exactly what was reported to me and what instructions I related to Colonel HENDERSON after bringing this matter to General KOSTER's attention.

IO: I think you can see the problem we're faced with here, General YOUNG, is that we have people that are testifying quite the opposite. They thought they heard something different. Colonel HENDERSON, who was the recipient of your directive, he did not think that that was what he was looking into. Colonel HOLLADAY and Major WATKE both think that the story of--and they both knew it because they both talked it over, and Colonel HOLLADAY was of the opinion that Major WATKE had covered it. Well in all, he had heard it three times up to this time. One by himself, one when presented to you the first time, and the third time in the van. And the strange thing he noticed about it was the consistency in his telling the story. So the story he heard was the story you heard and the story that was repeated in the van.

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A. Sir, the story that I heard is, to the best of my knowledge and recollection, the story I have told you.

Q. Yes. I'm sure you can recognize the difficulty we're facing.

A. Yes, sir.

Q. When you went to LZ Dottie on the 17th, the indications are that you did have somebody with you. Could this have been Chaplain LEWIS?

A. It could have been. I often took him with me, also. It very possibly could have been.

Q. We have pictures. I'm just seeing whether you can remember that setting with Colonel LEWIS.

A. I don't remember Colonel LEWIS going with me on 17 March or the day following the alleged incident.

Q. Did he ever mention to you the fact that it had been reported to him what Warrant Officer THOMPSON was involved in and what he had reported to another chaplain?

A. No, sir, not to my knowledge. He never mentioned that to me.

Q. Yet he was traveling with you from time to time?

A. I would say often. Periodically, he would.

Q. We know that he knew generally what transpired at My Lai (4) as far as what was visible from the outside, not the inside. I'd like to get some matters of opinion from you as the assistant division commander. These are the relationships that existed between people in the headquarters and the general and special staff.

A. Yes, sir.

Q. First, what is your opinion of the relationship between General KOSTER and the chief of staff at that time? We're talking about March, April, and possibly early May of 1968.

A. It was my impression that General KOSTER was satisfied with the performance of Colonel PARSON as the chief of staff.

Q. Did he have confidence in him?

A. I don't recall any occasion where he indicated he didn't have any confidence. I believe he did have confidence, yes, sir.

Q. Such things as these reports, would he have kept him informed in the same sense that he indicates that he kept you informed?

A. I believe he would, yes, sir.

Q. General GALLOWAY had come in only a few days before this operation, but along by the end of April, was he also in on any of these activities?

A. I don't recall specifically whether he was aware of this. I would have to assume that he was, but I can't recall him being excluded from any activity.

Q. Did you feel that you had the complete confidence of General KOSTER, and he in you?

A. Well, I certainly hope he had mine. I admired and respected the division commander tremendously.

Q. What do you think of the control which the chief of staff had over the general staff sections and the special staff sections?

A. I thought he had pretty good control of the staff. I don't think that there was any doubt in any staff officer's mind who the chief of staff was.

Q. As you look at that staff that existed at that time, not so much the special staff, or for that matter even the G1 or the G4 who were almost specialists in themselves, but with the G2 and the G3 and the G5 in particular, did you have a happy staff?

A. I would say we did, sir. I don't recall any conflict. Colonel PARSON carried out the directives, to the best of my knowledge, the best he could for the division commander. I don't recall any dissension among the staff officers.

Q. We have some indications from some individuals that there were some mighty unhappy people there.

A. Yes. I think that the previous G4 may not have been as loyal to the chief of staff as other members. This was the G4 before Colonel CLARK.

Q. Yes. Did PARSON have the same degree of control over the G4 and so on within the staff as let's say, Colonel MUSSER who preceded him?

A. I think you could best determine it this way, that Colonel PARSON was more a perfectionist than the previous chief of staff, and he wanted things presented in a certain manner and a certain way because he felt this is what the division commander was asking for. He just wanted to see that it got done.

Q. We have some indications that some of the staff officers felt that General KOSTER was his own G3 and G3 shop, and to a lesser degree the G2 and G5, and they were picking up the pieces.

A. I wouldn't agree with that statement, sir. I think that General KOSTER asked for the recommendations of his staff officers. If he disagreed with them, he overrode them, as any commander would do.

Q. Well, we understand, for example, all of the operations were approved out in the field, and as a consequence, the G3 shop was just continually trying to find out what had been approved and where they were going from there.

A. I don't recall whether all of them were approved out in the field, and whether the G3 was wandering around to the extent you've indicated, but I'm sure that General KOSTER wasn't his own G3. I've seen the G3 present things to him, make a recommendation. He'd accept it unequivocally. Other

occasions I've seen him disagree with the G3, and the G2 and G1 and G4, and anyone else and overrule. I didn't get the impression that the G3 shop was wandering around trying to find out what they were going to approve or disapprove.

Q. Maybe wandering around is a poor description of it. The problem was to find out what things had been approved and trying to get things sorted out after the fact.

A. I can recall on several occasions General KOSTER having a discussion with a commander on a certain operation, giving his approval, and he came back and informed the staff and "So-and-so has indicated that he wants to get this operation, this general concept, and I approve."

Q. You didn't feel then, that General KOSTER was centralizing some things with himself?

A. No, sir. I didn't feel that he was overly centralized. General KOSTER worked real hard and he did a lot of things, but I think that I wouldn't say that he was centralized.

Q. What I'm trying to rationalize in my mind is why an investigation such as this came in and the only individual in the headquarters who knew about it is the commanding general.

A. Well, I can't explain it to you, sir.

Q. So I'm just left hanging. I would ask you another question. We have been through headquarters of the Americal Division. As I told you, we have looked in every nook and every cranny, and in every file and every safe in that command building, and talked to everyone of the G sections that could have possibly had anything to do with it. We found not one paper. We found not one single report, not that report, not the report for 6 April, none of the VC propaganda, not the letter of the district chief to the province chief of 11 April. We found no logs. We found nothing. Can you give me any possible explanation of this?

A. No, sir, I cannot. I would have thought that many of these things that you have indicated would have been present.

Q. We found nothing.

A. I can give you no explanation for it, sir.

MR MACCRATE: Were there any members of the staff, from your observation, to whom General KOSTER particularly turned?

A. Are you talking about the general and special staff?

Q. Yes.

A. No, sir. I can't recall General KOSTER turning to any particular individual.

Q. With respect to Colonel ANISTRANSKI, have you any recollection, in connection with any of these items we've been speaking with you about this afternoon, that Colonel ANISTRANSKI was with General KOSTER or participated in any of the discussions? Have you any recollections of his, for example, talking about the same report that Colonel GUINN brought to you?

A. No, sir, I cannot. I recall Colonel ANISTRANSKI discussing the report which Colonel GUINN informed me of. Colonel ANISTRANSKI, on occasion, went with the division commander, on occasion went with me.

Q. Was he with you when you got this information from Colonel GUINN?

A. I don't recall whether he was with me or not, sir. He could have been with me because he often went with me to both province headquarters, but I don't recall his presence there.

IO: General YOUNG, before we recess, I would like to ask you on this one point something that may have been briefed at one of the morning sessions. I would like you to think about it, if these pieces fit together, and whether they don't. And whether they fit together or whether they don't, I would

like you to send me a back-channel message. If the answer is affirmative, I want you to make out an affidavit and have it certified, and send it on to me by air mail.

A. Yes, sir.

Q. Now we've given you quite a bit of information here this afternoon which perhaps you did not know before. If any of this causes additional pieces to slip into place as far as your memory is concerned, I wish you'd put those down on that affidavit.

A. Yes, sir.

Q. And dispatch them right to me. I would also again caution you of the fact that you have been directed not to discuss your testimony here with others, including any of the other witnesses. I'm sure you understand the entire procedure. Do you have any questions you would like to ask at this time?

A. I'd like to only make one comment, General. I've appeared before your panel on three different occasions and as indicated in the outset here this afternoon, your panel suspects me of four very serious offenses.

Q. That's correct.

A. I would like to point out that I left Vietnam and went to Europe in November of 1968. I have not discussed this matter, before I came to your initial testimony on 13 December, with anyone other than my deputy commander, who has never served in Vietnam. I would like to say that this testimony which is in conflict with mine could possibly result from previous conversations by the individuals concerned before their appearance before your panel. I'm not saying this is the result, but it could very possibly be. Yes, sir.

Q. Thank you very much. The hearing will recess at this time.

(The hearing recessed at 1955, 17 February 1970.)

SUMMARY OF TESTIMONY

WITNESS: YOUNG, Mason J. COL

DATE OF TESTIMONY: 16 January 1970

PLACE OF TESTIMONY: Pentagon

WITNESS SUSPECTED OF: N/A

COUNSEL: None

DUTY ASSIGNMENT ON 16 MARCH 1968: DIVARTY Commander,
Americal Division.

1. ARTILLERY PROCEDURES.

a. DIVARTY rules and procedures.

The witness explained the procedures followed by artillery and the rules of engagement for artillery as applied to free fire areas (pgs. 12-16). He stated that he had the responsibility to investigate any artillery incidents (pg. 19). He added that the rules and procedures he established forbade firing on populated areas merely because such were in free fire areas established by the ARVN's (pg. 27). He noted that disciplinary action was taken at times when investigations disclosed misfeasance (pg. 32).

b. Responsibility for fire on populated areas.

He admitted that had an infantry commander felt an artillery prep on a village to be absolutely necessary to the success of a mission, then the artillery support would be placed as directed, though the responsibility would have been borne by the requesting command (pg. 38). This would be particularly true if the artillery unit were in the infantry's command (pg. 39). However, he added that an artillery incident report might still be required if a number of noncombatants were reported killed (pg. 39).

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c. KOSTER's interest in artillery incident reports.

The witness stated that General KOSTER was quite strict concerning the submission of artillery incident reports (pg. 41).

2. ORGANIZATION OF DIVARTY.

The witness stated that the artillery battalions were not under his direct command and that the brigade commander prepared the efficiency reports on the artillery battalion commanders (pgs. 23, 25, 33, 34). However, they were bound by DIVARTY regulations (pg. 35). Artillery incident reports would be sent up through artillery channels (pg. 35).

3. KNOWLEDGE OF THE INCIDENT.

The witness believed that he was briefed on the operation by Lieutenant Colonel BARKER, Major CALHOUN, or, possibly, Captain VAZQUEZ (pg. 6). He recalled the mention of civilians caught in a crossfire (pgs. 6, 7, 11, 40). When he heard this, however, he was already somewhat familiar with the operation and the fact that some non-combatants had been killed (pg. 7). He believed that this latter information had come from a briefing at division level (pgs. 7, 31, 32). He could not recall a report of 69 killed by artillery and stated that he made no effort to compete with the infantry in the number of kills (pg. 8). He stated that the artillery prep was adjusted by the ALO from the helicopter of the task force commander (pgs. 17, 18). He asserted that although Colonel LUPER evidently saw bodies on the ground, Colonel HENDERSON, his commanding officer, submitted a report which, he felt, would have covered any reporting requirement necessary (pgs. 23, 24). The witness affirmatively stated that at no time did anyone report to him that a possible artillery incident had taken place (pgs. 25, 36), nor could he recall any report that artillery had killed any women and children (pg. 29). Since HENDERSON's investigation apparently remained entirely within infantry channels, the witness opined that Colonel LUPER must have felt that this was not an artillery incident (pg. 35). He never received any information from Chaplain CRESWELL that indicated a major incident. He would have expected the chaplain to tell him of such a report (pgs. 32, 33, 36, 37).

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He added that he never heard any reports from aviation personnel concerning a possible incident such as that which occurred at My Lai (pgs. 43, 44).

4. KNOWLEDGE OF HENDERSON'S REPORT.

The witness knew of Colonel HENDERSON's report, though he had not seen it (pgs. 23, 24, 30). He stated that the investigation must have been conducted entirely within infantry channels, but could not recall the source of this information (pg. 31). He admitted that he could have learned of this from a rather recent social meeting with General KOSTER (pg. 32). He vaguely recalled overhearing a conversation in which KOSTER mentioned a recently completed investigation of civilian deaths (pgs. 41, 42).

5. PRIOR DISCUSSIONS WITH AMERICAN PERSONNEL.

a. The witness stated that he had dinner with KOSTER in early December. KOSTER noted that something must have happened that they did not know about (pgs. 3, 4). He may have also mentioned HENDERSON's report (pg. 32).

b. The witness and Colonel LUPER spoke of the news reports and determined that the incident had never been brought up as an artillery incident (pg. 4).

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EXHIBITS

EXHIBIT NUMBER	DESCRIPTION	NOTES	PAGES
D-8	MACV Directive 335-1	Admitted into evidence.	18
D-9	MACV Directive 335-12	Admitted into evidence.	18
D-10	USARV Regulation 335-6	Admitted into evidence.	15,18
D-11	USARV Regulation 525-7	Admitted into evidence. Mentioned.	15,18
D-12	III MAF Instr. 5830.1A	Mentioned. Admitted into evidence.	12, 18
D-14	DIVARTY letter, 15 Jan 68	Admitted into evidence.	11,12,
		Mentioned.	12,18
M-6	Americal log	Shown to witness.	7,8
M-23	Americal News Sheet, 17 Mar 68	Shown to witness.	29
M-66	DIVARTY Field SOP, 1 Dec 67	Submitted by wit.	12,13
M-67	Gunnery checklist	Submitted by wit.	13
M-68	Artillery command emphasis	Submitted by wit.	13
M-70	Investigation of Artillery Incidents	Mentioned.	14
M-72	Msg. from KNOWLES	Submitted by wit.	15
		Quoted.	34
MAP-1	Wall map	Utilized.	6

(The hearing reconvened at 1319 hours, 16 January 1970.)

IO: The hearing will come to order.

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

Sir, the next witness is Colonel Mason J. YOUNG.

(Colonel YOUNG was called as a witness, was sworn, and testified as follows:)

Colonel YOUNG, for the record, will you please state your full name, grade, Social Security number, branch of service, organization, and station?

A. Mason J. YOUNG, Jr., Colonel, , Field Artillery. My present organization is U.S. Army Combat Developments Command, Combat Arms Group, Fort Leavenworth, Kansas.

RCDR: Colonel YOUNG, 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.

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.

General PEERS has had made available to him and has 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.

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

IO: Colonel YOUNG, aside from myself there are two other people at the table who may ask you questions. On my left is Mr. Robert MACCRATE, who is a civilian attorney. He has volunteered his services to the Secretary of the Army to assist me in this investigation and to serve as a legal counsel. On my right is Mr. WALSH, who does just about the same, assists Mr. MACCRATE and also myself in the conduct of this investigation.

You should know that aside from this particular group there are other groups who are likewise taking testimony within this inquiry. But in the final analysis, I will have the responsibility of weighing the evidence and making the findings and recommendations to the Chief of Staff and the Secretary of the Army.

You are ordered not to discuss your testimony in this investigation with others, including other witnesses for the investigation, except as may be necessary in the performance of official duty or as you may be required to do so before a competent judicial, legislative, or administrative body. I do not believe that you have been cited in the general court martial case of the United States v. Calley, is that correct?

A. No, sir.

IO: In the event you are by chance cited in that case, your testimony here today will in no way change either the effect or the applicability of the order issued by the military judge in the case. Do you have any questions on what we have indicated so far?

A. No, sir.

Q. Colonel YOUNG, when did you become the DIVARTY commander of the Americal Division?

A. On 20 February I was called down and informed that I had been selected as the Task Force Oregon artillery commander.

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We were then in a planning staff until 11 April when I went up to Chu Lai. I was in charge of the advance party, and the division became operational, I believe, on 20 April.

Q. That's Task Force Oregon you are referring to?

A. Yes, sir. And I remained as the artillery commander from that date until 31 March 1968.

Q. Until 31 March?

A. Yes, sir.

Q. Who succeeded you as DIVARTY commander?

A. Colonel Lawrence M. JONES.

Q. Do you know where he is located now?

A. I think at Fort Hood, sir. He's a promotable colonel on the general's list. He's gone down to be assistant division commander at one of the division headquarters.

Q. Right, I think I remember him. From the time the My Lai or the Son My incident of 16 March 1968 became a matter of public knowledge, in the time period of late September or early October 1969 up to the present time, have you had any conversations with anybody connected with the Americal Division concerning this incident or the reporting process relating to it?

A. Yes, sir. I have.

Q. Would you so indicate with whom and the substance of the discussions?

A. Well, I had dinner with General KOSTER before he came to this committee. That was, I believe, around 7 or 8 December.

Q. That's when he visited Fort Leavenworth, is that right?

A. Yes, sir. We had dinner at General CLAY's house, and we discussed it briefly, that we didn't know anything about

it, and he said there must be something there that we don't know about. That's about it.

Q. Have you talked with any others?

A. Yes. Colonel Robert LUPER, who commanded the 6/11 Artillery, which was the direct support artillery battalion for the 11th Brigade. Prior to his coming to testify here, he and I discussed it a little bit.

Q. What was the substance of that discussion?

A. Well, that he didn't know anything about it either, and that the case had never been brought up to either he or I and anyone else as an artillery incident, which we have very set and concrete procedures for handling.

Q. Did he at any time tell you when he was over that area that day that he had seen some civilians who had been killed?

A. No, sir. After his testimony, he indicated that he couldn't say anything.

Q. I'm interested primarily in the time period of the operation itself. Did he let you know that some people in the village, or around the village, that some noncombatants had been killed? Were you aware of the fact that he was flying with the brigade commander that morning of the 16th?

A. No, sir.

Q. I'll get back to that testimony in a little while. Would you explain for the benefit of the members of the inquiry here what your duties were at that time as the DIVARTY commander? Now I say this because I well understand the responsibilities of a DIVARTY commander, but I also know that at that point of time, the Americal Division was in a transitory status, so to speak, from the task force or, let's say, light infantry, separate brigade organization which you had under Task Force Oregon, and moving toward the standard ROAD division organization. So your responsibilities may not be the same as my DIVARTY commander in the 4th Infantry Division?

A. Yes, sir. That's correct. I was the Task Force Oregon Artillery commander, and my position remained the same when we changed the name to Americal Division Artillery commander in this respect. I commanded and had complete command over the medium and heavy artillery which supported our division, which ranged from three and a half to about two and a half battalions, and the direct support artillery battalion commanders were under the command of the brigades because they were organized that way, as separate light infantry brigades brought together under divisional structure. I have a message in here which was put out in June 1967, and the SOP stated this when we first organized, that these artillery battalion commanders were required to follow my instructions in all operational matters concerning the artillery, but it happened that their efficiency reports were rendered by the brigade commander instead of by me. Usually the brigade commander would call me up and ask me about them when he'd get ready to write them. Does that cover everything, sir?

Q. Generally. That's a rather tenuous position to be in though. You had control of them, but yet they are in effect working for the brigade commander, which makes it a little difficult. I can understand your position.

A. I recommended it be changed, but it was not changed while I was there or for a year thereafter. I understand it has been changed now.

Q. It probably was not changed until such time as the division was officially reorganized. That came late in the game. When did you become aware of the operation of Task Force Barker into the Son My area which was to be initiated on 16 March 1968?

A. Sir, it's been a long time, and I can't say exactly. I do know this, that it was my policy whenever I visited a fire base where artillery was located, to go in and visit the infantry battalion, and normally I got briefed on their operations. I remember visiting Colonel Frank BARKER at least 4 or 5 times. I was probably briefed on the My Lai incident, but I was never briefed on it as being anything very much out of the ordinary, and I forgot completely about it until such time as the television coverage came out. I think it's safe to say though that I probably visited him

sometime between the 14th and the 18th of March, and probably was told about that particular incident.

Q. Let me review this operation very briefly for you, which may tend to refresh your memory. (IO steps to Exhibit MAP-1.) This was to be a three-company operation. Of course, they were controlled by the base at LZ Dottie, with A/3/1 put in a blocking position north of the Song Diem Diem, generally to the north and west of My Lai (1) or the area commonly referred to as Pinkville. C/1/20 was to conduct an air assault in the general area west of My Lai (4), proceed through My Lai (4), and on up to a rallying area generally to the west of My Lai (1). B/4/3 was to land to the south of My Lai (1) with a combat assault, and proceed to the north to link up with C/1/20. That generally is the planned operation for the first day, although all these things were subject to change. But this actually did eventuate. The following day Charlie went down into this area to the south of Hill 85 along the Song Tra Khuc, and then proceeded back up to this area where it laagered that night, and the following day moved out in the field. Bravo Company the second day moved down a spit of land along the coast to the Co Lay villages, laagered in here, and then proceeded in its operation up along this peninsula here and in the area of Son Hai. Does that bring anything to your mind?

A. Yes. I remember this very vaguely. Actually, General, the only thing that I have heard about My Lai that rang a familiar note as to what I had heard about it was when Captain MEDINA was on television, and he described the incident as he understood it. Something he said about some civilians getting killed in a cross-fire, that rang true to me. Now I believe that sometime in this period I was briefed by either Colonel Frank BARKER or Major CALHOUN, the S3, and possibly Captain VAZQUEZ, who was the artillery liaison officer, on the vague outlines of the affair generally the way Captain MEDINA described it on television.

Q. You mean that MEDINA would indicate this number of people? What you heard involved the same number of people being killed?

A. I don't remember how many people, but I do remember that somewhere in that line it was indicated that some noncombatants had been killed in an infantry crossfire. At no time was

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there any allegation it was an artillery incident which, of course was my primary concern.

Q. As the DIVARTY commander, did you discuss this with the division commander or any of the assistant division commanders or with the division G3?

A. No. But it's because of that I believe that perhaps I first heard about it at the morning briefing, something like that.

Q. At BARKER's morning briefing?

A. General KOSTER's morning briefing. At least I know that when they briefed me on what had happened, I had heard about it someplace before up at division. But not in any terms of a murder, of a massacre, just that there had been some noncombatants killed.

Q. Well, now I'd like to go back up to division. Did you normally attend the evening staff briefing?

A. I attended on a regular basis three briefings, sir. Every morning at 7:45 we had an update by the G-staff in General KOSTER's office, and the morning intelligence briefing. At 5 o'clock we had a staff briefing for the entire staff in the regular briefing room. Following that we would go over to General KOSTER's office and get the intelligence briefing and cover a number of points. So those are the three briefings that we had.

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

A. No, sir.

Q. Colonel YOUNG, I will show you Exhibit M-6 which has been entered into the record. This is the Americal log for the date of 16 March. I would call your attention to two items. The first is item number 28 on the third page.

A. Yes. I see number 28.

Q. All right. Now turn to page number 9. Look at the final count in item number 94. If you will go down to the fifth

line, you will notice it starts off, "In Operation Muscatine."

A. Item 94?

Q. 94.

A. Yes, sir. I read it.

Q. Do you remember that item being briefed on the evening of the 16th?

A. I just can't remember. No, sir.

Q. With reference now to item number 28, where it indicates 69 killed by artillery, do you remember that?

A. No, sir, but you understand that I was over there a year, and we had actions every day, and I can't remember it specifically.

Q. Well, how often did you ever get 69 killed by artillery?

A. I don't remember that and - -

Q. (Interposing) That would stand out pretty damn clear in my mind and your mind, too.

A. I don't remember. We had a policy that we didn't ever keep track of what was killed by artillery or infantry, because we weren't in a competitive posture. We in the artillery counted any ground gained or enemy killed by the unit we were supporting as being what we were after. We never tried to differentiate between what was infantry killed and what was artillery killed. They might not have even briefed it that way.

Q. It was generally known by everybody in the artillery. Colonel LUPER knew this. People down at the brigade knew it. It came in here in this. It seems to me that with an outstanding artillery figure like that, that somebody ought to have been aware of it up at DIVARTY.

A. Yes, sir. I may have been aware of it, but I just can't remember it.

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Q. Now tell me, did you get a daily count of rounds fired?

A. Yes, sir.

Q. Do you recall the report on this particular date?

A. No, sir.

Q. Who would be checking on things like that in your DIVARTY? You've got a complete staff over there to analyze this sort of thing.

A. Well, we had a fire support element which included the functions also normally done by a DIVARTY fire direction center. I had them combined. They got their reports of rounds fired and so forth like that. We had standard briefings which were presented each day. Such a report like this would normally come through the G3 channels to the G3, and would be handled by the G3.

Q. In the G3 shop you had an artillery - -

A. (Interposing) We were adjacent, like in the next room.

Q. So you all worked together.

A. Yes, sir.

Q. So a report like this coming in on item 28, certainly your artillery fire direction center people would know what went on, wouldn't they?

A. Yes, sir.

Q. So it seems rather unusual to me that they would be unaware of it. This information comes into TOC, and nobody is checking on the number of rounds fired or anything else? Sixty-nine, this is quite a sizeable figure actually.

A. Well, not really. In our area to kill as many as 150 in one day was not unusual. It happened--well, two or three times a month or more, and if somebody had a kill of 69 and said

it was all artillery, I'd just consider well maybe it was all artillery and maybe it was artillery and other things. It's just 69.

Q. I'm sure somebody would check into it to find out the circumstances. Certainly I can understand catching an outfit out in the open and being able to pound them with artillery and having a huge killing out there. I've seen this happen many times. But at the same time, somebody always checked to find out what the circumstance were, to find out how many rounds were fired, to find out if, in fact, they did kill these people out in the open, where they were in the open, whether they were in bunkers or not, and how many they killed. But I end up here with a report like this reaching division and nothing happens, it's not even checked into.

A. As I say, I don't remember it as being any unusually large kill by artillery.

Q. One thing we do know is that nothing was done about it in all events. You have no idea how many rounds were fired that day without the benefit of checking back into your entries in your log that day?

A. No, sir. But remember at that time we had been cut back. We had 105 tubes or something that were firing everyday, and at one time we were firing as high as 142 tubes. This maybe was one battery. At this stage in the game I remember LZ Uptight very well, and Captain GAMBLE was the battery commander, and Captain VAZQUEZ was the artillery liaison officer. I don't remember the details of this particular operation. Now had there been any allegations of an artillery incident, I have a file here of artillery incidents where we thoroughly investigated because one Vietnamese woman was killed or one man and 4 oxen. We ran a complete investigation, sworn statements, the whole bit, and none of that came to my attention on this incident.

Q. Well, you see, this is what makes this so inconceivable in my mind. It's the fact that you say, on the one hand, you followed right straight through on these reports. Yet we come down to an incident like this where I know that the artillery prep was a very light prep. I don't know for sure how many rounds were fired, but they only had four tubes up there, and

the prep couldn't have lasted over 5 minutes, very likely it only lasted 3 minutes. For that size prep to kill 69 people, in my view, is just damn near inconceivable unless you just happen to get about three or four lucky rounds in the middle of a formation or something.

A. The only way I can say I remembered it is when I heard Captain MEDINA speaking on television, that sounded familiar.

Q. Who did the briefing down there, will you tell me that?

A. I can't remember, sir, but it would have been--every time I went there, I usually spoke to the task force commander, Lieutenant Colonel BARKER, who was subsequently killed, or his S3, Major CALHOUN. If they weren't there, the artillery liaison officer who was Captain VAZQUEZ.

Q. But they just told you what you had already heard up at division, as far as I recollect, what you said previously in your testimony here. This wasn't anything new to you?

A. I wouldn't say that. This is the problem after a year, almost 2 years. I can't say for sure what I heard when, but the general impression I got is that in the division briefing, one of the closed briefings in General KOSTER's office, we may have heard about some noncombatants being killed, but it was never alleged that the artillery did it. So I probably asked about it, and I got a briefing which rings sort of like what Captain MEDINA said on television, killed by crossfire.

Q. But you had heard it, as I previously stated, you had had generally the same substance up at division, perhaps in one of the closed briefings?

A. Yes, sir.

Q. Colonel YOUNG, I have here two documents. The first document is USARV Regulation 525-7. The second is a letter, subject: "Reporting and Investigation of Artillery Incidents," dated 15 January 1968, from Headquarters, Americal Division Artillery. I'd like to have these entered into the record and marked as exhibits.

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RCDR: Americal DIVARTY letter, dated 15 January 1968, will be marked as Exhibit D-14. USARV Regulation 525-7, dated 5 January 1968, will be marked as Exhibit D-11.

IO: I will show you these documents and ask if you are familiar with these, Colonel YOUNG?

A. Yes, I am. Also this attached to it, the III MAF directive. That's the one we were complying with (indicating a document later received in evidence as Exhibit D-12 which was erroneously handed the witness along with Exhibits D-11 and D-14).

Q. I would like to get this entered into the record, too. This is dated 2 March 1967, subject - - this doesn't belong here. This happens to belong over in this other one. This is "Serious Incident Report." (IO returns the document, later Exhibit D-12, to the recorder.)

A. Yes, I'm familiar with this. (Exhibit D-14) I signed it.

Q. If the battalion commander, for example, had a report that 69 people listed as VC had been killed by artillery fire, and at the same time this battalion commander knew that some civilians had been killed, should he or should he not initiate an artillery incident report?

A. If he had any reason to think that the artillery killed any noncombatants, he should. We were doing this in the Americal Division. Now, I don't know whether you want me to go into this now or not, but I have some documents here to show just what we were doing.

Q. Well, we might as well go into it, because I'm going to get into it in considerable depth.

A. I required every battery and battalion fire direction center, one in every battery and every battalion of the Americal DIVARTY, of all the artillery units whether they were direct support or general support, to keep three things in their fire direction centers, which I have in front of me here. One is Americal DIVARTY Field SOP (later admitted as Exhibit M-66). One is - -

Q. (Interposing) Let me see that document if I may?

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(Witness hands SOP, later Exhibit M-66, to IO.)

A. Yes, sir. I have some paper clips in there which I will discuss later in my testimony. Another is a message, a booklet of command instructions. This included certain very important command instructions, including a letter dated 7 May 1967 (later admitted as Exhibit M-70) which is referenced in this document, (indicating Exhibit D-14) which was set up shortly after we became operational, on the investigation of artillery incidents.

Q. It's referencing this letter?

A. No. It (the 7 May letter) is referenced in that letter right here (Exhibit D-14), sir. That (7 May letter) was a Task Force Oregon letter which I got the chief of staff to sign shortly after we became operational. It specified that all artillery incidents would be reported to me as the division artillery commander and I would appoint an impartial investigating officer, a field grade officer, from another battalion to investigate it. Had this My Lai thing come to me in any manner like that, I would have done it. I have a whole file here to show of cases where we did it.

Now there are other things that are in this. I used to, from time to time, put out what I called "Artillery Items for Command Emphasis." Knowing that there's a constant turnover, I required every one of these to be placed in the folder just like this. This is identical to what was required to be in every fire direction center. We required all new officers who went to work in any of those fire direction centers to read it. Furthermore, we had a gunnery checklist (later admitted as Exhibit M-67), which is included right on the top document here. The battery commander was required to inspect, using this checklist, and each battalion commander was required to inspect using this checklist. The results of their inspections had to be available anytime I or my representatives entered their fire direction center.

Now I'd like to just point out one of these "Artillery Items for Command Emphasis." This (later admitted as Exhibit M-68 is dated 12 October 1967. Paragraph 3: "The MACV rules of engagement will be strictly observed within the Americal Division. This

applies equally to the fires at the request of ARVN units. The rules are detailed in the Task Force Oregon SOP, Annex A, Operations," and there is a cite. I'm prepared to show it to you here, and also the cite where they are spelled out in here. These covered such things as light fire from a village will not be used as an excuse to put fire into the village, but if there is heavy fire from the village that's preventing the unit from accomplishing its mission, they can. That type of thing. These come straight out of MACV documents which I wrote into the Task Force Oregon SOP when we first were organized.

The last thing that I required was a folder on artillery incidents, including this letter of 7 May 1967 (later Exhibit M-70), which indicated how they would report these incidents and when they would report it, and the III MAF directive, (III MAF Instruction 5830.1A, later Exhibit D-12) which is a quote of that USARV directive (USARV Regulation 335-6, later Exhibit D-10) as to the format and how to report serious incidents. Every incident that ever occurred in the year that I was there, at the end of the incident I had a plans officer that drafted this for me. Then I'd personally correct it and put out a short summary message to all the artillery units of how it occurred, what they should do to prevent it, and what had been done wrong in this particular case, you see. The officers were all required to read this, and I just went through it the other day and marked all the cases where they involved noncombatants to indicate that we were following this policy very strictly. I might add that at no time in connection with this My Lai incident was there any report of an artillery incident, and I made no investigations later than an incident that occurred 18 February 1968 until the time that I turned over the command on 31 March.

Q. We would like to have available to us these documents you have. We will return them to you. We'd like to make copies of them.

A. Yes, sir.

Q. We'll return the originals to you.

A. Yes, sir. I'd like to just read one other message

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Q. Did he say who adjusted it?

A. It would have been the artillery liaison officer who adjusted it. But this is since the thing came out as an incident. I can't remember back to those days.

Q. Well, these are things that baffle me, Colonel YOUNG. You've gone through here, and you've told me all the regulations that you've laid down and all of this and that. And to the best of my knowledge and everything I get from this operation, none of that was done, not a damned bit of it. For example, the artillery prep, they fired one round, one registered round, which landed somewhere in the vicinity of a thousand meters to the north. They adjusted and fired for effect. Is that the way you handled artillery in the Americal Division?

A. I don't know who told you that, sir.

Q. I'm getting it from the artillery liaison officer, and this I can hardly comprehend.

A. Well, I never had any report like that, sir.

Q. And at the same time we get reports of 69 people killed by artillery fire, and we must have rounds fired going in. They fired two preps out there, and that's all the artillery they fired that day. My guess is that between the two preps they probably fired somewhere between 100 and 200 rounds, maybe not even that much.

A. Well, probably what happened is that report came in and was entered on the journal. My duty officer probably called the battalion, and they said, "No, that's not true. As far as we can see, what few rounds we fired didn't kill anybody."

Q. You are making an assumption now?

A. Yes, I am.

Q. Well, we're not dealing in assumptions, very frankly. I can make a lot of assumptions, but I'm not going to accept that kind of assumption.

I have here some additional documents I'd like to have entered into the record. This MACV Directive 335-1, dated

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22 November 1967, subject: "Reports of Serious Crimes or Incidents."

RCDR: This will be entered into the record as--

Q. (Interposing) Well, I'll give you a whole list of them. Here's another, MACV Directive 335-12, dated 29 November 1967, "Reports, Spot Reports." That's 335-12, Headquarters, MACV. I have here another document, dated 24 June 1967, from Headquarters, USARV, entitled, "Reports, Serious Incident Reports." That's number 335-6. I have here a III MAF directive (III MAF Instruction 5830.1A), dated 2 March 1967, subject: "Spot Serious Incident Reports." I'd like to have all of these directives entered into the record and marked as exhibits.

RCDR: MACV Directive 335-1 will be marked as Exhibit D-8. MACV Directive 335-12 will be marked as Exhibit D-9. USARV Regulation 335-6 will be marked as Exhibit D-10. III MAF Instruction 5830.1A will be marked as Exhibit D-12.

IO: Colonel YOUNG, I will show you these documents. I understand well that the ones that you would follow would be the III MAF directives since you would be under them. But I'd like you to review all of these and see if you are familiar with them. We'll take a recess at this time while he reviews these documents.

(The hearing recessed at 1410 hours, 16 January 1970.)

(The hearing reconvened at 1420 hours, 16 January 1970.)

IO: The hearing will come to order.

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

IO: Were you familiar with those documents, Colonel YOUNG?

A. Yes, sir. I believe I was. I can't positively say that I saw every one, but I do know that this letter which I signed on 15 January (Exhibit D-14) referenced those, the USARV Regulation 525-7 (Exhibit D-11); the III MAF letter (Exhibit

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D-12) which is in this folder which every one of my battery and battalion commanders had; and the letter of 7 May (later admitted as Exhibit M-70) which was signed by the chief of staff of Task Force Oregon, which was necessary because this was my authority to investigate accidents occurring in the direct support battalions which were under the brigade.

Q. I think what you are saying is that your document cites some of these documents on the one hand and on the other hand that your documents, which are the governing regulations for division artillery units, carry out the general spirit of both the artillery incident report requirements and the serious incident report requirements.

A. Yes, sir.

Q. They're quite a bit different. One is covering artillery and large caliber fire, but at the same time this is a catchall kind of regulation which would also include any non-combatants which were injured by any means.

A. Yes, sir.

Q. Well, I think you can see the dilemma that I'm put in trying to figure out why something was not picked up down here. Now let me read you a few things. This is a question which was posed to Colonel LUPER:

"At that time it was called to your attention that you were getting an artillery report, a report of 69 killed by artillery?"

"A. It was reported to me that morning. Whether that was the time that I received it or not, I do not recall. It probably was at that time.

"Q. How did this strike you?"

"A. At the time it struck me as being real fine, because at the time I assumed they were all VC, which I still hope they were.

"Q. Even firing into a village you were hoping they were VC?"

"A. That's right, sir.

"Q. You were with Colonel HENDERSON that morning. When you were with Colonel HENDERSON that morning, were you aware that some civilians had been killed?

"A. Yes, sir. We could see along the road leading out of the village some bodies alongside the road, sir, and although at the altitude we were at it was difficult to really tell exactly what they were, it appeared there were some women and children there, sir.

"Q. Do you recall any effort that was made to get down and investigate the situation, to look into it, or to direct people into the area?

"A. Not at that time, sir. I do not because, of course, the troops were moving up into that area at that time, and what investigation was made I do not know. I did not make an investigation.

"Q. I want to go back again to seeing the bodies, some of which appeared to be women and children. I would like for you to mark on the map and so identify the locations where you saw the bodies and possibly the number you think you saw.

"A. I would say 15 to 20 along here, sir, where I have marked. The number of these that would be women or children, I would not even attempt to guess how many.

"Q. What made you think they were women and children? Were you flying low enough that you could view the bodies?

"A. Enough that it was more from size and dress than it would be from anything else.

"Q. Did you see any additional bodies?

"A. I did not, sir.

"Q. Were you aware that an investigation was

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underway concerning an incident at My Lai (4) on 16 March 1968, and that had been initiated not necessarily on the 16th, but within that immediate time frame?

"A. I'm aware that the brigade commander was requested to look into this. I'm only aware of it because I happened to accompany him, I believe it was the next day, the 17th, when we landed where Captain MEDINA's company was operating, which was-- I don't even recall the area. It was still somewhere within this area, and Colonel HENDERSON talked to Captain MEDINA. Colonel HENDERSON did not indicate to me what type of or why he was making an investigation.

"Q. In your opinion, assuming there was a gunship preparation, is it possible that the persons you saw on the road, the heavy casualties there, could have been caused by gunship fire?

"A. Certainly. It was impossible to tell how they were killed. It could have been artillery. It could have been gunships.

"Q. You mentioned where the bodies were and where the troops were at about that time. In your estimation, do you think that the troops were in such position at that time, that the people that you saw could reasonably have been killed by small arms fire from the ground troops?

"A. I do not think so.

"Q. Sir, you were informed, or did you hear that it might have been 20 noncombatants killed by gunships or artillery fire?

"A. I don't specifically remember this. I perhaps did. This operation just didn't seem to amount to this much at that time. There just wasn't a hell of a lot of concern about it.

"Q. Under Army regulations that govern you, when a noncombatant is killed by artillery fire, what

were you required to give?

"A. If a noncombatant was killed, what we called killed in artillery incident, this normally came up because the fire didn't go where it was supposed to go. I had to report it to division artillery, and then division artillery would appoint a field grade officer to investigate it. I'm trying to think if I had a case of a noncombatant. We had a case where some of our own people were killed. I don't recall having a case in the battalion that required an investigation for injuring civilians.

"Q. Let's go back now. Were you informed of what you saw? Did you have any reason to believe that noncombatants had been killed by artillery fire in this operation?

"A. This would not be reported as an artillery incident. This is in connection with an operation, and the fires were fired where they were requested, and this would not be considered an artillery incident.

"Q. When noncombatants in the Americal Division were killed in conjunction with a military operation, did this not require then any kind of investigation?

"A. If noncombatants were killed, it would as a result require an investigation. Yes, it would. In this case all reports went to division as to what happened, and no investigation was made as to an artillery incident investigation."

Now I went into some detail on that, Colonel YOUNG, because you have also made it a point to bring out how meticulous you were in putting instructions out, and the control of artillery fires, and so on. I would ask you now having heard that, do you think that was in the general direction of the instructions you were putting out?

A. I think it was in his point--in his view. In other words, at no point in connection with this incident was there any allegation that it was a result of misdirected artillery fire or that artillery fire had in fact killed anybody. I don't remember any such allegation.

Q. Well, do you have to have an allegation? If you see dead bodies out there, that isn't an allegation, that's a fact. Isn't that enough to kick off an investigation?

A. Well, if the infantry commander had said that there was some of them killed by artillery fire, but they didn't.

Q. Oh, well, this is what you might call a rear guard action then. You're not going to investigate anything even though you suspect they were killed by artillery or gunships if you can possibly blame it on somebody, and as long as somebody doesn't raise it up, then just forget it. That's basically what you're telling me.

A. No, sir. That's not. If there had been any allegation that anybody had been killed by artillery fire. Now there was none that came to my attention or apparently to Colonel LUPER's attention.

Q. Maybe I didn't make this clear what was happening here. Colonel LUPER was flying over this area with Colonel HENDERSON, and he saw the bodies that were there, 20 or 30 of them, lying alongside the road or on the road. He indicates that where they were, they couldn't have been killed by small arms fire. They could only have been killed by artillery or gunships. In my estimation, what he's saying and what you're saying is, well, unless somebody says something, let's just forget about it.

A. No, I believe that there was an investigation made, undoubtedly you've seen it, by Colonel HENDERSON. Colonel LUPER's testimony was that he landed and talked to Captain MEDINA. Now that would have been the time, if there had been some noncombatants killed by artillery fire, that somebody would have said so. Colonel HENDERSON would have asked Colonel LUPER about it. I would have had a report of an artillery incident and initiated an investigation. No such a report was ever received through any channels.

Q. My point is that your battalion commander was there and was seeing it. Isn't this authority for him right there to initiate an artillery incident report even if he had to go to you and tell you what it was to get somebody appointed?

A. Well, he was under Colonel HENDERSON's command.

Colonel HENDERSON would have conducted the investigation. I don't think it would have been--

Q. (Interposing) Not an artillery incident report Colonel HENDERSON didn't conduct. He didn't do that. You said you did it.

A. That's right.

Q. All right. Now, I'm talking about this artillery incident report, and I don't care whether it's an artillery incident report or whether it's a serious incident report. Twenty or thirty dead civilians were on the road, and your battalion commander knew this.

A. Well, in retrospect I think that what he did was correct. He was with his brigade commander. Remember, he's under his command not under mine, and the brigade commander was investigating it. I would think it unusual for him to send a separate report even if he thought so, which he apparently didn't as his testimony says.

Q. Well, I'll tell you very frankly, I hope that we have higher standards in the Army that when anybody, a senior officer, sees something that is wrong, that he doesn't take action. I sincerely hope we're better than that.

A. Didn't Colonel HENDERSON take some action, sir? I don't know. I never saw the report.

Q. I'm talking about your officer reporting to you. If he had kicked something off with you, with your standards, something should have happened. But it didn't happen, and I'm telling you how weak it was down here in my judgment. Because when I hear that an artillery prep was fired with a marker round that was a thousand and some odd meters away from the target area, and the next round was fired for effect and it was right alongside a village, these aren't very good artillery procedures as far as I'm concerned.

A. I have something else I'd like to say, sir.

Q. Well, you're going to be here for a little while, so don't worry about that. If you have anything about this that you would like to say--

A. (Interposing) No, it's not related. I'd like to say again that at no time did either Colonel LUPER, Colonel BARKER, Colonel HENDERSON, or any of the assistant division commanders, or the division commander indicate to me that an artillery incident had occurred in this, and that any noncombatant casualties had occurred. In the back of my mind it was a result of infantry contact.

Q. Well, what I'm simply bringing out here for your benefit is an analogy, because I do believe in the regulations and what you were doing. But what I have a very difficult time understanding is why somebody, in a situation such as that, where he recognized some people were killed either by his own artillery which he is responsible for or possibly by gunship, that he wouldn't notify you so that this thing could be looked in to. That's what I'm getting at.

A. Of course, you've got to remember he had a separate chain of command, that's part of it. One other point I think that is applicable here: we had a very difficult time in the Americal Division, unlike say the 4th Division or the 1st Division that trained in the United States together and went into combat together. We picked up units in combat that had separate standards. That's one reason I went to such efforts to codify, as it were, procedures, and make them have them in each fire direction center. Now the 11th Brigade sent its advanced party over to us several months before they deployed. We gave them our SOP's and required that they train by them. As further part of our training, I made arrangements with General LIPSCOMB to talk to the infantrymen, and I did so around Christmas time--I think it was shortly after Christmas of 1967. He assembled--I won't say all his company commanders--most of his company commanders, battalion commanders, and staff, and I talked to them about an hour and a half about artillery. In this I did stress the rules of engagement, and I remember, because I did this with all the incoming units, pointing out that we're fighting the Viet Cong, and we're not fighting women and children that are in their areas. I went into this analogy: if you get fire from a village where you're flying over it or your troops are going by, you don't turn around and obliterate it with artillery fire. But on the other hand, as happened to us not once but repeatedly, where they'd stumble onto a village that had bunkers inside, where the village was just the camouflage over a fortified position, if they get pinned down in a

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"Q. Who was your battalion commander at that time?

"A. Colonel LUPER, sir. When I mentioned this, Colonel LUPER, to the best of my recollection, said, 'We are not sure that these were all enemy.' That was about all that was mentioned to me at the time that I was in country. That was about all that I was ever asked or all that I know of.

"Q. (IO to COL LUPER) There are comparable statements that we have that say about the same thing, to this effect, 'We are not sure that those were all enemy.' So using that as a base point, I would like to get from you an explanation of what you meant and what was a background for all of this.

"A. (COL LUPER) Sir, I do not recall making any such statement, and I also do not recall visiting his battery with Colonel YOUNG."

Do you remember any discussions such as this coming up during your visit with Colonel LUPER to D/6/11 Artillery?

A. As I say, I can't remember it, but we might have been there together or we might not. I just can't remember. I was visiting fire bases all the time. Sometimes the battalion commander was with me and sometimes not. Now it was not unusual for the battery to want to be proud about having fired and killed some enemy. I did not encourage them. I realize they need this for morale. They're working at the guns all the time, but I tried to discourage a question of claiming who got the kills, the artillery or the infantry, because our only success is the success of the maneuver elements that we support, and that was the spirit I tried to instill. It might very well be that he claimed they got 67 kills (sic), but I just shrugged it off and went on. I never remember any implication that not all of them were enemy.

Q. It comes out very clearly in Captain GAMBLE's mind. This comes out and statements to this effect that I have indicated to you, going back to Captain GAMBLE's specific testimony which I read from:

"Q. Who was your battalion commander at that time?

"A. Colonel LUPER, sir. When I mentioned this, Colonel LUPER, to the best of my recollection, said, 'We are not sure that these were all enemy.' That was about all that was mentioned to me at the time that I was in country. That was about all that I was ever asked or all that I know of."

Then he went on in various places and said as a result of this, "I just kept my mouth shut." You don't recall the specific incident?

A. No, sir.

MR MACCRATE: Earlier you indicated, Colonel YOUNG, that you did not recall much attention being paid to the matter of the artillery's part in this My Lai operation. I'd like to show you the Americal Division's News Sheet of 17 March 1968, and call your attention to the third paragraph in the right-hand column of the first page, and ask if that does not refresh your recollection. That previously has been marked as Exhibit M-23 to these proceedings.

A. Would you identify that again, which paragraph?

Q. The third paragraph in the right-hand column.

A. Yes, sir. I've read it.

Q. Does that in any way refresh your recollection as to comments at that time, what was said about the performance of Captain GAMBLE's unit with respect to this operation?

A. No, this would have been, you know, another--

Q. (Interposing) This was just accepted as another matter of course.

A. That the battery had killed these VC. I don't at any time remember any allegation that they killed women and children or that the fire hadn't been placed where it was supposed to be placed.

Q. Do I understand, Colonel YOUNG, that you would not have regarded this as an unusual occurrence?

A. No, sir.

Q. You do note that in that same news item it states, "It is the largest number killed by the Jungle Warriors in one day's fighting since they became part of the Americal Division," referring to the 128 figure that appears. Sixty-nine, which is more than half the number, is credited to the artillery battalion. Does this bring back to you no special recollection?

A. No. Maybe a recollection of a battle, but I mean I remember other battles that occurred up in this area 2 or 3 months before where they killed--

Q. (Interposing) Well, let's talk about this one at hand now. You say that there were other instances when there were large artillery kills? But you've also said that you knew that this one was being investigated. Did you get in on that investigation?

A. No, sir.

Q. Although the artillery was credited with more than half of the KIA's, therefore, artillery must have been a rather large part of this whole operation; when it came down to the investigation, you had absolutely nothing to do with that investigation?

A. That's right. It was handled strictly through the infantry channels.

Q. How did you learn that such an investigation was going on?

A. I don't know that I really did, but I think I must have.

Q. You think you must have because you recall some aspect of it or because you know you were in Chu Lai in March of 1968?

A. The only reason I think I must have heard about this is that I know that it was my custom to go in there and get briefed at these infantry battalions, and I remember distinctly many times going in there and being briefed by Colonel BARKER or his S3, Major CALHOUN, or the artillery liaison officer, and

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that when Captain MEDINA spoke, it sounded like something I heard before, roughly, you see?

Q. What has this got to do with an investigation? Your knowledge of the fact that an investigation was going on, that when you hear Captain MEDINA in the fall of 1969 say something, that makes you remember there was an investigation?

A. Well, as I say, I can't be sure that I knew there was an investigation, but I kind of think I did. It was strictly through infantry channels, and there was never any allegations of an artillery incident connected with this that came to my attention. So I just didn't follow it that closely.

Q. Well, this is very interesting, indeed. You have a recollection that you knew this investigation was going on and that it was going on strictly through infantry channels, so that you felt that you had no responsibility for it, is that correct?

A. Had I had any idea that the artillery hadn't done its part of the job correctly, I would have been, of course, right in there when this thing came up.

Q. You attended the evening briefings as well as the morning briefings at Chu Lai?

A. Yes, sir.

Q. Do you recall the evening briefing with respect to this operation when the figure of 128 KIA was first mentioned?

A. No, sir. I'm sorry I don't recall anything particular in the briefing concerning this.

Q. When did you first learn that it was being investigated?

A. As I say, I'm not sure that I did know that it was being investigated. I think I did though.

Q. What makes you think you did? Do you associate particular people in conversation that remind you of this fact?

A. It's just that I think it's possible, and that's really all I can say, that in visiting task force headquarters,

I was briefed on an operation that some noncombatants had been killed by infantry crossfire, and that this generally tied in with a briefing in which probably General KOSTER said, "Well, I want a report on it, a written report," or something like that. But I can't specifically remember it that clearly. I was over there a year and we had a lot more heavy contact than this.

Q. When you talked with General KOSTER about 7 or 8 December, when you had dinner with him, did you discuss at that time the reports that may have been made or investigations that may have been conducted?

A. Yes. He said he remembered the report. I never saw it. Then it might be that that's where I know there was a report of some sort.

Q. But you said that you had never seen any such report?

A. No, sir. And I feel sure I can promise you that had there been anything about the artillery, he would have referred it to me. And had there been any indication of an artillery incident, I would have investigated it in accordance with these instructions with sworn statements and men warned of their rights if they might be incriminated. This was necessary because we took disciplinary action if any negligence was shown, to include fining people, reducing NCO's, relieving officers, and things of that nature.

Q. Who was the artillery chaplain at Chu Lai?

A. At that time?

Q. Yes.

A. His name was Nat--it would come back to me if I saw a roster.

Q. Was his name Chaplain CRESWELL?

A. Yes, sir, that's it.

Q. Do you ever remember speaking with Chaplain CRESWELL about this operation?

A. No, sir.

Q. Do you have any recollection of a warrant officer transferred out of artillery and into the aero-scout unit by the name of THOMPSON?

A. We had a number of our warrant officers who transferred from the DIVARTY aviation detachment to be aero-scouts, along with the airplanes. This was done over my objection, I might add.

Q. Do you have any recollection of Chaplain CRESWELL telling you of a report that Mr. THOMPSON made to him after this operation in March 1968?

A. No. I really don't, but that's not to say it didn't happen. I just don't recall it.

Q. Do you have any recollection of any discussion of a report by a member of the aero-scout unit with respect to this operation, either General YOUNG or any of the others around headquarters speaking about this?

A. No. I don't. Of course, they were out of my command.

Q. You said the aero-scouts were out of your command?

A. Yes, sir.

(MR MACCRATE begins searching through papers before him.)

IO: Well, while Mr. MACCRATE is looking this up, Colonel YOUNG, it seems to me that there were some very odd command arrangements at that particular time. On the one hand, you indicated to me that you had a directive out which said that these battalions which were out with the independent brigades in fact came under you, but their efficiency reports were prepared by the brigade commanders. I think that's what you implied.

A. I can read it to you right out of the artillery SOP. I think it would be better from the Task Force Oregon SOP right over here, sir.

(Witness searches through documents before him.) I guess I can't really find it here, but I can find it here in this message which was sent out by General KNOWLES (document later admitted as Exhibit M-72):

"The counterinsurgency environment in Vietnam represents a continuing challenge to artillery units to render accurate, responsive, reliable firing without injuring friendly troops or non-combatants. Detailed instructions are included in the Task Force Oregon Field SOP, Appendix 4, Fire Support Coordination, to Annex A, Operations, and the Task Force Oregon Artillery Field SOP. Compliance with these directives is essential."

This is from the task force commander to the three brigades.

Then the other part which I read previously:

"Instructions in the Task Force Oregon SOP referenced in paragraph 1 above must be complied with in regards to air safety (SAV-A-PLANE advisories), ground safety, clearance of fires, and minimizing noncombatant casualties. Most particularly the restrictions against firing on hamlets and villages will be complied with."

That comes out of a message dated 1 July 1967.

Q. Now, what I'm looking for is this indication that you cited earlier wherein the artillery is placed under your control?

A. My SOP says, "Scope: These procedures apply to all units under the command or operational control of the Americal DIVARTY and to artillery battalions organic or attached to brigades of the Americal Division." Here is the division commander's directive to--

Q. (Interposing) Well, that doesn't necessarily put them under your command then. They say--

A. (Interposing) No, they're not under my command.

Q. They will comply with those rules and regulations.

A. That's right, sir.

Q. But under the command of the separate brigade commanders, is that right?

A. Yes, sir.

Q. Well, now this is a fine line of distinction here, you see, because when you and I were talking earlier about who should report this, within a normal infantry division I would expect any incidence of seeing something, or an allegation, or any incident in which it may have been suspected that an artillery incident could come up, to be reported through channels, and it normally would be expected here. Now, frankly, from your testimony you didn't expect it, even though it had been, because you expected it to go into the brigade channels.

A. No, sir, no. It would come through the artillery channels. It always came to me through the artillery channels if it was an artillery incident. But this was, in Colonel LUPER's eyes, an infantry incident, and it would be--

Q. (Interposing) Why was it an infantry incident? He said they could not have been killed by small arms. They were either killed by artillery or gunships?

A. He never mentioned that to me. I don't know. I'm not familiar with his testimony, but--

Q. (Interposing) Well, you're familiar with the point that I read to you?

A. Yes, sir. But you can see that if he felt it was an incident involving the infantry--he's under command of and receives his efficiency rating from the brigade commander. He would be unlikely to report that to me in detail as long as he wasn't in violation of my directive which says he will report artillery incidents.

Q. Well, my point is here, to be very frank with you, where he sighted these bodies were about somewhere--they

varied from between 500 and 800 meters from the infantry units, you see. So it would be very unlikely that they would be killed by infantry. As a consequence of when he sees them and so forth, he brings out quite clearly that they were probably killed by artillery or gunships. He can't distinguish which. But certainly if there's even a possibility that they were killed by artillery, it seems to me that this should have kicked off some action, you see. Now maybe at that time the action is in brigade instead of coming to you, because this is only part of the story of this particular aspect. It is conceivable that he considered this a part of a larger investigation, but this still in my view involves the artillery to the degree that they have not been exonerated.

A. All I can say again, sir, is that at no time from any source was I apprised that this was an artillery incident.

Q. I'm accepting this. I want you to know that I'm accepting this because I've had more than one individual here who has talked about you and about the repute and the esteem in which you are held as far as your honesty and integrity is concerned. So what you're telling me goes right along in your documents and so forth with the kind of moral reputation you had. This is why I'm trying to figure out why a situation such as that did not come to your so that there would be an opportunity for you to look into it. That's the point. Now, I'd like to go into another point, too, that was brought up by Mr. MACCRATE. This had to do with Chaplain CRESWELL. Now assuming that he received a report by an individual of what might become a major atrocity, to whom would you expect him to report?

A. To me.

Q. He worked for you, didn't he?

A. Yes, sir.

Q. Recognizing the unique position which chaplains hold in a command, would you expect that he would try to keep this within chaplain's channels?

A. No. I think he would have reported it to me.

Q. He would have?

A. Yes.

Q. You mean you think he should have?

A. No. He would had he heard about it even though it involved the infantry, and then I would have probably reported it either to the brigade commander or to the division commander, depending on how serious I thought it was.

MR MACCRATE: Another aspect of this that I find somewhat confusing, reading to you from Colonel LUPER's testimony:

"A. I recall talking to Colonel BARKER myself. I'm sure it was the 15th. But as to what type of artillery support he wanted for this operation, I do not recall any instructions given to him by Colonel HENDERSON.

"Q. What did he indicate to you as to what type of artillery support he desired?

"A. He wanted preparation fire, but not of his landing zone. This is a little different than we would normally expect, because he felt that the area that he was going to make his combat assault into was open enough that he could see if there was going to be any problem. He wanted the preparation fired north of his landing zone which would have put in on My Lai, the village of My Lai."

So, here we have Colonel LUPER testifying that Colonel BARKER wanted the artillery prep to be placed upon this inhabited village. Now under the rules of engagement, under the instructions, under what you had laid down for the artillery, what were the responsibilities at that time? Hearing that request and having the plans made to put artillery upon that village in anticipation of a combat assault, what were the responsibilities of those under your command?

A. First, Colonel LUPER wasn't under my command when he made that request. He didn't put the fire on the village, did he?

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Q. The objective apparently was to put it on the village. If it didn't land on the village, it wasn't because they didn't try.

A. That has never come to my attention prior to this time.

Q. But my question is not where the artillery landed, but given this request by a task force commander for an artillery prep, what did you expect of artillery officers at that time? The rules on the village are laid down here. You indicated you're familiar with them, aren't you? I'll read them to you. But what is the application to Colonel LUPER, to Captain GAMBLE--

A. (Interposing) Well, basically what I think, had I been the fire planner, either the liaison officer or the direct support battalion, and thought that the village would be a threat to the landing, we would do something like this. We would adjust forward of the village and then have it on call. We say that none of the above controls breach the right of self defense, and artillery may be fired without clearance at the request of the unit on contact. The decision to do so will be made by the senior officer present. That being the case, if in the landing they came under fire in the village, this senior officer present could have called for that concentration, and they could have brought it in.

Q. But this is the question: the planning for the operation. What was the responsibility of the artillery officer when the task force commander at the planning stage says, "I want the artillery prep placed on the village"?

A. If, in his opinion, it was necessary for his mission, I guess he'd have to take that responsibility, and the artillery would have to fire. Now here again is one of the reasons I had made an earlier recommendation that the direct support artillery come under my command. I made it again--I think it was mid-February or mid-January, because they're

much more likely to refer to me in difficult situations, where the infantry puts them in a difficult situation, if they're not under their command, you see? Now, not with this brigade, but with other brigades, I found cases where the battalion commanders asked for something that the artillery commander didn't want to do, and he wouldn't report it to me unless I happened to ask a direct question. Then he'd always tell me the direct truth, you see. But he was under the--it was a little difficult in that if he sort of reported it to me, unless it was a real serious problem, this was the man that was going to rate him.

Q. Well, assume that an artillery prep is requested and obtained. It is requested by a task force commander and is obtained from the artillery support unit. It is upon an inhabited area. And assume further that as a result of that artillery prep there are very substantial civilian casualties, and the fact those civilians casualties resulted from the artillery prep becomes known. In that situation would there be any occasion under your rules and regulations for an artillery incident report?

A. It would be. Yes, sir.

Q. There would be?

A. Yes.

Q. Even though it was pursuant to the operation plan of the task force commander, and the artillery unit was just carrying out the instructions of the task force commander?

A. Yes, I think so. I think in that case it should have been reported as an artillery incident. Then had this occurred, I would have ended up getting sworn testimony from all the witnesses including the riflemen that were there, and the battalion commander, and everybody else.

Q. Do you recall the arrangements between brigade and the local district for clearing of artillery fire? Was this something that was worked out by the brigade with the district advisors, or was this something that fell under your direct supervision for planning?

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I read Life magazine and Time, and it seemed like it was another world. But, of course, if I got a report at the task force headquarters, I would have gotten the report of Captain MEDINA, not anyone else actually.

Q. You don't recollect having heard anything at division headquarters about civilians being killed in this operation?

A. I don't know. I guess--and this is what's so difficult, you know, about trying to reconstruct this--I just kind of seem to remember one day General KOSTER talking to one of the assistant division commanders over at the map while we were either waiting for a briefing or just finishing one, and saying, "Yes, apparently we had some civilians killed in a crossfire," or something like that. Somehow my mind seems to think that that might have been tied in with this, but this is not the kind of testimony you can give in court--

IO: (Interposing) This is an investigation right now.

A. Yes, sir.

Q. You want to remember that we are investigating the investigation. We are trying to find out what reports of investigation were rendered and were these proper. This is what we're looking into.

A. Well, I never saw anything about this investigation. I might tell you a little bit of how the artillery investigations were prepared. The artillery investigations, even if it's one woman and a water buffalo or a lightly wounded civilian, if they happen to be evacuated to a hospital, went forward over my personal signature with a recommendation, you know. Plus this message that I sent out. That's all I have in my files. The official investigations are all, I'm sure, back in DIVARTY headquarters now. They went in, and General KOSTER personally signed his endorsement up to USARV. He might personally call me in on them. He frequently did. He took great interest in this. There was never any attempt to cover it up. I'll say that all of our commanders, General ROSSON, General KNOWLES, and General KOSTER, were adamant that we never tried to cover up any of these.

Q. I don't want to press you on this beyond what you can go, but I wonder if your recollection, if you call it that, of the time when you think you recall General KOSTER talking to one of the assistant division commanders, saying that he wanted an investigation, is it clear enough so that you can say that?

A. No, no. What I was saying is this was apparently after it had been investigated, kind of wrapping it up.

Q. Oh, I see. In other words, this was an explanation following an investigation?

A. This is just a snatch of conversation that comes out after this is all blown up in the press, that they were discussing something like this, and now it appears it might have been tied into this.

MR MACCRATE: You left there on 29 March?

A. 31 March.

Q. 31 March.

A. Well, actually I left there 1 April, and the change of command was 31 March.

IO: Your staff briefings and your intelligence briefings, when would those normally take place on Sunday?

A. On Sunday I think we had a big deal--15 minutes later or a half hour later, something like that. On Sundays I made an exception. I had my own staff briefing at 7:15 prior to going to the commander's briefing at 7:45, and on Sundays I waived that requirement with the idea that they would let me know if something unusual was happening.

Q. Do you remember the time that General DOLEMAN was at your division? Do you know Lieutenant General DOLEMAN? He was the chief of staff of USARPAC?

A. I might have. I'm not sure. I think so. I think I remember him in the general's mess.

Q. Do you by any chance remember that because he was there or because of some activity in relation to him, maybe the briefing was delayed until after church instead of before church?

A. No. I don't, sir.

Q. You've gone into all of this before, Colonel YOUNG, in quite some detail, indicating that if you had one civilian wounded, or a buffalo or something of that nature--but in a situation where we get some women and children caught in a cross-fire, without specifying any numbers that might be killed, doesn't it seem a little callous that something isn't brought out?

A. I don't know anything about that investigation. It has never occurred to me.

Q. Well, you lived in your DIVARTY quite close to the aviation units if I'm not mistaken, didn't you?

A. We were at Ky Ha, sir, which was right in front of a helicopter pad. However, there were other helicopter pads at the other end, the 23d Aviation Company.

Q. The 23d or the 123d?

A. It was the 123d, right there in front of us.

Q. It was the entire unit. Did you ever talk to Colonel HOLLADAY or to Major WATKE?

A. Well, Colonel HOLLADAY was the aviation officer just before I left and, of course, I talked to him.

Q. Did he ever talk to you about his discussion with a warrant officer and what the warrant officer told him?

A. No.

Q. Did you ever get any feedback from your troops living so close to the aviation battalion, the 123d, that some strange things took place down there that day in Son My or My Lai?

A. I got feedback through my--of course, you understand that I recommended against taking away these H-23's, which we used for the artillery command and control purposes and adjustment of fire, to make this a scout troop sort of out of our hide. I was given a hearing, and it was decided to do it, and I was told to transfer the people. I knew they were unhappy, but I assumed that this was largely because of the increased danger. When you're artillery command and control and adjust for fire, you're flying about 1,500 feet to perform your mission, and this required their flying on the deck. Also in one case they lost one of our helicopters. We thought they destroyed it, you know, when we thought it could have been repaired. But, you know, I kind of felt this was chagrin that they'd taken away some assets of ours, so I never pursued it.

Q. No, but I'm talking about whether or not there was ever any feedback from any of your people in their relations with the aviation battalion, specifically Alpha and Bravo Company of the 123d, about anything that may have taken place in My Lai or the Son My area which the aviation unit knew was highly unusual.

A. No.

Q. You've indicated that other than sort of in passing, you really didn't have any understanding of any investigation that was underway. Maybe off in the back of your mind there was something that--maybe there was--

A. (Interposing) I feel sure I probably knew, but I can't remember specifically how or what. I mean for one thing, as a DIVARTY commander you're engaged in all operations. You have to keep your finger on generally everything that is going on and, on the other hand, you can't know all the details about it.

Q. Well, I generally found my DIVARTY commander knew as much about what was going on in the division as I did--not quite, but almost. I relied upon him, very frankly, and I'm sure that General KOSTER and General ROSSON relied upon you in this sense, too. Did you ever hear of any investigation that may have been going on in ARVN or GVN channels?

A. No, sir.

Q. Colonel YOUNG, we appreciate you coming in. We do want to take advantage of the documents which you have with you, which we will return to you.

A. I'd like to, if I may, just read one more cite from one of these messages that may apply, sir, if I could. This was involving an artillery incident in 14 February 1968 which killed three friendly soldiers, and I noted this:

"That direct support artillery battalions should utilize liaison officers and forward observers to conduct observer training for our infantry platoon leaders, squad leaders, patrol leaders, and other personnel who may be called on to adjust artillery fire on a recurring basis. This instruction should emphasize the dangers of adjusting close to friendly troops and likely areas that could cause rounds to be adjusted on friendly troops or civilians."

Just to show you that I had been a forward observer in WW II and found it very useful to teach the infantrymen how to fire. We put this admonition out, that they teach them how to fire and also be cognizant of not having fire fall on civilians.

Q. Did you have a separate forward observer school?

A. No, not at the DIVARTY level. We had a fire direction school at the DIVARTY level, and the direct support battalion commanders conducted their own forward observer training, and we had instructions on it.

Q. Do you have any documents aside from these which may be applicable to this investigation or how operations were conducted in the Americal Division?

A. No, sir. But I've gone through these and marked various ones to show that repeatedly over a period of a year we were sincerely trying to follow the spirit of the MACV regulations in this matter. The Task Force Oregon SOP, in the fire support coordination portion, I wrote this before we became active and specifically included, based on our 6 months

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of experience in country, the MACV restrictions on clearance of fires and this paragraph on minimizing noncombatant casualties, and made reference to it later in other items like the "Artillery Items for Command Emphasis" that I've indicated here.

Q. Well, I'm sure that this afternoon we've given you some information which perhaps you had not heard before or which you may have heard and which may possibly refresh your memory. If any of this does start fitting back into place at a later date, if you remember anything being said about an investigation or about the killing or wounding of noncombatants in any crossfire or anything of this nature having to do with either the incident itself or having to do with the investigating and reviewing of the investigation, we'd like very much to have you get in touch with us so we can make this a matter of record.

A. Yes, sir.

Q. Now, if you have any questions to ask or if you would like to make a statement for the record, you have this opportunity at this time.

A. No, sir. I think I have made all the points I had.

IO: The hearing will recess.

(The hearing recessed at 1542, 16 January 1970.)

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SUMMARY OF TESTIMONY

WITNESS: BAKER, Scott A.

DATE OF TESTIMONY: 17 January 1970

PLACE OF TESTIMONY: Pentagon

WITNESS SUSPECTED OF: N/A

COUNSEL: None

DUTY ASSIGNMENT ON 16 MARCH 1968: B Company, 123d Aviation Battalion.

1. PREOPERATIONAL PLANS AND BRIEFINGS.

Major WATKE briefed Mr. BAKER on the 16 March mission in Chu Lai on 15 March (pg. 4).

2. ASSAULT ON MY LAI.

a. Artillery prep.

The witness was flight commander for an LOH and two gunships on 16 March 1968 (pg. 3). He remembered flying high gun, but he cannot recall his co-pilot. It could have been Captain LIVINGSTON (pgs. 11, 30). Three gunships were used, but they were shuttled to insure that two were on station at all times when one ship ran low on fuel (pg. 14). Initially, the witness testified that he took off from Chu Lai at 0630 (pg. 4). However, after being told that the time of the combat assault was 0730 hours, BAKER estimated that he left Chu Lai at about 0715 hours (pg. 50). They flew southeast of the LZ. BAKER could see the artillery prep (pgs. 7, 34). It extended into the tree line on the western edge of the village (pg. 57). All of the rounds appeared to be standard HE (pg. 7). The witness did not recall the prep not shutting off in time necessitating an extra orbit of the LZ by the lift ships. If this had occurred the witness believed he would recall it (pg. 32).

b. Combat assault on My Lai (4).

About three miles from My Lai, BAKER contacted the command and control helicopter (pg. 4). The aero-scout team reconned the area south and east of My Lai (4) after completion of the prep and insertion (pgs. 5, 32). The Sharks of the 174th had two to four gunships on the operation. At least two remained on station after insertion. The Sharks flew low-level around the LZ which was north of BAKER's team (pg. 5). About 15 minutes after final insertion, Warrant Officer THOMPSON, pilot of the LOH, engaged a VC with a weapon on the northern approaches of Hill 85 (pgs. 5, 37). The two gunships made about three gunruns apiece in the vicinity of the VC that THOMPSON had engaged (pg. 34). His team made no gunruns along Highway 521. All of their firing was south of the road (pg. 8).

c. Activities of the Sharks.

The witness recalled that the Sharks were firing on Highway 521 and northward. He described their actions as "wild runs." BAKER ordered his team further south because he felt that the Shark's conduct was endangering the aero-scouts (pgs. 8, 9, 12, 39). On returning, BAKER saw 20 to 25 bodies along Highway 521 (pg. 13). BAKER believed these people were killed by the Sharks (pg. 26). He was not positive that the Sharks fired miniguns along 521. He did see the doorgunners firing (pg. 43). He recalled radio transmissions between the Sharks, the command and control ship, and the infantry to get someone over to pick up enemy weapons (pgs. 5, 43, 44, 46).

d. Military-age males on Highway 521.

THOMPSON separated one or two military-age males from the mass exodus of Vietnamese along Highway 521 (pg. 5). The command and control helicopter which BAKER assumed was occupied by the battalion commander, set down to pickup these VC suspects (pgs. 6, 13, 14, 49).

e. Insertion of the infantry on Hill 85.

THOMPSON spotted a VC flag on Hill 85. BAKER ordered infantry assigned to his unit inserted to recover a suspected mortar tube and rounds. At about the same time he recalled seeing another combat assault being made at another LZ (pgs. 6, 51, 52). The infantry found some mortar rounds (pg. 6). At about 0830 hours BAKER left station to refuel (pgs. 6, 53). The Sharks were present at the refueling point (pg. 49). On returning the plan was to blow up the mortar rounds with C4 (pg. 55). He believed that he was on station when the "minicav" was extracted from Hill 85 and the mortar rounds detonated (pg. 66).

f. Return to his station.

He refueled and returned to My Lai at 1030-1100 hours. After returning his ship served only as a communications link with the command and control helicopter. He talked only with the low gunship (pg. 15). He could not hear ground forces' radio transmissions unless they were talking with the command and control ship (pgs. 11, 13). The witness was fairly certain that the low gunship did not land while he was on station although it was possible that the LOH did without his knowledge (pgs. 15, 17).

g. Miscellaneous.

(1) He remembered that at some point in time the ground forces contacted the command and control ship for-a dustoff, and that the request to division was subsequently cancelled because a slick performed the evacuation mission (pgs. 10, 58, 60, 61).

(2) The witness did not see the ground forces shoot any Vietnamese (pg. 64).

(3) BAKER did not remember seeing My Lai (4) burning on 16 March 1968 (pg. 67).

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(4) The witness saw a second group of 20 to 25 bodies between My Lai (4) and the hootches to the south (pg. 12). In all he saw 50 to 55 bodies (pg. 18).

(5) He did not remember escorting an LOH to Quang Ngai (pg. 16).

(6) BAKER remembered no radio transmission "to stop the killing and burning" (pg. 17).

(7) The witness stated that his recollection of events after refueling is extremely limited (pg.57).

(8) He did not know if WATKE was on the mission (pg. 60).

(9) He cannot remember any report of the LZ being hot (pg. 45).

3. SUBSEQUENT DISCUSSIONS WITH THOMPSON AT CHU LAI.

a. THOMPSON-BAKER meeting.

BAKER recalled that upon returning to Chu Lai Warrant Officer MILLIANS and THOMPSON reported seeing a lot of people killed, and they had not liked it (pg. 18). THOMPSON was "quite excited" over what he purportedly saw (pg. 19). THOMPSON told BAKER of having landed to prevent the infantry from killing people in a bunker. After landing, a lieutenant or a sergeant told THOMPSON that the only way to get them out was with a grenade. THOMPSON also stated that he had his gunners train their weapons on the advancing infantry (pg. 21). He also said that a captain had shot a girl and they had found a large number of people, some alive, in a ditch (pg. 21).

b. THOMPSON-WATKE meeting.

BAKER was not present when THOMPSON saw Major WATKE, their commander, to report what he had seen in My Lai (4) (pg. 19). The witness recalled that THOMPSON said that he was going to or already had complained to WATKE and that he was going to go up the chain of command (pg. 20). THOMPSON also indicated that he would have to go higher than WATKE to get anything done (pg. 23). At a later date, THOMPSON informed BAKER that he had made a statement to a higher authority than their battalion (pgs. 22 24).

4. REPORTS OR INQUIRIES CONCERNING THE MY LAI OPERATION.

BAKER never heard that the My Lai operation was investigated, nor was he ever cautioned not to talk about it (pgs. 24, 25). A report of action for 16 March 1968 for his team was probably filed at Chu Lai (pg. 22).

5. OTHER INFORMATION.

a. BAKER had been flying in his 16 March 1968 capacity for four months and he retained it until he DEROS'd 1 September 1968.

b. He discussed his statement officially with THOMPSON at the behest of the prosecutor from Fort Benning (pg.3).

c. BAKER had no personal feelings about what evidently occurred in My Lai. They had received fire from the village before, so the killings were just the fortunes of war (pg. 24).

d. THOMPSON never told BAKER about his reporting the incident to Chaplain CRESWELL (pg. 25).

e. WATKE seldom flew. He was an inexperienced pilot (pg. 27).

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EXHIBITS

EXHIBIT NUMBER	DESCRIPTION	NOTES	PAGES
M-20	Transcript of TF Barker's tape	Wit identified himself as Warlord Alpha Lead. Warlord Alpha 3 was the third gunship to come on station. "Skeeter" was probably KELLENBENZ or LLOYD.	29
P-26	Miscellaneous Scene	LZ Dottie.	70
P-27	Miscellaneous Scene	North of river looking toward Quang Ngai.	70
P-39	Miscellaneous Scene	Resembles point 6 on P-178.	
P-41	Miscellaneous Scene	Area between My Lai and point 6 on P-178	70
P-178	Witness annotated aerial photo of My Lai (4) area	1-Warlords engaged one VC male with weapon soon after insertion.	40
		2-Sharks observed here firing while Warlords made gunruns at 1 & 3.	40
		3-General area where gunship fire impacted.	40

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EXHIBITS

EXHIBIT NUMBER	DESCRIPTION	NOTES	PAGES
P-178 (cont)	Witness annotated aerial photo of My Lai (4) area	4-THOMPSON separated one or two military age males from group of Vietnamese on 521. C&C helicopter landed and picked up VC suspects.	48,49
		5-Two sets of web gear seen here. Also, 20 to 25 dead Vietnamese.	62,63
		6-Saw 30 dead Vietnamese of varied ages and sex.	63
		7-Where he saw artillery prep impact.	68
MAP-1	Wall Map	Oriented witness.	4
MAP-5	Map 6739 II (small scale)	Oriented witness.	30

(The hearing reconvened at 1045 hours, 17 January 1970.)

IO: The hearing will come to order.

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

Sir, the next witness is Mr. Scott A. BAKER.

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

Mr. BAKER, for the record, will you please state your full name, occupation, and residence?

A. Scott Alan BAKER, I'm a salesman, 7200 Sutter Avenue, Carmichael, California.

RCDR: Thank you, sir.

IO: Have you had an opportunity, Mr. BAKER, to read the instructions (Exhibit M-57)?

A. Yes, sir.

Q. Do you understand them, or do you have any questions concerning them?

A. No questions.

Q. Beside me here at the table, Mr. BAKER, I have, on my left, Mr. MACCRATE. Mr. MACCRATE is a civilian lawyer who has volunteered his services to the Secretary of the Army to assist me in the conduct of this investigation and also to provide me legal counsel. Just walking in the door is Mr. WALSH, who will join us here at the table and who is also a civilian lawyer. He likewise has volunteered his services to the Secretary of the Army to assist Mr. MACCRATE and myself. On my right is Colonel FRANKLIN, who has been designated by the Chief of Staff to assist me in this investigation. All of these individuals may address questions to you this morning. You should know that we have other groups that are likewise taking testimony, and I shall also inform you that I have the final responsibility for the making of the report, for the weighing of the evidence, and for making the findings

and recommendations.

You should also know that I have directed all military personnel giving testimony in this investigation not to discuss their testimony with others. I would request the same thing of you, that you not discuss your testimony in this investigation with others, including other witnesses for this investigation, except as it would be necessary to do so before competent judicial, legislative, or administrative bodies. I use the term legislative because there is a chance that you may be called before the investigative subcommittee of the House Armed Services Committee, in which event nothing that has been indicated would preclude you testifying at such a hearing. I do not believe that you have been notified by the military judge in the general court-martial case of the United States v. Calley.

A. No, I haven't.

Q. If you are so notified by the military judge, anything you say here will in no way affect either the applicability or the effect of that order. Do you have any questions at this time?

A. No, sir.

Q. Mr. BAKER, would you indicate your duty assignment on 16 March 1968?

A. Yes, sir. I was the aircraft commander of a gunship. I was also in charge of the gun teams that operated in our recon capacity during and after the initial insert at My Lai (4).

Q. How long had you been in that capacity?

A. About 4 months.

Q. Who had you been flying for before you joined the aero-scout unit?

A. I'd been flying for the 161st at Chu Lai and Khe Sanh. I went on 30 days leave for an extension, came back, and was promised that I would go into the guns. At that time it was strictly a gun platoon. When I came back, the gun platoon had been made the aero-scout company. That's when I came into them and that was about February or January, somewhere around 1 February.

(BAKER)

Q. And how long did you stay with the aero-scout company after March?

A. Until the end of my tour, which was 1 September.

Q. Mr. BAKER, from the time the My Lai incident became a matter of public knowledge last year, that is, the time period of late September or early October, have you had any discussions with anybody from the aero-scout company or from the Americal Division concerning the incident?

A. Yes, sir. Mr. THOMPSON, who was also under me. At the time we went in, I had two gunships and one LOH. He was the pilot of the LOH, and when we were later assigned to Fort Rucker, he was in an nearby flight room. When we were both called, the captain who is prosecuting the case at that time wanted us to make up a statement, and we made up that statement there. That's the first time I had really discussed any of it with Mr. THOMPSON other than directly after the incident.

Q. Yes. Did you get into details as far as the operation was concerned?

A. Yes, sir. We both went in at the same time to make the statements on what we had done there and what we had seen. At that time there were aerial photos available to us, and we reviewed them and compared back and forth as to what we thought was happening. So we did form opinions around the whole thing and make up our statements after we talked about it.

Q. So your capacity, at least during parts of the operation, was not only that of the gunship pilot, but the flight commander, also.

A. Yes, sir. I was the flight commander for the two guns and the LOH.

Q. We understand that during the morning there were several changes of guns?

A. Yes, sir.

Q. Now, were you commanding throughout the operation?

A. No, sir. I came in on the initial insertion and in contact with the C&C overhead. We watched and did some firing in the local area during and just after the initial insertion. I'm not sure on the time frame. I think we left at about 1 hour and 30 minutes. Then we had three guns available that day, so we had to start switching off, and I came on once later in the afternoon.

Q. You were not on again later in the morning?

A. Well, it was possibly in the morning. I think we cut it off around 12 o'clock, but I did make two trips out there to the area before we left.

Q. Well, maybe this will start fitting in when we get down to it. Were you present during the pre-briefing at LZ Dottie the previous day?

A. No, sir. First I heard about it was in our own briefing at Chu Lai, where Major WATKE gave us a briefing on what would happen and what the mission of the ground troops would be and what frequencies and call signs, and of this we would pick up.

Q. We have in back of you, Mr. BAKER, a blowup of a map of the My Lai area (Exhibit MAP-1), which you would probably like to look at for a moment to refresh your memory. We have another map to your immediate rear, which is 1:50,000, which you would probably normally use (Exhibit MAP-5).

A. I think I know about where we were.

Q. Yes. Well, when you get down to My Lai, I'll show you an aerial photo which will probably tie it in a little tighter. Could you describe your activities from the time you left Chu Lai in the morning to the time you arrived in the operational area?

A. I'm not sure of the time of takeoff, possibly 0630. We flew south with two gunships and one LOH, and contacted the Charlie-Charlie bird about 3 miles north of My Lai (4). We contacted them to let him know we were in the area and where we'd be working. He told us that the Firebirds would be putting a lift in. The lift was going on schedule; artillery was coming out of Dottie.

Q. Did he say coming out of Dottie?

A. I think it was Dottie. I'm not positive.

Q. I understand. This happened a long time ago.

A. I know we worked to the south and to the east of My Lai, and watched the initial insertion. As soon as the final insert had gone, we continued reconning and ran just about due south of My Lai. At this time, a Firebird team started firing to the north.

Q. Of the Firebirds of the gun team? Which team are you referring to, your team or--

A. (Interposing) No, no, no. This is--I can't remember the number. It's the aviation unit that put the initial lift in. Their gunships escorted their slicks.

Q. How many guns did they have there that day?

A. Two.

Q. Just two.

A. Two, it could have been four. I know there were two that stayed in the local area after the lift was completed.

Q. Yes.

A. They were running low-level across the north end of the area that the troops were in. They spotted some people. At the same time, Mr. THOMPSON caught one man running with a weapon just south of a road (Highway 521), just south of My Lai (4).

Q. Generally in the area of the northern reaches of Hill 85?

A. Yes, sir. He spotted him over here; ran out into here, the area back up onto Hill 85. At that time we started setting up gunruns to run just about east to west back in here, breaking away from the friendlies and on up into set up runs. We made just about three runs per aircraft. Mr. THOMPSON continued in the local area trying to find what would happen. I think it was about 20 minutes we still stayed in that area, and then Mr. THOMPSON had the mass exodus of people out of My Lai headed west along this road.

(BAKER)

Charlie-Charlie overhead asked us to go down to take a look at them. THOMPSON went down. I think there were two or three military-age males right in the middle of the group. He separated them out and stopped the traffic and threw smoke out, and got the Charlie-Charlie bird and what other slicks were available to come down and pick up this. I think they picked up one or two. I don't know what became of the others. He couldn't get them out of the group. One I guess was about it. He got him off the side of the road, popped smoke, Charlie-Charlie came down, picked him up, took him on back. From then on, during the period that I was out, I think the majority of our stuff was done to the south of the road. I think it was in this time period that we went south of the area because the Firebirds were making pretty wild gunruns and we didn't want to be in the area.

Q. When were they still operating?

A. Well, initially they were to leave the area entirely, when the insertion was completed. They stayed and ran through this area here while we were working south. This was all good. They started to make their runs north to south, got in our pattern, and I called up Charlie-Charlie, and told the colonel we were going to get out of this area until the Firebirds left. I'm pretty sure that's when we went south here to the area of 72. Mr. THOMPSON, Buck, spotted a Viet Cong flag on top of an abandoned ARVN diggings type thing. We went in, made a couple of runs on that. Then we called our slicks down with three loads of "grunts" and they came out and put the troops on the hill after we'd shot it up trying to get rid of the booby traps and anything. They put the troops on the hill and got mortar rounds, no tubes, and the flag was booby-trapped. I think it was about this time that I first left the area for refueling.

Q. You had what, about an hour and a half worth of fuel, now?

A. No, no, about 2 hours, maybe an hour and 15 minutes on station, hour and one-half.

Q. Yes, so that would have put you out of there sometime around about 0830. You're certain it started at 0730?

A. It'd probably be right around 0830, that area.

Q. Did you see the artillery prep?

A. Yes, sir.

Q. This is an aerial photo of My Lai (4) (Exhibit P-1). You will notice here that this is the outline of this town, the hamlet. You will notice 521, Hill 85 to the south, also the road leading south of the village, the ditch up alongside of the village, also this interrupted drainage ditch and road across the north side. Is that clear to you now?

A. Yes, sir.

Q. Now, the scale is about 1 inch equals roughly 80 meters, 75 to 80 meters, which would make this roughly about 400 yards across, 400 meters.

A. Okay.

Q. Now, would you indicate (on Exhibit P-1) where-- the LZ was right about in here, in this area to the west of the village?

A. Right.

Q. Can you indicate where you saw the artillery prep?

A. Yes, I remember the artillery prep was in this area and extended out in here.

Q. Yes.

A. This might have been the final shot? I know the artillery did go in and shoot at the side of the village, just up in the tree lines on the side of the LZ.

Q. What kind of artillery did you notice?

A. Standard HE.

Q. Did you see any tree bursts?

A. I don't know; there could have possibly been.

Q. I was just thinking that perhaps you could recall. Did you see any white phosphorous, or "Willie Peter"?

- A. No, I didn't see any "Willie Pete" out that day.
- Q. Now, as far as the one individual south of the this area, can you show us about where he was?
- A. I think it was in this area.
- Q. That's just the lower slopes of Hill 85.
- A. Mr. THOMPSON spotted him, fired on him here, chased him across here and lost him in the brush, and asked us to go ahead and set up and run. He pulled off; started low across here. We went up to get this position in here and flush him out.
- Q. Were any of your gunruns along 521?
- A. No, sir. The doorgunners might have--shouldn't have hit it. They could have hit it unbeknownst to me.
- Q. Yes. But you made no gun passes.
- A. Right. All our firing was to the north, well clear of--
- Q. (Interposing) North or south?
- A. South. We might have gotten into the rice paddies here, but we came nowhere near the tree line here.
- Q. When you were on station there and the Firebirds that you referred to moved from the north of the hamlet to the south of it, where were they conducting their runs to the south?
- A. They were flying initially over in this area, across through here.
- Q. Yes.
- A. It ended up, they were coming along this road for some reason and they were firing.
- Q. Yes.
- A. And this is when I just said forget it, too many in too little space, and we left.

Q. To your recollection there were only two guns there?

A. Right. They could possibly have had four there for the initial lift and then broken off two when the lift was complete.

Q. To the best of our knowledge, these guns came from the 174th?

A. Right.

Q. Do you remember the call signs of the guns of the 174th?

A. The 71st is the Firebirds. The 74th, I can't recall.

Q. Well, their lift ships were known as the Dolphins and their other--

A. (Interposing) Sharks.

Q. Sharks, okay.

A. If I have been saying Firebirds in here, I meant the Sharks.

Q. Why did you say Firebirds as opposed to Sharks?

A. I was mistaken. They were gun units that worked in the southern area.

Q. How do you recognize Sharks?

A. As I recall, they were Charlie models. The Firebirds had a large Phillips 66 Firebird on the side of all their aircraft. Sharks had the shark emblem on the nose.

Q. Yes. Do you remember that day whether you saw the shark on them? The noses marked up with the customary shark teeth and so forth?

A. I'm almost positive. This might be because I got a glance at it and know that we were working with Dolphins, but I'd be willing to bet that it was.

Q. That's what you recall hearing on the radio?

A. Right. We didn't hear too much of them because they worked mostly on Victor, and they stayed on their own "freq." The only time we heard anything from them was when they called up to Charlie-Charlie on common UHF.

Q. Just one point. You indicated that it was Hill 72 where you picked up the outpost and the flag and subsequently the mortar round. Are you sure that that's where you were operating at that time?

A. No. There were three peaks, as I remember, and we were on the middle. This one is down by the river. They had people running across this area at one time before. I don't know if Hill 85 comes farther out here. It was in this area.

Q. We understand from talking to Mr. THOMPSON. We've talked to many people in the unit, and the almost universal consensus is that the mortars were located on the top of Hill 85.

A. It could have been that it might extend farther south than the ridge line that I've drawn.

Q. It is quite a long ridge. It goes all the way down and around. I'm not exactly sure where on Hill 85 they were located, but this is what we've been able to determine so far. Now, during that first lift, do you remember anything else unusual or anything else that sticks in your memory?

A. No. The only thing I can remember is Mr. THOMPSON running along one tree line here, along this ditch. When I had left the area, there was an exodus, mass exodus, of people out of My Lai (4)--civilians with pots and pans taking off out of there. This is what THOMPSON had initially stopped. I think it was along the road here. When I left, there was this mass exodus of people, and I had heard nothing from the "grunts" at all on it. We were not on their "freq." I did hear one thing. They were screaming real loud that they wanted a dustoff.

Q. Was it that early in the morning they wanted a dustoff?

A. This is the only thing I remember that the ground troops said. They had a patient and they wanted a dustoff.

(BAKER)

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Q. Yes.

A. And the biggest thing that sticks in my mind is that when we left the people were walking along the road.

Q. Well, just a minute now. We'll get to that. While THOMPSON was flying down there south of the area, did you see him pop smoke on any wounded people or individuals south of the village at that time?

A. I am pretty sure, not positive, that THOMPSON might have popped smoke in the area near this small canal tree line that runs parallel and south of the highway. He said there was some wounded person there, and I think that he set down at that time.

Q. Set down or popped smoke?

A. No, I think he set down beside the bodies that were out in the field, I'm pretty sure. This might have been an hour later, after I came back. I'm not positive. I can't get the time frame.

Q. Who was flying with you the first time that morning? Do you remember any of them?

A. I don't know.

Q. Yes.

A. I have no idea.

Q. As the commander were you flying the low gun or high gun?

A. The high gun.

Q. The high gun. As I would understand the communications system that you were using, THOMPSON was in contact with the low gun to the high gun and you were in contact with the ground. Is that correct? And with Charlie-Charlie?

A. I stayed up on UHF and the Charlie-Charlie's Fox-Mike for his command purposes. This is why I heard the call for the medevac. I stayed up on their command Fox-Mike and our company UHF, which at that time because of a lack of frequencies was 241.0, and so I missed quite a bit of the conversation. That's why a lot of times I'd fly low level just

to see what was happening. If it was a calm area, I'd fly low level up and down the road behind the other ship, still covering him. But I had to see what was happening.

COL FRANKLIN: Do you think Captain LIVINGSTON was your pilot, your first--

A. (Interposing) It could have been. I honestly can't say for sure that it was.

Q. You mentioned that you wanted to get out of the way because the Sharks were making wild runs. Would you amplify that a little bit?

A. They were getting a little too close to me.

Q. Were they firing?

A. They were firing.

Q. Were they firing on Highway 521, which is right--

A. (Interposing) Right, on the highway and to the north of the highway.

Q. Do you recall ever hearing a burst of miniguns very close to you or making a tight turn, the Sharks?

A. That's why I left.

Q. What did you see when you went over that area?

A. I can only remember that I saw the people exiting the village. After the gunrun, I broke and went south. I didn't go back to the area, and I didn't see anything after I left the area. I know when I came back to the area that there were, I'd guess, 25 people lying in the open between My Lai (4) and the small group of hootches just to the south.

Q. How about along the edge of 521? Do you recall seeing bodies on the road?

A. Yes, in the area just along a path that leads from My Lai (4) down to the road, along here and along this stretch of highway (marking on Exhibit P-1, which is later admitted with annotations as Exhibit P-178).

Q. The last mark you made along Highway 521, about how many bodies did you see?

A. Entirely a rough guess, I'd say 20 to 25.

Q. How do you think they were killed, Mr. BAKER?

A. I think that it was miniguns.

Q. You think the Sharks got them?

A. Yes, sir.

Q. Could you just tell us why you think the Sharks got them?

A. Gun pattern into here and out. We were working this area; they overlapped: I know they were shooting in that area. I know that when I had gone over the area before, they were alive and taking off out of the village. When I came back after the gunruns, I saw some ground troops, I'd guess maybe seven ground troops, just starting to work south of the village and they hadn't made it this far south.

Q. Your radio transmissions get to be very important, who you're talking to and what you hear. Are you sure you were talking back to your company on the UHF?

A. No, no, it wasn't the company. It was on--our company UHF. This was just within the birds themselves; just within the aircraft. Our van back at Dottie did not have UHF capabilities.

Q. All right. On your FM now, you didn't have UHF capability back in the van, so do you recall having your Fox-Mike on your company "push"?

A. I think I might have gone to that frequency occasionally to tell them what was going on or when to send the other gun out. I think the primary and the one I stayed on was the command net for the Charlie-Charlie.

Q. The Task Force Barker command net, then, was what your the FM was primarily on. Okay.

A. Right.

Q. Thank you very much.

IO: Do you know whose Charlie-Charlie ship set down to pick up the individuals who had been separated from the people mov-

ing to the southwest?

A. No, I would just surmise immediately that it was one of the 174th birds because they furnished Charlie-Charlie most of the time.

Q. I'm not referring to what unit it belonged to, but who was the commander in the C&C ship?

A. No, sir, I never met him. I knew he was probably a lieutenant colonel running his battalion.

Q. All right. Along about 0830 or thereabouts, you departed from the scene, and obviously somebody, another pair of guns, relieved you on station.

A. Well, no, sir. This was when we had three gunships. I went back, refueled, rearmed, came back out. As one ship, I went back.

Q. Yes.

A. I came back out and relieved another ship. So we ran one ship back to the LZ constantly. We kept switching them off.

Q. I see. Well, that's a different story than I'd heard. I always thought you had four guns down there that day.

A. No. This is what I had assumed. After thinking about it, and after talking to Major APICI--he talked to me about the incident. I had thought that we had four guns, but he, on checking with the records, had said, "Well, your records show that you only had three aircraft available." I wasn't positive either way whether we had four or whether we had three.

Q. Yes. Well, I wanted to get this clarified in my own mind as to how many guns we did have out there so that we could get their location. When did you yourself next come back on the scene? At about what time?

A. I would guess approximately 1030 to 1100.

Q. What is the first thing, now, that you remember seeing? Pick up your story from when you arrived back in the My Lai (4) area.

A. Okay. I remember the first vividly because it was first on station, we ran the lifts in the morning. After that, we came out and it was fairly routine. The only thing I remember is bodies in the same two areas. I looked them over again, just south of the village, along here and this area here. At that time, I pulled up high and stayed high because there was no firing going on and I was merely a communications link more than a member of the recon team, because they operated a LOH and the low gun operated in the area. I stayed high, could still cover them, but was out of their way. I was not really necessary, except we needed commo with the C&C. At low level we could get hold of our company, Fox-Mike, back into LZ Dottie.

Q. During that time you were out there, did you see an H-23 land anyplace?

A. I can't remember. At that time, I was talking only with the low gunship. He wouldn't call me unless he was taking fire and they needed something.

Q. That LOH or the gunship could not land without your approval, could they?

A. They could land. The LOH could land as long as the low gun could, and said he could, cover.

Q. Yes, but they probably wouldn't do that unless you gave them the approval, would they?

A. Yes, sir. I told them that I was just going to pull high and they could call me if they needed anything. We had often operated with one gunship and one LOH. At those times we had a slick up high, and all he did was relay back and forth. The only reason they chose a gun this time was because they weren't absolutely sure that there weren't going to be any problems with fire in the local area.

Q. Suppose now that the gunship lands. What happens then?

A. He'd have to call me. Major APICI said--and I had talked to Mr. MILLIANS earlier about his landing. I couldn't have been on the scene at that time. I would have remembered it, so no gunship landed while I was in command during that hour to hour and a half.

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Q. Yes. Do you recall escorting the LOH or the H-23 from the area of My Lai to Quang Ngai?

A. Again, I talked to Mr. THOMPSON while I was still in about this. I have no idea if I did or I didn't. At that time, I'd been flying, the first time, continually. I was control, and I don't know who my copilot was. Normally after the first trip, if everything's calm, I let the other man have it if we had an excess number of aircraft commanders. If he is also an aircraft commander, I'd let him go ahead and talk to the people and fly the aircraft. If we're not fighting and just deadheading it over there, there's no job.

Q. Now, you indicated a few minutes ago that you heard people on the ground call for a dustoff.

A. Yes, sir.

Q. To the best of our knowledge, the only dustoff that Charlie Company had that morning, in fact, was not a dustoff, but it was an aircraft performing a dustoff function.

A. Right. Well, the mission was a dustoff mission. That's what I was referring to.

Q. Well, do you remember whether this was at the latter part of the time on station or at the early part?

A. I'm not sure. I can't say yea or nay. I know that it was a mine or booby trap of some kind that a man had gotten. I think it was his leg or both legs. I monitored the transmission, and they said they had another bird coming out. I was going to go ahead and call one of our slicks from LZ Dottie, but they said they had one coming out.

Q. Well, that ship that came in landed there for the pickup roughly at 1020 in the morning. Now, does this start putting your memory back together?

A. Yes, it must have been just as I came on station. I'd come on station over high. I heard the transmission and I was ready to call back. This would put it about right for our rotation of gunships for fuel and everything from 0630 to 0800 and back out at 1000.

Q. It would seem to me, however, that if you were flying, even if you were flying a C&C and you were flying

what you call high, you wouldn't have been flying up there at 2,000 feet or so. You'd have been still comparatively low. You'd have been well aware of the fact that Mr. THOMPSON flying in the H-23 would be landing. You likewise should be well aware if a gunship were landing anyplace.

A. Right.

Q. So it would appear to me that you were not on the scene during that particular time.

A. I was not. I couldn't have been. I would remember it if a gunship landed, because right away that takes me down to 300 feet it takes to cover him, so I couldn't have been on station at that time.

Q. Do you remember operating, in the afternoon, east of My Lai (4) and the H-23 hitting some brush and having to set down?

A. I don't remember it. Mr. THOMPSON flew low level on his mission. He, once in a while, did hit trees. It might have been another pilot. I know we did make recons during that week or so within My Lai, around that area. It might have been the same day and that afternoon. I can't say for sure. I know we ran up and down the beaches from right about in here (indicating on Exhibit MAP-5) and went up past Pinkville up through this area in here.

Q. Let the record indicate that he's in the area of Ky Xuyen and also An Ky.

A. I could have possibly gone over and covered this whole point.

Q. At any time in the morning, did you hear any radio traffic either from the air-to-ground or ground-to-ground indicating to stop the killing and to stop the burning?

A. I don't remember any.

Q. I know I'm taking you back almost 2 years now, Mr. BAKER. These things are highly important. I hope we can refresh your memory, and at the same time not put thoughts in your mind. Can you think of anything that was said over the radio that will have a bearing on what's going on on the ground or what's going on in the air?

A. No, sir. The only things I get out of it is that later I talked to Mr. THOMPSON and Mr. MILLIANS and both of them said that they had seen--they were killing of a lot of people. They didn't like it at all. This is when we were back at Chu Lai. So as far as what I heard, I can't remember.

Q. Can you indicate any other place that you saw bodies? Did you see any bodies in the village itself, or in the hamlet?

A. No, sir. The only areas where I do remember and vividly remember bodies were in this area.

Q. Yes, and also in those areas, about how many bodies would you think you saw?

A. Fifty to fifty-five.

Q. Do you have any questions, Mr. MACCRATE, up to such time as they went back to LZ Dottie?

MR MACCRATE: Just one little point, Mr. BAKER. Did you actually observe the dustoff when it was made?

A. I'm pretty sure that I did see it. I know it wasn't a dustoff ship.

Q. Do you recall the approximate location?

A. I think it was right in here, just to the west of the village, and things change a lot. I know it was to the west of a tree line and that he went in close to the tree line. They brought him out of the "ville". Now, it could have been that this village was built up at that time and they were bringing him out at this point. I'm not positive it was My Lai (4) or anything. I know he came in close to the village, got the people, picked it up. We had watched him and since there was no ground fire, we weren't really right on him, but should he have called, we were close enough that we could have furnished some fire for him.

IO: You know it's really unique that you picked out that as the spot that it may have been. The best information we can put together is that the aircraft came in generally to the south of the village in this area, close to a tree line, which in a way fits your discussion. But when you start talking about this area over here, that it may have happened over here, this is one of the areas that the

H-23 was purported to have gone into.

A. I know while I was in the vicinity, he did work this area. Now, I can't be sure whether I did give him permission or not to set down. I can't say for sure. I know he did work the area. He may have come back later with another team, reworked it, and found the people. When I later talked to him, he said that there were people in a bunker that he wanted to get out. I think this is the same time that Mr. MILLIANS said that he had set down.

Q. Now, Mr. BAKER, were you present when Mr. THOMPSON returned to LZ Dottie?

A. I don't know if I was present at the exact time that he landed. I do remember Mr. THOMPSON was quite excited about the killings that were going on, that he said he saw.

Q. Did you talk to him at that time? When you came in or when he came in?

A. I might have talked to him just lightly, just as group listening in. I don't know if I talked to him. I know later during the day we were back at Chu Lai, and he was still excited about this. I think it was at that time he went down to--he said he was going down to talk to somebody at headquarters and see what they could do about it. All I remember was he was mad and, can we go off the record for a second?

Q. I'd prefer not to, very frankly, because we're trying to get at this particular thing.

A. Okay, Mr. THOMPSON said that he had set down between the bunker and the infantry, and that the infantry had said that they were going to go ahead and kill these people. At that time Mr. THOMPSON, this is his biggest point, he didn't want the infantry to go in and kill these people in this bunker. Now, I don't know if he had seen them kill people earlier or not, but he said that the people were going to go in. The infantry, either a sergeant or maybe a lieutenant, I don't know who, said the only way they were gonna get the people out of that bunker was to get them out with a grenade. That was his big thing, and I think that's when Danny (MILLIANS) came in and got the people out.

Q. You don't recall you having been on the scene at that time?

A. I wasn't on the scene during that time, no.

Q. Do you recall talking to THOMPSON and MILLIANS and any of the other pilots that were there at that time back at Dottie?

A. Yes, I talked with them.

Q. Now, did you go with Warrant Officer THOMPSON to talk with Major WATKE?

A. No, I didn't. I don't know--they say Major WATKE was there that day. I'm not even sure he was at the LZ that day. But I never went up personally to inquire anything about the incident with THOMPSON. The only thing I'd seen was bodies on the road, and that excited me some. But we were putting in a lift and maybe the Sharks had taken fire or something out of that area; maybe they had had a wild gun or something. I was not that excited about the killing of those civilians.

Q. But you don't recall leaving the LZ area with THOMPSON or anybody else to go up to the van and talk with Major WATKE?

A. No, I don't.

Q. Do you recall if THOMPSON ever indicated to you that he talked to him?

A. Right. He said he was going to or had been. I'm not sure. He said he was going or had been to see Major WATKE, and that when we got back to Chu Lai he was going to go see somebody that he could complain to.

Q. Did Major WATKE mention anything about talking to the task force commander, Colonel BARKER?

A. No, not to me. I never heard him say anything.

MR MACCRATE: Did you ever hear anything said about someone talking to Colonel HOLLADAY about this?

A. Yes, I think again it was Mr. THOMPSON who said he had gone through the chain of command to see what he could do about making a complaint about the stuff that he supposedly saw.

Q. Is there anything more that you recall about the conversation back at Chu Lai that you haven't told us? You indicated a certain reluctance when we first turned to this to go into it. Is there more that you recall that hasn't come out in the questioning so far?

A. Not about the incident so much. It was just about what Mr. THOMPSON had said. Now, Mr. THOMPSON was, I don't know, in a rage or something. Maybe he was overly colorful on the incident of the bunker affair. He said that he had told his gunners to point their weapons at the "grunts."

Q. At these American forces?

A. Excuse me, at the infantry. I had some reluctance to say this. They also talked about the captain, and the only reason I know it's a captain is from talking about it. It might have been anybody, saw the captain sweeping in the general area to the south and west of the village, and one-- I didn't personally see a person shot. I later went over the area and there was a body there, obviously not a military-age male. I don't know, a child, a woman, anything like this.

IO: Can you indicate about where that was? You gave the general locality. Can you pin it down a little closer?

A. I think it was right in here. Again, I know it was in this area, I'm not--

Q. (Interposing) All right.

A. It was a wide-open field, this I remember.

MR MACCRATE: Were there any other aspects that come back to your mind at this time?

A. No, it's just Buck was rather zeroing in on the point that the captain had shot this girl. I don't know how much he saw, because it was one of his two big points, along with, again, what he said about the bodies in the ditch.

Q. What about the bodies in the ditch?

A. He landed. His crew chief or gunner had gotten out and gone down into the ditch, found quite a few bodies, and some were still alive. This is again from his statement to me

and what we talked about later that day.

IO: When you arrived back at Dottie, or when you got back to your company base at Chu Lai, how did you register your report of action?

A. We had a standard, run-off form, area you worked in.

Q. At that time, now, I'm talking about March of 1968, did you have a form that you filled out, or did you report to somebody?

A. I'm pretty sure we had forms then, at that time, number of rounds expended, 2.75, 40mm, 7.62, approximate body count, who you were controlled by, what frequencies, coordinates of fire, any fire received, that sort of thing; a standard, after mission report. I don't know if this was filed that day for sure by me or by the other team leader, or if it was filed at Dottie. It was just a running account of how much we had used. I know it would be standard. If I went out on a recon with two guns and a LOH, and we went out to an area such-and-such, we covered coordinates from here-to-there, saw this, put down on a list what you'd seen at coordinates such-and-such, fired on this area, received fire from approximate coordinates, approximate caliber and intensity. This was the form that we used, standard. Now, at times we were working out of Dottie, we had a running report on an acetate sheet. Each time you came in you came up with we expended so many rounds, we had two kills here, packs and web gear, this sort of thing. I think this is what we might have done that day. I'm not sure.

Q. Do you know who it was that kept that report there at Dottie?

A. I think it was a captain. I can't remember his name. No, sir, I can't remember his name.

Q. Well, perhaps it will come to mind later on here.

Mr. WALSH?

MR WALSH: I wonder if you recall, when THOMPSON said that he was going to take this up at Chu Lai, whether he said that after he had reported the incident to Major WATKE?

A. He could very possibly have.

Q. What I'm getting at, did you mean to imply that he had reported it to Major WATKE, but he felt that he would have to carry it to somebody higher up at Chu Lai in order to get something done about it?

A. Right, this is what I understood Mr. THOMPSON was doing. He didn't think anybody had quite understood what he'd seen and what he was talking about. In the heat of it all, he went on up and talked to--I know back in the company area, he took a jeep and went, telling me that he was going to headquarters to see somebody about making a statement.

Q. Was this immediately when you returned to Chu Lai on the 16th?

A. As I remember it, yes. He could've waited an hour, gone to chow. I know that he did.

Q. The same day. What more can you recall about that?

A. Nothing, really. It's just that I came back from the mission, dropped my gear off in the hootch, sat down, THOMPSON came in and started to talk to Mr. BROWN. I don't know if it was exactly at that time or later that I knew that he had intentions of carrying it as far as he could til he got some results. I don't know what results he wanted or how far he did carry it.

Q. Do you remember him getting a jeep and going--

A. (Interposing) I remember he took the jeep, right. That was our major transportation to chow, and he did take the jeep. I don't know if he was taking the jeep right then, just to go over to the bar, but guessing from as excited as he was, I'd say he, right then and there, took off to see what he could do, see who he could see.

Q. Do you know if he saw anybody?

A. I don't know if he saw them that day. I know he eventually saw somebody, and he did make a statement.

Q. How do you know that?

A. Mr. THOMPSON told me.

Q. Recently?

A. I don't know exactly when he did say it. I know it was while we were still in Vietnam, and he said he had gone to see--this again, he might have got up to the door and chickened out. I know he had gone to see somebody about making a statement, and I know he had gone above, or said he was going above, our aviation battalion level.

IO: What was the attitude of the men in the company and in the battalion about all this?

A. Personal attitude first, please. I had no feelings about it at all. We had received fire from that village before. I saw the bodies and--fortunes of war. Other than that day, maybe the next day, I heard nothing about it that I can remember, nothing, you know, big discussion or anything. There might have been some that I just tuned out and forgot about because I didn't think that it was that big a thing. I was a little bothered by the body count, but our body count was sent up by the infantry. They gave us a body count of a hundred in that operation. I remember at that time thinking about the people I'd seen on the road, and just kind of--well, that's come and gone. We can't do anything about it. That's the only afterthought I had of the incident. As far as the rest of the people, I don't really think there was that much discussion about it. There might have been a person-to-person type thing, but not the entire unit having a feeling, that I knew of.

Q. Did you ever hear that this situation at My Lai (4) that day was going to be investigated?

A. No.

Q. Do you remember a situation where some people came down from division headquarters, the S2, to brief the people in the company or in the battalion on past operations?

A. No, I can't remember it. We had quite a few briefings, and if it wasn't something I had really worked on, I can't remember it.

Q. No, this was not a briefing that you would forget, but a briefing that the division came down to present to members of the company and perhaps the battalion.

A. I don't remember it.

Q. Yes. Were you ever cautioned or in any way or another told not to talk about this? That it's being investigated and you should forget about it until the investigation is completed?

A. No, I can't remember being told not to talk about it. They might have said something to me over in Vietnam that I just forgot about. I never had talked about it to my knowledge. First thing I heard about it in the States was when I got called, both Buck and I got called from, I think, it was here. They wanted a statement of some kind; and I went up and talked to Mr. THOMPSON, and he said the only thing he could think of that anybody would want to investigate would be My Lai. I did remember it, and Buck said that it was My Lai. That's all I ever heard about, and then I went down and made one statement to a captain at Fort Rucker. That's it.

MR MACCRATE: Did Mr. THOMPSON say anything about talking to Chaplain CRESWELL?

A. No, he didn't. Not that I can remember.

IO: Well, Mr. BAKER, we're very pleased that you came in and gave your testimony this morning. We've perhaps added to your store of information. If any of this will, or ever does, call to your mind additional information which you recall about this operation, either the operation itself or the reporting of the operation or an investigation of it, we'd like very much to have this. We ask that you get in touch with this office so that we may take advantage of your testimony. In addition, if you have any documents of any form or know where there are any letters, memoranda, maps, photos, or anything which to your judgement would assist us, we would very much appreciate having it.

A. Everything I brought back from Vietnam personally was stolen, except a shaving kit. I've been thinking about it since the major called, and I've looked through what I have in the way of past documents, pictures, and this sort of thing, and I have nothing in there that even relates in any way.

Q. Fine. I'll give you this opportunity, Mr. BAKER, to ask any questions, or, if you would like, to to make a statement for the record.

A. Well, no questions, really. I'm sorry I can't remember the time frame and more specifics. I think that the people killed directly south of the village and along this road, to me, it was done by gunships. I know it wasn't in my team at that time, because they were laid out in the same way they were walking. Instant surprise and that sort of thing. This is what excited me about the charging of Lieutenant CALLEY at the time, because I don't know if it's including or excluding those bodies. If its including, I do believe that he's being charged with a few too many. That's about it.

IO: All right. The hearing will recess at this time.

(The hearing recessed at 1207 hours, 17 January 1970.)

(The hearing reconvened at 1415 hours, 17 January 1970.)

LTC PATTERSON: The hearing will come to order.

RCDR: The following persons are present: LTC PATTERSON and MR BAKER.

Mr. BAKER, you are advised you remain under oath.

LTC PATTERSON: Mr. BAKER, the continuance of this session is to hopefully get you to mark this aerial photograph (Exhibit P-1, which is later received in evidence with annotations as Exhibit P-178). I would like to have you sign it up here, and I will enter it into the record as an exhibit which will become a permanent part of inquiry records.

(Witness signs as requested.)

As I understand it, you were a gunship team leader in the aero-scout company, B Company, 123d?

A. Yes, sir.

Q. You also indicated in your testimony that you flew high gun on the first insertion?

A. On the initial insertion.

Q. Did they ask you as to why you're sure of that?

A. No, they didn't. I was listening to a recording, and I knew I was in charge that day. (Recording is the same tape transcribed as part of Exhibit M-20.)

Q. Where did you listen to the recording?

A. The recording was brought up by the captain who initially was doing the investigation down at Fort Rucker. He came down and wanted a statement from me. He was from Fort Benning.

Q. Did you make a sworn statement to him?

A. I made a statement to him. He was supposedly running the prosecution at that time.

Q. Did you tell them this upstairs?

A. I said I made a statement. They didn't ask me that much more about it. I said I had made a statement while at Fort Rucker, to the Army.

Q. Is his name Captain DANIEL?

A. I couldn't be sure. Mr. THOMPSON did the same thing.

Q. So you heard this tape?

A. Right.

Q. And you identified yourself from that tape? What was your call sign?

A. Warlord Alpha Lead.

Q. It wasn't Major WATKE?

A. No, it wasn't Major WATKE. That was me. Major WATKE very seldom flew. He flew command once in a great while, but if he were flying with me, he'd fly as copilot. He didn't have very much experience.

Q. Did they ask who you were flying with?

A. Yes, and I can't remember.

Q. You were flying high gun?

A. Yes, sir.

Q. Do you know who was flying low gun?

A. No, sir.

Q. Could Major WATKE have been low gun?

A. He could have been the low gun. He most likely would have been the copilot rather than the aircraft commander.

Q. Then the actual command and control of the aeroscout was by--

A. (Interposing) Me.

Q. You and not Major WATKE?

A. Correct. I told him where to shoot. We shot there, and I told Mr. THOMPSON where to go and I would keep contact with the C&C overhead.

Q. Did you ever use any other call sign besides Alpha Lead?

A. No, I was Warlord Alpha Lead.

Q. Who was Warlord Alpha 3?

A. Three was the third gunship to come out.

Q. The third gunship to come out?

A. We had three guns, and we had to switch them off and--

Q. (Interposing) Off and on station?

A. Yes.

Q. There were only three and not four?

A. There could have been four. This is when Major APICI called me originally. I had thought we had four guns, but it was quite possible we ran on three.

Q. But you aren't sure whether it was three or four?

A. I can't be sure. I don't want to goof your system up here. I know that the first time out, myself, another guy, and THOMPSON went out on station. I was high ship, in lead, in command.

Q. You know it was THOMPSON?

A. Yes, he was bugged. He was the only one we had going up that day.

Q. How do you recall that so vividly? Because of subsequent incidents?

A. The way he flies, it just had to be him; it was.

Q. Did they ask you about--upstairs, did they ask you about the afternoon work?

A. Just where I had gone and what area we worked in.

Q. Who was flying Skeeter in the afternoon?

A. I'm not sure. It could have been another warrant that we had flying at that time, that ran the recon over by the Pinkville.

Q. KELLENBENZ?

A. KELLENBENZ, yeah, Willie.

Q. Could it have been LLOYD?

A. I don't know. I think LLOYD had been--I thought he'd been shot up. He was still going?

Q. Yes.

A. It could have been either KELLENBENZ or LLOYD. I'm not sure at that time.

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Q. Are you sure it wasn't THOMPSON?

A. No.

Q. It could have been THOMPSON?

A. I would guess it was not THOMPSON, because he flew in the morning. We flew companions for a good period of time, and normally the slicks would bring down another pilot.

Q. Did they ask you who might have been flying with you?

A. Yes, they did, and I--

Q. (Interposing) It could have been LIVINGSTON, for instance?

A. It could have been Lieutenant LIVINGSTON.

Q. Were you on station for the initial insertion?

A. Right, we arrived just as the artillery prep finished up, and we were holding off to the east area. What'd I do, foul up the whole thing?

Q. No, sir, I am getting a map (Exhibit MAP-5), 1:50,000. I assume this is the type of map you were using?

A. Yes, sir.

Q. Was it a pictomap?

A. No, this is the only map I ever looked at.

Q. Let the record reflect he is pointing to Exhibit MAP-5. Part of what I am attempting to do here is to fix and to determine who was in fact there and how many gunships were in fact involved from the aero-scouts on this day. I'm going to ask you about some instances. I know that you have testified you have seen some, and I know which they are, but I would like for you to reiterate them, and I'm going to throw in a couple more things. I would like you to help me to try to fix if you saw or heard these things while in the air.

A. Okay.

Q. This way, knowing the physical limitations of helicopters, B-Model, fuel range, and so forth, and the timing of various and sundry incidents, I can pretty well--

A. (Interposing) Get programmed.

Q. You were in the air at the beginning, for the initial touchdown and did in fact see the artillery preparation?

A. Right.

Q. Are you convinced that this is the LZ to the left of My Lai (indicating on the aerial photo, later Exhibit P-178)?

A. Yes.

Q. Did you see any other artillery positions since the landings that morning?

A. I remember the insert at this area just to the left (pointing). We were coming out, and I think there had been a lift over the village to the north. I remember seeing one come out just as we were coming up to the area. Then I came in and saw the touchdown and followed the touchdown this way (pointing).

Q. Mr. BAKER, it is an established fact that during this operation on 16 March, there were four separate insertions of ground elements by aircraft from the 174th Aviation Company plus augmentation. There were two separate LZ's. In other words, there were, in fact, two lifts into each of two LZ's.

A. Okay.

Q. The two LZ's were separated by a considerable distance, 2 or 3 kilometers. To help me fix you at this point in time, the first LZ, the first lift, touched down at 0730 in the morning. The second lift to the first LZ touched down at 0750. The artillery prep of second LZ began at 0815. The touchdown was completed by 0827. Both of these LZ's had artillery preps. Both were adjacent to villages. There is a difference in the two and a significant difference. One of the LZ's, the artillery did not get shut off in time, and the slicks had to make a go-around.

A. I can't remember that, and I think I should have, because I was up there commanding.

Q. And I'm sure you could recognize it if nine slicks were in the air in three vees of three, and supported by their own organic gunship team, two Sharks. The artillery failed to cut off, and they had to make a go-around from a low final and to reapproach into it. You should remember it. I think you would have if you were in the area, and I would agree with your last statement. Do you remember it?

A. No, I don't remember. After I contacted him and told him that we were there and asked what he needed, I told him his guns were in the area and he was still in the final phase of completing his lift. I came in and told him, "Okay, we'll stay to the east and to the south of your LZ area, so we're not going to get in the way of your artillery or any of your people. Let us know when the lift is complete."

Q. Now, this was on the tape, and you heard it on the tape?

A. No, I know that's what I did.

Q. If you will, sir, I want you to recall from memory rather than what you might have heard on tape.

A. I didn't hear this on the tape (Exhibit M-20). I know we were south of the LZ. We let them finish up and get out, at least get their slicks out of there. As soon as that finished up, we came in and started our recon. I think that was the first time that we actually came into the area close to My Lai along Highway 521.

Q. Do you recall anything unusual at the outset of your mission and the outset of this operation as far as the aero-scouts were concerned, specifically? Were you late or were you dashing down there madly to make a time, to get into your AO?

A. I can't remember for sure.

Q. I have reason to believe you were a little bit late getting out of Chu Lai and that you were cutting it pretty close to get at where you should be for the first LZ.

A. Okay.

Q. So you came down generally parallel to the gun-target line and then generally peeled off to the left?

A. Yes.

Q. After the lift went down, right after that artillery cut off, you saw that lift go in, I assume?

A. Yes. I'm not sure when the artillery cut off. It could have been the second lift on the LZ. I wasn't watching. It could have been a lift in while I wasn't looking. I watched how they were prepping the LZ, went back out, reconned, and saw another lift go in. I don't know if the Sharks were shooting then or not. I know they were running beside the slicks. They could have been just standing escort and not shooting because of the 2d Platoon.

Q. Just for clarification, you indicated artillery on the second lift into the LZ? That would be highly unusual.

A. No, I didn't. I said I saw the artillery.

Q. You saw the lift go in?

A. I later saw the lift go into that LZ, but I don't know if it was the first lift into the LZ.

Q. Oh, I understand. So you can't indicate the time difference between the artillery and the lift?

A. No. I couldn't even be sure if that was the same one you were speaking of earlier, where they had to break off one lift because the artillery hadn't been cut off yet.

Q. According to your earlier testimony, you saw a woman shot by an individual?

A. I didn't see the man shoot the woman. I saw one body in the vicinity just east of the village.

Q. You're pointing west of the village, sir.

A. West-southwest of the village here.

Q. Can you give us any kind of fix on that photograph (later Exhibit P-178)?

A. I'm sorry, I can't. It could have been farther away cause--

Q. (Interposing) The scale of this photograph is 1 inch equals about 85 meters. The village here, for instance, is about 450 meters across at this point. You see, you're about 500 or so meters from the base of 85.

A. Well, we covered down in here (pointing). It could have been in whatever that is.

Q. It could have been over to the extreme western edge of the--

A. (Interposing) It was just as we came down over here (pointing). It was in this vicinity (pointing), and I know it was in here. We just went in and out.

Q. We have reason to believe that the first LZ was right in here (pointing), about 50 to 100 meters west of the village of My Lai (4). Does that give you any better reference as to where this--

A. (Interposing) Not really.

Q. It was south to the LZ?

A. It was to the west of the LZ, this area north of the road.

Q. I see. Maybe we'll come back to that after we get you to recall something. I believe that you indicated that you saw the Sharks somewhere doing something. What were they doing?

A. The Sharks were north of the "ville" in the area about a click, a half click, north of the "ville," and I heard over, I think, a Fox-Mike that they had some people with uniforms and weapons. This was after the lifts were completed. They still kept their gun team in the area, and we had just come in there.

Q. This is sometime later then, right after the woman with the child, or the woman?

A. No, I can't fix a time on that.

Q. By monitoring the radio as you were en route, you heard that the artillery prep was starting. You were on the command net and you figured that you were going to be there, so you'd better tell them you're going to be there, you'll be there in about 15 minutes. And most probably because you normally wouldn't run in this kind of thing, you called from another village just south of Chu Lai and let them know you were coming and knew where their artillery was coming from. So you came out along the coast-line and stayed in that area. Do you recall this?

A. Not positively. I know I've done it before. I can remember doing it before. I don't know if we did it that day. I know I should be positive.

Q. Now, sir, if we're not positive that day, whether it happened before--okay, sir. Now, as I understand it then, you recall seeing, and you now think, and you still maintain, that you saw this landing at this LZ to the west of My Lai.

A. Yes, I think I saw the landing. I can't say that was their exact LZ. They might move.

Q. But with relation to My Lai, immediately to the west?

A. Yes, I would say that's the one I saw.

Q. Did you see both lifts go into that LZ?

A. I'm not positive. I don't think I did because we weren't really interested in what they were doing over there.

Q. You were over to the southeast?

A. Right. We worked in this area (pointing) and stayed out of the artillery line. I think it was either Dottie or north along the highway.

Q. Could it have been Uptight?

A. It could have been Uptight, but we were out of their G-T line.

Q. Then after the lift went in, what did you see?

A. After the lift went in, we came down 521, this highway, and ran through this area and right around in here. Mr. THOMPSON saw the Viet Cong with the weapon and fired on him, broke off, came back in, ran right around him.

Q. Now, as I understand, the Warlords fired on him or THOMPSON fired on him?

A. Well, THOMPSON fired on him first. He tried to get him with his doorgunners. The man ran up the hill and tried to shake Mr. THOMPSON off. We made about three runs apiece.

Q. Now, this was sometime before what you previously indicated was the finding of the mortar rounds on Hill 85. You indicated previously that you saw the artillery going into the village.

A. I saw the artillery in the village, yes. There were some long-range gun shots, but this was at a distant hill.

Q. Did you see the gunships making their suppression run?

A. No, I saw them when they started to roll in, but it was just glancing over there. I wanted to see if the lift was still going on and what progress they were making. We were just waiting for them to finish up.

Q. You were some distance away?

A. We were almost as far as the coast.

Q. And you were looking over to My Lai (4), about 3 or 4 kilometers away and saw the artillery drop into that village?

A. I saw the artillery drop. We worked all the way up to 85.

Q. While the artillery prep was going on?

A. While the artillery prep was still in progress. We came past, and I thought we were late or something. From what I understand, I cut it close, a bad habit. I came too close to the artillery, but I didn't see it.

Q. Okay.

A. We had just come in from the south and spotted this Viet Cong. We made our run and were working in this area directly south and to the southwest.

Q. Well, let's fix in time, if we may, sir, with reference to the LZ and the artillery, the aero-scout discovery of this Vietnamese male with the weapon that the aero-scouts engaged. Was this early, after you started skirting the area?

A. Right, I'd say it was within 15 minutes of the final lift in. As they pulled out, the colonel called, "Lift complete, come into the area." We came into the area and started along the highway and worked that road. I think that that is about when THOMPSON spotted the Vietnamese with weapon running. Within 25 minutes of that the Sharks had started shooting up north. We were in the south, and I think it was right after that that they continued their low-level maneuvers around the area, and it was getting too close for us. They did some firing south of the village and it was too close. At that time I called C&C and said, "We'll pull out until the Sharks are finished. There's too many guns and too little space."

Q. That's later though. Touchdown in the LZ west of My Lai (4) was 0730. It was preceded by a 3-minute artillery prep according to our records and testimony we have available to us. Immediately after the first lift, we have reason to believe that the Warlords moved into the area just east of 85, at least the Skeeter did. He did in fact discover an individual, and you acknowledged this in the air and advised. At this point in time began the coordination with the Sharks with reference to an area of operation for the aero-scouts and an area of operation for the Sharks. You decided, apparently, on the Highway 521 as a boundary between the two gunship teams. Does this recall?

A. Yes. I know I made a reference or tried to get some kind of communication set up between the two of us because we were going to run too close. Originally, we had been told that we would be running recons in the area, all of the area.

Q. Right. This is the information that we have. Right after 0730, 0735, 0740 perhaps, when you found this, as you call him, a "dink" with the weapon and started coordination, you indicated to the Sharks that you'd be staying south of the road and the Sharks acknowledged that and said "Roger, we'll stay north of the road." Does this jibe with your recollection?

A. Yes.

Q. I'm not trying to put words in your mouth. I'm trying to get you to recall. THOMPSON then fired at this man and then pulled off and let the Warlords come in there. The Sharks did not come down into that area to fire at this particular individual.

A. Not at that individual.

Q. At that time you indicated you made three gunruns. Two or three gunruns?

A. I'd say three gunruns.

Q. How did you make your gunruns?

A. Gunruns were set up just about east to west, maybe east-northeast to south-southwest, just heading towards Hill 85, in the northern slopes of 85.

Q. You broke which way from your gunruns?

A. This is going to be a change of statement. I had earlier said we made right-rights. Now thinking about it, I would say left-right because of the hill off to the right and our runs, because of this one individual who ran in front of the hill, we would have been breaking the hill. So I cannot be absolutely positive. I would say we would break to the left.

Q. Is this a deduction on your part or a recollection?

A. Right, this is not a recollection. This is just from what I remember of the terrain.

Q. On one of your gun passes, one of these two or three gun passes, do you recall looking up out in front of your machine and seeing the Sharks off in the distance?

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A. Right.

Q. Was there some conversation between you and the Sharks in reference to your direction of flight and firing and the proximity to the Sharks or the Sharks being in your area of operation?

A. I don't know if there was conversation between myself, my lead, and the Shark's lead. I know at that time, things got too close. We weren't sure and we fell further south and let them continue with their assault because they flew right to the north of the road and we were just to the south of the road.

Q. Yes, sir. This agrees with most of the testimony that we have had and the other evidence we have. It seems to jibe and make sense. Timewise, this incident that we're discussing now and the firing passes that you made jibe with the other testimony. I am of the belief now, and correct me if I'm wrong, and only if you can recall, that at about 0740 hours in the morning, in that approximate area, which is about 10 minutes after you got on into the operational area, you discovered that man, the Skeeter did, and you made two or three passes, making your runs from the east-northeast to the south-southwest, generally parallel with 521?

A. No, I'd say we were crossing it.

Q. The information I have is that you were coming in like this (pointing).

A. One run, we might have made like that. Later in my runs I know I ran this way.

Q. This incident is, in fact, documented in the journal of the Americal Division. It is reported as transpiring at 0750 when the aero-scouts claimed two VC KIA in the area that you have indicated in earlier testimony. The Sharks, we feel, were in fact just about 50 meters or so south of the road engaging a VC on their own, probably right in the middle of this gunrun that you were making.

A. Correct.

Q. There was some concern by the Sharks that some of your rockets were getting a little too close to them because of the rate of dispersion.

A. Right.

Q. There is in fact evidence that your rockets were, in fact, south of the road. Do you know where the Sharks were? Can you pinpoint where they were, an approximate area?

A. Right there (pointing).

Q. (Marking on the aerial photo, later Exhibit P-178) Mr. BAKER, that directly agrees with the testimony that we already have. Now, would you be willing to venture a guess as to the time?

A. I'd say 25 minutes. This is entirely rough.

Q. Well, perhaps we'd better not put a time. Sharks observed here during Warlord gunship run, point 1. Where, approximately, did you see your--

A. (Interposing) Over in here.

Q. "Engaged one Vietnamese male with weapon soon after lift." Gunruns were from the east-northeast. The reason I'm asking you that is because in fact you indicated you made gunruns like so (gesturing). You are in fact over My Lai. You were in fact over the area that you had previously agreed you would not enter because this was your boundary.

A. Right.

Q. Can I say this: "General area of gunship fire hitting the ground"?

A. Yes.

Q. For the record, we have marked area 1 on the aerial photograph as where the Warlords engaged one Vietnamese male with weapon soon after lift. Area 3 is marked on the aerial photograph, the general area of gunship fire hitting the ground. Position 2 indicated on the map is where the Sharks were observed during Warlord gunship run on incident 1 and 3. Did you see the Sharks firing at position 2?

A. I saw the miniguns fire while they were making runs in the vicinity. I'm not sure of the exact location where they were firing. I know if they did fire some in

this point when they broke off, we started talking back and forth trying to reestablish our lines. We came over this area. I know they had been shooting there. We saw a couple of their rockets landing along the tree lines, but I--

Q. (Interposing) Okay.

A. I can't say I watched them shoot there.

Q. I want to be very careful with what is assumption, what is fact, and what is actually seen.

A. Okay.

Q. The record indicates that there were some dead Vietnamese along this road, within 20 or 30 minutes of this time of your engagement, if you will. The Sharks maintain in testimony that they, in fact, did engage a Vietnamese male with a weapon at position 2. They engaged him with their doorgunners, according to their testimony. They also indicated, and this is furthermore supported by other testimony, that infantry forces were brought down to this area to recover the gear. They feel that the individuals that were dead along the road--we have testimony that some of the infantry troops killed people along the road rather than the Sharks ever shooting people along the road.

The statement you made saying you saw them make gunruns as such is in contradiction with this. I'm not trying to change your testimony, but unless you can say that you did, in fact, see the gunruns, know in fact that they did or were responsible for whatever was dead along this road, then the dead that you might have seen could have been killed by some other means.

The Sharks found a Vietnamese in a group of people here (pointing). They were walking along 521 and this individual moved off the road and down into this tree line (pointing) and they did engage him in here. He appeared later on in this tree line (pointing), and they engaged him again with doorgunners in a very tight turn, very low for a gunship, almost settling out in an orbit-type thing. Now, is that what you saw?

A. I saw the low-level maneuvers to be less than a hundred feet off the ground.

Q. Right, was it in a tight turn?

A. I can't say if it was in a tight turn. It was not a level flight. They were maneuvering.

Q. This coincides with what they say. Now, as a gunship pilot, sir, would they be making gunruns in that formation?

A. I have seen them shoot at other times in the same configuration. A modification of the last statement: I did not see them shoot rockets.

Q. You did not see them shoot rockets at position 2?

A. No, I didn't.

Q. And you've indicated in previous testimony that you did see them shoot miniguns?

A. Miniguns.

Q. Are you convinced you saw them shoot miniguns? And I'm trying to get this in proper fact.

A. To the best of my knowledge, they did shoot miniguns. I think that they did. I can't positively state that they did.

Q. We are trying to find out what actually did happen in the vicinity of 521 here, just north of position 2. We want to find out who did, in fact, shoot these people. The testimony of yourself, you see, becomes quite important here, because if they did in fact make minigun runs down that road, then they could have shot the people.

A. Right.

Q. If they fired only doorgunners, or if all you saw were tracers hitting the ground, it could have been a doorgun and not a minigun?

A. Right. Well, it was a burned rice paddy.

Q. Tracers?

A. Tracers, we didn't see the tracers so much.

Q. What makes you think it was a minigun, then?

A. The sound.

Q. Differentiated from doorgunners?

A. Right.

Q. Did you have the same guns on your UH-1B's that they did on their C's?

A. We might have one.

Q. One what?

A. Miniguns.

Q. How about doorguns?

A. We did, same thing. We had the old XM-1660.

Q. Well, just trying to reconcile it and come up with the facts, would you again state what you saw insofar as the Sharks were concerned from the vicinity of position 2 on 521?

A. I saw the Sharks working in the vicinity. That was low-level, less than a hundred feet, not in straight, level flight maneuvering. I know that the doorgunners were firing. I observed that. I cannot positively state that they did fire their miniguns one way or the other. I think that they did, but I cannot state it.

Q. You are sure that they were south of 521?

A. Later in the day I did go by and see the body, and I think at that time it was right around that area that they did it. I remember the conversation back and forth between Charlie-Charlie and Shark to get somebody to get down here and get this guy because he's got a weapon and people are trying to get off the road, and there are military-age males in those people.

Q. That is correct. That agrees with all the other testimony regarding this particular incident. I assume from your previous testimony you saw several people along 521?

A. The majority, most of the people I saw. A few went out here (pointing).

Q. From the trail along the southeast corner of the village on 521?

A. Right. The majority of them went out of the village to the south on the trail and to the southwest along the trail. Just almost at the edge of your photo here, that's where THOMPSON set down and separated, I think it was two-- or one--military-age male from the--

Q. (Interposing) We'll get to that incident in a minute. When you saw the Sharks and cut off your firing lines, did you confirm any kills in your area, either in the vicinity of 1 or the vicinity of 3 or in that general area?

A. I can't positively remember. I'm not really sure if we did in fact confirm it or if Buck, Mr. THOMPSON, did confirm it.

Q. Did you at that time immediately break off and go in further to the east, or did you then go over to see what the Sharks were doing?

A. I didn't go over to see what the Sharks were doing. Right away we pulled up and got them out of the area, because--

Q. (Interposing) Got them?

A. No, I pulled up and pulled the team away slightly from the area. We talked to the Sharks and they moved out of the area. I think it was right then, I'm not sure, and then we reestablished our boundary.

Q. They were trying at that time to get the infantry to come down to their position 2 to scarf up this--

A. (Interposing) Weapon and web gear.

Q. Did you see any dead people at that time along the highway, at this point in time?

A. Not that I can remember.

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Q. It would be logical that you didn't because you weren't over that area? If you were up at altitude and to the east, it would have been difficult to have observed anybody dead at that point in time.

A. Later, as the Sharks pulled out, we came back through this area and we worked it.

Q. Now, we have reason to believe that after you pulled up and went up, the Sharks moved out as you were trying to get the infantry force to come in. The second lift arrived into this LZ, and this could have happened because they came in from the west side of Hill 85. You were probably blocked from the view by the hill and distance, and they set down in here rather rapidly and pulled out.

A. I can't be sure.

Q. You don't recall this?

A. No.

Q. Do you recall any report of an LZ being hot on either that lift or the first lift?

A. No, I can't say for sure.

Q. Did you see any ground forces moving from the village down to position 2?

A. Right. Later we came back in the area, the time sequence I'm not sure of.

Q. Well, right now, we're at about 0800 in the morning. The second lift has been in, the Sharks are out in here (pointing), and you're off here (pointing). This testimony, sir, is supported by documents.

A. This is when we again came and started working--

Q. (Interposing) Then you came back into the area?

A. Back into the area. We worked the road.

Q. What do you mean, "worked the road"?

- A. Recon, trying to pick out any military-age males.
- Q. With a Skeeter?
- A. Yes, one low gun, one high gun.
- Q. Where were the Sharks at this time? Do you recall seeing them?
- A. I think they were again off to the north, straight free of the village.
- Q. North of My Lai (4)?
- A. I can't be sure. I know they weren't in my area.
- Q. They weren't down in your area south of 521. This also agrees with the Sharks' recollection of events. About this time the Sharks reported engaging. About those Vietnamese males, to the east of the LZ, somewhere over here in the northeast corner of the village (pointing), do you recall hearing any--
- A. (Interposing) I think again, at that time, I saw some--making some turning tactics while on low level and they were running a recon mission without a recon ship. They were down in there with Charlie models flying at a low level, and I do remember them calling up, "We have engaged." I think they might have even called for again the "grunts" to come up and check it or pick up weapons.
- Q. From a couple of VC that were to the east of the LZ somewhere?
- A. North and east.
- Q. North and east? This is in agreement, and we have reason to believe that this was right around 0800, very shortly after all the lift activity here. And it seems the sequence is in pretty straight flying time, staying east, perhaps missing the second insertion in to the LZ, coming back over and around and starting to work the road. The lift is complete here now. You will see no more activity over here. And it would also put you into the area prior to the time of the second LZ and second insertion on this day, that I indicated to you earlier did in fact transpire.

Do you recall being out over the peninsula, calling it a peninsula and watching or checking out the people that were "di di'ing" out of the area, the vicinity of the peninsula?

A. Yes, a lot of people were evacuating the area, and I know that we went up and down the beaches and the vicinity of what they call Pinkville.

Q. This was in around this time frame or--

A. (Interposing) I again can't be sure of the time. I'm wide open on that. I think that might have been about the same time that Buck went up, Mr. THOMPSON went up to the top of 85 there and found a Viet Cong flag and ran that out--

Q. (Interposing) We have information to believe that it was another operation when the Viet Cong flag was stuck out of the--

A. (Interposing) We fired on that one. I know they put the flag up at least twice, on two different occasions, different days. We did fire on it.

Q. Well, the best evidence we have is the VC firing and the snatch of a VC flag did not occur on this particular day.

A. I know we went up to the hill.

Q. This is a little bit later in the day.

A. Well, this was a flag up there at the same time. This is what I'm talking about.

Q. I see. I understand. Do you remember a call sign of anybody from brigade or division that appeared in the area here at My Lai (4) about the time when you first started to work 521 just south of My Lai to the southwest?

A. I think one of our VIP birds brought down somebody. I don't know who it was. I think it might have been a slick.

Q. It was a C&C bird?

A. It was one of our VIP ships that was flying about. I think it was KOSTER or one of the division people.

Q. Could it have been the brigade commander?

A. Yes, it could have been.

Q. Well, we have reason to believe that it was. In fact, the brigade commander and his S3 did observe all these people to the southwest from where you were currently operating.

A. Didn't he call it into something? The C&C ran us over there to look at it.

Q. What did you find when you looked over there?

A. This is when Mr. THOMPSON found the one military-age male. I don't know if it was one, possibly three that he separated out of the group.

Q. Did they strip down to the waist?

A. They stripped.

Q. Do you recall that?

A. I remember they stripped.

Q. Can you recall where Mr. THOMPSON segregated them or separated them?

A. There was a small bridge.

Q. You're pointing to coordinates 704776. This is about a kilometer from My Lai. Is that within your recollection?

A. No. It looks like it was back up just about in here (pointing).

Q. You're now pointing to vicinity coordinates 712783, which on the aerial photograph is in this general area here (pointing), which we will mark position 4. Position 4 is marked on our aerial photograph (later Exhibit P-178) as the approximate point where Warrant Officer THOMPSON separated one or two Vietnamese males from the group on 521. After he had them separated, what happened?

A. They got the Charlie-Charlie bird down to pick them up.

Q. And Charlie-Charlie bird, did he land in this approximate area?

A. Just maybe 10 or 20 feet off the road.

Q. Then I can insert on this for item 4, position 4 is marked to include that which we have already indicated for the record with the following: "and where C&C helicopter landed and picked up one to two Vietnamese that had been segregated." Is that correct, sir?

A. Yes.

Q. Are these the individuals that were stripped all the way down to their waist?

A. Yes.

Q. Do you recall that?

A. Yes.

Q. Now, after this incident, when they were picked up by the C&C, what occurred then? Do you recall? I would assume, sir, by this time or during this whole time frame, that the Sharks or any conversation that you overheard from the Sharks, put them out of this area?

A. Right. I can't remember having any other problems with them. I think shortly after that they were called off. This might fit, and if it does, I think that I left at the same time the Sharks left station to refuel and rearm.

Q. What makes you think that?

A. I spotted them at the POL.

Q. Where?

A. At Dottie.

Q. Now, what time would this have been?

A. I can't be sure on the time at all, but I'd say, when I had been flying for about 1:30 to 1:45. It'd probably be shorter than that because we had to somehow switch off. I don't think we had two gunships at refueling. I think I came back and another ship came out. I refueled by myself, so the original low bird stayed out and a new high bird came.

Q. What was the usual fuel range for the UH-1B that you carried, in time, 1:30?

A. About 1:45.

Q. Then, did you have to be down on the ground by that time? The reason I ask you this is because I recall a UH-1B with a load--

A. (Interposing) About 1,900 pounds.

Q. Nineteen hundred pounds gives you about an hour and 30 minutes, and you'd better be right handy to refuel the plane.

A. Right.

Q. What time had you taken off from Chu Lai in order to be on this site by 0730 in the morning?

A. If we got there at 0730, we took off at 0715, 0720.

Q. And an hour and 30 minutes later? That'd be 0830, 0845.

A. I know we can't cut it too close because my fuel situation is the same as the low bird's, and he has to get somebody out to replace him, and this is why I think we might have had just the--

Q. (Interposing) You can recall seeing some Shark gunships at the refueling point?

A. Right, I don't know if they rearmed there or not.

Q. This kind of agrees with everything that we've had thus far. Do you recall being on station when the two mortar tubes were discovered?

A. This is again by that recording and partly by memory. I think that I was on station. I put them on, and I'm

not sure if I was there when they came out.

Q. What makes you think that you were on station when they put them in?

A. I remember thinking about whether we should bother with this flag. Why bother with one flag and this sort of thing.

Q. Do you recall about this time when you were getting low on fuel and about the time that the decision was made to put the infantry on the ground in the second LZ?

A. No, I don't.

Q. You don't recall seeing the slicks any more? They'd have been to your east, between Hill 85 and the China Sea, south of 521. You don't remember the artillery prep coming out of LZ Uptight, the artillery prep not shutting off in time, and the slicks making a go-around?

A. Now, I can remember the discussion that the artillery had to be cut off. I don't remember watching that lift. I remember hearing, "Okay, break it off. We're not going to make it," and we brought them back out, and I wasn't watching that.

Q. This agrees with the testimony of the Dolphins and the Sharks because the lift ships in the second LZ made their approach from the south, landing to the north and on the go-around pulled out over the coast of the China Sea.

A. I remember seeing the formation on the coast all broken up.

Q. Do you remember that now?

A. I remember seeing them at that time.

Q. And that occurred at 0820 hours in the morning. I have you on station now through 0820. The lift was put and completed there at 0827, the first lift into that second LZ, according to the documents that we have available to us.

A. They always were good about calling out the time.

Q. In the meantime, the decision was made by you, I assume, or someone, to put your infantry on the ground because THOMPSON had discovered these mortar rounds.

A. Right. I thought this originally, and this is on the recording. From what I can remember, we probably had a mortar tube, and this is the original reason I think why we brought them out, to get the tube back.

Q. They discovered rounds after they got on the ground?

A. Right, first they told us that they had a mortar tube, and I was ready to call and get them out. Then they came up. We had a mortar round, that I think they would've discovered in one group, but it was spread out across the hill.

Q. Do you remember the infantry going in with your birds, your organic slicks?

A. Yes.

Q. How many slicks were there?

A. Two, I think, possibly three.

Q. How many loads did they put on the ground? Do you recall there was a problem or no problem?

A. I think they put two on the ground. One ship went back to get another load. It was a drawn out affair.

Q. The information in testimony has indicated that the lead ship of the three-ship flight did not in fact put his load on the ground. He didn't feel he could get it in there, and he pulled off. Then the other two went in and dropped the infantry on the ground. Does this go along with your recollection?

A. Yes.

Q. Were your gunships, the Scorpions, accompanying this lift?

A. We weren't Scorpions any more. We were all Warlords.

Q. Were the Warlords' gunships accompanying them?

A. Yes. We went in with them.

Q. Did you fly in support of them?

A. I think we tried to shoot that flag down and blow it up. It was booby trapped.

Q. Did you make some firing passes and try to get something in that position?

A. Right, just to make sure that there weren't any booby traps associated with it. I think later it was decided that they had a grenade or something inside of the bamboo.

Q. Now, in your recollection of attempting to get this flag, do you recall whether or not you hung around and then decided it was time to go refuel?

A. I can't remember taking them off that hill.

Q. No, but I mean right now, right after they were on the ground. Right after the infantry had been put on the ground.

A. Now, I remember watching them walk around that hill.

Q. For a little bit?

A. For a while. I don't know how long.

Q. Then you went right from that mission, watching them on the hill, to refuel?

A. I can't be sure.

Q. Timewise, though?

A. Timewise, I'll agree it had to be right about then.

Q. Within 15 or 20 minutes?

A. Right. I remember watching them walk around the hill. I remember the discussion which I later heard on the

tape about mortar rounds and mortar tubes and got that straight. But I would believe that right about that time, I had to go refuel.

Q. Do you remember talking to Helix, the FAC?

A. Right. He had something going. People were moving somewhere and he wanted us to go look at it, I'm pretty sure.

Q. Did you go look at them?

A. Not to my knowledge. I can't remember. I'm not sure of that at all.

Q. What people do you deduce he could have been seeing over to the east of Hill 85?

A. What do I deduce that he saw? If he was unaware of the second load of infantry going in, he could assume the people were civilians leaving that area. There was also people going out into the water, I think, at that time. I remember the lift in that area, that the people had tried to get on boats and go out to sea, and either the swift boats brought them in, and I think Charlie-Charlie, somebody's Charlie-Charlie--this could have been a different combat assault.

Q. Do you remember any identification any time over the air that those were friendlies?

A. No.

Q. Do you remember talking to the Charlie bird? Who was Charlie bird?

A. I know I talked to him.

Q. Who is he?

A. Oh, he was the battalion commander that ran the lift. Charlie-Charlie, he was in the area--he was the one I initially talked to about--we're going to be in the area, what do you want? He's the one I talked to and told him that we had mortar tubes. I fixed through him, but I coordinated

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the lift with him.

Q. I understand. Do you recall then the actions of the Warlord element with regard to the mortar rounds that they discovered on Hill 85?

A. This was at the time when I returned because they were going to blow them with C-4. I think they were going to haul in a demo team or something, or haul in C-4. I don't think I saw them blow it.

Q. Do you remember seeing them bring in the demo team?

A. No. The biggest thing I can remember about this whole thing is crossing the area south of My Lai (1) and then coming back across it and seeing the bodies. I remember this was at the same time when the Sharks were in the area.

Q. When you were going back to refuel, somewhere in the vicinity of 0830 to 0845 in the morning, did you go back over that area?

A. If I remember, it was just after the Sharks, within 20 minutes after the Sharks had landed that I went back and saw the bodies.

Q. So that must have been somewhere on your way to refueling because you indicated that they were in the refueling area when you arrived. If this is after the Sharks had gone, then you were en route up to refueling, or am I reading something in here?

A. Slightly. When I went across there, there weren't any of the infantry there. I know they were on the south edge. I don't know if they were going back north or if they were just moving south, but somewhere between the time the Sharks had left the area indicated as number 2 on the aerial photo, and the time that I passed over them, I saw these bodies.

Q. You were passing over. Do you know where you were going?

A. No, I don't.

Q. Could you have been going to refuel?

A. I could've.

Q. Do you recall that the Sharks took off again right after they refueled and you pulled in?

A. Right. They took off. I don't know if they went back to the area or went down and set down.

Q. Do you recall that you went to the refueling area by yourself leaving the Skeeter bird and one of your ships on station?

A. Right, because I know there was only myself and the two Sharks on the refueling pad.

Q. And do you recall calling and making arrangements to get another gun out there to take your place?

A. I don't recall it. I think that I must have done it because we very seldom, only once in a great while, operated with one gun and one Skeeter, or LOH rather.

Q. Do you recall what your actions were after you refueled and rearmed? Do you recall if you went right back on station to relieve the ship that you had left on station?

A. I don't know.

Q. Do you recall shutting down?

A. No, I don't.

Q. You don't know whether you shut down or--

A. (Interposing) I don't know whether I shut down then and waited or I went back out or what.

Q. Who would have been Warlord Alpha Lead while you were gone?

A. I have no idea.

Q. You wouldn't have turned over command of--who was left out there when you went to refuel?

A. Well, I don't know who it was. I don't know who my copilot was, sir.

Q. Do you remember turning over the command of the thing to someone?

A. Not really.

Q. Do you recall briefing anybody in flight, indicating that you were going back to refuel and that he would have to assume the mission?

A. I think I briefed somebody, but I don't know if I was just--there must have been somebody.

Q. Did you have some troops on the ground near 85?

A. I'm pretty sure about that, but as far as my actions after I hit the refueling pad, I can't be sure.

Q. Doesn't it seem logical though, and again I'm using deduction, that that other gunship that you'd left on station when you went to refuel also must have been a little low on fuel, and that whoever came down to replace you, he then refueled and remembered seeing somebody at the fuel dump, specifically the Sharks? Why you remembered them, I don't know, but I'm deducing that it was probably because you wanted to refuel in a hurry to get back on station to relieve the man that you'd left down there.

A. The biggest reason I remember the Sharks is because they were too close to me that day--

Q. (Interposing) Too close to you at the fueling dump?

A. No, too close to me when I was out flying. I was at odds with them about that time and did not appreciate their tactics in close proximity to me. It could have been that I was also rushed and had to come back out.

Q. Do you remember a call from the Charlie bird, C&C, with reference to going down to a set of coordinates and checking out a group of people down there?

A. Right there about 730--

Q. (Interposing) I don't know if you recall--I'm asking if you recall that type mission?

A. I remember going in that area, but I cannot be sure.

Q. And indicating that they were friendlies?

A. It was that day, but we had some "ruff puffs" right around just on the north bank of this--

Q. (Interposing) RF/PF's? Regional Forces/ Popular Forces, ARVN friendlies?

A. Right.

Q. This is the same day?

A. Yes, and I think we saw people in there.

Q. Where you saw the people here (pointing)?

A. On 85. I know we came around and just south of Hill 72 by the river, and I think there was around 20. I can't even be sure on the number.

Q. Was this after you refueled?

A. I don't know.

Q. You indicated upstairs you knew something about a dustoff?

A. Yes.

Q. When was the dustoff? After you refueled; before you refueled?

A. I can't be sure.

Q. How about with reference to the RF/PF's?

A. No, I can't be sure on the time. I know I watched them go in. I remember that they were calling for a dustoff and I was going to have one of our birds come from Dottie and pick them up. Somebody else en route took the call, not a dustoff ship, came in.

Q. What was it, one of the Dolphins probably?

A. I have no idea. Some helicopter said, "I'm here, and can you use me?"

Q. You say you were en route somewhere?

A. No, I--

Q. (Interposing) Were you in the area?

A. I was in the area because I saw him start his approach and know he made an approach. This was again brought out in the previous inquiry, into a tree line. The general area was in this tree line, sir, just south of My Lai (4).

Q. Is that where you think it was?

A. Well, no. I had indicated more to the west side. I know he was coming into a tree line, but I can't say for sure what the point was.

Q. We have evidence, of course in previous testimony, that this is where it occurred, in here (pointing). Are you willing to put that on your map?

A. No.

Q. What did you do after you saw him approach?

A. I think we stayed in the area just long enough to make sure he was going to get out.

Q. Were you flying high gun or low gun at this time?

A. As far as I can remember, I think I was lead all day.

Q. Have you ever flown with Captain LIVINGSTON?

A. Yes.

Q. Could you have been flying with him this day?

A. Quite easily.

Q. During your tour operating out of LZ Dottie and this general area, do you recall switching pilots back and forth and around, or crew members?

A. Right, we switched--I can remember switching just once, but I know we switched copilots quite often.

Q. Do you remember whether or not Major WATKE went along?

A. No, I can't remember on that.

Q. Do you feel now that you were on station when this dustoff made his approach and would have stayed around for some time thereafter?

A. Yes, this is feeling, and not for sure.

Q. Well, you do remember being there when he started his approach. Do you recall being on station prior to this time?

A. Well, I must have been on station prior to that because of the listening for the call, the original call for a dustoff, because I thought maybe it was checking out or something like this. And when I said to them--

Q. (Interposing) Do you remember back on this dust-off that you recall seeing further to the north? Or along in the area of the general dustoff, do you remember whether or not that was a C&C ship or whether it was a straight dustoff?

A. As I remember, it wasn't a dustoff bird. It was a slick. It could have been somebody that was resupplying for them that day or just somebody going down the--

Q. (Interposing) Do you remember Coyote 6?

A. I remember hearing the call sign.

Q. Do you remember his going in to pick up some wounded? Something to the effect that, maybe from the NCS, "We need a dustoff, but cancel it. Can a slick go in and get him?" Or was this another dustoff? There were several dustoffs this day.

A. I know they cancelled the dustoff, but I can't say for sure that it was Coyote 6.

Q. Do you remember them cancelling the dustoff?

A. Yes, they filed their request at division for a dustoff and then they did cancel it.

Q. Do you recall seeing and reporting some civilian dead along highway 521?

A. No, I can't remember saying anything about it.

Q. Can you remember hearing it on the tape?

A. No.

Q. Warlord Alpha Lead on the tape said: "You got somebody out in the area where these, I'll say there's about eight or nine 'dinks' lying in there with web gear and everything. Somebody ought to police up the gear."

Coyote 6 came back and said: "This is Coyote 6. Give me coordinates. Over."

Warlord Alpha Lead: "Roger, it's just below Hill 85. Just to the North of Hill 85 where we first got 'em, just to the south of your first LZ and along the road there. There's about, oh, 10, 15 'dinks' all spread out over the field that we got when they were 'di diing' to the south. The gunships shot 'em. We'd like to know if there's somebody in the area to pick up this web gear, 'cause right now we're just keeping people from stealing it."

Coyote 6 came back and said: "Roger, I'll send somebody down there."

Somebody tried to steer them down there because Warlord Alpha Lead says: "Roger. We are over the area at this time. If you have us in sight, we're just at the north base of the hill along the road. We'll be off your frequency for the next one zero minutes. We'll be popping smoke at the different locations where these bodies are."

Warlord Alpha Lead: "The bodies that we got before, they've got web gear, weapons, and everything, and it's probably a good idea to get it off them before someone comes up and uses them."

A. I remember seeing the weapons and the web gear.

Q. Where?

A. Just to the south of the road along 521, in the vicinity of point 2.

Q. A lot of web gear?

A. From what I can remember now, I'd say five--

Q. (Interposing) Do you recall it being web gear, or was it just sacks and fish baskets and clothes? This is apparently, I'm deducing now, this is apparently when you saw the people here for the first time; and your transmission, at least on that tape, indicates that you thought that the gunships got them before, when they were down here at 2. You assumed apparently at that time that they were in fact, according to the tape, VC, because if they weren't, then they wouldn't have had web gear and weapons and all the rest of that stuff?

A. Right, I know by the tape that there were two sets of web belts and the different patches.

Q. In the vicinity of point 2?

A. In the vicinity of point 2. I'm sorry, I can't remember if it was the band, a pile of them. I don't know if they were on somebody or what. I can't remember exactly, but I know it was web gear there.

Q. In relation to 2, can you remember seeing where that web gear was in relation to point 2 here?

A. I'd say right there at point 2.

Q. Can I indicate so on the record?

A. Yes.

Q. Point 5 is marked on the aerial photograph (later Exhibit P-178) as where you saw two sets of web gear.

A. Right.

Q. At this time, do you recall seeing bodies, other bodies along the road or in the rice paddies?

A. I don't know if it was at this time.

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5

Q. You do recall seeing bodies along the road and in the rice paddies in this general vicinity?

A. Well, the main area I saw the bodies in was 25, just--right--as the trail out of My Lai (4) meets 521.

Q. Which is in the vicinity of 5?

A. Right.

Q. Position 5 added to the previous entry. He also saw 20 to 25 dead Vietnamese of varying ages and sexes. Position 6 is marked where he saw 30 dead Vietnamese of varying age and sexes. Is that correct, sir?

A. Yes.

Q. You don't recall when you saw these?

A. No, I'm not sure of the time frame on it, if it was at the same time I saw the web gear that I saw bodies.

Q. At 5 and at 6?

A. I just know that I did see them.

Q. Do you recall what you did then? Did you recall whether then you went back to refuel?

A. No, I'm not sure.

Q. How about the time with reference to the cancelled dustoff that you recall, or in relation to it?

A. I can't be sure.

Q. You indicated earlier in your testimony that after refueling, you arrived back in this area sometime around 1100 hours.

A. This is again deduction and not remembering. By the fuel load and by what was told to me of the time frame and sequence of events, I surmised that I had arrived at approximately that time.

Q. How did you arrive? What's the rationale you used to arrive at that time?

A. The original fuel load, fuel rate of the ship out, his expiring time on station, and when I would have to get out there to replace him.

Q. That was strictly a physical and technical deduction not based upon--

A. (Interposing) Not what I remembered. This is also before I was sure whether we had four or two gunships--or rather four or three gunships working out there.

Q. Did you see any Vietnamese shot by ground forces that day?

A. No.

Q. Did you see any, physically see, or recall seeing any helicopters landing on the ground north of Highway 521 other than the C&C bird that you indicated at position 4 that day?

A. No.

Q. You indicated before you did not see THOMPSON land.

A. No.

Q. Do you recall his having a blade strike that day?

A. No, I don't. I don't know if it was THOMPSON. It was KELLENBENZ. I don't know if it was this day. I remember talking to KELLENBENZ. He had a blade strike and ran into such a vertical that he had to return. Again, this was very possibly another day, so it's not of any importance, I guess.

Q. You indicated earlier in your testimony that after refueling, and through deduction, you had an estimated time of arrival of around 1100 hours. Do you remember seeing some bodies in the area? You do recall this?

A. These are the same bodies indicated in numbers 5 and 6 on the photo. These are the same bodies.

Q. Did you see them again? Was this the second time?

A. No, this was in that statement. At the time I wasn't sure.

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Q. I see, so you weren't sure whether you saw them after 1100 hours or prior to the time you went to refuel?

A. I am not sure when I saw them. I know it was sometime.

Q. During the time that you were airborne over this area?

A. Right. As I remember, it was pretty close to the time the Sharks had pulled out of that area.

Q. Through deduction, that logically would have put it prior to 0900, which was physically required of the Sharks as well as yourself?

A. That point is well established.

Q. Were you on station at the time one of the Warlord gunships landed?

A. No, not that I can remember. I think that I would remember one of my gunships landing. I would bet on that.

Q. Were you present to escort the Skeeter, specifically Mr. THOMPSON, with the child to the hospital at Quang Ngai?

A. Not positively. I can't remember.

Q. We have testimony. I believe Mr. THOMPSON landed and picked up a child. I think you're familiar with this from other sources. He flew the child, the wounded child, from the operational area to Quang Ngai, to the hospital, and gunships escorted him, Warlords. He set down at Quang Ngai with the child. There are several places to land at Quang Ngai where he could have landed with this little child. There is more than one helicopter pad at Quang Ngai, is there not?

A. Yes.

Q. We have reason to believe Mr. THOMPSON set down at the hospital pad, a very fine pad.

A. The dirt pad behind the ARVN hospital.

Q. Yes. You don't remember seeing him set down there? I recognize that it's hard to ask you to recall, but again this would establish timing.

A. I can't remember.

Q. Would you have recalled this incident?

A. I think that I would have recalled the gunships setting down.

Q. Well, this did not occur at the same time.

A. I don't really know if I saw THOMPSON go into Quang Ngai, cause normally I flew the aircraft the majority of the time. If we ever got a mission that was fairly safe, there was no real threat of fire, I'd give the aircraft to the copilot and I'd ride back, and most of the copilots were familiar enough with their operations to carry it out without any assistance. Radio calls and all this, I would make no radio calls, I would just deadhead it over in the right seat.

Q. I believe you indicated in your earlier testimony, going back to the Shark incident at point 2, that you recall them firing there and that they flew to the south. Is that what you meant to say, or did they go north?

A. They didn't work south. I must have meant north.

Q. On the north side of 521. Do you remember being present in the area when the infantry was picked up off Hill 85? Do you remember when the rounds were detonated on Hill 85?

A. I think I was there. Charlie-Charlie came on overhead and told them to go away. I remember that, and it turned out not to be such a big explosion anyway.

Q. Were the infantry withdrawn very shortly thereafter?

A. I can't remember seeing any "animals" lifted off the hill.

Q. What else do you recall doing while you were airborne during this day that we have not discussed, or what do you recall seeing that day that we have not discussed? For instance, did you see any more dead?

A. No.

Q. Do you recall seeing the friendly infantry at any time?

A. Just at the south edge of My Lai (4) (pointing).

Q. You saw them here at the south edge of My Lai (4) (pointing)?

A. Yes.

Q. Do you recall when?

A. That's the only time I can recall seeing the friendlies that day.

Q. They were moving down to position 2?

A. Yes.

Q. Do you recall noticing any hindrance to visibility in your flying, such as smoke?

A. We ran into smoke, if I recall.

Q. Did you see the village of My Lai (4) burning?

A. I can't remember.

Q. You indicated that you saw artillery?

A. Yes.

Q. You're sure that it was artillery?

A. Not perfectly positive.

Q. You feel that it was artillery?

A. I feel that I saw artillery.

Q. Can you indicate where on the aerial photograph?

A. I think it was right in here (pointing).

Q. On the northwest corner of the village?

A. Yes.

- Q. What made you think it was artillery?
- A. It looked like artillery.
- Q. What does artillery look like?
- A. More than one round at a time exploding.
- Q. You saw the actual explosions as opposed to identifying only smoke?
- A. Right.
- Q. This was early in the day?
- A. Early in the day, yes.
- Q. Position 7 is marked on the aerial photograph (later Exhibit P-178) as where he observed what he thought to be artillery at or prior to initial lift. And you saw large groups of people evacuating the area, or did you?
- A. Yes. I'd say 200 people between position 4 exiting My Lai in the direction of position 4, which is to the southwest.
- Q. Did you see any going to the east?
- A. A few, but not en masse.
- Q. What's a few?
- A. I'd say 25, not that many. Most of the people exiting the area were on the other highway.
- Q. How about to the north?
- A. I didn't have a look up there, if I remember.
- Q. To the west?
- A. None, because of the initial lift.
- Q. Most of them were going to the southwest or the east along 521?
- A. A few going to the east, most to the southwest.

Q. I understand, and your activities for any part of the rest of the day, you do not recall?

A. I think we worked some more around the Pinkville area and out on the peninsula, the Batangan Peninsula.

Q. Do you recall seeing any dead out there?

A. No.

Q. Any fires or burning?

A. Yeah, I think I called up Helix, or Helix called us, and we went out to that area to look at it.

Q. Sir, I think I've about run you out. Is there anything else you think we should discuss, or anything that might be pertinent to this inquiry?

A. No.

Q. Do you recall working in the area or in support of Task Force Barker on 17 March?

A. I don't know at all.

Q. Is there anything that you would like to say? I would like to give you this opportunity to say anything that you would like to say for the record, with reference to what we have discussed, or the indications on the map, the aerial photo, or for that matter, any opinions that you would like to enter that you would like to have made a matter of record.

A. No, the same statement that I made in the earlier--

Q. (Interposing) You said all you wanted to upstairs?

A. Right.

Q. Could you identify any photographs of any of the incidents that you've described here?

A. Yes.

Q. Have you seen the photographs in Life magazine?

A. I saw two of them and threw the magazine down. I didn't bother to look at them.

Q. I'd like to show you photographs P-26 through P-42 and ask you if you identify any of them?

A. P-26 looks like LZ Dottie on the pad. P-27 is shot from north of the river looking towards Quang Ngai. Photograph P-39 resembles a scene to point 6 on the aerial photograph, but I can't positively say where that was. P-41 is the area between My Lai and number 6.

Q. Sir, I'm sure that I speak for the general, and I'm sure that he's already said it. We appreciate very much your coming here to Washington to give us the benefit of your knowledge. We appreciate your forthrightness, your honesty, and your attempt to recall. I know it's been very difficult.

A. Well, I wish I could have helped more on your timing.

Q. We have given you certain information, sir, especially here, in your discussions with me, that is not generally known and can be considered quite sensitive. It was given to you in the hope that by so doing, we could make you recall more specifically the facts that you have since recalled and which we have related and placed on this aerial photo.

We would ask that you not divulge and discuss what you have heard here with other individuals, primarily because of the sensitivity of it, and also because we are still attempting to appraise and sort the facts and put them into their proper perspective. We would ask your cooperation in this instance in our endeavor.

Would you object to signing this aerial photograph below the place? Then we will affix it as a permanent part of our record and introduce it at this time into evidence as Exhibit P-178. Let the record reflect that the witness signed the photograph.

Is there anything else, sir?

A. No, I'm sorry I couldn't be of more assistance.

Q. You have been of immeasurable assistance. This hearing is adjourned.

(The hearing recessed at 1638 hours, 17 January 1970.)

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SUMMARY OF TESTIMONY

WITNESS: COLBURN, Lawrence M.

DATE OF TESTIMONY: 20 December 1969

PLACE OF TESTIMONY: Pentagon

WITNESS SUSPECTED OF: N/A

COUNSEL: None

DUTY ASSIGNMENT ON 16 MARCH 1968: 123d Aviation Battalion, Warrant Officer THOMPSON's doorgunner.

1. PRIOR TRAINING IN RULES OF LAND WARFARE.

Exhibit D-7, 11th Infantry Brigade Regulation 525-1, dated 20 January 1968 was entered into the record. The contents of D-7 were generally understood by the witness' unit (pg. 55).

2. ASSAULT ON MY LAI.

a. Combat actions and observations.

COLBURN flew in an OH-23 piloted by Warrant Officer THOMPSON (pg. 4). Specialist Four ANDREOTTA was the crew chief. They were accompanied by two gunships (pg. 4). Initially they reconned the area south of My Lai (4) (pg. 5). They were flying low-level--as low as six to eight feet (pg. 36). A VC with a pack and carbine was engaged (but successfully evaded) on the other side of the highway (pgs. 5, 6). On returning to My Lai (4), they saw dead and wounded civilians lying along the road and trails adjacent to the hamlet (pg. 7). COLBURN marked their locations on Exhibit P-1 (pg. 8). This was entered as Exhibit P-55 (pg. 56). There were four groups of dead and wounded (pg. 9). Smoke was popped to mark the wounded (pg. 10). No color signal technique was being utilized (pg. 37). Hootches were burning in the village (pg. 10). The infantry was moving west to east through My Lai (4) (pg. 16). No ground to air fire was being received (pg.11).

b. THOMPSON's landing by the ditch.

THOMPSON landed the aircraft east of the hamlet adjacent to a ditch replete with dead and wounded Vietnamese because he noticed some were alive and moving (pg. 13). None of the people appeared to be military-age males (pg. 13). They appeared to have been hit with automatic weapons fire. Some of the aircraft were equipped with miniguns (pg. 50). ANDREOTTA had seen someone firing into the ditch (pg. 14).

c. MEDINA shooting the woman.

They ascended and flew around the village. Near a ditch he saw a captain with three or four men (pg. 14). Flying at an altitude of six to eight feet, he saw this captain walk up to a wounded woman who was laying prone, kick her, and then shoot her with automatic fire while standing over her (pg. 15). COLBURN recognized the individual as Captain MEDINA in Exhibit P-8 (pg. 59).

d. THOMPSON's landing by a bunker and effectuating the extraction of noncombatants.

After observing MEDINA shoot the woman, they noticed a bunker containing 10-12 noncombatants to the east of C/1/20. They landed by this bunker because they thought the infantry would kill the occupants if they did not get them out (pg. 17). THOMPSON instructed the crew that if the infantry fired on the people in the bunker while he was trying to get them out to fire back (pg. 18). THOMPSON went to the bunker. He talked with a short American soldier whom he later described as a lieutenant (pgs. 18, 58). The lieutenant told THOMPSON that the only way to get the people out of the bunker was with a grenade (pg. 19). This conversation occurred to the infantry's front (pg. 19). THOMPSON radioed a gunship which landed by the bunker. The Vietnamese came out and boarded the gunship at THOMPSON's urging (pg. 20). COLBURN did not recall the gunship landing a second time (pg. 20).

e. Evacuating the small boy.

After evacuating the bunker occupants, THOMPSON flew back to the ditch and evacuated a small boy. They flew him to the hospital in Quang Ngai (pg. 22).

f. Reactions to the My Lai (4) scenes.

COLBURN was shocked by what he had seen (pg. 43). THOMPSON was angry over the events and said that he was going to do something about it (pg. 21). Many of the wounded they had marked with smoke were later seen dead (pg. 21). Warrant Officer MILLIANS felt the same as THOMPSON (pg. 45).

3. INQUIRIES CONCERNING THE ASSAULT.

a. WATKE-THOMPSON meeting at LZ Dottie on 16 March.

They returned to LZ Dottie to refuel before noon. THOMPSON left and returned. COLBURN did not remember if anyone went with THOMPSON. THOMPSON had previously mentioned that he was going to immediately report what he had seen to Major WATKE (pgs. 22-24).

b. THOMPSON-COLBURN-HENDERSON meeting at LZ Dottie on 16 March.

After lunch, THOMPSON took COLBURN with him to talk with Colonel HENDERSON in the TOC (pgs. 24, 31). COLBURN was positive that this occurred on 16 March (pgs. 25, 30). Only he and THOMPSON talked with HENDERSON (pg. 32). In private (pg. 32), COLBURN told HENDERSON about MEDINA shooting the woman, popping smoke on the wounded, evacuating the people from the bunker, taking the child to the hospital, and of the dead and wounded in the ditch (pgs. 25, 31, 34, 42).

HENDERSON did not ask COLBURN to make a written statement (pgs. 25, 31), nor did he ever reinterrogate him (pg. 25). No one ever officially mentioned the subject again (pg. 27). COLBURN did not tell HENDERSON everything that happened, e.g., the confrontation with the infantry (pg. 33). He was never told to keep quiet about what he had seen (pgs. 28, 39).

HENDERSON appeared to be interested in the facts (pg. 43). No mention was made of an investigation. HENDERSON made notes on what was said (pg. 47). COLBURN never heard of anyone in his unit questioned further about the My Lai operation (pg. 44).

c. COLBURN's identification of HENDERSON.

On his own volition, COLBURN specifically named HENDERSON as the colonel he talked with at LZ Dottie on 16 March. He thought he remembered him to be a full colonel (pgs. 25, 30). On seeing HENDERSON's photograph (Exhibit P-50), COLBURN could not identify it as Colonel HENDERSON (pg. 61). He conceded he did not know HENDERSON by sight (pg. 48).

4. OTHER INFORMATION.

a. COLBURN did not remember a gunship hovering and firing south of highway 521 (pg. 29).

b. COLBURN arrived in Vietnam in December 1967. He became a doorgunner in late February (pgs. 36, 55).

c. An award was presented to COLBURN in April of 1968 by Lieutenant Colonel HOLLADAY due to his actions on 16 March (pg. 38).

d. The scenes in and around My Lai (4) were discussed in the unit for a couple of days. The subject was not subsequently discussed (pg. 45). The witness did not remember whom he discussed it with earlier (pg. 46).

e. The witness had no recollection of WATKE or HOLLADAY ever speaking about the incident (pg. 44).

(The hearing reconvened at 0902 hours, 20 December 1969.)

MR WEST: The hearing will come to order.

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

The next witness is Mr. Lawrence M. COLBURN.

(MR COLBURN was sworn and testified as follows:)

MR WEST: We are going to start without General PEERS. He will be here in a few minutes.

I understand you are a former member of the Army. Can you tell me, Mr. COLBURN, what your duty assignment was on 16 March 1968?

A. I was a doorgunner on a helicopter of the 123d Aviation Battalion.

Q. I assume you understand the general purpose of your being here. It is to discuss what has come to be known as the My Lai incident. Before we get into any detailed discussion of it though, Colonel MILLER will give you some instructions, some orientation.

COL MILLER: Mr. COLBURN, the Secretary of the Army and the Chief of Staff of the Army jointly directed that this investigation be made, and they appointed General PEERS as the Investigating Officer. General PEERS is to investigate and to make findings and recommendations in two major areas:

(1) the adequacy of the prior investigations and inquiries into the My Lai incident and the review and reports that were made within the chain of command with respect to what went on at My Lai (4) on 16, 17, and 18 March 1968, and

(2) possible suppression of information by any person who had a duty at that time to report this information concerning My Lai.

It is not the purpose of the inquiry to go into every little thing that happened at My Lai (4), but keep to those things, the reporting and the suppression of information.

The board, General PEERS, and the rest of us have had made available to us copies of statements made by witnesses at prior times.

Today we are taking your testimony under oath, and a verbatim record will be kept. In addition to having a reporter, we are also putting this on tape.

The report itself will be classified as confidential. However, it is very possible that some or all of the testimony taken will become a matter of public knowledge at a later time.

You can see that there is quite an array of people present, and I want to explain to you who some of them are. In a few minutes General PEERS will be back, and I am sure you will recognize him. All the rest of us are here. He has the responsibility personally for weighing all the facts and making the findings, recommendations, and conclusions, and we are here to assist in the gathering of evidence.

On my left is Mr. MACCRATE and on your left Mr. WALSH who are both civilian attorneys who were made available by the Secretary of the Army to assist, advise, and counsel General PEERS. On my immediate left is Mr. WEST who is from the office of the General Counsel to the Secretary of the Army, and myself, Colonel WILSON from the IG, Colonel FRANKLIN, and Lieutenant Colonel MAHAFFEY. All of us may at one time or another ask you questions today, but this is to assist General PEERS.

I will request that after you are done and have left, you not discuss your testimony before this investigation with other people, including other witnesses for the investigation, except as you may be required so to do before a competent administrative, or legislative, or judicial body. We are trying to get the testimony as best we can from the witnesses as they recollect themselves.

In addition, I understand that you are subject to an order issued by the military judge in the general court-

martial case of the United States v. Calley. Am I correct in that? You are aware of the terms of that order, I am sure. Your appearance here in no way affects that. That is, it in no way changes that order, and that order will still apply to you. Do you have any questions?

A. No, I don't.

(COL MILLER withdrew from the hearing.)

MR WEST: Mr. COLBURN, how long were you in the service?

A. Three years.

Q. This duty that you had on the 16th of March, was that your principal duty during that time?

A. While I was in Vietnam, yes, sir, it was.

Q. Since this so-called My Lai incident has become a matter of great interest in the press, I assume that you have read a good bit of the stories in the press and watched TV, listened to the radio. Have you talked this matter over with any of your friends who used to be in your outfit when you were in Vietnam about this time? Did you talk to any of them recently?

A. When I was at Fort Hood, Texas, before I knew anything was going to happen, I talked to two friends of mine that were down there that were with the 11th Brigade.

Q. This was before you were discharged?

A. Right, sir.

Q. When was this?

A. June, 1969.

Q. Well, this was actually before the publicity broke on it, isn't it?

A. Yes.

Q. Do you recall who it was that you spoke to? Let me put it this way: were they people who also had knowledge of the incident?

A. No, they didn't. They were just with the 11th Brigade over there, but with a different unit.

Q. I see. And they themselves had no knowledge of it. Anybody since then that you have discussed the case with?

A. No. I did speak to Colonel WILSON.

Q. Yes, I understand that. Have you spoken to any other investigators?

A. No, I haven't.

Q. Just to refresh your memory a little, Mr. COLBURN: it has been 21 months, and I know it has been a long time, but we have a large map over here on the wall, and it has been introduced into the record as Exhibit MAP-1, and it shows the area of operations in orange. You can see where the village of My Lai (4) is marked. There is a landing zone off to the left of it for C/1/20, and a landing zone to the east and a little south for B/4/3. The evidence has indicated very conclusively that this combat assault started about 7:30 in the morning of the 16th of March and that it was supported by an aero-scout team from the 123d. Can you remember who was with you that day?

A. Aboard my aircraft?

Q. Yes.

A. Warrant Officer THOMPSON and SP4 ANDREOTTA, who was the crew chief.

Q. And you were supported by two gunships?

A. Yes, sir.

Q. Do you recall the names of the pilots and crews in those gunships?

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A. No, sir, I don't.

Q. You can't remember any of them?

A. No.

Q. Do you remember about what time it was that you arrived in the area that day?

A. The ground forces had already been inserted between 8:00 and 8:30.

Q. We have had testimony that initially you scouted the area to the south of the village of My Lai (4). Does this fit in with your recollection?

A. On the way to My Lai (4)?

Q. Initially you made a reconnaissance of the area south of My Lai (4), is that right?

A. Yes.

Q. Would you describe to us anything that you recall that happened during that time?

A. We were flying low level in the bubble, and we saw what appeared to be a Viet Cong with a carbine and a small pack. We went down to try and make a kill, and I missed him and he got away.

Q. He got away. Could we have an aerial photograph? We have blown up a photograph of the area (Exhibit P-1), Mr. COLBURN, and here is a map 1:25,000 area (showing the witness Exhibit MAP-4). To help you orient yourself, here is My Lai (4), the stream, here is Highway 521, little trails. Does that area look familiar to you?

A. Yes, it does.

Q. Could you indicate about where it was that you saw the VC suspect who got away, if it is on the photograph? Keep in mind, that on this scale 1 inch equals about 100 meters.

A. I believe it was on the other side of the highway, sir.

Q. Would you mark it with with a 1 and a circle?

(MR COLBURN marks on the aerial photo, Exhibit P-1, as requested. His annotations are later transferred to a clean aerial photograph which is then received in evidence as Exhibit P-55.)

All right, can you tell us any other thing of importance that happened while you were making a reconnaissance to the south of My Lai (4)?

A. Before we noticed anything in the village?

Q. Yes.

A. As far as enemy activity?

Q. That is right. Did you see anything unusual such as refugees, perhaps, running out of the hamlets?

A. We did see people moving along down the trails out of the village and along the highway, carrying household goods and baskets. They didn't seem to be in any great hurry. They were just walking down the road.

Q. Could you give an estimate of the size of the group?

A. They were scattered in groups of about seven or eight. Altogether about 15 or 20 people.

Q. Is that all?

A. Along these trails. That was when we first came in.

Q. Do you recall how long you spent making the reconnaissance down in the--

A. (Interposing) Less than half an hour--20 minutes perhaps.

Q. I see. During this period was there some activity around Hill 85 that you got involved in?

A. When the suspected Viet Cong got away, he ran from this hedgerow here--

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Q. (Interposing) The hedgerow along the Highway 521?

A. Just south of the highway. As far as I can remember, he ran across this open field. We fired on him and he stumbled, but he got into some foliage on the other side. We did receive fire from him when we tried to get him out.

Q. At this time, do you recall seeing any mortar rounds on Hill 85?

A. Incoming mortar rounds?

Q. No, just some in place.

A. No, I don't.

Q. Or at any later time?

A. No, I don't remember that.

Q. You don't recall that. All right, did anything else happen during the time that you were making your reconnaissance to the south before you moved up over the hamlet?

A. Well, we requested some firepower from the gunships, and I think that they did put some into the area where we thought the VC were.

Q. One of your two gunships or both?

A. I think that it was just one, sir.

Q. During this time before you moved up to support the troops over My Lai (4), did you see any dead or wounded civilians?

A. Yes, along the trails and along the highway.

Q. All right, would you describe that please?

A. We finished the recon south and had started to come back into the area. We saw people lying on the road, and I recognized that they were some of the same people we saw on the way in.

- Q. But this time, what did you observe actually?
- A. There were dead and wounded lying alongside the road.
- Q. Lying along the road?
- A. Some of them right on the road.
- Q. About what time was this--just your best estimate?
- A. Nine-fifteen, nine-thirty.
- Q. Could you mark on the aerial photograph the places where you saw the bodies? Where they clustered?
- A. Just on the roads and trails?
- Q. Yes. You might use a series of numbers.
- A. You mean like 1, 2, 3, 4?
- Q. Well, for example, if you saw several together at a particular point, we will give that one a particular number, and move along back toward the village. Have you marked a number 2?
- A. I marked the number of civilians that were there--
- Q. (Interposing) Well, we will use a series of numbers. You remember you marked number 1 to start with. You have a point there now. What did you see at point 2?
- A. A woman just on the other side of the hedgerow.
- Q. Was she alone?
- A. Yes. Upon the road there was a group of about seven.
- Q. That is at point 3. Could you tell from looking at them whether they were men, women, or children?
- A. Women and children and a few males. They were scattered.

- Q. You have marked point 4. What did you see there?
- A. A group of about three or four.
- Q. Again, were they men, women, children?
- A. Yes.
- Q. And they were scattered around the vicinity of point 4 along the road?
- A. Mostly lying on the road and on the trails on the way out.
- Q. This is the trail running south from the hamlet to the Highway 521, right?
- A. (Nodding assent) Do you want me to mark it if we saw any lying in the paddies?
- Q. Yes, anything that you recall that might help us.
- A. I saw a mother, and a child, and maybe a grandfather.
- Q. Point 5 there appeared to be a mother, child, and an elderly man? They were what? Lying on the trail?
- A. Yes. There were others, but I can't place where they were on this photograph.
- Q. Could you give us just the general vicinity? Were they along the trail, for example?
- A. Some of them were in the paddies. Most of the people that were dead and wounded were along the trail.
- Q. As I understand it, you then moved in to scout and observe over My Lai (4). About when did you change your station to go over My Lai (4)? You mentioned the time of 9:15 a moment ago.
- A. Well, we just flew over to check to see if they were there or not. Within 15 minutes we were over the village.

Q. About when did you pick up station over the hamlet of My Lai (4)?

A. Nine-thirty, quarter-to-ten.

Q. Would you please tell us what you observed after that? Just what you recall that you know of your own knowledge.

A. Well, there were more wounded and dead on the outskirts of the village and in the village. And there were dead animals all around. A few of the hootches were burning. The wounded people that we saw, we popped smoke near the bodies so we could tell which people were still alive.

Q. That was when you were working just to the south of the hamlet?

A. Just on the outside of the hamlet. Mr. THOMPSON wanted to help the wounded people.

Q. Do you recall any locations where you popped smoke?

A. Quite a bit. We popped smoke along the trails and roads.

Q. Down along 521?

A. Yes.

Q. And working up toward the hamlet?

A. Yes, we used quite a bit.

Q. I see. All right, how about in the hamlet proper now? Would you describe to us what you saw there? Start at the beginning and just go through.

A. There were hootches burning in the village. Our forces were on the ground. The main thing I was trying to do was help the wounded people. Mr. THOMPSON was very concerned.

Q. Were you receiving any fire during this period?

A. No, we weren't.

Q. Could you tell whether there was a fire fight going on on the ground?

A. There could have been. It is hard to say from the air.

Q. You could hear some firing, but you weren't sure whether -- well, did the friendly troops appear to be engaged with an enemy, could you tell?

A. Well, they were putting out fire in certain places. Some of them were down in the paddies, keeping down and so on. There could have been sniper fire.

Q. Just go ahead, please, and tell us the things you observed.

A. Well, Mr. THOMPSON saw a bunker with some Vietnamese. And we saw that the ground forces were coming toward them--

Q. (Interposing) Before you get to that, we have had other testimony that indicates that Mr. THOMPSON observed some other things prior to that time. He spoke of a ditch with wounded and dead people in it. And in your prior testimony to Colonel WILSON, you also described that. Could you spot the location of that ditch on the photograph?

A. I am not sure.

Q. For example--

COL FRANKLIN: (Interposing) Mr. COLBURN, we have two oblique photographs of the area and if you will look at these, perhaps they will be of assistance.

MR WEST: The witness is looking at Exhibits P-45 and P-46.

A. There is a lot of foliage. I can't remember the spot where the ditch was.

(After looking at Exhibit P-46) This could have

been the ditch here, but I don't remember--

MR WEST: (Interposing) Well, the picture was taken later. And those are APC tracks that were put on later.

The record will show that the witness is pointing in the lower right quadrant of Exhibit P-46.

Do you recall the general appearance of the ditch? Whether there were trees around it or brush?

A. It had trees on the other side of it. There wasn't too much foliage because we went in on it from this way.

Q. You moved in on it generally from--

A. (Interposing) Well, if this is the ditch, we landed about here.

Q. An open space. What direction from the hamlet would you say?

A. Southwest of the hamlet. I can't really see where the ditch--so this is in this area right here.

Q. But it is generally east of the hamlet, is that correct?

A. Yes.

Q. I don't want to suggest this to you--

A. (Interposing) Well, I couldn't really picture where it was. We landed in the paddies just west of the ditch.

Q. Between the hamlet and the ditch--what appears to be the ditch on the photograph?

A. Yes. The crew chief and I got out, the crew chief--

Q. (Interposing) What did you see before you got out of the--

A. (Interposing) The ditch was about half full of bodies.

Q. Can you estimate the number?

A. It is real hard to say, because they were piled on top of each other. It could have been as many as 60 to 70.

Q. Could you tell about sex, age, these things?

A. Old women, young women, young children, babies, teenage children, old men--I didn't see any draft-age males.

Q. What was their condition? Were they all dead?

A. Some were dead. Some were wounded. And some were still moving.

Q. All right, go ahead, please, and describe what happened next.

A. Well, before we landed, the crew chief noticed that some of the people were still in the ditch alive, so Mr. THOMPSON landed the ship about here, west of the ditch, about 20--

Q. (Interposing) Now, before you proceed any further--

A. (Interposing) It was very close to the ditch not more than 10 meters, maybe less.

Q. Now, we have that testimony from Mr. THOMPSON to the effect that you landed near this ditch twice. Now, the first time you landed at the ditch, do you recall seeing a soldier in the vicinity of the ditch?

A. Yes, I do.

Q. Would you describe that?

A. I just remember seeing him there. I know what you are talking about, but I did not see him. The crew chief saw him. Are you talking about the soldier that killed the child?

Q. Well, there has been testimony that there was a soldier standing at the edge of the ditch with a M-16, and he

pointed it into the ditch. This was the incident. Could you tell what you know of this?

A. I didn't see anyone fire into the ditch. I was on the right-hand side of the aircraft. The crew chief did see it. I heard him say to Mr. THOMPSON that there was a soldier firing into the ditch.

Q. What was the name of your crew chief?

A. Specialist ANDREOTTA.

Q. Was there any conversation between Mr. THOMPSON and the soldier prior to this time?

A. I don't know if it was the same soldier that was firing in the ditch.

Q. You don't recall then?

A. No, I do remember something. I think it was after we landed there the first time. We flew around the village, and there were ground forces walking along the dike. And I saw captain bars on the man's helmet.

Q. Could you tell us--there was a captain there and some soldiers?

A. Yes, there were three or four men with him. They passed a wounded woman lying just off the side of the dike on the paddy. She was wounded in the chest or the stomach, but she was still alive.

Q. Do you think that you could locate that dike on the aerial photograph? The approximate area?

A. I can't be positive.

Q. Do you think that you could even fix the general location? I realize it is difficult flying around in a helicopter to get oriented.

A. With a number 6?

Q. Whatever the next number is. (Witness places number 6 on aerial photo.) She was out in the paddy. Now, when you observed this, were you hovering overhead?

A. Yes, we were. We were 6 or 8 feet off the ground.

Q. How could you tell she was still alive?

A. She was moving her arms and her legs.

Q. What did the captain do?

A. I think he kicked her once. He turned her over or something. I think he fired on automatic.

Q. With what?

A. An M-16.

Q. About how far away was he then?

A. From the woman?

Q. Yes.

A. Point blank. Standing right over the top of her.

Q. Before he fired at her, what was she doing, anything? Could you tell?

A. I don't know if she was aware of much. She was moving and she was bleeding badly.

Q. Was she threatening him in any way, gesturing?

A. No, she was just lying on the ground.

Q. Did the helicopter land at this time? I mean immediately at the time you saw the captain?

A. I can't remember.

Q. Please go ahead and tell us what happened next.

A. One of our gunships came down and--

Q. (Interposing) You didn't know what the conversation was--

A. (Interposing) Mr. THOMPSON told me about the conversation.

Q. What did Mr. THOMPSON say?

A. He said that he asked him, "How would you get the people out of the bunker?" The lieutenant told him the only way he knew to get them out was with a grenade. That is what Mr. THOMPSON told us.

Q. Was that all of the conversation that he reported?

A. That is all that he told us.

Q. Mr. COLBURN, could you tell us where the conversation took place between Mr. THOMPSON and the soldier, in reference to the perimeter? Were they in front of the perimeter? In back of it? Where if you recall?

A. In front of the perimeter.

Q. So that would be a little further east than the perimeter?

A. Yes.

Q. All right, tell us what happened next.

A. Well, one of our gunships came down--

Q. (Interposing) How did you get him down?

A. Mr. THOMPSON used the radio.

Q. He had to come back to the ship, did he?

A. Yes, and--

Q. (Interposing) Where did the gunship land, in reference to the H-23?

A. In reference to the 23?

Q. Yes.

A. North, north of us.

Q. Was he anywhere near the bunker?

A. Fairly close to the bunker.

Q. Okay, what happened next?

A. Mr. THOMPSON went over to the bunker and motioned to the people to come out. He finally got them to come out and took them to the gunship.

Q. We have testimony from other witnesses that there were two trips of the gunship. Does that fit in with your recollection?

A. Well, there were probably a dozen people, so there had to have been two trips.

Q. You don't recall it specifically yourself?

A. I just remember the gunship coming down the first time.

Q. Do you recall who was the pilot?

A. The pilots changed every day.

Q. What were the ground troops doing at this time?

A. They were just watching.

Q. They just stayed in place? They didn't do anything?

A. They didn't open fire.

Q. What happened after the people were all lifted out?

A. Well, Mr. THOMPSON came back to the ship and told us what had happened.

Q. Was this the time that he told you about the conversation he had?

A. Yes, when he came back to the ship.

Q. What kind of mood was Mr. THOMPSON in then?

A. Quite angry.

Q. You can't recall anything else that he said?

A. He told us to remember what happened that day. He told us that this was not going to be the end of it, that he was going to do all he could to find out why this happened, that he didn't care if it cost him his wings--his aviation wings. He was going to do something about what had happened.

Q. Anything else? What was your impression as to what had disturbed him the most? Was it the ditch? Perhaps seeing the people in the ditch, or some of the other things that had gone on before?

A. Well, first of all, when we had started popping smoke on the ground, I remember this one woman on the other side of the tree line, south of the highway (pointing to point 2 on aerial photo). I remember we flew over, and she was alive, and she was just crouched down in the grass on the other side of the highway. And when we came back over again, she was dead. Some of the bodies that we had popped smoke on, when we came back through the area, they were dead. They were alive when we left.

Q. When you gave a statement to Colonel WILSON, which was sometime back on the 19th of June of this year, you talked about this and you said this, "Every person that we did pop smoke on, the infantrymen went over and if they were still alive, they killed them." I wondered, did you see this occur?

A. I just saw them alive when we popped the smoke, and they were dead when we came back. I did not see anyone shoot them except for the captain.

Q. After Mr. THOMPSON came back, what followed next?

A. We evacuated a child from the ditch.

Q. You took off from where you were--

A. (Interposing) We took off from where we landed next to the bunker. The crew chief said that there were still people alive in the ditch, so Mr. THOMPSON wanted to go back over the ditch. We went back over to the ditch and landed in about the same place. The crew chief and I got out and went down to the ditch. The crew chief picked up a little boy and gave him to me, and we took him down to the ship and evacuated him.

Q. All right. Did you continue then your reconnaissance in support of the unit or was that the end of your mission?

A. Well, we took him back to the hospital. I don't remember where it was. It was an ARVN hospital.

Q. We have testimony that this was at Quang Ngai. What happened next?

A. I don't remember if we went back to the area. I remember we were getting low on fuel.

Q. I believe you did go back to LZ Dottie. Can you fix the time about when you picked up the child and took him to the hospital? Was it before noon, for example?

A. Yes, it was before noon.

Q. Still during the morning?

A. Yes.

Q. Will you describe then what happened after you left the station--after you left the village? You took the

child to the hospital and what happened after that? This is still on the 16th of March.

A. We went back to the LZ, LZ Dottie, landed at the refueling point and refueled and landed the ship at the helipad. It had not been blacktopped or anything. We were going to eat the noon meal, and I think that it was before I ate that Mr. THOMPSON asked me if I wanted to make a statement to Colonel HENDERSON, who was at LZ Dottie at that time. Mr. THOMPSON and I went and saw Colonel HENDERSON, and I told him what had happened.

Q. I want to discuss that point a little. We have had testimony that Mr. THOMPSON went to see Major WATKE. Do you know who Major WATKE is?

A. I believe he was battalion commander over there of the 123d Aviation Battalion?

Q. Could he have been a company commander?

A. Well, company commander, yes, of the aero-scout company.

Q. Bravo. It is really called, I guess, the aero-scout company, isn't it?

A. (Nodding affirmatively) I remember Mr. THOMPSON left, but I don't know where he went.

Q. Was this before he talked to you about making a statement?

A. Yes.

Q. He went somewhere and came back?

A. Yes.

Q. Did anybody go with him?

A. I don't remember.

MR MACCRATE: Did he say that he was going to report the matter when he went away?

A. Well, he told us when we were in the area, that as soon as he got back he was going to report it.

MR WEST: Did he say who he was going to report it to?

A. Major WATKE.

Q. Major WATKE?

A. Yes.

Q. Now, you recall that yourself--I first mentioned it--

A. (Interposing) Yes, I remember him saying that.

Q. So, it was after this that he did go off someplace and come back. Was this then the time that he said something about your talking to Colonel HENDERSON?

A. Yes.

Q. All right, please go ahead. You said you made a report to Colonel HENDERSON. Where did this take place?

A. LZ Dottie.

Q. Do you remember the particular place?

A. I think it was the same building, or bunker, or whatever it was, where they had been interrogating prisoners. It was on LZ Dottie.

Q. Was it around noon?

A. Yes, sir.

Q. Was anybody with you when you talked to Colonel HENDERSON?

A. Mr. THOMPSON took me up there, but I talked to Colonel HENDERSON alone.

(IO enters the hearing room.)

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Q. Are you sure this happened that same day, the 16th?

A. Yes, sir, the very same day.

Q. Will you please tell us what you told Colonel HENDERSON and what he said to you?

A. I didn't state too much. I told him that there was the killing of civilians and innocent people. I told him about the ditch. He didn't say too much to me. He wrote something down, but I didn't see what it was.

Q. Did you recall what he wrote on, a piece of paper, a notebook?

(Witness shakes head negatively.)

About how long did your conversation last?

A. No more than 10 minutes.

Q. Did you tell him about seeing the captain?

A. Yes, I did.

Q. About taking the people out of the bunker?

A. I don't remember if I told him that.

Q. What about popping smoke on the wounded?

A. Yes.

Q. Did he ask you to make a written statement?

A. No, he didn't.

Q. Did you ever talk to him again after this?

A. No, I didn't.

Q. What time did you next see Major WATKE--wait a minute, I am not sure. Did you ever see Major WATKE that day?

A. No, I didn't.

Q. What happened after you talked to Colonel HENDERSON?

A. I went back down to where my ship was and waited for the next mission.

Q. Did you go back to My Lai (4) that day?

A. We were around that area.

Q. Going back to Colonel HENDERSON, do you recall whether he was a lieutenant colonel or full colonel?

A. He was a full colonel, I think. I think that he was a full-bird colonel.

Q. Had you known him before this time? Had you recognized him when you saw him?

A. Yes. I had seen him on LZ Dottie before.

Q. Do you know when he took command of the brigade?

A. I am not sure.

Q. Did you at any time go with Mr. THOMPSON to talk to Major WATKE about this?

A. No, I didn't.

Q. Is it possible that this interview you had with Colonel HENDERSON could have been a day or two later?

A. No, it was the very same day. I had the same fatigues on--

Q. (Interposing) Do you remember if it was before you had chow or after?

A. I think that it was after.

Q. Help us to fix the time that you talked to him.

A. Twelve-thirty or one o'clock.

Q. What about when you got back to Landing Zone Dottie and were out of the helicopter? Did you and the crew chief talk about what you had seen?

A. Yes.

Q. Do you remember the conversation?

A. Well, neither one of us had seen anything quite like it before.

Q. What was your general impression of what was happening there? What had happened there in the hamlet?

A. I didn't really know what was happening. I think that there was another aviation unit out there with us, the Sharks, the 174th. First we thought that they had done the killing with miniguns, but we never knew for sure. At least I didn't.

Q. What made you think that there might have been some killing with the miniguns?

A. Well, it looked like they had been killed with an automatic weapon.

Q. Which ones are you thinking about? Which group of people?

A. Those along the road and trails.

Q. Did you ever talk to any of the men in Charlie Company about what had happened that day?

A. No, I didn't.

Q. Apart from talking to Colonel HENDERSON, did anyone else ever come to talk to you about the incident as an investigating officer, for example? Did anybody else take a statement from you?

A. No.

Q. Was there talk in your company or rumors going around later?

A. You mean about the outcome of--

Q. (Interposing) What had happened that day, yes.

A. There was talk among the gunners and the crew chiefs. We had told them what had happened out there that day, but that is about all.

Q. Did anyone ever advise you against talking about the incident?

A. When I talked to Colonel WILSON.

Q. I don't mean that. I mean at the time. Did anybody ever come around and talk to the company?

A. No.

Q. You weren't told to keep quiet about it then?

(Witness shakes head negatively.)

Did you ever hear any more about it after that time? About any action that had been taken because of the people that were killed there?

A. Mr. THOMPSON and I received awards for what had happened that day. Then the next thing that happened was that I went TDY to see Colonel WILSON.

Q. Well, you remember you testified that Mr. THOMPSON said that he was going to report this--do something about this even if it cost him his wings. As far as you know, nothing really happened, nobody did anything.

(Witness shakes head negatively.)

(The hearing recessed at 1014 hours, 20 December 1969.)

(The hearing reconvened at 1029 hours, 20 December 1969.)

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

IO: Mr. COLBURN, I know that it isn't the easiest thing in the world for you to reconstruct everything you saw 18, 19, 20 months ago. And this is really what we are asking you to do. One question that was addressed to you while I was here had to do with seeing people south of Highway 521 who had been killed. Do you recall during the early hours there of seeing a helicopter, a gunship, hover over some trees and fire on the tree line?

A. The southern side of the highway?

Q. Yes, generally just to the south and basically down where you have number 1 and 2, in that area?

A. No.

Q. It didn't make an impression on your mind if you had seen a gunship hover?

A. I am sure I would have remembered it, if I had seen a gunship hover.

Q. On this matter of reporting to a senior officer, Mr. COLBURN: to the best information we have--and we have talked to a goodly number of people--after you and Mr. THOMPSON had returned to LZ Dottie at least Mr. THOMPSON did talk to Major WATKE. And word was subsequently passed to Colonel BARKER, who, of course, commanded Task Force Barker. He was a lieutenant colonel. That transpired not too long after you, ANDREOTTA, and THOMPSON had landed at LZ Dottie after taking the child to Quang Ngai City, I believe, in the time frame of about 11 to 11:30 or thereabouts. We have no indication, thus far, that Colonel HENDERSON was anywhere near LZ Dottie at that time. We do know that at a subsequent time--actually as we have reconstructed, and everybody seems to be in agreement with it, two days later; this would put it on the 18th--Major WATKE had three people go up to see a full colonel on top of the hill in a van. I say in a van, actually in what do they call them? The living quarters. It has a specific name--well, let's call it the van. Some of the combat officers or senior officers in a combat situation have a van provided for living quarters. And it provides a little office and so forth at the same time

although it could have been outside this area. This is what we generally have as regards the passing on of this information. And it is for this reason that I would again ask you if you did report to somebody on the 16th. Could it have been an lieutenant colonel instead of a colonel?

A. Sir, I am almost positive that it was the same day, right after the incident that I talked to Colonel HENDERSON. I am not sure of the rank. I am not sure--I think he was a full colonel, as far as I can remember, sir.

Q. Do you remember the circumstances of going up to see this full colonel?

A. Mr. THOMPSON took me up there.

Q. Yes, who else went with you?

A. Just Mr. THOMPSON and myself.

Q. You don't remember another individual being present? If you went along with Mr. THOMPSON, would ANDREOTTA likewise have accompanied you?

A. I don't remember ANDREOTTA coming with us.

Q. How long did you spend with the colonel?

A. No more than 10 minutes.

Q. But it was 10 minutes?

A. Five or ten minutes, right.

Q. And did you tell him everything that you had seen?

A. Yes.

Q. Specifically, would he have known that you had seen a lot of civilian bodies, noncombatants that had been killed?

A. When I talked to him?

Q. Yes.

A. Yes.

Q. Did you tell him about this ditch area?

A. Yes, I did.

Q. Did you give him an estimate of the number of people you saw dead in the ditch?

A. Yes, I did.

Q. What did you tell him?

A. You mean the estimated number of people?

Q. Yes.

A. Sixty or seventy.

Q. You gave him a sizeable figure?

A. Yes.

Q. Did he require--did he place you under oath?

A. No, he did not.

Q. Did you write out a statement of any kind at the time?

A. No, I did not.

Q. Do you recall whether it was in a van, or outside, or in the TOC, or exactly where it was?

A. It was inside. It wasn't in a van. I think it was in the TOC.

Q. Did you sit down, or did you stand up, or--

A. (Interposing) I sat down.

Q. Had you been in this TOC before?

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A. No, I hadn't.

Q. Do you know what a TOC looks like?

A. It is usually a fairly big bunker. It is well fortified.

Q. Did you see a room about this size with several maps in it and quite crowded conditions?

A. A room smaller than this. I can't remember--I remember going down some stairs.

Q. Do you recall whether it had a metal door on it that swung open? Did it have a bunk on either side or a settee of any variety?

A. I don't remember.

Q. You are sure that it was a full colonel?

A. Yes, sir.

Q. And you had gone up from the helipad with Mr. THOMPSON?

A. Yes.

MR MACCRATE: When you were speaking to the colonel, was Mr. THOMPSON there?

A. No, he took me into the bunker, or whatever it was, and waited outside for me. The colonel and I were alone.

Q. Do you remember when you first met the colonel, was anyone else there at the time?

A. There may have been, but they left. I can't remember.

Q. Had Mr. THOMPSON already spoken to the colonel?

A. I don't know.

Q. Just trying to help you recall the situation, was the colonel asking you questions about something that he had already heard? Do you recall how he went about finding out from you about what had taken place?

A. I don't remember him really questioning me. I remember just telling him what had happened.

Q. Do you recall any comments of his when you told what had happened?

A. After I told him?

Q. While you were telling him either during or after?

(Witness shakes head negatively.)

Was there any indication that he might want to speak to you again?

A. No.

Q. Or that he might want you to speak to someone else?

A. No, not that I remember.

Q. Do you recall if you described the landings that you made during the course of the morning?

A. I remember I did not go into it very deeply with him. I didn't tell him everything that happened.

Q. Were there some things that you were consciously a little concerned about at the time and perhaps not telling him about?

A. I don't understand you, sir.

Q. Well, for example, you told us about how you stood outside the helicopter when it was down on the ground with your gun and the covering that you were doing at that time. Did you--

A. (Interposing) I did not tell him that.

Q. Can you recall whether or not you told him of the fact that you had landed?

A. I told him about Mr. THOMPSON getting those people out of the bunker. So I must have told him that we had landed.

Q. That would have necessarily required that, wouldn't it?

A. Yes.

Q. Do you remember telling him about taking the child to the hospital?

A. Yes.

IO: Did you tell him specifically that you had gone from the bunker area and had again gone over to the ditch and gone down into the ditch and picked this child out of the ditch from amongst other bodies?

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

MR MACCRATE: Did you describe the circumstances in which the child had been found?

A. Yes.

Q. Do you remember what you told him about that?

A. Well, that the crew chief had uncovered him. He was underneath his mother I think--or some female.

Q. You mentioned that Mr. THOMPSON told you that he wanted you to remember what happened. Was this something that he said to you as you were climbing back into the aircraft at that time, or was it back at LZ Dottie?

A. It was while we were in the area. I don't remember when he said it. We were just flying around when he said it.

Q. But this was something that you did discuss with Mr. THOMPSON not only as you flew back, but also after you got back to LZ Dottie?

A. I never did really discuss it with him, sir. He just told me to remember what had happened--me and the crew chief.

Q. When did he say that he did not care if this cost him his wings?

A. I think that it was right after we watched the captain kill the girl in the paddy.

Q. That he was going to do something about this?

A. Yes.

Q. I would like to back up with you for a few minutes if I may. When did you join the Army?

A. September 11, 1966--September 12th.

Q. Can you just trace very quickly the duty stations you had during that time?

A. I took basic training at Fort Lewis, Washington, then I went to Fort Polk, Louisiana. From Fort Polk I went to Fort Shafter, Hawaii. From Hawaii I went to Vietnam.

Q. When did you go to Vietnam? Approximately?

A. Early December 1967.

Q. How long had you been operating in the Muscatine area?

A. In the aero-scouts?

Q. Yes.

A. I joined the aero-scouts in February, late February, I think around the 25th, but I can't be sure. How long before this incident?

Q. Yes.

A. Well, from February until March.

Q. To the middle of March. Had you been flying various missions during this period?

A. Yes.

IO: What was your first duty assignment in South Vietnam?

A. I was a clerk at the 11th Brigade.

Q. At the 11th Brigade at Duc Pho?

A. Yes.

Q. And then you left there and moved to Chu Lai as a doorgunner?

A. Yes.

MR MACCRATE: As you were flying that day with Mr. THOMPSON, he sat in the middle, and you sat to his right, and Sergeant ANDREOTTA sat to his left?

A. Specialist.

Q. Specialist. And were you sitting on a common bench? Was it one seat that you are on?

A. They are armored seats. I think it is all one seat, but it has got three cushions.

Q. So you were on the right-hand side of the aircraft?

(Witness nods affirmatively.)

You indicated that some of your observations were from as low down as 8 or 10 feet. You recounted for us a number of incidents that you had observed--scenes that you had observed and marked them upon the map. Were these observations made from low altitudes or higher altitudes.

A. Low altitudes. While we were on reconnaissance, we always flew at low altitudes.

Q. So you were hovering very close to the area?

(Witness nods affirmatively.)

IO: Well, I don't think that is quite the proper word to say. If I may impose here. At times you would hover, but at other times you were moving quite rapidly. You have sort of an airborne jeep here in the sense that you have the ability to hover, but to cover your territory you are moving very low. This is true, but you don't hover all the time.

A. Yes, but we did hover over where there were bodies.

MR MACCRATE: With respect to the smoke that you dropped, did you have any choice of colors that you used?

A. No, we didn't. Choice of colors or--

Q. (Interposing) Did you have any system?

A. No. There were all different colors of smoke, but this was just to direct attention to something.

Q. Well, when you dropped smoke, was there any communication with your gunships or with the ground?

A. Both the gunships and the ground, I believe.

Q. Well, who had the communications, would that be Mr. THOMPSON?

A. Yes.

Q. You were not yourself communicating with other--

A. (Interposing) No, just Mr. THOMPSON and the crew chief.

IO: This was on intercom?

A. Yes.

MR MACCRATE: When did you first learn that you had been recommended for an award with respect to this event.

A. Well, I didn't know I was going to get anything until I got it. I heard about it a week or two after it had happened.

Q. A week or two after it had happened. Do you recall from whom you had heard?

A. I think one of the other pilots told me that Mr. THOMPSON was putting in the crew chief and myself. I don't remember who it was.

Q. Can you remember anything about what was said at that time?

A. No.

Q. You yourself had no knowledge or didn't hear anything from that time until the award arrived?

A. No, I don't think so.

Q. When did you receive the award? Do you recall?

A. I think it was in April, but I am not sure.

Q. 1968? It was that promptly after the event?

A. April, 1968.

Q. Where was it presented to you?

A. Chu Lai.

Q. By whom?

A. I don't remember. I think it was a colonel.

Q. Do you know Colonel HOLLADAY?

A. Yes.

Q. Was it Colonel HOLLADAY?

A. It may have been. Yes, I think it was.

IO: Was it at a command presentation ceremony? Or was it in his office? Or how was it presented?

A. No, it was an awards and decorations ceremony.

MR MACCRATE: When you came back to your base, your base would be at Chu Lai at this time?

(Witness nods affirmatively.)

And had the colonel with whom you had spoken given any instructions about talking about this matter?

A. I don't remember him saying anything, no.

Q. Did you at any time hear that you were under any restraint or restriction as to talking about this? Did anyone indicate to you that you were not to speak about this?

A. No.

Q. Did you ever feel that it was strange that you hadn't heard anything more after you told your story to this colonel?

A. No, I didn't expect anything to happen.

Q. Why was that, Mr. COLBURN?

A. Well, I am sure it has happened before, and I am sure it has happened since My Lai.

IO: Why do you say that?

A. Well, maybe not such a great number, but there are civilians being killed.

Q. I am sure that sometimes there are civilians that are killed. Do you know of any other circumstances that civilians were purposely killed?

A. No, not purposely killed.

Q. There is a great deal of difference here between an accidental killing and something that is perpetrated or purposely accomplished. Did you feel that this was accidental, what you were seeing out there?

A. I didn't know.

Q. Well, to see this number of bodies that you saw, could that have been accidental?

A. The killing of the civilians? They could have been killed thinking that they were sympathizers--

Q. (Interposing) Babies, too? Babies 2 and 3 years old: VC sympathizers?

A. Maybe not 2 and 3, but--

MR MACCRATE: (Interposing) How old was this youngster that you took to the hospital?

A. Probably 2.

Q. You indicated that there were a number of very young children among those that you observed. Had you ever seen or heard or did you ever see or hear anything comparable to that?

A. Not in such a great number, no.

Q. Well, in any number?

A. Yes, I had seen children killed before.

Q. You had seen children killed?

A. Yes. Women. Yes.

Q. In conjunction with general bombardments or in what circumstances?

A. Running from a helicopter or something like that. Well, they have to have a reason to run.

IO: Even a small tyke--3, 4, 5 years old?

A. That depends on the circumstances.

Q. Well, explain to me a circumstance, will you, Mr. COLBURN, where a helicopter would fire on a small child?

A. This happened to me. I forget the name of the village or the river. There was a mass of people moving out of the village. I think they were going to put artillery in. And when we flew over, I looked back and saw some males were breaking out of the crowd running to hide. So we came back, and I saw one man carrying an SKS, I believe. And he was trying to get into some bushes, and I shot him in the leg, and he fell down, but he crawled into the bushes and probably a 9 or 10-year-old boy followed him. So they were both dead.

Q. They were both what?

A. Well, after they got into the bushes, we went and hovered over them, and we received fire over the bush so I fired into the bush. And the infantrymen went in afterwards and found two bodies. So, it just depends.

MR MACCRATE: Well, don't you find substantial difference between that situation and what you say you observed at My Lai (4) on the 16th of March?

A. Yes, I see the difference.

Q. Wasn't there something different that you saw at the time that led you, at Mr. THOMPSON's suggestion, to go and speak to the colonel about what you had observed? Had you ever made a comparable report or statement to any other officer?

A. No.

Q. This was something that hit you as rather remarkable and unusual, I gather from what you have told us.

A. Yes, they killed quite a few people.

Q. Did you get the impression from the colonel that he was not going to do anything about it--that this was just formality of listening to your story and then forgetting about it? Is this the way he treated you?

A. I can't say that. I don't know how he felt about what I said.

IO: Why do you think he asked you in the first place?

A. Ask me to speak to him?

Q. Yes. Why do you think he would be interested in that?

A. I thought that Mr. THOMPSON spoke to him first. Well, if Mr. THOMPSON spoke to him first, he couldn't very well say that he didn't want to speak to me--if Mr. THOMPSON told him that I was with him.

Q. No, I am not asking the questions quite in that sense. Why do you think he wanted to talk to you, and THOMPSON, or anybody else on this matter?

A. I am sure he wanted to know what had happened.

Q. He wanted to ascertain the facts?

A. Yes.

Q. And the circumstances and everything surrounding it. What I am interested in knowing at the present time is how much of this story and how much of what you saw you conveyed to the colonel. Whether you gave him an accurate portrayal of the same kind of picture that you have painted for us here this morning.

A. As I told you, it was no longer than 10 minutes that I talked to him. I told him about the captain. I told him about the ditch. And I told him about popping smoke on the wounded people. Just a general story.

MR MACCRATE: And about the evacuation?

A. Yes.

IO: How did you feel about it at the time? Were you mad? Were you disgusted? Or were you just in an absolute quandary? How were you? Mr. THOMPSON--evidently he had a feeling of some kind to say what he did--that this thing is going to become known "even if I have to give up my wings." So he had a feeling--an emotion. How did you feel about this?

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A. Well, Mr. THOMPSON felt that the men who took part in this should be punished for it. I can't see a man going to Vietnam and risking his life for his country and doing what he probably thinks is best and then getting punished for it. I don't know how the men on the ground felt that day.

Q. You see, very frankly, it is quite immaterial how the men on the ground felt that day. We do have what is commonly referred to as rules of land warfare. These are laws of humanity, which state that you do not kill women, children, old men, noncombatants, people that are unarmed. You do not mistreat prisoners. Have you not been through this course of indoctrination on this?

A. Yes, sir, I have.

Q. Isn't this the whole basis that the United States Army is built on?

A. Yes, sir.

Q. At this moment, can you recall how you felt? Not how you feel now about anything which you may be explaining at the moment, Mr. COLBURN. How did you feel then?

A. I was shocked.

Q. You were shocked?

A. Yes.

Q. That is basically what I was wondering about. It's just how you did feel as a person. Did you indicate this degree of shock to the colonel when you talked to him?

A. I believe so, yes.

MR MACCRATE: Did he attempt in any way to brush it aside? Did you get the feeling that you were getting through to him--that he understood what you were saying to him--your feeling about this thing that you had seen?

A. I don't think he was really interested in how I felt about it. Like you said, sir, he was interested in the facts, what had happened.

Q. But you did come away with the idea that you would never hear about this again?

A. No, I didn't think that I would. I am not saying that because of the attitude that the colonel had. I just didn't think anything would come of it.

Q. Did you ever hear of anyone in your unit that was further questioned about it?

A. No.

Q. Did you--after that time in the weeks that followed, did you talk about it with other members of your unit?

A. I talked about it the day we came back from Chu Lai and that night, and maybe the next night. After that it was, well, it had happened.

Q. Did you ever hear any comments about the KIA's and how the 11th Brigade might have increased their KIA's by civilians--any discussions of that sort?

A. Just My Lai or as a rule?

Q. What was the thought after this time in your unit? Was this something that was generally gossipped, rumored about? Was it something that Mr. THOMPSON indicated a continuing feeling about? Or were the other men in your unit talking about it?

A. Well, like I said, for maybe a day or two afterwards. I know that Mr. THOMPSON felt strongly about it, but there were other missions.

Q. Did Major WATKE ever speak to your unit about the thing?

A. Not that I remember.

Q. Did Colonel HOLLADAY ever speak to the unit, speak to you?

(Witness shakes head negatively.)

IO: You fellows in these helicopter units, Mr. COLBURN, even with the officers and warrant officers and so forth, you all live pretty close together, don't you? I mean you have bars and places where you can go in and get a can of beer, sit down and shoot the breeze. You have to have that. That is the relaxation that you have to perform the job that you have. So you do have these periods which you might refer to as bull sessions on this, that, and the other. Was this ever discussed--about what you saw, and what THOMPSON saw, and what the other people saw, and all this sort of thing?

A. Yes, we talked about it that night. I am sure that we did. We usually did talk over what happened that day. But not, sir, for like weeks and weeks after that.

Q. But the point being that this wouldn't be restricted to just the people in your aircraft, for example.

A. No.

Q. You would be talking about it to your buddies that you roomed with, and the people that you sat down and had a can of beer with, and things of this nature. So what you saw and observed became--you might refer to it as general knowledge within the company. Wouldn't that be a fair representation?

A. Yes.

MR MACCRATE: Do you ever remember a Mr. MILLIANS?

A. A warrant officer?

Q. Yes. Do you remember his saying anything about this?

A. To me personally?

Q. Or while you were present?

A. I remember that he felt about the same way that Mr. THOMPSON did.

Q. Do you know what part he may have played in any of these events that you recounted?

A. He may have been piloting one of the gunships.

Q. Do you remember him talking about being the pilot of one of the gunships?

A. No, I don't.

Q. Do you remember those who were with him as his crew? If he was--and our information was that he was the pilot of one of the gunships--do you remember his crew speaking about it with you?

A. I don't remember who his crew was. I don't remember who was on the ship.

Q. You don't remember sharing this with any of the other men who were on the mission at that time, other than Mr. THOMPSON?

A. I am sure that I talked about it to them, but I don't remember who they were.

MR WALSH: When you spoke to Colonel HENDERSON, do you recall in the discussion, if he was going to do anything about it?

A. No, I don't remember him saying anything.

Q. Do you recall if he told you at the beginning of your discussion why it was he wanted to talk to you?

A. He asked me what happened that day.

IO: He didn't give you an explanation as to why he called you up to see him?

A. Like there was going to be an investigation or something?

Q. Yes.

A. No, he didn't mention it.

Q. With respect to your discussion with the full colonel: was he seated?

A. Yes, sir.

Q. Was he writing on a note pad, or making notes, or did he have a notebook? Or how did he record what you were saying?

A. He was writing it down.

Q. On what, do you recall?

A. No, I don't.

Q. One other recollection of your discussion with the colonel: was the emphasis so much upon the shooting of this woman by the captain such that this would have ended up being the primary point of the story?

A. My story to him?

Q. Yes.

A. It may have been, yes, because I was so close. And I think that that was what really shocked me. I had no idea that he was going to do that. It may have been.

Q. You saw this act committed, so this really created more of an impression upon you than seeing the other bodies around--

A. (Interposing) Yes, because that was the only person that I saw where an American soldier just came up and shot--

Q. (Interposing) You had suspicion of the other, but you had no personal knowledge of the others being killed or how they were killed?

(Witness nods affirmatively.)

COL FRANKLIN: Mr. COLBURN, you were a clerk in the 11th Brigade at Duc Pho. What outfit? What company?

A. Headquarters Company.

Q. Headquarters Company in the brigade. Which section?

A. Postal section.

Q. Did you see Colonel HENDERSON frequently around? I mean in Hawaii? Did you know who Colonel HENDERSON was? Know him by sight?

A. No, I didn't.

Q. You didn't--

A. (Interposing) I didn't see him in Duc Pho, but I saw him at LZ Dottie before I talked to him.

Q. How about Colonel BARKER, did you know him?

A. No, I didn't.

Q. Why are you so sure then that you were talking to Colonel HENDERSON, if you didn't know him around Duc Pho? What made you sure about talking to Colonel HENDERSON?

A. Well, he was commander of the 11th Brigade, wasn't he?

Q. Yes.

A. It was the 11th Brigade that was there that day.

Q. At Dottie?

A. At where I landed.

Q. At My Lai?

A. At My Lai.

Q. If we showed you a picture of Colonel BARKER, would you recognize him?

A. I don't think I would.

Q. Could you have been conceivably talking to Colonel BARKER?

A. I just took for granted that it was Colonel HENDERSON of the 11th Brigade.

Q. Because it was the 11th Brigade involved, you would be talking to the commander?

(Witness nods affirmatively.)

In this ditch, it is supposed to be a horrible thing. Would you describe a little more--just how--the distance between bodies or just how--this must have had a fantastic effect on your memory--what you saw down there?

A. Well, it was hard to give an estimate of how many people were in there, because they were stacked on top of one another. The ditch appeared to be half full. I don't know how deep it was. That is why it is hard to say how many there were in there. They were strewn along the side of the ditch.

Q. What was the length of these bodies?

A. Of the ditch?

Q. Of the ditch, yes, but--

A. (Interposing) The area where the bodies were?

Q. Yes.

A. Three-quarters of the length of this room.

Q. And it was just filled with bodies--like fish?

A. Yes.

COL WILSON: Three-quarters of the length of this room would be about 30 feet.

COL FRANKLIN: How did you happen to pull up a body to get to the child? Why did you do that when you saw these bodies? Were there other wounded people? Why and how did you happen to pick up the child?

A. Well, ANDREOTTA had spotted him before. I didn't

see him. That is why ANDREOTTA went down into the ditch and unburied the kid and handed him up to me. He spotted him, I didn't. I saw that some of the people were moving, but I wasn't sure how close to death they were or if they were dead.

Q. Did you happen to notice anything about the wounds?

A. They were from automatic weapons.

Q. Did your ships have miniguns on them?

A. Some of our ships were equipped with miniguns. Some with rockets. One with just rockets. One with 40 millimeter guns. I think that the two ships were both equipped with miniguns.

Q. When you saw these bodies all piled, you must have had an idea of how--or wondered about this--what did you think of how they had been killed?

A. I thought that they had either been marched down into the ditch and shot or they had been shot and collected up and thrown in the ditch.

Q. Did you hear Mr. THOMPSON transmit or receive?

A. I could hear him transmit. And I could hear him receive.

Q. Was he talking to anybody about stopping this. What was going on?

A. I don't remember him saying too much. The lead gunship is who we usually communicate with. He may have said something, but I don't remember.

IO: Was the lead gun also the lower gun?

A. I believe so, yes.

Q. Generally he is off the right rear--

A. (Interposing) Right behind us.

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Q. Or left rear as the case may be?

COL FRANKLIN: You had a little hesitancy there. I may have misunderstood this, when Major WATKE's name was brought up. Did you know Major WATKE pretty well? Did you see a lot of him--you and the other gunners and crew chiefs?

A. Yes, he flew with us quite a bit. He flew a gunship.

Q. Did he talk to you a lot? Did you see him around the flight line, messhall?

A. Yes.

Q. Didn't you think that it was funny that you didn't go to your own company commander instead of going to this colonel? Didn't you think it was sort of strange that you didn't talk to your own company commander about this?

A. There were a lot of things in the Army that I didn't understand. I didn't really think about it.

Q. Did people ever come down from division and sort of give the whole company a briefing and tell you what was going on in the Americal Division, in the 11th Brigade? Did you have any talks like that?

A. Major WATKE once in a while would have a company formation and talk to us, but I don't remember anyone from division.

Q. You knew the men pretty well in your outfit and you guys all talked. When you heard the number of body count that the Americal, the 11th got, or even your own outfit, what was the feeling really? What did you people think? Did you believe it? What did you think about when you heard 100, 50, or 30? What was your feeling about it?

A. Was this a particular--

Q. (Interposing) Any time around this time. Say from that time and the month that followed. The 2 months that

followed. During this time, when you heard a body count figure from this operation and subsequent to it.

A. Some of them may have been distorted. They were always trying to get more kills. I forget what the body count was at My Lai that day, but I knew that the body count that they had weren't all Viet Cong.

Q. How about the other men in your company? Others that had flown the mission? Do you think that they knew it, too?

A. Oh, yes.

MR MACCRATE: Mr. COLBURN, did you have any friends that were in C/1/20?

A. No, I didn't.

Q. Have you, at any time since this date, talked to anyone in Charlie Company?

A. I have talked to people that were with Task Force Barker, but not at My Lai that day.

Q. Who were those in Task Force Barker that you spoke to?

A. Specialist HEATH (phonetic). I think they were with 3/1. Specialist HEATH and Specialist MILLER. I met them at Fort Hood, Texas, when I came back from Vietnam.

Q. Could you tell us something about what you discussed with them?

A. We talked about things and tried to figure out if they were there the same time that I was--just conversations and somehow, someone brought up that. And they remember it. They had heard about it. They weren't there, but they had heard about it.

Q. They asked you what you had seen that day?

A. Yes.

COL FRANKLIN: You had said that they heard about it. What had they heard?

A. They had heard that they had a high body count. They weren't with the unit. They did not know that there were women, and children, and old men. They were just members of the Task Force Barker. And they remembered that particular event.

MR MACCRATE: They were with A/3/1?

A. I don't remember which company. I believe they were with 3/1.

Q. They had heard about this and had asked you what you knew about this?

A. Yes.

Q. Do you recall what you told them?

A. I remember telling them about the ditch full of people. I didn't really discuss it too much.

Q. Do you remember any disbelief on their part? How did they respond?

A. No disbelief.

Q. When did this conversation take place?

A. Sometime at Fort Hood. I don't remember exactly.

Q. During what period were you at Fort Hood?

A. It was probably sometime in June or July that I talked to them about it.

Q. Of the present year?

A. Yes.

IO: Before we terminate this hearing at this point, Mr. COLBURN, I am interested a little bit in what knowledge and what appreciation you had as a clerk in the Headquarters and Headquarters Company to the brigade, concerning noncombatants, minimizing property damage, and things of this nature. Had you been given instruction in this regard?

A. I don't believe so, sir.

Q. Well, as a clerk, as an individual, maybe in this type of operation, were you given certain types of instruction on the treatment of noncombatants and the treatment of prisoners?

A. In basic training we were told about this, but not while I was a clerk, no.

Q. Let me read you a couple of things from a document which I want to enter into the record. This is from Headquarters, 11th Infantry Brigade, Regulation 525-1, dated 30 January 1968, subject, "Combat Operations, Rules of Engagement." I will read to you a few things to see if this is what you understood as the general philosophy of the 11th Brigade and or the Americal Division. It indicates:

"Indiscrimination in engaging targets, that are not clearly defined as being hostile, which result in numerous battle casualties and property loss, will tend to embitter the population and make the long term goal of pacification more difficult and costly. The VC/NVA exploit incidents of noncombatant casualties and property destruction by Free World Forces to alienate the people from the government. This situation creates an environment not normally found on the field. Commanders must use sound judgment when determining the type and amount of combat power in accomplishing a mission, particularly in populated areas, so as to preclude overkill on a target which could result in unnecessary non-battle casualties and property damage."

It goes on to say: "Restrictive controls should be applied only to insure that danger to noncombatants and private property is kept to the very minimum and that national borders are not violated. Proper gunnery techniques will be applied to insure maximum accuracy, as this is the best assurance against endangering noncombatants and private property. Exclusive of population areas, unobserved fire may be directed against enemy forces in contact in accordance with normal

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procedures. When not in contact, unobserved fire will be directed only in areas declared hostile by GVN, RVNAF, and Free World Military Forces."

It goes on to say: "Commanders will exercise the utmost care to insure maximum noncombatants casualties and property damage." I feel certain that that is a typographical error which has not been picked up, because it is contrary to the entire document. They use the word "maximum" when they meant "minimum." They also say: "Immediately following the attack of areas inhabited by noncombatants, the commanders will insure that an explanation is given to the populace of the need for firing, stressing the point that the enemy forced the action. If noncombatants casualties occur regardless of safeguards, medical treatment and evacuation should be provided by the responsible commander, subject to tactical considerations and resources available."

So, this is the philosophy of this document and its attachment or change 1. Is that the general philosophy that you knew within the 11th Brigade and within the Americal Division?

A. I would have to say, no, not all the time. I know it was understood, but a lot of times you can't really be sure. You may think that they are civilians, but they are not. I understand what you mean, sir.

(The 11th Brigade directive, dated 30 January 1968, with Inclosure 1, was entered into the record and is marked as Exhibit D-7.)

IO: I can understand the possibility of making a mistake. You explained one situation where you evidently felt quite badly about killing this boy at the same time you had engaged a VC with an SKS, which is a logical target which you are almost required to shoot upon. And you had to make a snap judgment as to whether or not you were going to engage that target with the child in the vicinity. I can understand that, but this is not the sort of thing that we are talking about. We are talking about minimizing the things so that we don't have non-combatant casualties. Is that philosophy pretty well understood by the people?

A. Yes, sir.

MR WEST: Just to clarify a little, Mr. COLBURN, about your talking to the colonel that day around noon when Mr. THOMPSON took you with him. You have been asked several times about his name and I am not clear, did somebody tell you that this was Colonel HENDERSON? Mr. THOMPSON, for example?

A. I think that he did.

Q. You are not entirely sure?

A. I was sure until you brought it up.

Q. As I recall, you first mentioned Colonel HENDERSON during the questioning, and nobody suggested him to you?

(Witness nodded affirmatively.)

MR MACCRATE: But you have been reading quite a bit in the newspapers and magazines these days, I assume, and have seen a number of names there.

(Witness nodded affirmatively.)

MR WEST: One other point, which might later prove to be very important: when you were hovering overhead and observed the captain, as you testified, shoot the girl--this may be repetition, but how did you know it was a captain?

A. He had captain bars on his helmet.

Q. Did you notice any other insignia of rank?

A. No.

Q. We would appreciate it if right afterwards you would get with Colonel WILSON, and he will ask you perhaps to mark on the photograph which you have examined and marked this morning, which should at this time be entered into the record as an exhibit.

RCDR: This photograph as marked by Mr. COLBURN, is entered into the record as Exhibit P-55.

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MR WEST: In addition, Mr. COLBURN, we would ask you when you leave here not to discuss the proceedings before General PEERS and the rest of us with other people. As was indicated to you earlier, we are gathering evidence, and we have not made any conclusions. We are treating this as a confidential matter, and we would appreciate it if, to the extent possible, you not talk about it to others. Of course, there is a possibility that you will be asked to appear before a special Congressional subcommittee. The request that you received earlier not to discuss your testimony would not, of course, apply should you appear before the subcommittee. Also, in this connection, you stated that you are under the order of the military judge not to discuss the case, is that right?

(Witness nods affirmatively.)

I believe that for such time as you are under such orders, you will not be asked to appear before a subcommittee. But when you do, the fact that you testified before General PEERS here will not preclude your appearing there.

IO: Mr. COLBURN, if, subsequent to this hearing here today, any additional details come to mind, we would appreciate your getting in touch with us so we can check into it further. This includes any papers you may have, maps, materials, photos, anything that might pertain to it. One thing which I would ask you to do is to go over the time at which you talked to the individual at LZ Dottie. This does not have too much importance on what you told me, but it does have quite a degree of importance as to who you talked to and when you talked to him, so that we can put the thing together. At the moment, we would have quite a difficult time trying to put Colonel HENDERSON at LZ Dottie at midday of the 16th, whereas Colonel BARKER, the task force commander, was there. However, Colonel HENDERSON did talk to Warrant Officer THOMPSON sometime before noon on the morning of the 18th, which is 2 days later. So for this reason it would be somewhat importantttto us to have you think this over for a little while. And if your memory clears up, and you find that it was a time other than immediately after landing, we are stretching your memory. And also, in saying this to you, I do not want to put thoughts in your head or words in your mouth. Do you have anything you would like to say to

this group--any statement that you would like to make, questions that you would like to ask--that might assist us in our mission?

A. One thing that Mr. THOMPSON told me, after he came back from the bunker. He did mention that the man that he talked to was a lieutenant.

Q. As I say, any additional information such as this, that comes to your mind, get in touch with us.

(The hearing recessed at 1143 hours, 20 December 1969.)

(The hearing reconvened at 1154 hours, 20 December 1969, with COL WILSON and MR COLBURN present.)

COL WILSON: Remember, Mr. COLBURN, that you are still under oath. The purpose of this hearing is to take the aerial photograph (Exhibit P-55) and wherever possible identify those six points which you have on the photograph by actually entering on the photo what happened at those points. And then subsequent to that, using a green pen to relate ground photography, which I will show you, to the aerial photography. First, let's take these points. Point number 1, what occurred there?

A. That is where we saw the VC running.

Q. VC running, is that correct?

A. Yes.

Q. What about point 2?

A. Point 2 is where the woman was first seen alive, and then when we came back she was dead.

Q. What about point 3?

A. Point 3 was the group of about seven or eight people dead on the road.

Q. How about point 4?

A. Point 4 was a group of four or five people dead along the road.

Q. Was it on or along the road?

A. Along and on.

Q. What about point 5?

A. Point 5 was a My Lai woman and child dead.

Q. Point 6?

A. Point 6. That is where I saw the captain killing the woman.

Q. I am going to show you a series of photographs which are identified as Exhibits P-2 thru P-42. The first photographs I will show you are allegedly taken by Sergeant HAEBERLE and were black and white photographs. And they are numbered P-2 thru P-25. I would like for you to look at these photographs and if you can identify the photos as being any of the things that you saw on 16 March, I wish you would separate that photo so we can plot it on the aerial photograph.

A. (After looking through the pictures) I recognize the man here.

Q. The witness pointed to the individual in photo 8 who has been identified as Captain MEDINA.

A. He was the man at point 6, where the captain killed the woman.

Q. Is this the man that you saw kill the woman?

A. Yes, I am certain.

Q. Can you recognize him that easily? Had you ever seen this photograph before?

A. This photograph, no, I haven't. Yes, I can recognize him.

Q. How did you know he was a captain?

A. I can recognize the bars on his helmet. And I remember that the man was not wearing a fatigue jacket. He was wearing a T-shirt. I want to change something on the aerial photograph. I am sure that the paddy where the woman was killed was on the east side of the ditch. This is the ditch right there (pointing to aerial photo).

Q. You mean that the woman was killed close to the ditch, but it was on the east side of the ditch?

A. Not close to the ditch. I remember the ditch being off to my west when we were hovering.

Q. And this took place over on the east side, is that correct?

A. Not the west side of the ditch, but the east side.

Q. You say that it took place where?

A. (Witnesses drawing on map) There.

Q. Let the record show that the witness relocated number 6 which will require remaking the aerial photo when this photography identification is complete.

Q. You can't identify any of the individuals in these pictures except for photo 8, is that correct?

A. Yes, sir.

Q. I show you a second series of photos, Exhibits P-26 thru P-42. These photos were taken by Sergeant HAEBERLE with his own camera and were color. I ask you if you can identify any of the scenes or individuals in these photos.

A. (After examining photographs) I recognize photo 31. Point 4 is photo 31. I recognize photo 32 as point 2.

Q. That definitely is the same one?

(Witness nodded affirmatively.)

A. I recognize photo 39 as point 3. Can I retract that last one? I recognize P-41 as point 3.

Q. I ask you, do you recognize either of these two individual photographs? (Witness shown photos P-26 and P-42.) I recognize that the names are on the front but I am primarily referring to Colonel HENDERSON. Is this the colonel that you talked to at fire base Dottie?

A. I cannot say that. I cannot recognize him.

Q. But you cannot say for sure?

A. Not dressed in a uniform.

Q. You can't say that this was the individual that you talked to? I am not trying to press you into saying yes or no, but if you can't recognize him say so.

A. No.

Q. You mean you cannot recognize him?

A. This photograph, I cannot.

Q. Could you say, then, that you did not talk to him?

A. No. I mean I cannot identify him with a uniform on.

Q. The photograph shown to the witness was P-50. We are now going to transpose what you have on this photo to a new photo. And when we get finished with the new photo, I am going to ask you to place on top of it, "Prepared from memory at Washington, DC," and the date and your signature.

(The witness did as instructed, whereupon the newly-annotated photograph was received in evidence as Exhibit P-55 replacing the former version.)

(The hearing recessed at 1238 hours, 20 December 1969.)